



MEMORANDUM

TO: THE TRANSPORTATION COMMISSION
FROM: JEFF SUDMEIER, CHIEF FINANCIAL OFFICER
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DATE: MAY 15, 2019
SUBJECT: ENTERPRISES CONTINGENT LIABILITY ANALYSIS

Purpose

The purpose of this memorandum is to respond to a Transportation Commission (TC) request for a contingent liability analysis as it relates to the High Performance Transportation Enterprise (HPTE) and Bridge Enterprise (BE), jointly referred to as the Enterprises.

Action

No TC action is being requested and the purpose of this item is informational only.

Key Details:

The Enterprises currently see no contingent liability risk to CDOT or the TC for Fiscal Year 2020-2026. Based on current program scenarios, all projects that the TC has provided a backstop for already have current or projected coverage ratios based on actual toll collections, robust Traffic and Revenue (T&R) studies or financial modeling. Enterprise staff will continue to monitor and will report at least annually on projected contingent liability even if no backup loan request is being made for the following fiscal year.

Background

What is contingent liability?

CDOT has pledged its credit support (also referred to as a Backstop or Parent Guarantee) to the Enterprises on critical shared projects. On projects using innovative financing (TIFIA, bonds or short term loans) to fill funding gaps, CDOT credit support has helped HPTE improve its credit rating, secure better interest rates and increase its overall borrowing capacity. On projects without innovative financing, CDOT credit support provides additional security to the Enterprises that they can meet program obligations even if revenue circumstances change. While that credit support has helped CDOT and the Enterprises accelerate the delivery of critical projects, it has also created a contingent liability for CDOT. Meaning that at some point in the future, an event or change in circumstances for the Enterprises may occur which would give rise to a potential liability becoming an actual liability for CDOT, but the timing, amount and likelihood of that occurring is currently unknown. Essentially, CDOT's liability is contingent on the Enterprises ability to collect sufficient revenue to covers it program obligations.



How is Contingent Liability Established?

Contingent Liability is established when CDOT and the Enterprises enter into an Intra-Agency Agreement (IAA) for a specific project. IAA's are approved for all current joint projects including: I-70 Mountain Express Lanes (MEXL) Eastbound, I-25 North US 36 to 120th Avenue, I-25 North: 120th Avenue to E-470, C-470 Express Lanes: I-25 to Wadsworth and Central 70. Future IAA's will include the I-25 South Monument to Castle Rock Project and I-70 MEXL Westbound, and the I-25 North Johnstown to Fort Collins Project.

These IAA's document the substantive terms of how CDOT and the Enterprises work together and allocate rights and responsibilities on shared projects during construction and into operations. On projects where there is financing required to complete construction, IAA's also provide lenders with certainty roles and responsibilities of CDOT and the Enterprises. While each IAA will have provisions that are unique to the specific project it is related to, there are provisions that are common to all IAA's including the CDOT Backup Loan Provision. Key terms under this provision are:

- ***Scope of CDOT Backup Loan:*** The Enterprises are able to request a backup loan for any financing or debt services obligations (including BE Milestone or Availability Payments) or operations and maintenance costs (including HPTE toll processing costs) associated with the specific project.
- ***Exercising the Backup Loan:*** The Enterprises are required to estimate the maximum amount it will need for the upcoming fiscal year and provide the request in writing to the Executive Director (ED) on or before September 15 so it can be considered as part of the CDOT budget development process. The amount requested (referred to as the CDOT Backup Loan Set Aside) will be included as part of the final budget request that is approved by the TC in March. HPTE may also notify the ED at any time during the fiscal year that it would like to request an additional Back-up Loan beyond the Backup Loan Set Aside through the CDOT budget supplement process.
- ***Authority of the Transportation Commission:*** To ensure compliance with the Tax Payers Bill of Rights (TABOR), the TC has no obligation to approve an annual CDOT Backup Loans request or any monthly budget supplement requests made by the Enterprises.

Table 1 below provides a high level summary of current Department debt and project obligations. Of the debt listed above, the TC has provided a backstop for all obligations highlighted in green via project Intra-Agency Agreements. The BE Build America Bonds issued in 2010 are not tied to a specific project and therefore there is no IAA or other agreement that stipulates a backup loan provision for that source of debt.



