

**Resolution – HPTE #346**

**Authorizing the Execution and Delivery of a Loan Agreement with Wells Fargo Municipal Capital Strategies, LLC and the Delivery of a related Note in connection with the I-70 Mountain Express Lanes Project**

**WHEREAS**, pursuant to Colorado Revised Statutes (“C.R.S.”) Section 43-4-806, the General Assembly of the State of Colorado (the “State”) created the Colorado High Performance Transportation Enterprise (“HPTE”), as a government-owned business within the Colorado Department of Transportation (“CDOT”) and a division of CDOT; and

**WHEREAS**, the purpose of HPTE is 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, can feasibly be commenced in a reasonable amount of time, and will allow more efficient movement of people, goods, and information throughout Colorado; and

**WHEREAS**, HPTE receives less than 10% of its annual revenue in grants, as such term is used in Article X, Section 20 of the State Constitution, from the State government and local governments in the State, combined

**WHEREAS**, C.R.S. Section 43-4-806(2)(c)(I) provides that HPTE may impose user fees on the travelling public for the privilege of using surface transportation infrastructure; and

**WHEREAS**, HPTE, in partnership with CDOT, is working to complete, implement and operate a transportation infrastructure project in the I-70 Mountain Corridor that consists of, among other components, widening the shoulder lanes, and operating such lanes as tolled express lanes during peak periods, located in (i) an approximate 13-mile segment of eastbound I-70 between the U.S. Highway 40 Interchange (from mile point 230) and through the Veterans Memorial Tunnels to Idaho Springs (from mile point 244) within CDOT’s existing right-of-way, and (ii) an approximate 12-mile segment of westbound I-70 between the Veterans Memorial Tunnels (from mile point 242) and the U.S. Highway 40 Interchange (from mile point 230.5) within CDOT’s existing right-of-way (collectively, the “I-70 MEXL Project”); and

**WHEREAS**, the HPTE Board of Directors (the “Board”) continues to support the I-70 MEXL Project and recognizes the benefits it provides to the State, which include, among others, improving travel times, managing congestion in the I-70 Mountain Corridor, enhancing the improvements made to the Veterans Memorial Tunnels, and providing travelers with a choice of new travel lanes; and

**WHEREAS**, C.R.S. Section 43-4-806(2)(c)(III) provides that HPTE may contract with any governmental or nongovernmental source of funding for loans to be used to support HPTE’s functions; and

**WHEREAS**, C.R.S. Section 43-4-806(2)(c)(II) authorizes HPTE to issue revenue bonds for the purpose of completing surface transportation infrastructure projects, and C.R.S. Section 43-4-803(2) defines “bond” to mean any bond, note, interim certificate, commercial paper, contract, or other evidence of indebtedness; and

**WHEREAS**, in 2014, HPTE entered into a loan agreement ("2014 Loan Agreement") with Banc of America Preferred Funding Corporation (the "2014 Lender") pursuant to which the 2014 Lender made a loan to HPTE in the principal amount of \$25,000,000 ("2014 Loan"), the proceeds of which were used to fund a portion of the eastbound segment of the I-70 MEXL Project (referred to in the 2014 Loan Agreement as the I-70 Peak Period Shoulder Lane Project) and pay other lawful expenses and costs related thereto; and

**WHEREAS**, at the time HPTE entered into the 2014 Loan Agreement, it issued its Colorado High Performance Transportation Enterprise Toll Revenue Note (I-70 West Peak Period Shoulder Lanes Projects), Series 2014 (the "2014 Note") to the 2014 Lender, which evidences HPTE's obligation to pay the 2014 Lender the principal of and interest on the 2014 Loan and such other amounts due and payable by HPTE under the 2014 Loan Agreement; and

**WHEREAS**, HPTE has determined that it is necessary, desirable and in the best interest of HPTE to prepay the 2014 Note (and the related 2014 Loan); and

**WHEREAS**, HPTE recently conducted a solicitation process to request interest from commercial lenders to provide a loan to HPTE, the proceeds of which would be used to prepay the 2014 Note (and the related 2014 Loan), among other uses, and pursuant to that process, Wells Fargo Bank, National Association (including its wholly owned subsidiary Wells Fargo Municipal Capital Strategies, LLC) was selected as the preferred lender; and

**WHEREAS**, Wells Fargo Municipal Capital Strategies, LLC (a wholly owned subsidiary of Wells Fargo Bank, National Association) (the "2021 Lender") will make a loan to HPTE in a principal amount not to exceed \$27 million (the "2021 Loan") pursuant to a loan agreement (the "2021 Loan Agreement") to be entered into between HPTE and the 2021 Lender, to (i) prepay the 2014 Note (and the related 2014 Loan), and (ii) pay certain costs associated with entering into the 2021 Loan Agreement; and

**WHEREAS**, in connection with the 2021 Loan, HPTE will issue, and deliver to the 2021 Lender, its Colorado High Performance Transportation Enterprise Toll Revenue Note (I-70 Mountain Express Lanes Project), Series 2021, in a principal amount not to exceed \$27 million (the "2021 Note"), which will evidence HPTE's obligation to pay the 2021 Lender the principal of and interest on the 2021 Loan and such other amounts due and payable by HPTE under the 2021 Loan Agreement; and

**WHEREAS**, the 2021 Note (and the related 2021 Loan) will be payable from and secured by a pledge of, on a first lien basis, the user-fee revenues to be collected by HPTE from the I-70 MEXL Project (net of any toll collection expenses), as further detailed in the 2021 Loan Agreement, and certain funds and accounts established pursuant to the 2021 Loan Agreement and certain other amounts as described in the 2021 Loan Agreement; and

