



MEMORANDUM

TO: HIGH PERFORMANCE TRANSPORTATION ENTERPRISE BOARD
FROM: NICHOLAS FARBER, HPTE DIRECTOR;
PIPER DARLINGTON, HPTE BUDGET AND SPECIAL PROJECT MANAGER;
ANDREW GOMEZ, HPTE GENERAL COUNSEL
DATE: MARCH 17, 2021
SUBJECT: APPROVAL OF THE FISCAL YEAR 2021-22 FEE FOR SERVICE INTRA-AGENCY
AGREEMENT BETWEEN HPTE AND CDOT

Purpose:

To present the Fiscal Year (FY) 2021-22 Fee for Service Intra-Agency Agreement (IAA), including the FY 2021-22 Statement of Work (SOW), between the High Performance Transportation Enterprise and the Colorado Department of Transportation (CDOT).

Requested Action:

HPTE staff is seeking approval of resolution #349 authorizing the IAA and proposed SOW between HPTE and CDOT for FY 2021-22.

Background:

In recognition of the specialized nature of the expertise and services HPTE provides to CDOT, CDOT pays HPTE through a fee for service IAA. This IAA documents the terms of the overall business relationship between CDOT and HPTE. It includes the Statement of Work CDOT wishes HPTE to provide in FY 2021-22, the hours provided by HPTE staff to deliver the work and the process by which HPTE charges CDOT for the fair market value of the services provided. The value of services corresponds to the HPTE fee for service allocation that the Transportation Commission (TC) is asked to approve as part of the annual budget adoption in March. On behalf of CDOT, HPTE will undertake the following new initiatives in the Fiscal Year 2021-22 HPTE Statement of Work:

- Oversee the development of a Tolling Equity program for the Central 70 project because the corresponding National Environmental Policy Act (NEPA) document identifies this as a mitigation strategy for vulnerable populations who have been disproportionately exposed to environmental hazards along the corridor (referred to as environmental justice communities).
- Lead the effort to develop and finalize a contract compliance and monitoring framework for Central 70. The Central 70 Project Agreement is the second Design Build Finance Operate Maintain (DBFOM) P3 managed by HPTE on behalf of the Department once project construction is completed and the operating period of the contract begins. This will include developing tools to monitor routine maintenance, snow, and ice removal services provided for the entire corridor.
- Lead the effort to finalize the I-25 North Corridor TIFIA loan with the USDOT Build America Bureau in the first half of Fiscal Year 2021-22. On behalf of CDOT, HPTE will be securing financing to construct express lanes as well as general purpose lanes for the I-25 North Johnstown to Fort Collins project (Segments 6/7/8) and future safety improvements to I-25 North US36 to E470 (Segments 2/3). These projects will help provide additional congestion management to the I-25 corridor.

See Exhibit A under Attachment A, FY 2021-22 IAA and Statement of Work for a complete description of all activities to be performed by HPTE.

Key Policy Considerations:

- The fee for service model describes the business relationship between HPTE and CDOT 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 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.

Options/Decision Matrix

1. Approve resolution #349 authorizing the IAA and proposed SOW for FY 2021-22. **Staff Recommendation.**
2. Review the statement of work and IAA, but with instructions to add statement of work for particular projects or programs. Staff would make the necessary revisions and return with a revised statement and increased budget supplement at the beginning of the next fiscal year.
3. Review the statement of work and IAA, but with instructions to eliminate statement of work for particular projects or programs. Staff would make the necessary revisions and return with a revised statement and revised budget at the beginning of the next fiscal year.

Next Steps

- HPTE budget staff will coordinate with the Office of Financial Management and Budget (OFMB) to ensure that the approved FY 2021-22 fee for service amount is distributed appropriately and available for use at the beginning of the fiscal year.
- HPTE program staff will provide a mid-year update to the HPTE Board, CDOT and the Transportation Commission on the progress being made to complete the activities outlined in the approved FY 2021-22 SOW.

Attachment:

Attachment A: Fiscal Year 2021-22 Fee for Service Intra-Agency Agreement

Attachment B: Resolution #349 Approving the Fiscal Year 2021-22 Fee for Service Intra-Agency Agreement between HPTE and the Colorado Department of Transportation