Table 1: Overview of Department Obligations

Entity	Debt Issuance	Year of Issuance	Principal	Interest	Total
CDOT	Certificates of Participation (COPs)	2017	\$ 58,665,000	\$ 38,389,650	\$ 97,054,650
	Certificates of Participation (COPs)	2016	\$ 70,000,000	\$ 48,426,250	\$ 118,426,250
	Certificates of Participation (COPs)	2012	\$ 8,980,000	\$ 471,848	\$ 9,451,848
	Senate Bill 267	2018	\$ 380,000,000	\$ 189,963,901	\$ 569,963,901
	<i>CDOT Subtotal</i>			\$ 517,645,000	\$ 277,251,649
HPTE	C-470 Express Lanes Senior Bonds	2017	\$ 161,795,000	\$ 255,896,124	\$ 417,691,124
	C-470 Express Lanes TIFIA Loan	2017	\$ 106,950,231	\$ 87,251,769	\$ 194,202,000
	I-25 North 120th to E470 Loan	2016	\$ 23,630,000	\$ 6,008,570	\$ 29,638,570
	I-70 MEXL Eastbound Loan	2014	\$ 25,000,000	\$ 7,593,593	\$ 32,593,593
	<i>HPTE Subtotal</i>			\$ 317,375,231	\$ 356,750,056
BE	Build America Bonds ¹	2010	\$ 300,000,000	\$ 194,335,109	\$ 494,335,109
	Central 70 ²	2016	\$ 1,506,168,528		\$ 1,506,168,528
	<i>BE Subtotal</i>			\$ 1,806,168,528	\$ 194,335,109
Department Total			\$ 2,641,188,759	\$ 828,336,814	\$ 3,469,525,574

¹Interest is calculated after the BABS subsidy has been applied

²Milestone and availability payments only

Contingent Liability Scenarios:

In the worst case, the 2009 Funding Advancements for Surface Transportation and Economic Recovery Act (FASTER) legislation is repealed and all BE and HPTE revenue streams stop. While a significant legislative change such as the repeal of FASTER is not likely to happen, other probable changes or external events impacting Enterprises revenues could include:

- 1) Colorado goes into a recession and toll revenue declines
- 2) A change in law occurs that impacts HPTE's ability to collect tolls (i.e.: allowing all electric vehicles for free in the Express Lanes)
- 3) Vehicle registrations slow or decline impacting Bridge Safety Surcharge revenue

All major projects that involve TIFIA or Bond financing or are Public Private Partnerships (P3's) have gone through extensive economic modeling and traffic and revenue (T&R) forecasting. These modeling efforts also include testing for scenarios such as the ones listed above. Both the C-470 Express Lanes: I-25 to Wadsworth and Central 70 project are projects that have gone through these robust forecasting efforts.

In addition to external forecasting, both of the Enterprises also actively monitor program cash flows. The Bridge Enterprise currently has a more stable and robust revenue stream. The Bridge Enterprise program is actively monitored and adjusted to account for changes in project estimates, schedules and cash on hand to ensure that the program is operating within existing constraints (including debt service and Central 70 obligations). Given these factors, BE presents a low level of risk to CDOT and the TC from a contingent liability perspective and no additional analysis on BE is being presented at this time. In comparison to BE, HPTE's revenue stream from tolling is still relatively new and untested. There are currently only two Express Lane corridors, I-25 North: US 36 to 120th and I-70 MEXL Eastbound that are open and both are still in the "ramp-up" phase which is generally five years after a corridor opens for tolling.



Both of these corridors pose the highest risk to CDOT and the TC from a contingent liability perspective since both have debt service obligations associated with them and only one project (I-25 North 120th to E470) had limited T&R work done. Given these reasons, C-470 is not being included for further analysis and scenarios being presented are focused only on these two particular projects. Staff has also focused the scenarios on fiscal years 2020-2026 since 2026 is when HPTe will make its final payment for the I-25 North 120th to E470 Loan. See the analysis included in Attachment A for various revenue scenarios.

Analysis Key Takeaway:

While unforeseen change in economic conditions that impact current revenue collection could occur at some point in the future, based on current scenarios for Fiscal Year 2020-2026, HPTe does not see a need to request a backup loan from the TC to cover any obligations on the corridors that present the most risk to the TC. Future corridors coming online, such as C470, have already demonstrated coverage ratios through more robust T&R studies. HPTe currently sees minimal to no risk to CDOT or the TC on those projects.

Considerations

If CDOT's were to limit or eliminate the backstop for future projects, HPTe would probably not be able to secure future loans without a backup loan provision included in project IAA's. For example, HPTe has committed to providing \$50M for the I-25 North Johnstown to Fort Collins Project. Based on conversations with lenders and Enterprise financial advisors:

- a. Without credit support the only way that might be feasible, would be if additional corridor revenues were available and there was significant coverage for the loan from other corridors (which is currently not feasible under FASTER legislation) or
- b. HPTe would have to do an investment grade T&R (at a cost of over \$1 million) not knowing if it would show sufficient revenue coverage to borrow.
- c. Both of these alternatives would certainly carry a higher interest rate, when compared to the IAA structure.
- d. If the Backup Loan Provision is eliminated and either of the Enterprises default, the TC is not obligated to cover any commitments of the Enterprises. However, in reality, the Department has never defaulted and this would be viewed negatively by the market and most likely impact CDOT's credit rating and ability to borrow.