**WHEREAS**, there is on file with the Board forms of the following documents:

- (a) the 2021 Loan Agreement; and

(b) the 2021 Note; and

**WHEREAS**, the Board desires to (i) approve the prepayment of the 2014 Note (and the related 2014 Loan), and the payment of certain costs associated with entering into the 2021 Loan Agreement, and (ii) authorize and approve the execution, delivery and issuance (as applicable) of the 2021 Loan Agreement and the 2021 Note; and

**NOW THEREFORE BE IT RESOLVED**, all actions not inconsistent with the provisions of this Resolution heretofore taken by any HPTE staff members or the Director of HPTE (the "HPTE Director") and the efforts of HPTE directed toward the completion of the I-70 MEXL Project, the prepayment of the 2014 Note (and the related 2014 Loan), the 2021 Loan Agreement, the 2021 Note, and all transactions contemplated in connection therewith, including, without limitation, the preparation and transmittal of all required notices, all supporting documentation with respect to the 2021 Loan, the 2021 Loan Agreement, and the 2021 Note shall be, and the same hereby are, ratified, approved and confirmed.

**BE IT FURTHER RESOLVED**, the Board hereby finds and determines that it is necessary, desirable and in the best interest of HPTE to (i) prepay the 2014 Note (and the related 2014 Loan), and (ii) pay other lawful expenses and costs related thereto.

**BE IT FURTHER RESOLVED**, the Board hereby approves the incurrence of the 2021 Loan and the issuance of the 2021 Note for the purposes described in this Resolution, provided that (i) the initial interest rate charged on the 2021 Loan and the 2021 Note pursuant to the terms of the 2021 Loan Agreement does not exceed 2.00%, provided that such interest rate may increase under certain circumstance as provided in the 2021 Loan Agreement; and (ii) the principal amount of the 2021 Loan and the 2021 Note does not exceed \$27 million.

**BE IT FURTHER RESOLVED**, in addition to the principal of and interest on the 2021 Loan and the 2021 Note, the Board hereby approves the payment by HPTE of the other loan obligations as described in the 2021 Loan Agreement.

**BE IT FURTHER RESOLVED**, the Board hereby approves in all respects the 2021 Loan Agreement and the 2021 Note in substantially the respective forms filed with the Board prior to the meeting of the Board at which this Resolution is adopted, and authorizes and directs the HPTE Director to execute and deliver the 2021 Loan Agreement and the 2021 Note on behalf of HPTE, in substantially the respective forms filed with the Board prior to the meeting of the Board at which this Resolution is adopted, with such changes therein and additions thereto, not inconsistent with this Resolution, as are approved by the HPTE Director (whose signature thereon shall constitute conclusive evidence of such approval).

**BE IT FURTHER RESOLVED**, pursuant to and in accordance with the Constitution and laws of the State, including particularly C.R.S. Section 43-4-806 and the Supplemental Public Securities Act, C.R.S. Section 11-57-201, *et seq.* (the "Supplemental Public Securities Act"), the Board hereby approves and authorizes the execution of the 2021 Note by HPTE to evidence the payment obligations of HPTE under the 2021 Loan Agreement, but only from the collateral pledged therefor pursuant to the 2021 Loan

Agreement, and the execution and delivery of the same on behalf of HPTE by the HPTE Director, in substantially the form filed with the Board prior to the meeting of the Board at which this Resolution is adopted, with such changes therein and additions thereto, not inconsistent with this Resolution, as are approved by the HPTE Director (whose signature thereon shall constitute conclusive evidence of such approval), which changes can include an increase or decrease in (i) the initial interest rate charged on the 2021 Note (and the related 2021 Loan) so long such initial interest rate does not exceed 2.00%, provided that such interest rate may increase under certain circumstance as provided in the 2021 Loan Agreement; and (ii) the principal amount of the 2021 Note (and the related 2021 Loan) so long as such principal amount does not exceed \$27 million. The Board hereby elects to apply all of the provisions of the Supplemental Public Securities Act to the 2021 Note and, pursuant to the provisions of the Supplemental Public Securities Act, hereby delegates to the HPTE Director the determination of those terms of the 2021 Note provided for in C.R.S. Section 11-57-205 (subject to the principal amount and the interest rate parameters set forth above).

**BE IT FURTHER RESOLVED**, the Board hereby finds, declares and determines that HPTE is an “enterprise” within the meaning of Article X, Section 20 of the State Constitution, and hereby covenants and agrees for the benefit of the 2021 Lender that so long as the 2021 Note remains outstanding, HPTE will maintain its “enterprise” status within such meaning.

**BE IT FURTHER RESOLVED**, the Board hereby authorizes and directs the HPTE Director to take all action and execute and deliver for and on behalf of HPTE any and all certificates, documents and other papers, and to perform all other acts that the HPTE Director deems necessary or appropriate in order to implement the financing of the I-70 MEXL Project, the prepayment of the 2014 Note (and the related 2014 Loan) and to carry out the transaction and other matters authorized by this Resolution, including, without limitation, the execution and delivery of such certificates, documents and other papers and the performance of such acts as required by the 2021 Loan Agreement, and the execution and delivery of any certificates and other documents relating to the exclusion of interest on the 2021 Note (and the related 2021 Loan) from gross income of the holders thereof for federal income tax purposes.

Signed as of January 20, 2021

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Simon Logan  
Secretary, HPTE Board of Directors