

Resolution – HPTE #445

Approving the Tolling Operations and Maintenance Intra-Agency Agreement between the High Performance Transportation Enterprise (HPTE)¹ and the Colorado Department of Transportation.

Whereas, pursuant to C.R.S. § 43-4-806, *et seq.*, the General Assembly of the State of Colorado (“State”) created the Colorado High Performance Transportation Enterprise (“HPTE”) as a government-owned business within the Colorado Department of Transportation (“CDOT”) to pursue innovative means of more efficiently financing important surface transportation projects that will improve the safety, capacity, and accessibility of the surface transportation system; and

Whereas, pursuant to C.R.S. § 43-4-806(6)(h), 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 Tolling Operations and Maintenance 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,

¹ The High Performance Transportation Enterprise (HPTE) is now doing business as the Colorado Transportation Investment Office (CTIO). CTIO is how the enterprise refers to itself now and in the future. However, the HPTE name is retained for legislative and legal documents.

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 HPTE Board of Directors ("Board") 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 HPTE Board has reviewed the Agreement, by this Resolution accepts, and confirms the findings and statements contained in the recitals.

Now therefore be it resolved, the HPTE Board hereby approves the Tolling Operations and Maintenance Intra-Agency Agreement in substantially the form presented and authorizes the HPTE Director, or his designee, to execute the Agreement with such changes therein and additions thereto, including revisions or modifications to the Statement of Work, as the HPTE Director or his designee may determine to be necessary or appropriate.

Signed as of June 24, 2024

Simon Logan
Secretary, HPTE Board of Directors