



DATE: March 16, 2016
TO: Transportation Commission
 HPTE Board of Directors
FROM: David Spector, High Performance Transportation Enterprise Director
SUBJECT: Operations and Maintenance Cost Sharing On Managed Lanes

Purpose:

The purpose of this memo is to provide information and facilitate a high-level policy discussion with the Transportation Commission (TC) and the High Performance Transportation Enterprise (HPTE) Board of Directors regarding the of split operations and maintenance (O&M) costs between CDOT and HPTE on corridors where there are both managed and general purpose lanes.

Action:

Information only. No formal action is being requested.

Key Policy Considerations:

Certain O&M costs are clearly attributable to HPTE, while others are clearly attributable to CDOT. Certain costs should be allocated between the two. The allocation of O&M costs depends, in part, on:

- State law (TABOR rules governing enterprises)
- Accounting considerations regarding ownership of assets and liabilities
- Lender requirements (from TIFIA or private lenders)

Given these factors, CDOT and HPTE staff have considered different alternatives for how to allocate certain O&M costs. For costs that should be allocated, staff recommends using a methodology based on the average daily traffic (ADT).

Analysis

Table 1 below describes which O&M costs are borne by HPTE, which O&M costs are borne by CDOT, and which O&M costs should be allocated pro-rata between the two.

Table 1: Breakdown of Operation and Maintenance Responsibilities

HPTE Only-Expenses	CDOT Only-Expenses	Subject to the Pro-Rata Allocation
Toll collection & processing	Repair and replacement of guardrails	Snow and ice removal
Level one & two maintenance of toll equipment (e.g. cleaning of cameras)	Repair and replacement of light fixtures	Lane striping, lane sweeping/cleaning
Contracts with State Patrol for toll evasion enforcement	Contracts with State Patrol for safety enforcement	Trash removal
Any signage specifically related to the managed lanes (e.g. toll rates, entrance and exit information)	Any general traffic signage or variable message signs (VMS)	Pothole filling, crack sealing, pavement resurfacing and any additional pavement maintenance on the entire corridor
CDOT staff time dedicated to monitoring traffic flows determining opening/closing times, setting variable toll rates and general administrative costs		Other operations and maintenance expenses CDOT and HPTE agree in good faith are most fairly allocated utilizing the pro-rata method
Other corridor items specific to managed lanes (e.g. sweeping/cleaning to open the PPSL)		

For O&M costs that should be allocated pro-rata, two options were considered by staff, including using a calculation based on lane miles or ADT. Table 2 below summarizes the pros and cons of each method:

Table 2: Comparison of Cost-Sharing Methodologies

	Average Daily Traffic (ADT)	Lane Mile
Pros	<ul style="list-style-type: none"> • More closely captures the true share of HPTE costs on the corridor • More easily transferable between corridors with different characteristics (e.g. HOV vs. non-HOV; permanent vs. temporary facility) 	<ul style="list-style-type: none"> • Fixed O&M Cost would be easier for budgeting and planning
Cons	<ul style="list-style-type: none"> • Fixed costs affecting the entire corridor may not be allocated equitably • As traffic increases in the general purpose lanes, congestion management/guaranteed minimum speeds in the managed lane will hold throughput relatively constant, potentially leading to a reduction in HPTE's proportionate share as overall volumes increase 	<ul style="list-style-type: none"> • Not as transferrable to other corridors managed lanes • Might result in HPTE under or over paying its share of costs on the corridor

Based on the information above, it was determined that ADT would be the most accurate method for CDOT and HPTE to fairly determine how to share O&M costs. It is also the methodology that is flexible enough to account for the differences and variety in managed lane corridors.

Example of a Pro-Rata share Calculation: If operations and maintenance expenses is \$500,000 per month and five percent of the vehicles were subject to a toll, HPTE would be responsible for \$25,000 of the costs.

In practice, CDOT will seek reimbursement from HPTE on or before January 15 and July 15 of each year, and O&M costs will be allocated based on a proportion of the total number of vehicles using corridor, with HPTE's portion being all vehicles using the managed lane that are obligated to pay a user fee.

Legal Support for using the Pro-Rata Share Model:

In 2009, the Funding Advancements for Surface Transportation and Economic Recovery Act (known as FASTER) established HPTE as a government-owned business (or enterprise) and division of CDOT (under Section 43-4-806, C.R.S.). As an enterprise, HPTE is empowered to impose user fees (tolls) for the privilege of using surface transportation infrastructure; a power that CDOT itself does not have. As an enterprise exempt from the provisions of section 20 of article X of the Colorado constitution (TABOR), HPTE is also required to receive no more than 10% of its revenues from "grants" from state and local governments. Grants include any direct contribution of money from the state to HPTE that is not required to be repaid, and could arguably include payments by CDOT on behalf of HPTE for O&M obligations that fall within HPTE's sole area of responsibility, particularly those related to tolling infrastructure. Therefore, in order to safeguard HPTE's enterprise status, it is important for HPTE to pay its proportionate share of O&M on managed lane projects. The proposed broad division of O&M responsibilities, whereby HPTE is responsible for tolling, while CDOT remains responsible for general purpose and non-tolled traffic, supports this goal.

Accounting Support for Using the Pro-Rata Share Model:

From an accounting perspective, the owner of an asset must be responsible for the operations and maintenance of that asset. The managed lanes set to open on I-25 North (Segment II) as well as other joint HPTE/CDOT projects in the pre-construction stage such as Segment III and C-470, will be recorded as assets in HPTE special revenue Fund 536. Therefore, as the owner of those assets, HPTE will need to pay for the operations and maintenance of the managed lanes on those corridors. Although the I-70 Mountain Express Lane (PPSL) is a CDOT assets due to the fact that is classified as a shoulder and is only in operation as a lane for select periods of time, HPTE still has an obligation to contribute to the O&M costs associated with the lane when it is open and in operation because it is generating revenue for HPTE.

Recommendations:

Staff recommends that future Intra-Agency Agreements between CDOT and HPTE for managed lane corridors utilize the same ADT-based allocation of O&M responsibilities that was used for the recently approved I-25 North Express Lanes (Segment 3) Project Intra-agency Agreement.

Next Steps:

Approval of the First Amendment to the HPTE I-70 PPSL Project Intra-agency Agreement will be presented to the TC and HPTE Board in April.