

Resolution – HPTE #176

Approving an Intergovernmental Agreement by and among HPTE, the Colorado Department of Transportation, the Colorado Bridge Enterprise, and the City and County of Denver Regarding the I-70 East Project

WHEREAS pursuant to Section 43-4-806, *et seq.*, C.R.S., the General Assembly of the State of Colorado created the Colorado High Performance Transportation Enterprise (“HPTE”) as a government-owned business within the Colorado Department of Transportation (“CDOT”) to pursue innovative means of more efficiently financing important surface transportation projects that will improve the safety, capacity, and accessibility of the surface transportation system; and

WHEREAS pursuant to § 43-4-806(6)(g), C.R.S., HPTE is empowered to enter into contracts or agreements with any public entity to facilitate a public-private partnership; and

WHEREAS HPTE is also empowered, pursuant to § 43-4-806(6)(h), C.R.S., to make and enter into all other contracts and agreements, including intergovernmental agreements under § 29-1-103, C.R.S., that are necessary or incidental to the exercise of its powers and performance of its duties; and

WHEREAS the Board has reviewed the Intergovernmental Agreement by and among HPTE, the Colorado Department of Transportation, the Colorado Bridge Enterprise, and the City and County of Denver regarding the design, construction, financing, operation and maintenance of the I-70 East Project (the “Agreement”); and

WHEREAS the Board supports a cooperative approach to the I-70 East Project and agrees there are significant mutual benefits to be achieved by working together on the I-70 East Project and related enhancements, including transportation improvements, efficiencies in timely decision making and turnaround, the design of the partial cover identified in the NEPA documents, and other improvements, which will result in savings to, and funding contributions for, the I-70 East Project; and

WHEREAS the Board has also determined that it is appropriate to prepare for the possibility that the Partial Cover Lowered Alternative ultimately receives approval through the NEPA process; provided, however, that if the Partial Cover Lowered Alternative is not identified as the selected, preferred alternative in the Record of Decision for the I-70 East Project, the Agreement may be terminated by mutual written agreement of the Parties.

NOW THEREFORE BE IT RESOLVED that the Board of the High Performance Transportation Enterprise hereby approves the Intergovernmental Agreement by and among HPTE, the Colorado Department of Transportation, the Colorado Bridge Enterprise, and the City and County of Denver regarding the I-70 East Project.

BE IT FURTHER RESOLVED that the HPTE Board hereby authorizes the HPTE Director to execute and deliver the Intergovernmental Agreement by and among HPTE, the Colorado Department of Transportation, the Colorado Bridge Enterprise, and the City and County of Denver regarding the I-70 East Project, with such changes therein and additions thereto, not inconsistent with this Resolution, as the HPTE Director may determine to be necessary or appropriate, whose signature thereon shall constitute conclusive evidence of such approval, and to perform all other acts that the HPTE Director may deem necessary or appropriate in order to implement and carry out the transactions and other matters authorized by the Agreement.

Signed as of July 15, 2015

Kari V. Grant
Interim Secretary, HPTE Board



Date: July 15, 2015

To: High Performance Transportation Enterprise Board

From: Mike Cheroutes, Director, HPTE
Tony DeVito, Project Director, I-70 East Project

Subject: Intergovernmental Agreement with City of Denver on the I-70 East Project

Purpose

This memo summarizes the status of an Intergovernmental Agreement (IGA) by and among HPTE, the Bridge Enterprise, CDOT, and the City and County of Denver.

Action

Staff is requesting that the Bridge Enterprise Board of Directors and the HPTE Board of Directors approve resolutions authorizing the execution of an IGA with the City of Denver.

This IGA received authorization by the City of Denver on July 6, 2015, through a final vote by the Denver City Council on an ordinance approving the IGA. The IGA is now proceeding to final signature at the City.

Approval by the HPTE and Bridge Enterprise Boards and the State Controller will be the final steps in CDOT implementation of this IGA.

Background

Staff is requesting that the Bridge Enterprise Board of Directors and the HPTE Board of Directors approve resolutions authorizing the execution of an IGA with the City of Denver.

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Details

The IGA provides that the City of Denver will provide funding support for the I-70 East Project in the form of an annual availability payment totaling \$37M net present value, in the form of equal annual installments of \$2,688,010 over 30 years. Annual installments will commence upon completion of the project. In addition, the City will ensure in-kind contributions to the efficiency and risk reduction of the I-70 East project, valued at \$46M. These efficiencies include relief from City permit fees, set prices for right-of-way purchases, and other commitments that reduce project costs or reduce risk to the Developer. The City has also agreed to accept full ownership and maintenance responsibility for portions of Brighton Blvd, valued at \$5M. If the Transportation Commission determines that devolution is appropriate, which it is to consider sometime prior to July 2016. In addition, the City of Denver has agreed to make the I-25 and Alameda project (estimated \$30M) the City's top priority for DRCOG funding in the next TIP cycle.

The IGA also provides that CDOT fund 40% of the cost of drainage improvements that provide early action on key elements of the drainage system needed for I-70 East and additionally support creation of a complimentary system that further protects the interstate in large storm events. The State's contribution to the drainage funding includes \$42.2 million commitment for the initial drainage improvements, known as the Early Action Drainage Plan, and up to an additional \$18.3 million for cost overruns on the EADP, as well as the remainder of the Two Basin Drainage Project, for a total commitment not to exceed \$60.5 million.

Options and Recommendations

Staff recommends that the Bridge Enterprise and HPTE Boards approve this IGA.

Next Steps

The approving resolutions authorize execution of the IGA by the Bridge Enterprise Director and the HPTE Director.

The IGA provides that it may be terminated earlier by mutual written agreement of the parties if the Partial Cover Lowered Alternative is not cleared through the NEPA process and is not identified as the selected, preferred alternative in the Record of Decision for the I-70East Project by December 31, 2016.

Attachments

Resolution Approving an Intergovernmental Agreement by and among HPTE, the Colorado Department of Transportation, the Colorado Bridge Enterprise, and the City and County of Denver Regarding the I-70 East Project

IGA as approved by Denver City Council on July 6, 2015.