

Resolution – HPTE # 162

Approving the Tolling Services Agreement between HPTE, Plenary Roads Denver, LLC, and E-470 Public Highway Authority covering the US 36 Concession Project

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 such innovative means of financing projects include, but are not limited to, public-private partnerships, operating concession agreements, user-fee based projects financing, and availability payment and design-build contracting; and

WHEREAS HPTE has entered into a Concession Agreement with Plenary Roads Denver, L.L.C for US 36 and the I-25 Managed Lanes dated June 27, 2013, as amended and restated on February 25, 2014 and on December 17, 2014 (“Concession Agreement”); and

WHEREAS in order to collect user fees on the U.S. 36 and I-25 Managed Lanes, Plenary Roads Denver negotiated and drafted a Tolling Services Agreement (“Tolling Services Agreement”) with the E-470 Public Highway Authority (“E-470”); and

WHEREAS E-470 is a public highway authority and requested that Plenary Roads Denver, LLC’s public partner HPTE also be a party to the Tolling Services Agreement and HPTE participated in contract negotiations between E-470 and Plenary Roads Denver, LLC regarding the Tolling Services Agreement; and

WHEREAS pursuant to Section 43-4-806(6)(h), C.R.S., the Colorado High Performance Transportation Enterprise (HPTE) Board of Directors is authorized to make and enter into all agreements necessary or incidental to the exercise of its powers and performance of its duties; and

WHEREAS the HPTE Board of Directors has reviewed and been briefed on the final draft of the U.S. 36 Tolling Services Agreement between HPTE, Plenary Roads Denver, LLC and E-470 and staff has explained that the draft is subject to anticipated minor changes from the Colorado Office of the State Controller.

NOW THEREFORE BE IT RESOLVED: the HPTE Board of Directors hereby approves the Tolling Services Agreement between HPTE, Plenary Roads Denver, LLC and E-470.

BE IT FURTHER RESOLVED: the HPTE Board of Directors authorizes HPTE’s Director and HPTE staff to revise the final draft of the Master Tolling Services Agreement to comply with changes made by the Colorado Office of the State Controller.

BE IT FURTHER RESOLVED: the HPTE Board of Directors authorizes the HPTE Director to approve and enter into the Tolling Services Agreement and, per its bylaws, any amendments thereto that do not exceed the estimate of available funds approved for the fiscal year by the Board.

Signed as of March 18, 2015



Sharon Williams
Secretary, HPTE Board of Directors



Date: March 18, 2015
To: High Performance Transportation Enterprise Board
From: Michael Cheroutes, Director; Nick Farber, Enterprise Specialist
Subject: US-36 Tolling Services Agreement between HPTE, E470 and Plenary Roads Denver

Purpose

The purpose of this memo is to summarize a proposed US-36 Tolling Services Agreement (TSA) between the HPTE, the E470 Public Highway Authority and Plenary Roads Denver.

Action

The Board is asked to consider a resolution that authorizes the execution of the TSA

Background

The HPTE entered into a Concession Agreement with Plenary Roads Denver on June 27, 2013, which reached financial close on February 25, 2014. In their proposal PRD chose to use E470 as their back office tolling services provider instead of contracting with another entity. PRD and HPTE have spent the past year negotiating a long-term Tolling Services Agreement with E470, which will replace an interim agreement in place for I-25. Along with toll collection and adjudication services, E470 will provide back-office administration, violation enforcement and customer service functions. The TSA was approved by the E470 Board on March 12.

Details

A summary of the TSA's key terms follows:

Toll Collection Services: E470 will process tolls for both ExpressToll and license plate toll account holders and will remit gross toll revenue to PRD, invoicing PRD monthly for all costs.

Installation of Toll Equipment: E470 will install the lane equipment on US 36 and reconfigure the I-25 Express Lanes, connect it to their toll collection system and test it to ensure its working properly.

Costs:

Reimbursable costs: On a monthly basis, PRD will pay E470 any out-of-pocket expenses incurred by the Authority on the Concessionaire's behalf. These include, but are not limited to, payment for aged unpaid negative ExpressToll account balances, costs associated with significant increases in call volumes coinciding with the opening of new tolling facilities, tracking and reporting of HOV transactions, non-revenue transactions, motorcycle Transactions, and voided transactions.