Next Steps:

- If the TC requests a specific deep dive into the revenue profile and contingent liability on a specific project, staff will follow up with additional analysis and workshop if necessary.
- BE will continue to monitor and report on current and projected cash flows for the program through its quarterly reports to the BE Board.
- In the event that overall economic conditions begin to indicate an impact to the ability of BE to meet any of its Central 70 and non-Central 70 commitments, staff will proactively come to the BE Board with analysis on the program impacts and discuss recommendations.
- Enterprise staff will continue to monitor and will report at least annually on projected contingent liability even if no backup loan request is being made for the following fiscal year.

Attachment: Attachment A: Scenario Assumptions





Contingent Liability Scenarios: Assumptions

- I-25 US36 to 120th and I-25 120th to E470 (when open) will be considered one corridor
- I-70 MEXL Eastbound and Westbound (when open) will be considered one corridor
- All scenarios are based on current and forecasted toll collections and expenses
- ***Operating Expenses Include:***
 - Staff time, toll processing, regular O&M
- ***Capital Expenses Include:***
 - Debt Service, replacement of tolling equipment, re-paving, capital maintenance contingency



Key Revenue Points: C-470 Express Lanes: I-25 to Wadsworth

- Senior Toll Revenue Bonds and Subordinate TIFIA loan achieved “BBB” ratings from multiple ratings agencies, one notch above a minimum investment grade rating of “BBB-”
- Projected Debt Service Coverage Ratios are 5.30x for senior debt (Bonds) and 3.46x total debt
- Break-even tests performed by ratings agencies indicate the C470 financial structure and revenues could withstand:
 - T&R reduction of 48-55% before coverage ratios reach 1.00x;
 - 129% increase to O&M expenses, or
 - 406% increase to major maintenance/lifecycle expenses.



Annual Debt Service Profile: Fiscal Year 2020-2026

Entity	Debt Issuance	Fiscal Year						
		2020	2021	2022	2023	2024	2025	2026
CDOT	COPs-2017	\$ 4,222,000	\$ 4,219,300	\$ 4,220,250	\$ 4,219,700	\$ 4,217,950	\$ 4,221,950	\$ 4,221,200
	COPs-2016	\$ 5,147,650	\$ 5,151,150	\$ 5,148,400	\$ 5,149,400	\$ 5,150,400	\$ 5,151,150	\$ 5,146,400
	COPs-2012	\$ 2,361,544	\$ 2,365,368	\$ 2,363,152				
	Senate Bill 267 ¹	\$ 28,500,000	\$ 28,500,000	\$ 28,500,000	\$ 28,500,000	\$ 28,500,000	\$ 28,500,000	\$ 28,500,000
	<i>CDOT Subtotal</i>	\$ 40,231,194	\$ 40,235,818	\$ 40,231,802	\$ 37,869,100	\$ 37,868,350	\$ 37,873,100	\$ 37,867,600
HPTE	C-470 Express Lanes Senior Bonds		\$ 8,089,750	\$ 8,089,750	\$ 8,089,750	\$ 8,089,750	\$ 8,089,750	\$ 8,089,750
	C-470 Express Lanes TIFIA Loan					\$ 4,214,000	\$ 4,192,000	\$ 4,171,000
	I-25 North 120th to E470 Loan	\$ 626,210	\$ 626,210	\$ 626,210	\$ 1,414,480	\$ 9,253,475	\$ 8,702,225	\$ 8,155,800
	I-70 MEXL Eastbound Loan ²	\$ 928,854	\$ 928,854	\$ 928,854	\$ 1,437,500	\$ 2,032,500	\$ 2,033,288	\$ 2,032,063
	<i>HPTE Subtotal</i>	\$ 1,555,064	\$ 9,644,814	\$ 9,644,814	\$ 10,941,730	\$ 23,589,725	\$ 23,017,263	\$ 22,448,613
BE	Build America Bonds ³	\$ 12,273,305	\$ 12,273,305	\$ 12,273,305	\$ 12,273,305	\$ 12,273,305	\$ 12,273,305	\$ 25,707,758
	Central 70 ⁴		\$ 138,845,502	\$ 105,400,000	\$ 45,181,094	\$ 31,338,179	\$ 31,818,453	\$ 32,529,539
	<i>BE Subtotal</i>	\$ 12,273,305	\$ 151,118,807	\$ 117,673,305	\$ 57,454,399	\$ 43,611,484	\$ 44,091,758	\$ 58,237,297
Department Total by Fiscal Year		\$ 54,059,564	\$ 200,999,440	\$ 167,549,922	\$ 106,265,229	\$ 105,069,559	\$ 104,982,121	\$ 118,553,510

