

AMENDED AND RESTATED  
MEMORANDUM OF UNDERSTANDING (MOU)  
By and between the  
FEDERAL HIGHWAY ADMINISTRATION,  
UNITED STATES DEPARTMENT OF TRANSPORTATION (Division)  
AND  
COLORADO DEPARTMENT OF TRANSPORTATION (CDOT)  
AND  
COLORADO HIGH-PERFORMANCE TRANSPORTATION ENTERPRISE (HPTE)

WHEREAS, CDOT has constructed both the *I-70 Eastbound and Westbound Peak Period Shoulder Lane Projects* (hereinafter referred to as the “Project”); and

WHEREAS, the Division, CDOT and HPTE previously entered into an MOU for the Project on April 22, 2014, and subsequently entered into an Amended MOU on September 22, 2017 and July 30, 2020 (the “Existing MOU”) that allowed for added operation flexibility following the commencement of operations; and

WHEREAS, this Amended and Restated MOU is intended to supersede and replace the Existing MOU; and

WHEREAS, CDOT and HPTE desire to continue tolling during periods of high traffic volumes on the eastbound inside shoulder from MP 230.0 to MP 244.0 and on the westbound inside shoulder from MP 242 to 230.5 (hereinafter collectively referred to as the “Toll Facility”); and

WHEREAS, the Division, CDOT and HPTE recognize the seasonality of the traffic demand experienced by the Toll Facility and therefore agree that for purposes of data collection, operational assessments, performance measures and reviews, the Toll Facility reporting period shall be the twelve month operating year from November 1st to October 31st, inclusive; and

WHEREAS, the following are conditions of the design variance required for the Project:

1. CDOT and HPTE agree to collect sufficient Toll Facility data and adjacent GP Lanes data to provide a complete view of the total corridor performance.
2. The following data on the Toll Facility and adjacent GP Lanes are to be collected during each operating year to assemble the following performance measures that are based upon the Project’s Concept of Operations. The Project’s Concept of Operations, recommended performance measures are as follows:
  - a. Interstate 70 Travel Time Reliability;
  - b. Interstate 70 Traffic Volume and Traffic Type;
  - c. Interstate 70 Safety and Crash Data, during operational and non-operational periods including the location of the incident;
    - i. Included as a performance measure will be an evaluation of incidents that occur in the Toll Facility when the Toll Facility is in the closed state; and
    - ii. Evaluation of signing and striping related to safety and operations of the facility.
    - iii. Outreach to emergency responders for feedback on the safety and operations of the facility.
  - d. Incident clearance times (as measured from the time of dispatch of Courtesy Patrol to when all emergency responders have left the scene).

The information provided by the performance measures shall be assembled into a report that provides an assessment of the operating year's performance with recommendations as needed for the upcoming operating year. If recommendations included in the report require changes to the MOU, CTIO, and CDOT staff will arrange a time to present the recommendation(s), such as an adjustment in the hours of operation, to Division staff for consideration and approval in the form of a new version of this MOU. If needed, as a part of the operating year assessment, CDOT or HPTE will conduct a review of the functionality of the Toll Facility or components of the Toll Facility. The accuracy and findings of the report shall be certified by CDOT and HPTE and submitted to the Division, within two months of the end of the operating year. One certified report shall be sufficient to satisfy the requirements of this paragraph so long as both parties are bound by such certification. CDOT and HPTE agree to provide Clear Creek County (CCC) results of the Project's ongoing assessment as a part of CDOT/CCC Quarterly Coordination Meetings.

3. CDOT will maintain the striping to ensure it remains of high quality for the facility.
4. CDOT and HPTE agree to limit the use of the Toll Facility according to the following operational limitations:
  - a. The Toll Facility operations shall be limited to peak periods of congestion and is not intended to be open 24 hours a day, 7 days a week.
  - b. The Toll Facility shall operate during holiday associated traffic and planned special events throughout the year, both of which are anticipated to generate a large, concentrated number of return trips from the I-70 Mountain Corridor to the Denver Metropolitan Area.
  - c. In order to balance the semi-predictable nature of the I-70 Mountain Corridor traffic peaks with the uncertainties that come from adverse weather and tight geometry, HPTE, and the CDOT Transportation Management Center (CTMC) operations center will have the flexibility to determine when congestion levels have risen to a level that warrants opening the Toll Facility.
  - d. When necessary, the Toll Facility shall be allowed to operate during emergency closures of the general purpose lanes. A toll may not be charged for use of the Toll Facility during emergency closures. If a toll is not charged, these hours of emergency use will not be counted when calculating whether the Toll Facility's annual operational limits set forth in Paragraph 6 below apply.
  - e. The Toll Facility operations are weather dependent.
  - f. The Toll Facility shall not operate on more than 125 fixed days per year (including holidays), or operate in excess of 1250 fixed hours per year in the eastbound direction
  - g. The Toll Facility shall not operate on more than 135 fixed days of operation (including holidays), or operate in excess of 1350 fixed hours per year in the westbound direction.
  - h. The Toll Facility can also draw on an additional Flexible Hours and Days Allowance, starting from 400 hours and 40 days as the initial baseline amount, that can be used in either the eastbound or westbound direction as needed.
  - i. The additional Flexible Hours and Days Allowance will increase annually from the initial baseline amount based on the actual increase in traffic volumes over the prior operating year. The new annual amount and supporting calculation will be included in the operating report.
  - j. With traffic demand anticipated to increase, the future need for additional PPSL operating hours is expected to be necessary. CDOT, HPTE and FHWA agree to revisit the operational limitations of the PPSL's when the Floyd Hill Express Lane is fully operational.
  - k. The Toll Facility shall cease operation by the year 2035 unless modified by a different project, which may or may not be a part of the Corridor's long term solution.
  - l. Starting in 2025, utilizing the Context Sensitive Solutions (CSS) process, CDOT, HPTE, and FHWA will begin evaluating a long-term solution that addresses future demand beyond 2035.
  - m. Any proposed changes to the operating limitations of the Toll Facility or to this agreement will be in accordance with the 2011 I-70 Mountain Corridor Record of Decision.

The CDOT and the HPTE agree that if the above operational limitations are not met, the Division has the right to revoke the design variances allowed for the Project and require all Federal funds be repaid in full. If the above-mentioned limitations are not met, the Division has the right to require CDOT to restore the cross section and right side break down the shoulder to a pre-Project condition.

IN WITNESS THEREOF, the parties hereto have caused this Amended and Restated MOU to be duly executed,  
on the date of the last signature below.

**STATE OF COLORADO**  
Jared S. Polis, Governor  
COLORADO DEPARTMENT OF TRANSPORTATION  
Shoshana M. Lew, Executive Director

BY: DATE: \_\_\_\_\_ Keith Stefanik, P.E. Chief Engineer

**COLORADO HIGH PERFORMANCE TRANSPORTATION ENTERPRISE**

BY: , DATE: \_\_\_\_\_ Piper Darlington , Director

**FEDERAL HIGHWAY ADMINISTRATION**  
**COLORADO DIVISION**

BY: DATE: \_\_\_\_\_ John M. Cater, Division Administrator