Transponder costs: allocates the costs of switchable transponders to HPTE. Transponders will be sold (at a price determined by HPTE) online at www.expresstoll.com, at the E470 office and at two locations to be determined by HPTE.

Transaction costs and costs per dollar of gross toll revenue: PRD will pay E470 for its services on a transaction and revenue allocation basis, adjusted each year. These costs (which include labor, contractor expense, IT, utilities, bank and credit card fees, and other overhead expense) are for 2015: (1) \$.079 per ExpressToll transaction and \$.596 per LPT transaction (assessed for each gantry read) and (2) \$.039 per dollar of ExpressToll revenue and \$.027 of per dollar of LPT revenue.

Term: Fifty years. HPTE can terminate with cause at any time and without cause upon 24 months' notice (the likely advance time necessary for us to get a substitute system in place). If HPTE terminates the Agreement without cause during the first 5 years, HPTE will owe E470 liquated depreciation costs (an accommodation by us to meet a hard line taken by E-470 with respect to dealing with a private sector party). Those depreciation costs, which we will have to consider in the value proposition for establishing an alternative, competing toll collection

system) start at \$166,000 in the first year and increase in a like amount each year thereafter until year five. HPTE may terminate without cause and without cost any time after year five.

E470 may only terminate the agreement with cause.

Recommendations

The staff recommends that the Board approve a resolution authorizing the execution of this agreement.

Attachments

US-36 Tolling Services Agreement by and between HPTE, E470 and Plenary Roads Denver.

MANAGED LANES TOLLING SERVICES AGREEMENT

FOR

PHASES 1 AND 2 US HIGHWAY 36 AND I-25

BY AND AMONG

HIGH PERFORMANCE TRANSPORTATION ENTERPRISE,

E-470 PUBLIC HIGHWAY AUTHORITY

AND

PLENARY ROADS DENVER LLC

Dated _____, 2015

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TOLLING SERVICES AGREEMENT

THIS TOLLING SERVICES AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 2015 by and among the **E-470 PUBLIC HIGHWAY AUTHORITY**, a political subdivision of the State of Colorado and a body corporate (the “**Authority**”), **HIGH PERFORMANCE TRANSPORTATION ENTERPRISE** of the State of Colorado Department of Transportation (“**HPTE**”) and **PLENARY ROADS DENVER LLC**, a limited liability company of the State of Colorado, (“**Concessionaire**”) (singularly a “**Party**” and collectively the “**Parties**”).

RECITALS

WHEREAS, the Authority financed, constructed and now operates and maintains 47 miles of a tolled public highway in Colorado known as the E-470 Public Highway (“**E-470**”), including back office toll collection and customer service functions which the Authority provides via contract with a third party vendor; and

WHEREAS, the Authority performs its own toll evasion enforcement processing, including contracting with a collections law firm, and operating an administrative law court through which independent administrative law judges adjudicate unpaid toll and toll evasion transaction liability pursuant to the Public Highway Authority Law, Sections 43-4-501 *et seq.*, C.R.S.; and

WHEREAS, the Authority has historically performed back office toll collection and customer service and toll violations processing for the I-25 Managed Lanes, in the same manner as the services are provided for E-470, per HPTE direction, and in accordance C.R.S., Sections 43-4-801 *et seq.*, C.R.S., through the IGA; and

WHEREAS, HPTE and Concessionaire have entered into the Concession Agreement for the operation and maintenance of the I-25 Managed Lanes, the US 36 Phase 1 Managed Lanes (the “**Phase 1 Managed Lanes**”) as well as the design, construction, financing, operation and maintenance of the US 36 Phase 2 Managed Lanes (the “**Phase 2 Managed Lanes**”), with the I-25 Managed Lanes, the Phase I Managed Lanes and the Phase 2 Managed Lanes being, collectively, the “**Concession Project**”; and

WHEREAS, pursuant to the Concession Agreement, Concessionaire is entitled to receive Tolls collected for the privilege of travelling on the Concession Project; and

WHEREAS, Concessionaire, HPTE and the Authority are entering into this Agreement to establish the terms and conditions under which the Authority will provide certain toll collection, violations enforcement and customer service functions the Concession Project.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the Parties agree as follows:

TERMS AND CONDITIONS

1. General Provisions.

a. Condition to Effectiveness. The effectiveness of this Agreement is conditioned upon written execution of this Agreement by the Authority, HPTE and Concessionaire.

b. Definitions. Capitalized terms not defined in the body of this Agreement shall have the meanings set forth in Attachment 1 to this Agreement.

