

## Memorandum

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**Subject:** Castle Creek Bridge Funding and Financial Assessment

**Project Name:** New Castle Creek Bridge Investigative Study with Revised Scope (the Project)

**Attention:** City of Aspen (the City)

**From:** Jacobs

**Date:** July 26, 2024

**Copies to:** Project File

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### 1. Introduction

This memorandum (memo) summarizes funding options and sources for replacing the Castle Creek Bridge. It also discusses financial implications for the City. Infrastructure funding and financing is complex; this memo provides a broad overview to aid Project decision making.

The memo discusses the following:

- Federal, state, and local funding and grant opportunities available to the City
- Implications for bridge construction using City and/or state funds without dependence on federal funding
- Processes and strategies to gain federal and state funding support
- Environmental implications related to different funding sources
- Financial implications of self-funding the bridge replacement and devolving this section of the state highway

### 2. Background and History

The Entrance to Aspen Final Environmental Impact Statement (EIS) (CDOT 1997) and Record of Decision (ROD) (FHWA 1998), which include transportation improvements along State Highway (SH) 82 from Buttermilk to Rubey Park in downtown Aspen, were approved by the Federal Highway Administration (FHWA) in 1998. The Preferred Alternative (PA) identified in the 1998 ROD calls for rerouting SH 82 to connect to Main Street, which would be extended to the west and require construction of a new Castle Creek Bridge. Under the PA, the existing segment of SH 82 from Cemetery Lane to 7th and Main Street, including the existing Castle Creek Bridge, would become a local route.

The Colorado Department of Transportation (CDOT) and the City signed a Memorandum of Understanding (MOU), documented as Attachment A to the ROD (FHWA 1998), which could have financial implications for the existing bridge. In the MOU, CDOT commits to maintaining the existing Castle Creek Bridge for a 25-year period commencing after the construction of the Project segment from the Maroon and Castle Creek intersection to 7th and Main Street, when CDOT conveys the bridge to the City. This MOU could be interpreted as committing CDOT to fund, at least partially, future bridge improvements or replacement.

Since the ROD was issued, several elements of the PA have been implemented. The portion of the PA from the Maroon and Castle Creek intersection to 7th and Main Street involving rerouting SH 82 and reconstructing a new bridge over Castle Creek remains to be completed. Because the National Environmental Policy Act (NEPA) process was completed, implementation of the remaining PA improvements would qualify for federal funding, provided that an EIS Reevaluation confirming that the ROD is valid is completed (refer to the NEPA Process Options memo completed for this Project for details [Jacobs 2024]).

The existing Castle Creek Bridge, constructed in 1961, is now approaching the end of its service life. As discussed in Section 3.2 (State Funding), when the bridge condition is rated poor through CDOT inspections, it will enter the Statewide Bridge and Tunnel Enterprise eligibility pool for funding and replacement. At that time, CDOT has indicated that it would replace the bridge as directed in the PA, unless an alternative NEPA decision is made before the need for bridge replacement.

The City has expressed interest in pursuing alternatives to the PA because of the impacts and divided community sentiment on the PA. In a letter dated July 10, 2024, CDOT indicated that a Supplemental EIS, at a minimum, would be required to change the PA and/or select another alternative. The letter further states that the City, as a cooperating agency to the EIS, can choose to no longer support the ROD, but unless FHWA and CDOT choose to withdraw the ROD, the ROD and the selected PA will remain in effect (CDOT, pers. comm. 2024c). Therefore, any change or deviation from the PA and ROD would require close coordination and agreement from FHWA and CDOT and would require coordination with other corridor stakeholders and interests.

One option the City Council is evaluating is replacing the existing Castle Creek Bridge separately, or outside of, the Entrance to Aspen (ETA) process. In its letter dated March 20, 2023, CDOT indicated that the City would have to self-fund a new EIS/ROD, as state and federal funding has already been provided to complete the EIS/ROD and the required mitigation for the PA. In the same letter, CDOT indicated that the City “reviewing an alignment at the existing bridge location” would trigger a new EIS/ROD that would have to be funded locally (CDOT, pers. comm. 2024a).