¹Portion of the debt CDOT is responsible for

²Assume Refinancing Scenario to be completed by Dec 2020

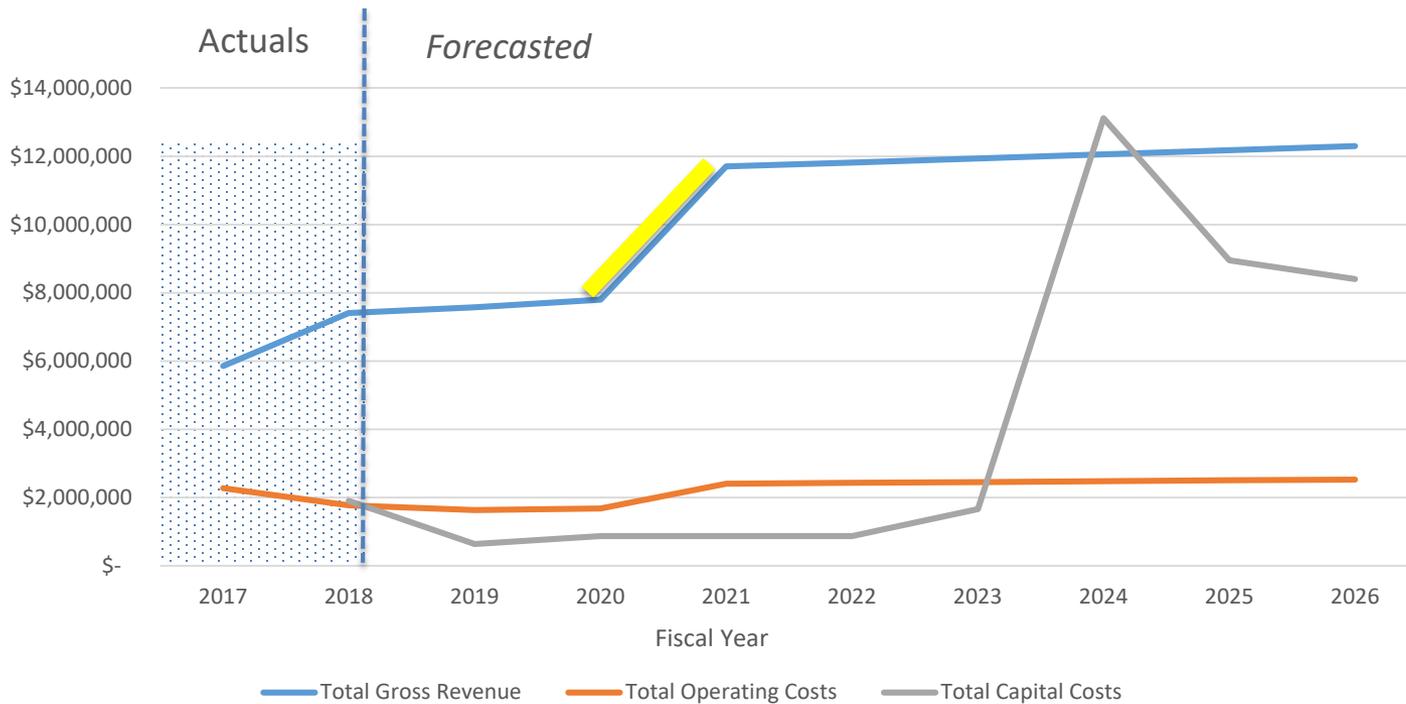
³Interest is calculated after the BABS subsidy has been applied