2. Term of Agreement. The term of this Agreement (the “**Term**”), shall commence on the date hereof and shall expire upon the earlier of the Expiration Date, the applicable Termination Date or the date upon which the Concession Agreement is terminated by HPTE or Concessionaire.

3. Commencement of Tolling Services.

a. Existing I-25 Managed Lanes. The Authority has historically processed HPTE tolls for the I-25 Managed Lanes pursuant to the terms of the IGA and associated Task Orders. However, the Authority is presently providing Tolling Services for the existing I-25 Managed Lanes under the terms of that I-25 Managed Lanes Tolling Services Agreement for I-25 Managed Lanes by and among HPTE, the Authority and the Concessionaire dated February 24, 2014. Upon the occurrence of the Commencement Date hereunder, such agreement is replaced in its entirety with this Agreement. HPTE and the Authority shall, prior to Commencement Date, amend the IGA to remove the I-25 Managed Lanes therefrom;

b. US 36 Phase 1 Managed Lanes. Subject to the conditions precedent set forth in Section 3.d below, the Tolling Services will commence on the date of Phase I Tolling Services Commencement, and

c. US 36 Phase 2 Managed Lanes. Subject to the conditions precedent set forth in Section 3.d below, the Tolling Services will commence on the Full Services Commencement Date.

d. Conditions on Commencement. The Authority’s obligations to commence Tolling Services for the US 36 Phase 1 Managed Lanes and the US 36 Phase 2 Managed Lanes are hereby expressly conditioned upon the Concessionaire fulfilling each of its obligations contained in Section 6 of this Agreement, which are necessary to allow the Authority to design, program and test the software to ensure it has the specified operational capabilities.

4. Installation of Lane Equipment. All Lane Equipment installations will be performed by separate agreements between the Parties as provided in Sections 4(a), 4(b) and 4(c). Following installation, software installation or configuration to complete communications between the Lane Equipment and the Authority’s Toll Collection System and Final Acceptance Testing shall be addressed as provided in Section 5. Should any installation agreement between the Parties be terminated prior to completion of installation, the provisions of Section 5 shall not apply and the Parties shall negotiate in good faith alternative acceptance testing procedures.

a. Phase 1 Managed Lanes. The Lane Equipment for the Phase 1 Managed Lanes is and shall be installed by the Authority pursuant to Task Order #5 issued under the IGA (11 HTC 33423/CMS Routing # 13 HTC 57270).

b. Phase 2 Managed Lanes. The Lane Equipment for the Phase 2 Managed Lanes shall be installed under an arrangement acceptable to the Parties, and involving HPTE, the Concessionaire and the Authority by which the Authority performs the installation and is compensated as agreed therefor.

c. I-25 Managed Lanes Re-Configuration. The reconfiguration and installation of additional Lane Equipment for changes to the existing topology of the I-25 Managed Lanes shall be installed under an arrangement acceptable to the Parties, and involving HPTE, the Concessionaire and the Authority by which the Authority performs the installation and is compensated as agreed therefor.

5. Post-Installation Connection of Lane Equipment to Toll Collection System and Final Acceptance Protocols. Following installation of Lane Equipment in accordance with Section 4, the Lane Equipment must be connected to the Authority's Toll Collection System and acceptance tested as provided in this Section 5.

a. Lane Equipment on Existing I-25 Managed Lanes. The existing I-25 Managed Lanes Lane Equipment and all constituent components were installed prior to the date of this Agreement by the Authority and, as between the Authority and HPTE, they are currently owned by HPTE. As between the Authority and Concessionaire, such existing I-25 Managed Lanes Lane Equipment and all existing constituent components are hereby accepted for operation by Concessionaire on an "as-is" basis. For the avoidance of doubt, neither the Authority nor HPTE conveys any warranties to the existing I-25 Managed Lanes Lane Equipment. Except for work completed by the Authority pursuant to paragraph 4 (c) and 5 (b), full responsibility and all risk for performance of the existing I-25 Managed Lanes Lane Equipment shall, as between the Authority and Concessionaire, be exclusively borne by Concessionaire, and for avoidance of doubt, as between the Authority and Concessionaire, Concessionaire shall bear all risk of any and all Lane Equipment-related issues including but not limited to the inability to create Lane Level Transactions.