### **3. Funding Opportunities**

Financing the construction, operation, and maintenance of public transportation systems involves many different types of funding sources, including federal and nonfederal grants, cooperative agreements, loans, and revenue sources. This section highlights several grant or formula programs that could be used to fund bridge replacement, categorized by federal, state, and local sources.

#### **3.1 Federal Funding Opportunities**

Federal funding for transportation projects has increased in recent years with passage of the Bipartisan Infrastructure Law of 2021 and other related federal legislation. Table 1 lists some of the more relevant federal funding programs.

**Table 1: Federal Funding Sources**

Program Name	Description	Minimum and Maximum Grant Awards	Local Cost Share Requirement	Funding Cycle	Web Link to Program Information
PROTECT Grant Program	Provides funding for projects that increase the resilience of existing surface transportation assets	Not applicable	Up to 100% federal for planning grants; less than 80% federal share for construction grants	FY24 program expected to be released in August 2024	<a href="#">PROTECT Grant Program link</a>
FLAP	FHWA grant program that supports upgrades to transportation facilities that provide access to federal lands	Planning grant: <ul style="list-style-type: none"> <li>Maximum: \$10 million</li> <li>Minimum: \$100,000</li> </ul> Implementation grant: <ul style="list-style-type: none"> <li>Maximum: \$25 million</li> <li>Minimum: \$2.5 million</li> </ul>	None; however, recommended for projects, such as Castle Creek Bridge, that are not on federal lands	Additional funding expected to be released in 2025	<a href="#">FLAP link</a>
BIP	<ul style="list-style-type: none"> <li>Supports bridge repair, rehabilitation, and replacement</li> <li>Prioritizes bridges that are in Fair or Poor condition on the National Bridge Inventory</li> </ul>	<ul style="list-style-type: none"> <li>Planning grant: \$20 million maximum</li> <li>Construction grants: greater than \$2.5 million</li> </ul>	20%	Annually; applications for FY25 funding are due on November 1, 2025	<a href="#">BIP link</a>

Program Name	Description	Minimum and Maximum Grant Awards	Local Cost Share Requirement	Funding Cycle	Web Link to Program Information
RAISE Grant Program	Supports the capital costs of road, rail, transit, and port projects that have a significant impact on the nation, region, or metropolitan area	<ul style="list-style-type: none"><li>Minimum: \$5 million</li><li>Maximum: \$25 million</li></ul>	20%	Annually	<a href="#">RAISE Grant Program link</a>

BIP = Bridge Investment Program

FLAP = Federal Lands Access Program

FY = fiscal year

PROTECT = Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation

RAISE = Rebuilding American Infrastructure with Sustainability and Equity

### **3.1.1 Federal Funding Considerations**

The Biden administration has focused their grants on an array of priorities, including the following:

- Climate change
- Environmental sustainability and projects that improve community resilience
- Inclusion in a disadvantaged census tract
- Equity issues

These priorities would change with a change in presidential administration. Further, projects can sometimes be modified to better address federal grant criteria, and although the Project is not in a disadvantaged census tract, arguments can be made for improving conditions and reducing costs for disadvantaged populations through public transit improvements with a regional focus.

Federal grants often rely on political support from the governor and congressional representatives. If the City were to pursue a federal grant, it should seek the support of these elected officials. Demonstrating a regional benefit from the Project, particularly for disadvantaged populations, would boost funding chances.

Projects that receive federal funding are subject to NEPA requirements. For competitive grants (excluding planning grants), projects that have completed or are nearing completion of the NEPA process generally are viewed more favorably by federal reviewers. Also, in a meeting on July 10, 2024, between CDOT, City, and Jacobs staff, CDOT noted that, because a ROD is in place for the SH 82 corridor, any project that differs from the ROD PA may not be viewed favorably.

### **3.2 State Funding Opportunities**

Table 2 lists some of the more relevant state funding programs.