⁴Milestone and availability payments only



I-25 North US36 to E470: Baseline Scenario: 1% Growth

Average Coverage 1.69X



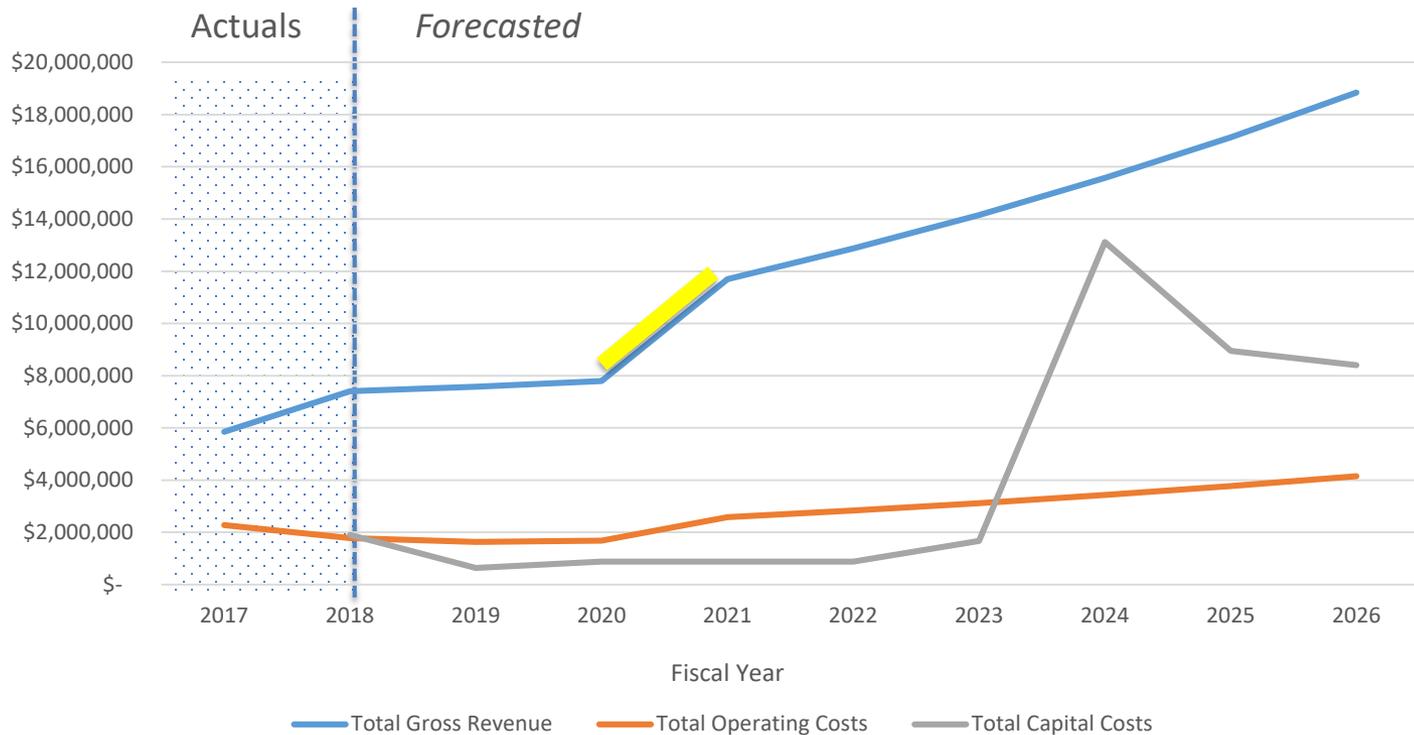
I-25 North: 120th to E470 Opens for Tolling

Loan for this corridor will be paid off in FY 2026 under the current debt service schedule



