



DATE: September 10, 2014
TO: HPTE Board of Directors
FROM: Michael Cheroutes, Director of High Performance Transportation Enterprise
SUBJECT: Revised Toll Schedule for the I-25 Managed Lanes

Purpose

The High Performance Transportation Enterprise (“HPTE”) and Plenary Roads Denver LLC (“PRD”) previously entered into the Concession Agreement for US 36 and the I-25 Managed Lanes on June 27, 2013, and subsequently amended and restated the Concession Agreement pursuant to the Amended and Restated Concession Agreement for US 36 and the I-25 Managed Lanes on February 25, 2014 (“Concession Agreement”). Pursuant to the Concession Agreement, PRD has sent to HPTE a revised I-25 Managed Lanes Proposed Toll and Penalty Schedule dated September 3, 2014, for implementation (“Revised Toll Schedule for the I-25 Managed Lanes”).

Action

Staff is requesting that the HPTE Board approve the Revised Toll Schedule for the I-25 Managed Lanes.

Background

Schedule 16 of the Concession Agreement allows PRD to revise existing user-fees charged to users of the managed lanes by sending a Proposed Toll and Penalty Schedule to the HPTE Board, the entity responsible for establishing user fees. After considering the Proposed Toll and Penalty Schedules, the HPTE Board may adopt or reject the proposed revisions. The HPTE Board’s failure to adopt a Proposed Toll and Penalty Schedule may, subject to certain exceptions, result in HPTE being required to pay to PRD its good faith estimate of the financial benefits which would arise from the implementation of the Proposed Toll and Penalty Schedules as and when those benefits would have accrued to PRD.

Details

The Revised Toll Schedule for the I-25 Managed Lanes, which includes PRD’s explanation of the revisions, can be found in the HPTE Board Packet.

Options and Recommendations

1. Staff Recommendation - Approve the Revised Toll Schedule for the I-25 Managed Lanes
2. Deny approval for the Revised Toll Schedule for the I-25 Managed Lanes, which could require HPTE to compensate PRD for failing to implement the revised schedule

Resolution – HPTE # 142

Adoption of Revised Toll Schedule for I-25 Managed Lanes Proposed by Plenary Roads Denver under the Amended and Restated Concession Agreement for US 36 and I-25 Managed Lanes

WHEREAS pursuant to Section 43-4-806, C.R.S., the General Assembly of the State of Colorado 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 in connection with Phase 2 of the U.S. 36 Managed Lanes Project (“Phase 2 Project”), HPTE issued a Request for Proposals on February 12, 2013, pursuant to which Plenary Roads Denver LLC (“Concessionaire”) submitted a final proposal to HPTE and HPTE and the Concessionaire entered into that certain Concession Agreement for US 36 and the I-25 Managed Lanes dated June 27, 2013, (as amended, the “Concession Agreement”), in order to implement the Phase 2 Project and the operation and maintenance of U.S. 36 Phase 1 Project and the I-25 Managed Lanes; and

WHEREAS financial close under the Concession Agreement occurred in February 2014 (“Financial Close”) and, at Financial Close, HPTE and the Concessionaire entered into an Amended and Restated Concession Agreement dated February 25, 2014 (“Amended and Restated Concession Agreement”), amending and restating the Concession Agreement; and

WHEREAS pursuant to the Amended and Restated Concession Agreement, the Concessionaire currently operates and maintains the I-25 Managed Lanes on the reversible lane portions of Interstate 25 from mile post 211.8 to 217.8 and at the interchange of I-25 and US 36 westward along US 36 to mile post 52.9 (“I-25 Managed Lanes”); and

WHEREAS the HPTE Board of Directors has the authority to establish user fees for the privilege of using surface transportation infrastructure, including the I-25 Managed Lanes, pursuant to Section 43-4-806(2)(c)(I), C.R.S.; and

WHEREAS pursuant to Schedule 16 of the Amended and Restated Concession Agreement, the Concessionaire has the authority to request that the HPTE Board of Directors adjust the user fees charged to users of the I-25 Managed Lanes; and

WHEREAS the Concessionaire submitted to HPTE a request to revise the existing user-fee schedule (“Revised Toll Schedule”) and the HPTE Board and has reviewed the Revised Toll Schedule and considers the changes to be appropriate; and

WHEREAS in accordance with the terms of the Amended and Restated Concession Agreement and consistent with its statutory powers, the HPTE Board of Directors desires to update the existing fees charged to users of the I-25 Managed Lanes to be consistent with the Revised Toll Schedule, which schedule is attached hereto.