**Table 2: State of Colorado Funding Sources**

Program Name	Description	Minimum and Maximum Grant Award	Local Cost Share	Funding Cycle	Submission Deadline	Web Link to Program Information
CBTE	The purpose of the CBTE is to finance, repair, reconstruct, and replace bridges designated as structurally deficient. Structural deficiency occurs when any structural element condition drops to a "poor" rating, associated with a condition code of 4 or less from that element's inspection. CBTE prioritizes bridges based on criteria for safety and risk, mobility, and economic factors, along with acknowledgement of structures on CDOT's 10-year Vision Plan." In 2023 and 2024, over \$165,000,000 is dedicated to bridge rehabilitation and replacement.	No minimum or maximum award. Funding is based on sufficiency rating and importance and need. Planned replacements are included in CDOT's 10-year Plan. The next planning phase is currently starting within the IMTPR. (CDOT 2024b).	No local share	Annually	Not applicable	<a href="#">Statewide Bridge and Tunnel Enterprise link</a>

Program Name	Description	Minimum and Maximum Grant Award	Local Cost Share	Funding Cycle	Submission Deadline	Web Link to Program Information
Department of Local Affairs Climate Resistance Challenge	<p>The Climate Resilience Challenge promotes and integrates climate resilience projects that capture multiple objectives across the following:</p> <ul style="list-style-type: none"><li>▪ Climate adaptation</li><li>▪ Climate mitigation solutions</li><li>▪ Social equity by addressing the most high-risk vulnerabilities for their community or region</li></ul> <p>These funds potentially could be used for roadway improvements that increase wildfire evacuation capacity.</p>	\$2 million	25% for construction and 10% for planning	Annually	Opening July 1 and closing August 1	<a href="#">Climate Resilience Challenge link</a>



Program Name	Description	Minimum and Maximum Grant Award	Local Cost Share	Funding Cycle	Submission Deadline	Web Link to Program Information
MMOF	The MMOF provides funding for an array of capital, construction, operations, planning, and greenhouse gas mitigation projects, including bicycle, pedestrian, ride sharing, or transit projects. The Local MMOF Program funds are distributed by formula among Colorado's 15 TPRs, who then award funding to projects competitively within their regions.	Funding is allocated to the local TPRs through a percentage of annual revenue formula. The IMTPR is allocated \$260,000 in 2024 but has allocations up to \$800,000 in FY28.	50% from other sources, which can include other grants	Annually	The process is determined by the TPR	<a href="#">MMOF link</a>
CDOT Revitalizing Main Streets Funding	This program encourages physical activity and enhances local economic vitality in towns and cities across Colorado through funding infrastructure improvements to make walking and biking easier, yielding long-term benefits that bolster community connections.	\$10,000 to \$250,000	10% of the total project cost	Rolling application cycle, with six cycles in 2024	Next cycle on August 28, 2024	<a href="#">Revitalizing Main Streets link</a>

CBTE = Colorado Bridge Enterprise Fund

IMTPR = Intermountain Transportation Planning Region

MMOF = Multimodal Transportation and Mitigation Options Fund

TPR = Transportation Planning Region

### 3.21 State Funding Considerations

Because of the age and condition of the Castle Creek Bridge, the CBTE has received considerable discussion as a funding source. Formed in 2009 as part of the Funding Advancement for Surface Transportation and Economic Recovery (FASTER) legislation, the CBTE operates as a government-owned business within CDOT. Although \$165 million is dedicated to the fund in 2023 and 2024, CDOT noted that large interstate projects, such as Floyd Hill, West Vail Pass, and Interstate 25 project, use much of this funding.

A Castle Creek Bridge inspection is scheduled for fall 2024. If this inspection results in a structural element dropping to a “poor” rating, the bridge would be added to a statewide list and prioritized based on the bridge rating as well as overall importance to the transportation system. When funding becomes available and CDOT and CBTE agree that this bridge is their highest priority, CDOT has indicated they would be required to build the PA under the ROD unless another alternative was selected as part of a supplemental or new NEPA process.

State funding would require review and prioritization by the IMTPR. The Project would need to be rereviewed and prioritized by the IMTPR to be positioned for state funding through CDOT’s 10-year prioritization plan (CDOT 2024b). The PA is within the current regional long-range plan. CDOT noted that demonstrating political consensus for an alternative through a support resolution and/or advocacy from political representatives attending the IMTPR would increase the likelihood of IMTPR support and prioritization.

The state transportation commission is considering splitting the IMTPR, with Garfield and Pitkin separating from Eagle and Summit counties. No new funding would be generated, but the region’s priorities could be easier to develop with less competition from Summit and Eagle counties.

