



COLORADO

Department of Transportation

Division of Accounting and Finance

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MEMORANDUM

TO: TRANSPORTATION COMMISSION
FROM: DAVID SPECTOR, DIRECTOR OF HIGH PERFORMANCE TRANSPORTATION ENTERPRISE
CC: MARIA SOBOTA, CHIEF FINANCIAL OFFICER
DATE: MAY 19, 2016
SUBJECT: HPTE UPDATE ON THE DEVELOPMENT OF FISCAL YEAR 2016-17 SCOPE OF WORK

Purpose

To brief the Transportation Commission (TC) on the Fiscal Year (FY) 2016-17 scope of work (SOW) that will be performed by the High Performance Transportation Enterprise (HPTE).

Action

This item is informational only and no TC action is required in May. Approval of the Fee for Service Intra-Agency Agreement (IAA), including an updated SOW, between the Colorado Department of Transportation (CDOT) and the High Performance Transportation Enterprise (HPTE) for FY 2016-17 will be sought in June.

General Background on the CDOT-HPTE Fee for Service Intra-Agency Agreement:

While the majority of IAA's between CDOT and HPTE are for allocating the rights and responsibilities on specific shared construction projects, IAA's also document the terms of the overall business relationship between CDOT and HPTE. This type of IAA includes the process by which HPTE is able to recoup the fair market value of the services it provides to CDOT in an exchange transaction.

In recognition of the specialized nature of the expertise and services HPTE provides to CDOT, CDOT pays HPTE through a fee for service IAA. As part of this IAA, the services that are to be provided by HPTE to CDOT and the value being compensated for each are detailed in a scope of work for that upcoming fiscal year. The value of the services provided must correspond with the HPTE FY 2016-17 budget that the TC approved in March, 2016. The scope of work outlines tasks that generally fall into categories linked to the stage of development of the various HPTE projects.

The review of the SOW and timing for approval of the FY 2016-17 IAA is currently dictated by the original two-year SOW agreement between CDOT and HPTE, which was agreed to prior to (FY) 2015-16. Starting in (FY) 2017-18, HPTE's budget and scope of work development process will proceed along the same timeline.

Scope of Work Details

An overview of key areas that CDOT has tasked HPTE with in FY 2016-17 are:

- Lead all project development work for the US36 Managed Lanes/Bus Rapid Transit Project, including oversight of operations and maintenance work to ensure compliance with performance requirements and general oversight and management of the concession agreement with Plenary Roads Denver (PRD).
- Lead all aspects of the project procurement process for the Central 70 project including, meeting with proposers, evaluating proposals and reaching commercial and financial close.
- Lead project development work for the C-470 Express Lanes Project including securing a TIFIA loan and Private Activity Bonds (PABS), working with legal counsel and partnering with E-470 on installation and testing tolling equipment.

- Coordinate with CDOT on project development efforts for the I-25 North corridor, including the implementation of tolling strategies for Segment 3 as well supporting feasibility studies and a potential commercial loan for Segments 7 and 8.
- Coordinate with CDOT on all public outreach and education for P3 and managed lane projects.

NOTE: In connection with SB 16-123 being postponed indefinitely, CDOT and HPTE agreed to implement changes to allow HOV only Express Lane users and motorcycles to travel for free in HOV Express Lanes (“HOV Changes”). HPTE will lead implementation of this effort for CDOT. However, this task is excluded from the fee for service agreement because it occurred after approval of HPTE’s FY 2016-17 Budget. HPTE and CDOT acknowledge that implementing these procedural changes will result in additional work for HPTE, and that budget requests and fee for service scope revisions will be accommodated as this work is performed.

Key Policy Considerations

- The fee for service model describes the business relationship between HPTE and COOT and enables HPTE to recoup the fair market value of its services to CDOT in an exchange transaction.
- The fee for service TABOR enterprise model has recently been validated by the Colorado Attorney General’s Office in a legal opinion discussing the hospital provider fee.
- Documents the necessary contractual obligations between CDOT and HPTE.
- Approval of the IAA will reinforce the mutually beneficial partnership between CDOT and HPTE and fairly compensates HPTE for the value it provides to CDOT.

Beginning in FY 2017-18, the fee for service agreement will be considered and presented at the same time as HPTE’s budget.

Commission Options/Decision Matrix

- 1) **Staff Recommendation:** Review and acknowledge the memo. Staff will present the final scope of work and Fee for Service Agreement for Commission approval in June.
- 2) Review the memo, but with instructions to add scope of work for particular projects or programs. Staff would revise the scope and return with a revised scope and increased budget supplement in June.
- 3) Review the memo, but with instructions to eliminate scope of work for particular projects or programs. Staff would revise the scope and return with a revised scope and decreased budget supplement in June

Next Steps

1. In June the TC will be presented with a finalized scope of work and be asked to review and approve an updated Fee for Service Intra-Agency Agreement (IAA) between the Colorado Department of Transportation (CDOT) and the High Performance Transportation Enterprise (HPTE) for FY 2016-17.
2. Once the impacts of the HOV Changes are understood, staff will return with an update to the fee for service scope of work and FY 2016-17 budget to account for the impact of implementing the HOV Changes.