b. Post-Installation Connection of Lane Equipment to Toll Collection System and Final Acceptance Testing Protocols for Reconfigured I-25 Managed Lanes, Phase 1 Managed Lanes and Phase 2 Managed Lanes.

i. All Lane Equipment installations must include the necessary connections between the plaza server(s) and the Toll Collection System consistent with the existing connectivity and processing on the I-25 Managed Lanes. If connection to the Toll Collection System is not completed as part of the lane installation activity, the Concessionaire shall cooperate and coordinate with the Authority such that, within thirty (30) Business Days following the date of the Notice of installation completion, Concessionaire and the Authority are able to complete communications between the installed Lane Equipment and the Authority's Toll Collection System. The coordination shall include working with Concessionaire to prepare and adhere to a reasonable schedule

containing milestones necessary to achieve satisfactory communications necessary to allow the Authority to begin Final Acceptance Testing.

ii. Final Acceptance Testing.

1. General. Final Acceptance Testing shall, for any Tolling Facilities, other than the Phase 1 Managed Lanes and the Phase 2 Managed Lanes which are addressed in Section 5(b)(ii)(2) below, require testing and evaluation under normal traffic patterns for seventy (70) Business Days from the date that the Concessionaire is able to provide normal traffic patterns for all of the installed tolling points concurrently. During this period, all elements of connectivity and data transfer between the installed Lane Equipment and the Toll Collection System will be fully tested and evaluated
2. Phase 1 Managed Lanes and Phase 2 Managed Lanes. The Authority hereby agrees to complete Final Acceptance Testing for the Phase 1 Managed Lanes no later than June 30, 2015, and for the Phase 2 Managed Lanes no later than December 31, 2015; provided that in the event the Authority cannot begin Final Acceptance Testing for the Phase 1 Managed Lanes by April 22, 2015, the June 30, 2015 completion date shall be extended on a day-for-day basis, and further provided that in the event the Authority cannot begin Final Acceptance Testing for the Phase 2 Managed Lanes by October 22, 2015, the December 31, 2015 completion date shall be extended on a day-for-day basis. Additionally, in consideration for the Authority's agreement to a compressed testing timeline given the difficulty of tuning communications between the Lane Equipment and the Toll Collection System, the Authority shall be excused from deviations from the Performance Standards for a period of six (6) months from the date of revenue collection commencement. HPTE shall compensate the Authority for all documented expedited Authority expenses related to Final Acceptance Testing for the Phase 1 Managed Lanes and Phase 2 Managed Lanes.

c. Acceptance by Concessionaire and Concessionaire Responsibilities Post-Acceptance. Upon completion of Final Acceptance Testing of Authority-installed Lane Equipment and the Toll Collection System, Concessionaire shall either accept the Lane Equipment and use of the Toll Collection System for toll collection operation in writing by issuing a Notice of acceptance, or issue a punch list of issues to be addressed by the Authority prior to Concessionaire acceptance. The Authority shall either commence work in satisfaction of the issues contained in the punch list or, if the Authority disputes or disagrees with any of the punch list issues, then the Authority may utilize the Dispute Resolution Regime.

Following the Authority's completion of all punch list items (as contemplated in either Section 5(b) or this Section 5(d) and upon Concessionaire's delivery of a notice of acceptance in respect of any Authority-installed Lane Equipment and use of the Toll Collection System, Concessionaire shall be deemed to accept such Authority-installed Lane Equipment and use of

the Toll Collection System for all purposes, and shall, thereafter, be fully and solely responsible for operation of such Lane Equipment and its performance in accordance with the terms of this Agreement and the Performance Standards (“**Final Acceptance**”). Full responsibility and all risk for performance of such Lane Equipment shall be exclusively borne by Concessionaire, and for avoidance of doubt, Concessionaire shall bear all risk of any and all Lane Equipment-related issues including but not limited to the inability to create Lane Level Transactions.