NOW THEREFORE BE IT RESOLVED: the High Performance Transportation Enterprise Board of Directors hereby adopts the user-fee rates for the I-25 Managed Lanes set forth in the Revised Toll Schedule effective October 1, 2014.

Signed as of September 17, 2014

Tim Gagen
Chairman, HPTE Board of Directors



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September 3, 2014

HPTE
4201 East Arkansas Ave.
Denver, CO 80222

Attention: Nicholas Farber

RE: U.S. 36 Managed Lanes Project –I-25 Managed Lanes Proposed Toll and Penalty Schedule

Dear Nicholas,

Please review the Proposed Toll and Penalty Schedule in accordance with the Concession Agreement Schedule 16, Section 1.2 and 2.1. Here is all the data necessary for HPTE consideration following the structure of the CA.

2. Establishment of and Changes to Established Toll and Penalty Schedule

2.1. Every Proposed Toll and Penalty Schedule that proposes to establish or modify Tolls shall include:

(a) All data necessary for HPTE to consider the Proposed Toll and Penalty Schedule for adoption as the Established Toll and Penalty Schedule. Each Proposed Toll and Penalty Schedule shall include:

(i) The Proposed Algorithm

Tolls will be charged based on a “time of day”, variable, methodology consistent with the current regime, and not on a Dynamic Tolling basis. As a result there is no new proposed algorithm.

(ii) Tolls to be charged to Tolloed Vehicles using the Managed Lanes, or any portion thereof, while using an electronic, automated system enabling the ETCS to recognize the Motor Vehicle by means other than imagery, including Transponders (in each case a using a Vehicle Recognition System (VRS)), which in all cases must be Dynamic Tolling

ExpressTolls: Passenger Vehicle Tolls

At this time, we are not requesting any change to current ExpressToll rates, which are as set out in Table 1 below.

Table 1: ExpressToll Tolls

Time	Current Rate	Proposed Rate	Increase	% Increase
3.00-5.00	Lane Closed			
5.00-6.00	\$0.60	\$0.60	\$0	0%
6.00-6.45	\$2.20	\$2.20	\$0	0%
6.45-7.15	\$4.00	\$4.00	\$0	0%
7.15-8.15	\$4.45	\$4.45	\$0	0%
8.15-8.45	\$4.00	\$4.00	\$0	0%
8.45-10.00	\$1.55	\$1.55	\$0	0%
10.00-12.00	Lane Closed			
12.00-15.00	\$0.60	\$0.60	\$0	0%
15.00-15.30	\$1.90	\$1.90	\$0	0%
15.30-16.30	\$2.55	\$2.55	\$0	0%
16.30-18.00	\$4.45	\$4.45	\$0	0%
18.00-19.00	\$1.90	\$1.90	\$0	0%
19.00-03.00	\$0.60	\$0.60	\$0	0%
Weekends	\$0.60	\$0.60	\$0	0%

(iii) Tolls to be charged to Tolloed Vehicles using the Managed Lanes, or any portion thereof, without using a Vehicle Recognition System

License Plate Tolls (LPT): Passenger Vehicle Tolls

Table 2 depicts tolls to be charged to Managed Lane users that do not use the ExpressToll account.

Table 2: License Plate Tolls

Time	Current Rate	Proposed Rate	Increase	% Increase
3.00-5.00	Lane Closed			
5.00-6.00	\$1.05	\$3.10	\$2.05	195%
6.00-6.45	\$2.75	\$4.70	\$1.95	71%
6.45-7.15	\$5.00	\$6.50	\$1.50	30%
7.15-8.15	\$5.55	\$6.95	\$1.40	25%
8.15-8.45	\$5.00	\$6.50	\$1.50	30%
8.45-10.00	\$2.00	\$4.05	\$2.05	103%
10.00-12.00	Lane Closed			
12.00-15.00	\$1.05	\$3.10	\$2.05	195%
15.00-15.30	\$2.40	\$4.40	\$2.00	83%
15.30-16.30	\$3.20	\$5.45	\$2.25	70%
16.30-18.00	\$5.55	\$6.95	\$1.40	25%
18.00-19.00	\$2.40	\$4.40	\$2.00	83%
19.00-03:00	\$1.05	\$3.10	\$2.05	195%
Weekends	\$1.05	\$3.10	\$2.05	195%

(iv) Tolls to be charged to Motor Vehicles that are not Passenger Vehicles

At this time, we are not requesting any change to current non-Passenger Vehicle rates. Non-Passenger Vehicles (defined as vehicles with four or more axles) are currently charged a \$25.00 premium on the applicable Passenger Vehicle Toll.

