

MEMORANDUM

TO: THE COLORADO TRANSPORTATION INVESTMENT OFFICE BOARD OF DIRECTORS
FROM: NICK FARBER, CTIO DIRECTOR
PIPER DARLINGTON, CTIO BUDGET AND SPECIAL PROJECTS MANAGER
SUBJECT: APPROVAL OF THE FISCAL YEAR 2023-24 FEE FOR SERVICE INTRA-AGENCY AGREEMENT
BETWEEN CTIO AND CDOT
DATE: MARCH 15, 2023

Purpose:

To present the Fiscal Year (FY) 2023-24 Fee for Service Intra-Agency Agreement (IAA), including a \$4.0 M payment and the FY 2023-24 Statement of Work (SOW), between the Colorado Transportation Investment Office (CTIO)¹ and the Colorado Department of Transportation (CDOT).

Requested Action:

Staff is seeking approval of CTIO Resolution #410 authorizing the IAA, \$4.0 M payment, and proposed SOW between CTIO and CDOT for FY 2023-24.

Background:

In recognition of the specialized nature of the expertise and services CTIO provides to CDOT, CDOT pays CTIO through a Fee for Service IAA. This IAA documents the terms of the overall business relationship between CDOT and CTIO. It includes the annual SOW CDOT wishes CTIO to provide in FY 2023-24, the hours provided by CTIO staff to deliver the work, and the process by which CTIO charges CDOT for the fair market value of the services provided.

Current Details:

For FY 2023-24, the value of services corresponds to the \$4.0 M CTIO fee for service allocation that the Transportation Commission (TC) is asked to approve as part of the annual budget adoption in March. The payment amount for FY 2023-24 has stayed the same over the current FY 2022-23 fee for service payment. In addition to hours that CTIO consultants and subject matter experts will provide, CTIO estimates that internal staff will dedicate 13,056 hours to delivering the tasks outlined in Exhibit A under Attachment A: Fiscal Year 2023-24 Fee for Service Intra-Agency Agreement.

Key Policy Considerations:

- The fee for service model describes the business relationship between CTIO and CDOT. It enables CTIO 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.

¹ The High-Performance Enterprise (HPTE) remains the name for the Enterprise in all legal, contractual, and legislative documents, but following a rebranding in 2021 HPTE will be referred to as the Colorado Transportation Investment Office in all other documents.

- Documents the necessary contractual obligations between CDOT and CTIO.
- Approval of the IAA will reinforce the mutually beneficial partnership between CDOT and CTIO and fairly compensates CTIO for the value it provides to CDOT.

Options/Decision Matrix:

1. Review and approve the IAA, \$4.0 M payment, and SOW for FY 2023-24. **Staff Recommendation.**
2. Review the IAA, \$4.0 M payment, and SOW, but with instructions to add to the SOW for particular projects or programs. Staff would make the necessary revisions and return with a revised SOW and increased budget supplement at the beginning of the next fiscal year.
3. Review the IAA, \$4.0 M payment, and SOW, but with instructions to eliminate or reduce the SOW for particular projects or programs. Staff would make the necessary revisions and return with a revised SOW and budget at the beginning of the next fiscal year.

Next Steps:

- CTIO budget staff will coordinate with the Office of Financial Management and Budget (OFMB) to ensure that the approved \$4.0 M FY 2023-24 fee for service amount is distributed appropriately and available for use at the beginning of the fiscal year.
- CTIO program staff will provide a mid-year update to the CTIO Board, CDOT, and the Transportation Commission on the progress being made to complete the activities outlined in the approved FY 2023-24 SOW.

Attachment:

Attachment A: Fiscal Year 2023-24 Fee for Service Intra-Agency Agreement