I-25 North US36 to E470: High Scenario: 10% Growth

Average Coverage 1.84X



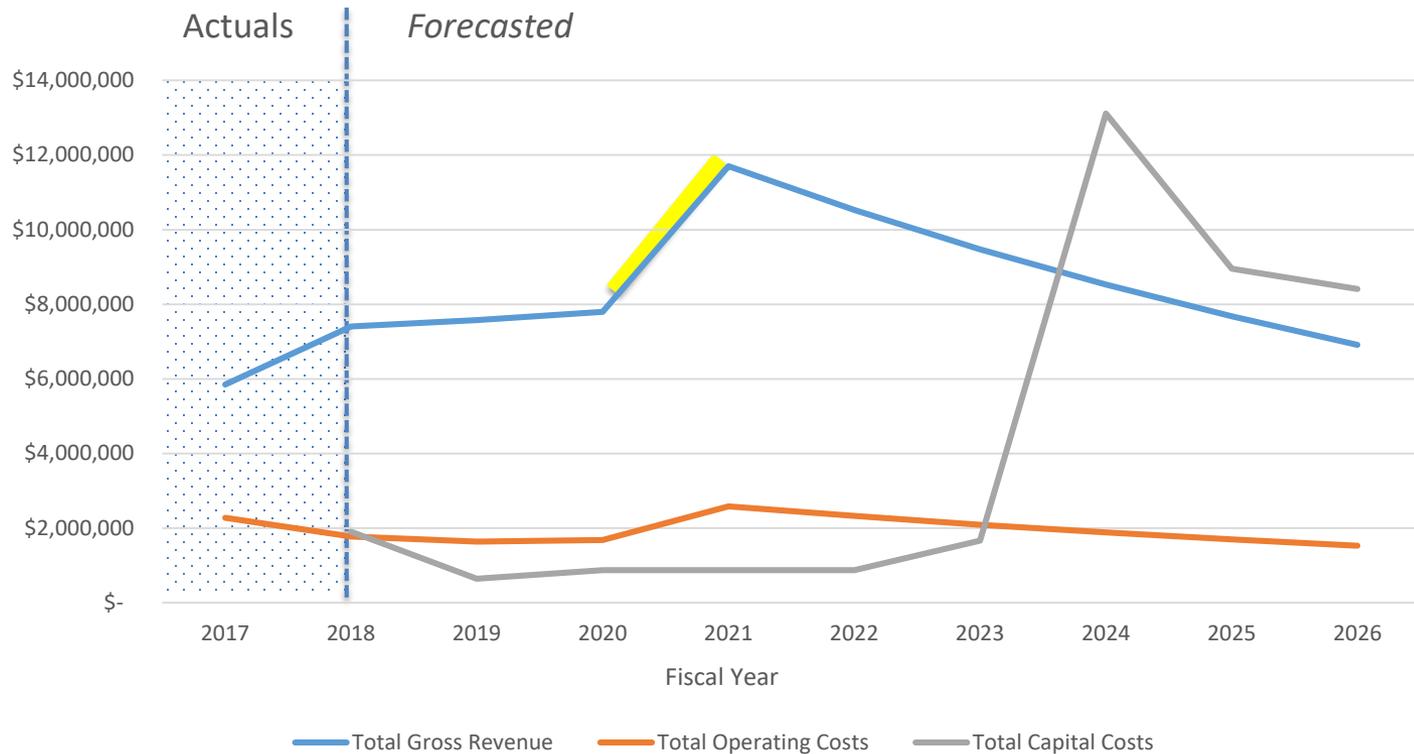
I-25 North: 120th to E470 Opens for Tolling

Loan for this corridor will be paid off in FY 2026 under the current debt service schedule



I-25 North US36 to E470: Negative Scenario: -10% Decline

Average Coverage 1.47X



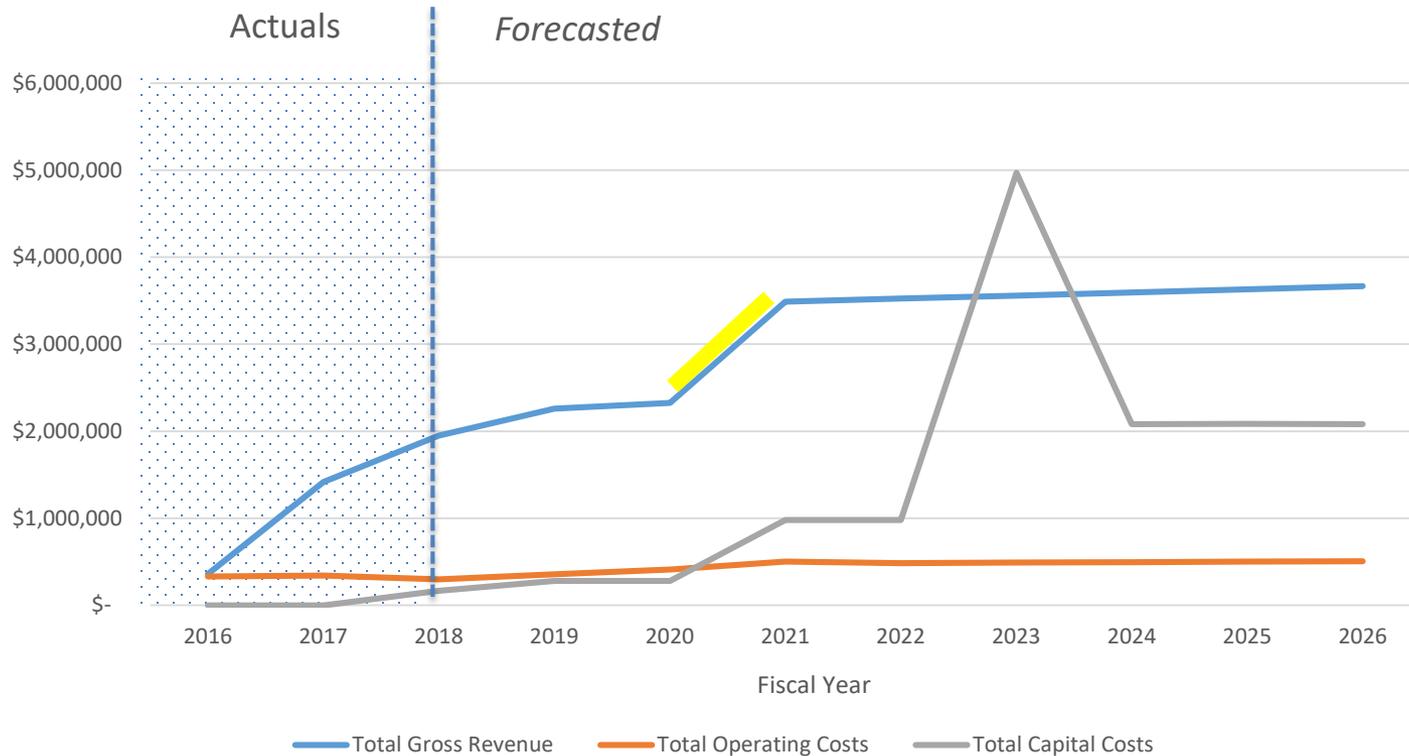
I-25 North: 120th to E470 Opens for Tolling