(b) A statement (if it is the case) that the Proposed Toll and Penalty Schedule is a remedial adjustment to the Established Toll and Penalty Schedule which the Concessionaire considers to be necessary to correct a Bus Delay Event, an error, or some other unintended consequence of that Established Toll and Penalty Schedule;

We believe this to be a remedial adjustment necessary to correct the unintended consequence of the Established Toll and Penalty Schedule. The Established Toll and Penalty Schedule sets out LPT Rates based on unbillable and uncollectable rates for LPT activity that were understood at the time of creating the schedule. As the unbillable and uncollectable rates for LPT transactions have in practice been significantly higher, it is hoped that this change to the Established Toll and Penalty

Schedule can bring performance of the project back in line with the original projections. This will also have the benefit of bring our LPT premiums in line with the premiums we were looking to implement upon opening of Phase 1 (which is set out in our RFP bid response) and therefore ensures our signage is consistent upon Phase 1 commencement and allows the market to absorb the increase ahead of Phase 1 commencement. It is also hoped that this policy will encourage LPT users to adopt AVI readers which will save them money, reduce the transaction costs that we have to pay to E470, and reduce our exposure to the higher than anticipated unbillable and uncollectable LPT transactions.

(c) A statement providing the highest and lowest Tolls that are proposed to be charged for each of the Tolls described in paragraphs 2.1(a)(i), 2.1(a)(ii), 2.1(a)(iii), and 2.1(a)(iv);

Paragraphs 2.1(a)(i) is not applicable as we are not implementing dynamic tolling.

For paragraph 2.1(a)(ii) the highest express toll remains unchanged at \$4.45 and the lowest express toll remains unchanged at \$0.60.

For paragraph 2.1(a)(iii) the proposed highest LPT toll is \$6.95 and the proposed lowest LPT toll is \$3.10.

For paragraph 2.1(a)(iv), the Non-Passenger Vehicle premium remains unchanged at \$25.

(d) If any of the Tolls described in paragraphs 2.1(a)(i), 2.1(a)(ii), 2.1(a)(iii), or 2.1(a)(iv) contain the right for the Concessionaire to manually override the Proposed Algorithm, a schedule of what specific Tolls will be if manually overridden, a description of when and on what terms the Tolls may be overridden, and a range of what the manually overridden Tolls will be:

As we are not at this time utilizing a Dynamic Tolling system, there is no algorithm for us to override. The only manual change to the system would be sent as a request to E470 to either reduce the toll rates or waive toll revenues during time periods requested by emergency services. This is consistent with the existing protocol and we are not requesting any changes to this at this time.

(e) An explanation of the changes between the Proposed Toll and Penalty Schedule and the current Established Toll and Penalty Schedule, including why the changes are being proposed;

We believe this to be a remedial adjustment necessary to correct the unintended consequence of the Established Toll and Penalty Schedule. The Established Toll and Penalty Schedule sets out LPT Rates based on unbillable and uncollectable rates for LPT activity that were understood at the time of creating the schedule. As the unbillable and uncollectable rates for LPT transactions have in practice been significantly higher, it is hoped that this change to the Established Toll and Penalty Schedule can bring performance of the project back in line with the original projections. This will also have the benefit of bring our LPT premiums in line with the premiums we were looking to implement upon opening of Phase 1 (which is set out in our RFP bid response) and therefore ensures our signage is consistent upon Phase 1 commencement and allows the market to absorb the increase



ahead of Phase 1 commencement. It is also hoped that this policy will encourage LPT users to adopt AVI readers which will save them money, reduce the transaction costs that we have to pay to E470, and reduce our exposure to the higher than anticipated unbillable and uncollectable LPT transactions.

(f) *The Concessionaire's good faith estimate, on a semi-annual basis, for as along [sic] as an effect persists, of incremental difference between the Toll Revenues generated under the Established Toll and Penalty Schedule and the Proposed toll and Penalty Schedule once Toll Revenues are being generated in accordance with the Proposed Toll and Penalty Schedule.*

Based on the price elasticity of demand for the most recent May 2014 toll increase, we estimate a positive semi-annual impact of ~\$145,000 as a result of the proposed toll increase. This estimate is based on the assumption that the price elasticity of demand for the proposed increase will mirror that of the previous increase. Should demand prove to be more elastic for the proposed increase, the positive impact would move proportionately downward.

Respectfully,
PLENARY ROADS DENVER

A handwritten signature in black ink, appearing to read 'Simon Stachnik'.

Simon Stachnik
Project Manager

cc: Michael Cheroutes, HPTE
Mark Gosselin, HPTE
Joe Mahoney, HPTE
Brian Clark, Plenary Group
Dan Wurst, Plenary Group
Terry Ostrom, Plenary Group