

Resolution – HPTE #239

Approving a Memorandum of Understanding with the Federal Highway Administration and Colorado Department of Transportation for the C-470 Express Lanes (Segment 1) Project

WHEREAS, the General Assembly created the Colorado High Performance Transportation Enterprise (“HPTE”), pursuant to Section 43-4-806, C.R.S., 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, HPTE is authorized, pursuant to Section 43-4-806(2)(c)(I), C.R.S., to impose user fees on the travelling public for the privilege of using surface transportation infrastructure, and is further authorized pursuant to Section 43-4-806(2)(c)(III), C.R.S. to contract with any governmental or non-governmental source of funding for loans to be used in support of HPTE’s functions; and

WHEREAS, HPTE, in partnership with CDOT, is undertaking the first phase of the C-470 Express Lanes Project which generally consists of the completion of one to two new tolled express lanes in each direction on State Highway 470 (“C-470”) from approximately Wadsworth Boulevard to the C-470/Interstate 25 interchange (the “Project”); and

WHEREAS, pursuant to 23 U.S.C. § 129(a)(1)(B), federal participation in the Project is permitted for the initial construction of 1 or more toll lanes that increase the capacity of a highway if the number of toll-free non-HOV lanes, excluding auxiliary lanes, after such construction is not less than the number of toll-free non-HOV lanes, excluding auxiliary lanes, before such construction; and

WHEREAS, 23 U.S.C. § 129(a) further sets forth certain additional conditions applicable to toll projects receiving federal participation, including, *inter alia*, limitations on the use of revenues, certain audit requirements, and equal access for over-the-road buses and public transportation buses; and

WHEREAS, HPTE desires to enter into a Memorandum of Understanding (“MOU”) with the Federal Highway Administration (“FHWA”) and the Colorado Department of Transportation (“CDOT”) to memorialize HPTE’s commitment to comply with the requirements of 23 U.S.C. § 129(a), as amended, as an ongoing condition to federal participation in the Project.

NOW THEREFORE BE IT RESOLVED, the Board of Directors hereby approves the MOU in the form presented and authorizes the HPTE Director to execute the MOU, with such revisions or modifications, not inconsistent with this Resolution, as the HPTE Director may determine to be necessary or appropriate.

Signed as of August 16, 2017

Kari V. Grant
Secretary, HPTE Board

**MEMORANDUM OF UNDERSTANDING (MOU)
AMONG THE
FHWA COLORADO DIVISION OFFICE (Division)
AND THE
COLORADO DEPARTMENT OF TRANSPORTATION (CDOT)
AND THE
COLORADO HIGH PERFORMANCE TRANSPORTATION ENTERPRISE (HPTE)**

WHEREAS, CDOT and HPTE desire to construct the C-470 Tolled Express Lanes Design-Build Project, from I-25 to Wadsworth (Segment 1) in Colorado (hereinafter referred to as the "C-470 Express Lanes"); and

WHEREAS, CDOT and HPTE desire to implement tolls on the C-470 Express Lanes, which will provide 13 miles of new capacity along Colorado State Route 470 (located in South Metro Denver) in Douglas, Jefferson and Arapahoe Counties, more specifically described as: two westbound tolled express lanes from I-25 to Colorado Boulevard, one westbound tolled express lane from Colorado Boulevard to Wadsworth Boulevard, then one eastbound tolled express lane from Wadsworth to I-25. The C-470 Express Lanes will be accessible to single occupant vehicles and high occupant vehicles for a fee; and

WHEREAS, the Division, CDOT and HPTE desire to enter into this MOU in order to reflect the mutual understanding that 23 U.S.C. 129(a) applies to the construction and operation of the C-470 Express Lanes; and

WHEREAS, 23 U.S.C. 129(a)(1)(B) allows for Federal participation in initial construction of 1 or more lanes or other improvements that increase capacity of a highway, bridge, or tunnel (other than a highway on the Interstate System) and conversion of that highway, bridge, or tunnel to a tolled facility, if the number of toll-free lanes, excluding auxiliary lanes, after the construction is not less than the number of toll-free lanes, excluding auxiliary lanes, before the construction;

NOW THEREFORE, the Division, CDOT and HPTE hereby agree as follows:

1. The C-470 Express Lanes project meets the toll eligibility requirements of 23 U.S.C. 129(a) (1).
2. CDOT and HPTE shall comply with all requirements of 23 U.S.C. 129 (a), as amended, with respect to the operation of the C-470 Express Lanes.

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

COLORADO DEPARTMENT OF TRANSPORTATION

BY: _____,

DATE: _____

COLORADO HIGH PERFORMANCE TRANSPORTATION ENTERPRISE

BY: _____,

DATE: _____

FEDERAL HIGHWAY ADMINISTRATION
COLORADO DIVISION

BY: _____,

DATE: _____

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