d. Use of Lane Equipment for Tolling Services. In respect of the Authority – installed Lane Equipment for Phase 1 Managed Lanes and Phase 2 Managed Lanes, subject to the limited warranties granted by the Authority in Sections 5(f) and 5 (g) below, upon Final Acceptance being achieved for the Phase 1 and Phase 2 and newly installed I-25 Managed Lanes Lane Equipment, the Authority shall have no liability or risk, in any form whatsoever, for the Lane Equipment’s installation, design or continued performance. In the case of the existing I-25 Managed Lanes Lane Equipment, no warranties shall be given as that equipment is accepted for tolling use by Concessionaire on an “as-is” basis.

e. Authority Labor Warranty. The Authority shall provide for purchase by HPTE/Concessionaire a limited labor warranty in respect of all Authority – installed Lane Equipment, for a period terminating on the 1 year anniversary of the date of notice of Final Acceptance of such Lane Equipment and use of the Toll Collection System. Should HPTE/Concessionaire elect to purchase the Authority’s 1 year labor warranty prior to Notice of final acceptance, then during the 1 year labor warranty period, the Authority will provide labor to rectify any defects or deficiencies in the Authority’s installation of such Lane Equipment claimed during the 1 year labor warranty period.

f. Lane Equipment Manufacturer/Vendor Warranties. At the time of purchasing any Authority-installed Lane Equipment for Phase 1 and Phase 2 Managed Lanes or new equipment for the I-25 Managed Lanes, the Authority shall provide the Concessionaire with the applicable manufacturer/vendor warranties relating to such Lane Equipment, and for the existing I-25 Managed Lanes equipment, the Authority shall transfer and assign any already outstanding warranties relating to such Lane Equipment to the Concessionaire.

6. Toll Collection System Capabilities, Design and Functional Requirements.

a. Toll Design Operational Requirements. The Concessionaire and HPTE provided the Authority with their initial Operational Requirements and the Authority created functional requirements documents: FRD3562, FRD3563, FRD3565, FRD 3567, FRD3585, FRD3590, FRD 3568 FRD3595, FRD3596, FRD3604, FRD3607, FRD 3611, FRD3615,FRD 3616,FRD3618, FRD 3688 FRD 3720 (the “FRDs”) all of which have been approved and signed by both the Concessionaire and HPTE. The Authority has begun software development pursuant to the FRDs. Further toll design Operational Requirements for the Authority’s Toll Collection System will be processed and documented by the Parties in accordance with Section 32 of this Agreement.

b. Requirements Document and Test Plans. The FRDs shall be used by the Authority to code and program the Toll Collection System to meet the Operational Requirements. Coinciding with the coding and programming activities, the Authority shall

develop and execute test plans to test the various desired functionality scenarios. Changes to the Operational Requirements made at the request of the Concessionaire after Concessionaire approval, or additional requests for functionality may be treated as a new development effort following the entire cycle of Design and Acceptance Testing.

c. Documentation Provided to Concessionaire/Concessionaire Acceptance of Functionality. Once the test plans are executed successfully by the Authority, the Authority will provide written copies of both the executed test plans and requirements document to the Concessionaire. The Concessionaire, shall within ten (10) Business Days of receipt of the executed test plan and the requirements document, provide the Authority with written documentation acknowledging that the Toll Collection System has met the Operational Requirements as defined in the FRDs.

d. Authority Intellectual Property Retained. The Authority's modifications to the Toll Collection System shall remain the sole intellectual property of the Authority and nothing in this Section 6 shall be construed to provide any claim of ownership to the Concessionaire or HPTE related to any of the modifications to the Toll Collection System made by the Authority to provide the Tolling Services. The requirements document and the executed test plan shall be the only items which will be provided to the Concessionaire or HPTE during or after the Agreement's Term as part of the development process established in this Section 6.