Regarding environmental considerations and as noted previously, the ETA ROD remains in place on this portion of SH 82 and, therefore, any new alternative or project needs to be considered in relation to the ROD. Further, state-funded projects that do not have a federal component are subject to CDOT’s requirements. CDOT’s *Environmental Stewardship Guide* states that CDOT generally follows the NEPA process for state-funded projects (CDOT n.d.). Technical reports are prepared for relevant resources and are reviewed by CDOT resource leads. Public and stakeholder engagement follows a similar process to federally funded projects. FHWA would not be involved unless there is a federal nexus.

Some federal laws are not applicable to state-funded projects. For example, Section 4(f) of the Department of Transportation Act, Section 106 of the National Historic Preservation Act (NHPA), and the Farmland Protection Policy Act only apply to projects

with federal funding and/or a federal nexus. State-funded projects must still comply with many other federal laws, including the following:

- Clean Water Act
- Clean Air Act
- Endangered Species Act
- Migratory Bird Treaty Act
- Section 6(f) of the Land and Water Conservation Act

State-funded projects are also subject to state and local regulations. State laws require consideration of impacts to riparian areas and hazardous materials handling and waste management. Additionally, CDOT follows a process similar to NHPA Section 106 to assess and mitigate potential effects to historic properties nominated or listed on the State Register of Historic Properties. Beyond state requirements, local ordinances and permitting requirements apply to floodplain development and may control other Project effects on the community, such as construction noise and effects on local historic landmarks.

### **3.3 Local Funding Opportunities**

Local funding sources could be used, including providing matching funds for state and federal grants. Some local funding sources include the following:

- The Elected Officials Transportation Committee (EOTC) has a dedicated local tax funding mechanism that could help fund transit improvements. The EOTC was originally set up to facilitate funding for the 1998 ETA ROD.
- The Roaring Fork Transportation Authority may be willing to consider a joint tax measure with the City to help fund any Project transit improvements.
- The City could pass a dedicated tax or Special District Assessment for the Project.

Using utility enterprise funds to partially support utility upgrades or line replacements in a larger tax-funded capital project also could be explored. These local funds can be used as matching funds for a larger grant.

## **4. The City's Finance Department confirmed that there is no local funding allocated in the Asset Management Plan, and further, the fund is strained to meet current needs identified in the annual city budget development process.**

### **Financial Implications for Self-funding**

The 2024 estimate for the Three-Lane Shifted bridge alternative is \$69 million. This cost escalates to \$81 million in 2028. These estimates include known right of way costs as of

April 2024. However, there is a risk of additional right of way cost, in that the Three-Lane Shifted bridge option lies less than 2 horizontal feet from a physical residence below the bridge. Due to proximity and safety concerns during construction, there is a high probability that this property would need to be acquired.

For comparison, the estimated cost of the Preferred Alternative was \$102 million in 2016 and would be much higher today. If Aspen proceeds with the PA, it will be able to compete for Federal and State grants and access to prioritization under the CBTE fund, lowering the overall cost to the community, perhaps substantially.

As an example, CDOT replaced the Glenwood Springs Grand Avenue Bridge in 2017 at an approximate cost of \$120 million. The city and the county each contributed \$3 million. Private utility companies paid for the construction of the pedestrian bridge (approximately \$17 million). The balance of the project came from CDOT CBTE funding.

A high-level review of Aspen's 2024 budget (City 2023) indicates that just over \$45 million is allocated to capital improvements. However, many of these appropriations are restricted for a particular use, such as affordable housing. For this reason, funding the bridge replacement and other ETA improvements with City funds is not feasible without tax measures that would allow bonding for the Project. Table 3 shows budget appropriations. Restricted budgets are marked with an asterisk. A double asterisk indicates that some projects are paid for with dedicated funding streams.

