



# COLORADO

## Department of Transportation

Region 3

222 South 6<sup>th</sup> Street, #317  
Grand Junction, CO 81501-  
2769

July 10, 2024

Tyler Christoff, Public Works Director  
City of Aspen  
427 Rio Grande Place  
Aspen, CO 81611

RE: May 7, 2024 "Additional Questions regarding the Entrance to Aspen" Letter

Dear Mr. Christoff:

Please find the responses to the questions posed in the referenced letter below. The question responses were prepared collaboratively with the Federal Highway Administration Colorado Division.

### Record of Decision (ROD) and Preferred Alternative (PA) Processes

**Would CDOT/FHWA allow the City to withdraw from the ROD if the City were to pursue self-funding an alternative other than implementing the last major phase of the PA?**

Response: We are not aware of a process which would allow the City to withdraw from the ROD. As a cooperating agency, the City can choose to no longer support the ROD, but unless FHWA and CDOT, the joint lead agencies, choose to withdraw the ROD, it and the selected PA remain in effect. If the City wishes to pursue another alternative, it would have to be developed through the NEPA process.

**If so, what processes, agreements, agency coordination, and City actions would this involve?**

Response: As stated above, we are not aware of a process which would allow the City to withdraw from the ROD. Looking at the self-funding question, for improvements to SH 82 that the City may be interested in funding, SH 82 is a CDOT asset, and any improvements to the highway would require coordination with CDOT and FHWA. Further, considering the ROD remains in effect, the City would need to provide FHWA and CDOT with documentation regarding how the proposed SH 82 improvements relate to the PA and explain how the improvements would not deviate or detract from the PA and its intent.

**How would this affect the previous components of the ROD that have been completed?**

Response: Because the ROD remains in effect and coordination with CDOT and FHWA is necessary, even if the City self-funds, we do not anticipate that the portions of the PA that have been constructed will be affected.

**Are there financial implications to the City from previous right-of-way acquisitions, mitigation, or federal monies expended on the Entrance to Aspen project?**

Response: Because a substantial portion of the PA has been constructed, there would be no requirement for repayment of any previously expended federal funds.



**What other requirements would be needed for the city to leave the ROD?**

Response: Again, there is no defined process for a Cooperating Agency to withdraw from a ROD that we are aware of.

**Is concurrence needed from other agencies and parties, including cooperating agencies, involved in the EIS [Environmental Impact Statement] process besides CDOT and FHWA?**

Response: We cannot answer this question because there is no defined process for a Cooperating Agency to withdraw from a ROD.

**Would CDOT/FHWA allow, and participate in, a process that would review and evaluate the alternatives if the City were to pursue self-funding of a new Entrance to Aspen solution?**

Response: Yes, but at a minimum a new Supplemental Environmental Impact Study (SEIS) would be required to change the decision made in the ROD. Additionally, as explained in CDOT's letter to the City dated March 20, 2023, local funding will be required to pay for a new SEIS and ROD as federal and state funding has already provided for the required NEPA studies and mitigation for the Draft EIS, Draft Supplemental EIS, Final EIS, and ROD.

**If the City self-funded replacing the existing SH 82/Castle Creek Bridge, would the new bridge become an asset of the Colorado Bridge Enterprise?**

Response: No, it wouldn't be a Colorado Bridge and Tunnel Enterprise asset, but it would be a CDOT asset.

**Would self-funding require discussing devolution of this bridge and other right-of-way?**

Response: Self-funding a new bridge would not automatically require devolution of the roadway. It is important to note that even if the City takes over ownership of a portion of SH 82, the ROD will remain in effect as the decision made was not predicated on the road being a State Highway.

When considering devolution of a state-owned roadway, state highway devolutions must have reasonable limits that, in this case, would need to extend beyond the bridge itself. Devolution between the City limits potentially could be justified, but the City would assume ownership and maintenance of the highway. It should be noted that a devolution would require CDOT's Transportation Commission approval. Considering CDOT/FHWA responsibilities for implementing the ROD, the Commission may not approve a devolution unless the ROD is changed or its construction phases completed.

**Are there circumstances that allow a jurisdiction to pursue a bridge replacement with State of Colorado funding that does not include federal transportation dollars or a NEPA process?**

Response: Yes, but that is not the case for this situation since FHWA and CDOT did undertake the NEPA process, using federal dollars, and produced an EIS and ROD.

**If yes, how would the existing ROD and State Highway designation factor into this process?**

Response: As noted above, the ROD would still apply.



In the March 20, 2023 letter mentioned above, CDOT indicated that replacing the bridge on existing alignment would require a new Environmental Impact Statement. However, replacing the bridge with a 4-lane bridge, as well as the split shot (Couplet Alignment), were evaluated in detail during the EIS process, would a Revised ROD (with EIS Reevaluation) be a viable NEPA process option? Is an EIS needed to replace the existing bridge with a three-lane alternative?

Response: This EIS presents an unusual situation. Both of these alternatives were determined to meet the Purpose & Need, but eliminated later during the EIS comparative screening (see Final EIS Section II.B). However, impacts of both were presented for comparative purposes. Presenting the information does not mean that the alternatives were evaluated in detail; during the decision-making they were not considered because they had not made it through the screening process. Because the alternatives with an alignment that left the roadway on the existing bridge were screened out, a minimum of a new SEIS would be required before the selected alternative could be changed in a new ROD.

The ROD allows for phased implementation of the transit component of the PA. Could the City advance an interim-phase PA, with optimized median widths for a narrower platform solution and providing one general purpose lane and one dedicated bus lane in each direction, without the right-of-way needed for the light-rail transit envelope?

Response: On the PA alignment, yes, but the City would still have to account where transit goes. The ROD does allow for phasing of the PA, to include one general purpose lane and one dedicated bus lane in each direction. Right-of-way for the future light-rail envelope would not need to be acquired in the phased improvements.

**Based on our review of Federal and State policy, City staff believe that:**

- A. The Castle Creek Bridge sidewalk must be replaced on a new or rehabilitated bridge if federal and/or state funding is used and a reasonable alternative route is not identified;
- B. If the city opts to self-fund, the sidewalk must be replaced on the new or rehabilitated Castle Creek Bridge if the route remains a state highway; and
- C. Any new trail or path would need to meet the ADA design criteria.

**Do you agree with these statements?**

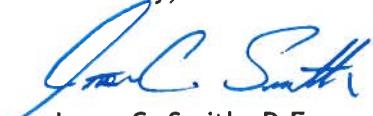
Response: CDOT agrees with statements A, B and C above.

**When is the next CDOT bridge inspection scheduled for Castle Creek Bridge?**

Response: The next inspection is tentatively scheduled for this fall.

If you need further information, please feel free to contact me.

Sincerely,



Jason C. Smith, P.E.  
Region 3 Transportation Director



cc: CDOT Executive Director Shoshana Lew  
CDOT Central Program Engineer Roland Wagner  
CDOT Region 3 Planning and Environmental Manager David Cesark  
First Assistant Attorney General, Transportation Unit, Kathy Young  
FHWA Environmental Program Manager Stephanie Gibson  
FHWA Program Development Team Leader Shaun Cutting  
Aspen City Manager Sara Ott  
Aspen Director of Transportation and Parking Pete Rice

