Resolution #2024-06-17

Approving the Tolling Operations and Maintenance Intra-Agency Agreement between the High Performance Transportation Enterprise and the Colorado Department of Transportation for Fiscal Year 2024-25

Approved by the Transportation Commission on June 20, 2024

Whereas, the Transportation Commission is responsible, pursuant to Section 43-1-106(8), C.R.S., for formulating the general policy with respect to the management, construction, and maintenance of public highways and other transportation systems in the State; and

Whereas, the Transportation Commission is responsible, pursuant to Section 43-1-106(8), C.R.S., for formulating the general policy with respect to the management, construction, and maintenance of public highways and other transportation systems in the State; and

Whereas, the Transportation Commission promulgates and adopts all Budgets for the Colorado Department of Transportation ("CDOT") and state transportation programs; and

Whereas, pursuant to C.R.S. § 43-4-806(6)(h), the High Performance Transportation Enterprise ("HPTE") is empowered to make and enter into all other contracts and agreements, including intergovernmental agreements under C.R.S. § 29-1-103, that are necessary or incidental to the exercise of its powers and performance of its duties; and

Whereas, CDOT and HPTE previously entered into various Intra-Agency Agreements for Express Lane corridors in which HPTE agreed to compensate CDOT for the operations, maintenance, and rehabilitation of the Express Lanes by allocating costs based on a proportion of the total number of vehicles using the Express Lane and the general purpose lanes (the "Pro-Rata O&M Cost Calculation"); and

Whereas, given the practical difficulties in capturing the true values of the Pro-Rata O&M Cost Calculation and the ongoing maturation of HPTE's business practices, CDOT and HPTE now desire to adjust how HPTE compensates CDOT for the operations, maintenance, and rehabilitation of the Express Lanes ("Services") by providing payment to CDOT on an upfront basis rather than the retroactive O&M Cost Calculation; and

Whereas, HPTE acknowledges that CDOT possesses operations and maintenance ("O&M") expertise unavailable to HPTE, which enables it to ensure the effective, efficient, and safe operations of Express Lanes; and

Whereas, for the upcoming fiscal year, CDOT has prepared a new Statement of Work describing the services HPTE has requested CDOT to provide HPTE during the 2024-25 fiscal year, which is attached hereto and incorporated herein as Exhibit A (the

"Statement of Work") to the Fiscal Year (FY) 2024-25 Intra-Agency Agreement (the "Agreement"); and

Whereas, in order to ensure the efficient running of surface transportation infrastructure projects that involve Express Lanes once they become operational, HPTE desires that CDOT utilize its expertise in operations and maintenance to provide the Services, in exchange for which HPTE agrees to compensate CDOT in the amounts set forth in the Statement of Work; and

Whereas, the Transportation Commission has reviewed the Statement of Work attached as Exhibit A to the Agreement, and finds the compensation amounts set forth to constitute fair and reasonable compensation for the specific Services to be provided by CDOT to HPTE during the 2024-25 fiscal year as detailed in the Statement of Work; and

Whereas, the Transportation Commission has reviewed the Agreement, by this Resolution accepts, and confirms the findings and statements contained in the recitals.

Now Therefore Be It Resolved, the Transportation Commission hereby approves the Tolling Operations and Maintenance Intra-Agency Agreement in substantially the form presented and authorizes the CDOT Executive Director, or her designee, to execute the Agreement with such changes therein and additions thereto, including revisions or modifications to the Statement of Work, as the CDOT Executive Director or her designee may determine to be necessary or appropriate.

Herman F. Stockinger ⅃⅃⅃
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Herman Stockinger, Secretary
Transportation Commission of Colorado