**Table 3: City of Aspen Capital Budget for 2024 Fiscal Year**

<b>Fund</b>	<b>Capital Project</b>	<b>2024 Appropriation</b>	<b>Lifetime Budget</b>
Affordable Housing*	Lumber Yard Housing Development – Phase 0	\$14,250,000	\$14,250,000
Asset Management Plan	Old Powerhouse Preservation Project	\$3,845,000	\$4,445,000
Water Utility*	Water Treatment Facility Improvements	\$3,600,000	\$15,392,000
Parks and Open Space*	Parks Site Interior	\$3,100,000	\$3,500,000
Electric Utility*	Paepcke Park to City Market Circuit Replacement	\$2,550,000	\$2,550,000
Employee Housing*	Main Street Cabin Housing	\$2,409,750	\$2,724,750
Asset Management Plan	Fleet – 2024	\$1,144,000	\$1,144,000

*Memorandum: Castle Creek Bridge Funding and Financial Assessment*

<b>Fund</b>	<b>Capital Project</b>	<b>2024 Appropriation</b>	<b>Lifetime Budget</b>
Asset Management Plan	Armory Remodel and Reuse Long-term Plan	\$920,000	\$1,020,000
Asset Management Plan	Red Brick Storm Improvements on Hallam Street	\$760,000	\$760,000
Stormwater*	Garmisch Street Pipe Repair and Replacement	\$700,000	\$2,261,557
Asset Management Plan	Concrete and ADA Pedestrian Improvements – 2024	\$656,000	\$656,000
Housing*	Building Envelope Improvements and Water Proofing	\$640,000	\$800,000
Transportation*	Shuttle Replacement – 2024	\$552,000	\$552,000
Asset Management Plan	Animal Shelter – Energy Efficiency Upgrades	\$450,000	\$500,000
Asset Management Plan	Highway 82 Efficiency Planning	\$400,000	\$400,000
Parks and Open Space*	AIG Cooling Tower Replacement	\$375,000	\$375,000
Asset Management Plan	Hyman Improvements	\$350,000	\$350,000
Parks and Open Space*	Maroon Creek Road Trail – Construction	\$315,000	\$4,565,000
Parking*	Downtown Core Parking Improvements	\$300,000	\$1,900,000
Wheeler*	Theatre Sound System Replacement	\$290,000	\$500,000
Parks*	AABC to Brush Creek Park and Ride Trail Connection Contribution	\$250,000	\$4,250,000
Various**	Remaining projects less than \$250,000	\$5,129,220	\$14,383,030
Various**	Capital maintenance	\$2,652,260	\$27,035,830
<b>Total capital</b>	<b>Not applicable</b>	<b>\$45,638,230</b>	<b>\$104,314,167</b>

Source: City, 2023.

AABC = Aspen Airport Business Center

ADA = Americans with Disabilities Act

## **5. State Highway Devolution and Implications**

Devolution refers to the transference of a highway or segment of highway from state ownership and control to local government ownership and control. Some communities consider state right-of-way devolution to gain control of access, beautification, and maintenance decisions within their jurisdictions. Devolution has been mentioned in relation to the ETA and bridge replacement as a potential means to give the city greater control over decision making on the SH 82 corridor.

Because of state budget shortfalls and maintenance burdens, CDOT will usually engage in devolution discussions. CDOT's letter from July 10, 2024, states that devolution is possible but would require having reasonable highway limits like the city boundaries, versus limits that only include the bridge and its approaches. The letter notes 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" (CDOT, pers. comm. 2024c).

The financial burden of obtaining portions of state highway through devolution typically exceeds the funding received from CDOT. Signal maintenance is one such example. Although devolution was not needed for the City to gain control of their signal operation to retime the signals to prioritize pedestrians over vehicle clearance on the highway, CDOT transferred the operation of the signals to the City in October 2021. According to City staff, maintenance of the signals requires considerable staff time. Further, the 2018 CDOT payment for signal maintenance did not consider a net present value for the full 5-year period and thus does not fully cover the expense.

Benefits of devolution for local jurisdictions include the following:

- Control over physical improvements design and construction decisions
- Control over maintenance decisions
- Control of local access
- Ability to add traffic-calming or beautification improvements without state input
- State cash contribution to future maintenance

Disadvantages of devolution for local jurisdictions include the following:

- Responsibility for all future road maintenance
- Responsibility for accident prevention and solutions
- Responsibility for operations and signals

## 6. Conclusions

Considering the high Project costs, the fiscal implications of self-funding, and CDOT's direction that the selected PA will remain in effect, the City should consider working with CDOT and FHWA on next steps for the ETA. Next steps include either initiating a Supplemental EIS or implementing the Preferred Alternative. Working within the CDOT framework will allow the city to access federal and state funding streams to offset the cost to the community.

## 7. References

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