Loan for this corridor will be paid off in FY 2026 under the current debt service schedule



I-70 MEXL: East & West: Baseline Scenario: 1% Growth

Average Coverage 1.60X



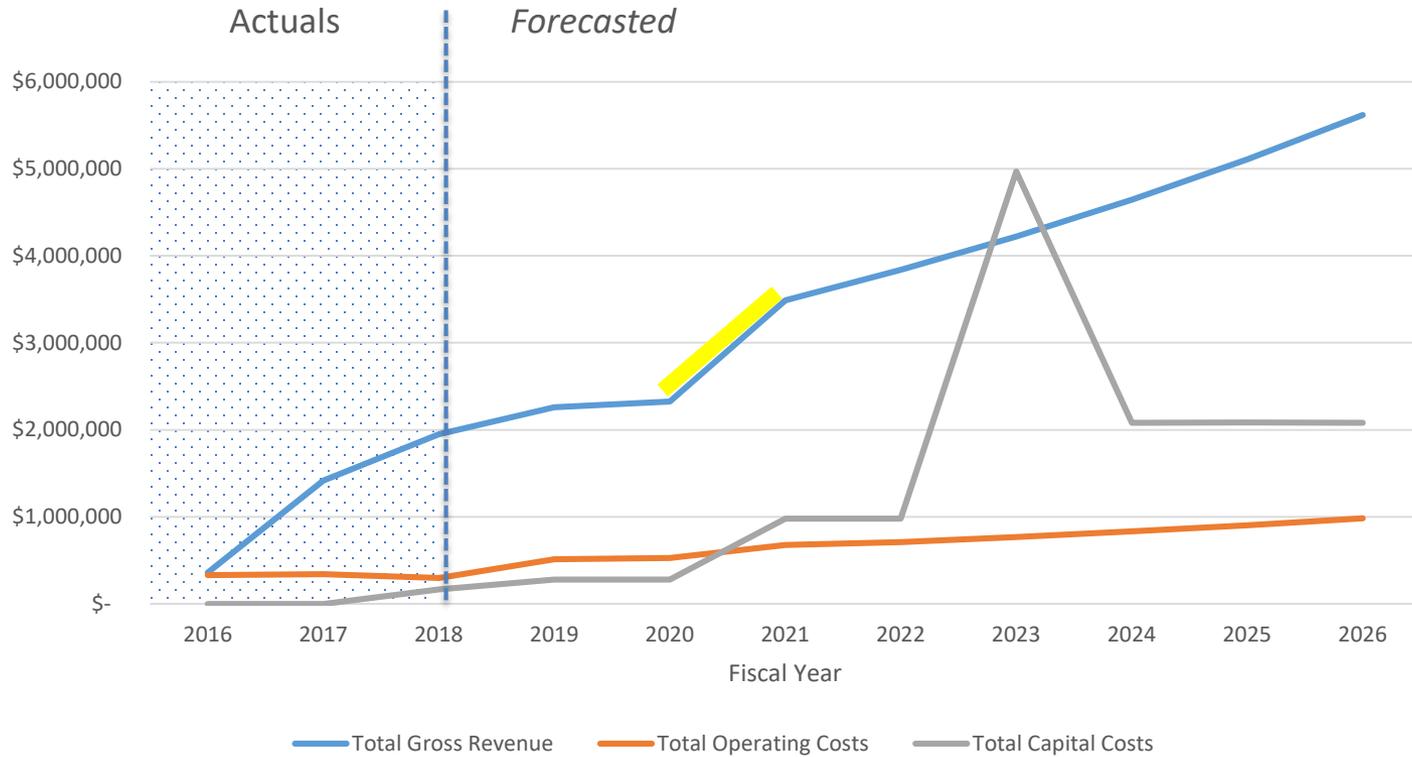
I-70 MEXL Westbound Opens for Tolling

Loan for this corridor will be paid off in FY 2045 under the current refinancing scenario



