

**Resolution – HPTE #307**

**Approving an Intra-Agency Agreement with the Colorado Department of Transportation for the I-70 Westbound Peak-Period Shoulder Lane Project**

**WHEREAS**, the General Assembly created the Colorado High Performance Transportation Enterprise (“HPTE”), pursuant to § 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 § 43-4-806(2)(c)(I), C.R.S., to impose user fees on the traveling public for the privilege of using surface transportation infrastructure; 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, including, but not limited to, an agreement in which the enterprise, on behalf of CDOT, provides services in connection with a surface transportation infrastructure project; and

**WHEREAS**, CDOT, in partnership with HPTE, is completing construction and will commence toll operations on the I-70 Westbound Peak-Period Shoulder Lane (the “WB PPSL Project”) consisting of one new tolled peak-period shoulder lane between the Veterans Memorial Tunnels and the U.S. Highway 40 interchange on westbound I-70; and

**WHEREAS**, the HPTE Board of Directors (the “Board”) supports the WB PPSL Project and recognizes the benefits it provides to the State, which include, but are not limited to, improving travel times, managing congestion in the I-70 mountain corridor, and providing travelers with a choice of a new travel lane; and

**WHEREAS**, CDOT and HPTE desire to define the allocation of costs and responsibilities for the implementation, operation and maintenance of the WB PPSL Project, as well as set forth invoicing and payment procedures with respect to the same; and

**WHEREAS**, pursuant to § 43-4-806(4), C.R.S., the Transportation Commission may authorize the transfer of money from the state highway fund to HPTE to defray expenses of HPTE; and

**WHEREAS**, the proposed I-70 Westbound Peak-Period Shoulder Lane Intra-Agency Agreement with HPTE (the “WB PPSL Intra-Agency Agreement”) provides that in the event user fee revenues are insufficient, or projected to be insufficient, to satisfy HPTE’s operations and maintenance obligations under the WB PPSL Intra-agency Agreement, HPTE can request, and the Transportation Commission will consider making, but is not obligated to make, one or more loans from the state highway fund to HPTE to satisfy its obligations; and

**WHEREAS**, any loan that CDOT provides HPTE under the WB PPSL Intra-Agency Agreement shall, notwithstanding any state fiscal rule or generally accepted accounting principle that could otherwise be interpreted to require a contrary conclusion, constitutes a loan from the Transportation Commission to HPTE and shall not be considered a grant for purposes of Section 20(2)(d) of Article X of the state Constitution; and

**WHEREAS**, HPTE acknowledges that the Transportation Commission is not required by the WB PPSL Intra-Agency Agreement to make any such loan, and that any determination by the Transportation Commission to make, and allocate funds for, any such loans shall be in the sole discretion of the Transportation Commission.

**NOW THEREFORE BE IT RESOLVED**, that the Board of the High Performance Transportation Enterprise hereby approves the WB PPSL Intra-Agency Agreement with CDOT in substantially the form presented to the HPTE Board and authorizes the HPTE Director to execute the WB PPSL Intra-Agency Agreement with such revisions or modifications, not inconsistent with this Resolution, as the HPTE Director may determine to be necessary or appropriate.

Signed as of October 16, 2019

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Simon Logan  
Secretary, HPTE Board of Directors