

MEMORANDUM

TO: COLORADO TRANSPORTATION INVESTMENT OFFICE BOARD OF DIRECTORS
FROM: NICK FARBER, CTIO DIRECTOR
SUBJECT: KELLY BROWN, CTIO TOLLING OPERATIONS MANAGER
APPROVAL OF THE FISCAL YEAR 2023-24 TOLLING OPERATIONS AND
MAINTENANCE INTRA-AGENCY AGREEMENT BETWEEN CTIO AND CDOT
DATE: MAY 17, 2023

Purpose

To present the Fiscal Year (FY) 2023-24 Tolling Operations and Maintenance (TOMs) IAA, including the FY 2023-24 Statement of Work (SOW), between the Colorado Transportation Investment Office (CTIO)¹ and the Colorado Department of Transportation (CDOT).

Action

CTIO staff is seeking approval of Resolution #417 by the CTIO Board of Directors (Board) authorizing the TOMs IAA and proposed SOW between CTIO and CDOT for FY 2023-24.

Background

In recognition of the specialized operations and maintenance (O&M) expertise that CDOT provides to CTIO, CTIO, and CDOT determined a new O&M sharing methodology in 2021 that provides an upfront payment to CDOT to cover Express Lane O&M costs for the upcoming year through a new annual Tolling Operations and Maintenance (TOMs) IAA. This IAA documents the terms of the overall business relationship between CDOT and CTIO. It includes the SOW CTIO wants CDOT to provide in FY 2023-24, the cost calculations to deliver the work, how CDOT charges CTIO for the fair market value of the services provided and ensures a proactive approach to determining O&M costs. As the Express Lane Network grows, the new structure will help address the challenges this growth creates and will ensure a more equitable approach to O&M cost sharing in the future.

The three areas of services covered under the SOW are:

- Roadway Maintenance
 - Specifics the CDOT O&M responsibilities related to the Express Lanes. This includes snow and ice removal, guardrail, and pothole repair.
- Operational Support
 - Monitoring and response to traffic and incident management in Express Lanes to ensure traffic is free-flowing and safe for the traveling public.
- Intelligent Transportation Systems (ITS) maintenance and monitoring

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.

- Electronic tolling equipment is essential to the safe and smooth operation of the Express Lanes across the network. CDOT ITS plays a key role in ensuring the network and the overall system are working to collect tolls and convey information to the users that travel in the Express Lanes.

See Exhibit A under Attachment A for a complete description of all activities to be performed by CDOT and the costs to be paid by CTIO.

Key Policy Considerations

- The fee-for-service model describes the business relationship between CTIO and CDOT and enables CDOT to recoup the fair market value of its services to CTIO in an exchange transaction.
- The Colorado Attorney General's Office has validated the fee for service-for-service TABOR enterprise model in a legal opinion discussing the hospital provider fee.
- 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 CDOT for the services it provides to CTIO concerning O&M.
- CTIO and CDOT approved a new [memorandum of understanding](#) (MOU) in January 2021. The MOU highlights how HPTE and CDOT work together to improve the state surface transportation system. The MOU details the business relationship at a high level. However, section six of the MOU specifies that CTIO and CDOT will develop a new IAA on operations and maintenance of Express Lanes from 2021 onward to reflect the expansion of the Express Lanes Network as facilities move from under construction to operational. This IAA meets that requirement.

Options/Decision Matrix

1. Approve Resolution #417 TOMs IAA and proposed SOW for FY 2023-24. Staff Recommendation.
2. Review the statement of work and IAA but with instructions to add a 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 the 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.

Attachments

Attachment A. Fiscal Year 2023-24 Tolling Operations and Maintenance (TOMs) IAA

Attachment B. Resolution #417