I-70 MEXL: East & West: High Scenario: 10% Growth

Average Coverage 1.70X



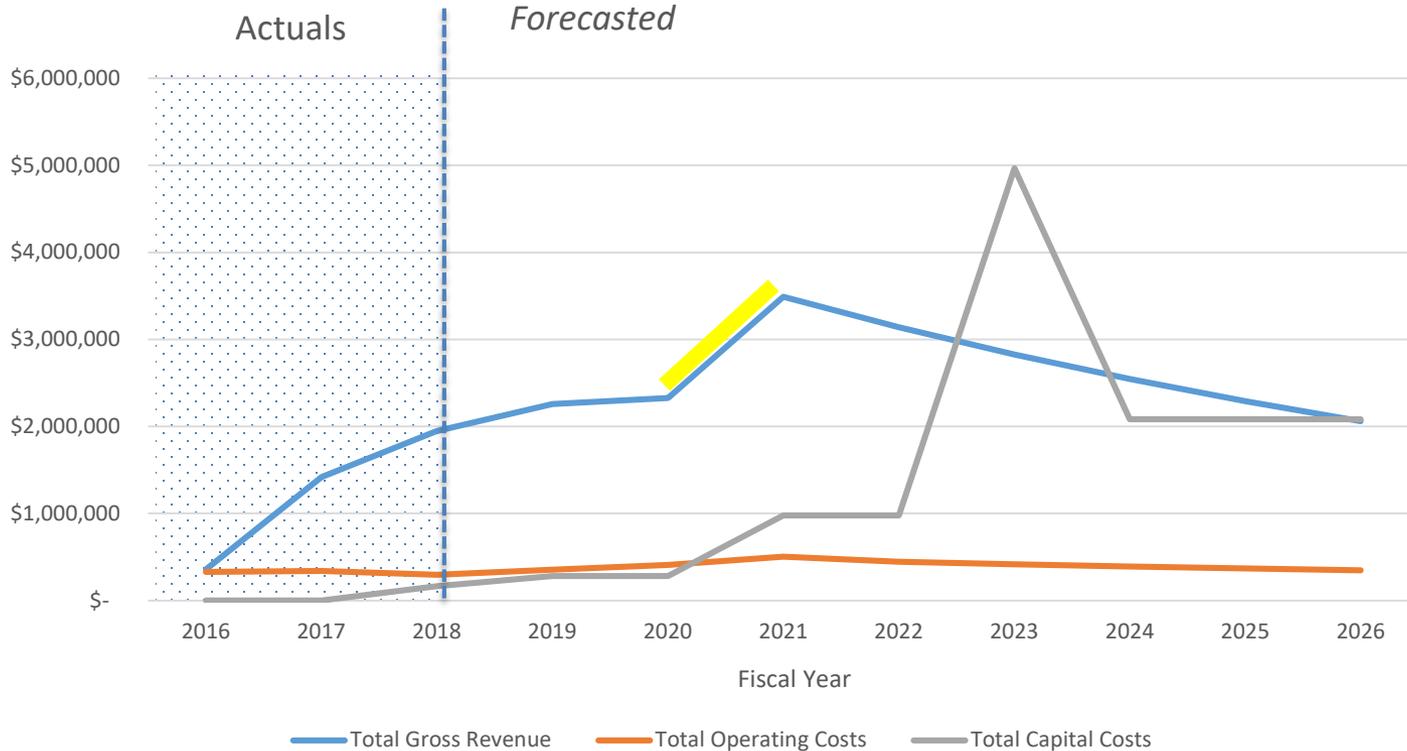
I-70 MEXL Westbound Opens for Tolling

Loan for this corridor will be paid off in FY 2045 under the current refinancing scenario



I-70 MEXL: East & West: Negative Scenario: -10% Decline

Average Coverage 1.36X



I-70 MEXL Westbound Opens for Tolling
Loan for this corridor will paid off in FY 2045 under the current refinancing scenario