7. Maintenance of Lane Equipment – Level 1 and Level 2 Maintenance. The Parties acknowledge that all Lane Equipment installed pursuant to the terms of this Agreement shall be operated in accordance with existing procedures and manufacturer's recommendations, if any. All Lane Equipment shall be maintained as provided in Attachment 4, with all maintenance activities being either Level 1 Maintenance or Level 2 Maintenance. The Concessionaire shall be responsible for ensuring operations in order meet the requirements of this Agreement. The Concessionaire shall perform Level 1 Maintenance for the Lane Equipment. In accordance with Section 8(f), a standard amount of Level 2 Maintenance is included in the Cost Model; however, greater than standard Level 2 Maintenance activities, which are defined in Section 8(f), shall be billed to the Concessionaire as a Reimbursable Cost under Section 15. If Concessionaire fails to perform Level 1 Maintenance or performs it in such a manner so as to impair normal Toll Transaction processing, the Authority shall notify Concessionaire and shall not be responsible for toll collection issues related to inadequacies in the Concessionaire's Level 1 Maintenance.

8. Authority's General Responsibility for Tolling Services. The Authority shall process Tolls on the Concession Project for both ExpressToll® and LicensePlateToll® account holders for HPTE and the Concessionaire during the Term and pursuant to the terms and conditions set forth herein. The Authority's general responsibilities shall include:

a. The Authority shall process Lane Level Transactions in accordance with this Agreement;

b. The Authority shall post Billable Transactions to ExpressToll® and LicensePlate Toll® Accounts in accordance with this Agreement;

c. The Authority shall remit all Toll Revenue and Other Revenue received by the Authority as required pursuant to Section 16, and shall submit to Concessionaire, with copies to

HPTE, monthly invoices for all Reimbursable Costs and monthly invoices of Transaction Costs and costs per dollar of Gross Toll Revenue as contemplated in Section 15;

d. The Authority shall provide for both ExpressToll® and LicensePlateToll® Accounts, management and other back office services in accordance with this Agreement;

e. The Authority shall provide toll collection services pursuant to the terms of this Agreement and adjudication services pursuant to the IGA; and

f. The Authority Responsibility for Level 2 Maintenance. Except as otherwise provided in this Section 8(f), Level 2 Maintenance for Lane Equipment in operation as of the Commencement Date is included in the Cost Model as a Transaction Cost. Greater than normal Level 2 Maintenance Activities shall mean escalation of more than two (2) incidents in a calendar month from Level 1 Maintenance to Level 2 Maintenance, excluding incidents caused by activities planned by or caused by the Authority. The costs of greater than normal Level 2 Maintenance Activities will be paid by Concessionaire as Reimbursable Costs. Greater than normal Level 2 Maintenance Activities shall mean escalation of more than two (2) incidents in a calendar month from Level 1 Maintenance to Level 2 Maintenance, excluding incidents caused by activities planned by or caused by the Authority.

g. The Authority will make available Transponders to Users and potential Users of the Concession Project as provided in Section 11.

9. Concessionaire's General Responsibility for Tolling Services. Concessionaire's general responsibilities shall include:

a. Concessionaire is Responsible for the Level 1 Maintenance of the Lane Equipment and capturing properly formatted Lane Level Transactions.

b. Concessionaire shall be Responsible for the operation, maintenance, repair and replacement of all Lane Equipment (except that with respect to Level 2 Maintenance the Authority shall perform the Level 2 Maintenance and the Concessionaire shall pay all of the Authority's costs to perform in accordance with 8(f);

c. Concessionaire shall not interfere with the toll collection and toll evasion adjudication process and shall make available to the Authority's customer service personnel training on Concessionaire's policies in order to allow them to provide accurate information to Users of the Concession Project; and

d. Concessionaire shall be Responsible for implementing HPTE's Policy Guidelines governing the applicable Toll amount for each Transaction, and shall further be Responsible for transmitting the applicable Toll information in writing to the Authority, or once the internet portal provided by the Authority is operational entering the applicable Toll amounts and information directly into the internet portal, a minimum of five (5) Business Days in advance of any tolling rate change,

10. HPTE General Responsibilities Related to Tolling Services. HPTE's general responsibilities shall include:

a. HPTE's Board of Directors shall, for the Term, and in accordance with Colorado law, take all actions necessary to empower the imposition and collection of HPTE's Tolls as provided for in the Concession Agreement.

a. HPTE shall provide to Concessionaire and the Authority the HPTE Toll Violation Enforcement Rules and the HPTE Policy Guidelines.

11. Transponders.

a. Only the Authority or Authorized Vendors. Only the Authority and Authority authorized vendors shall provide Transponders for Concession Project ExpressToll® Account Users.

b. Only ExpressToll®. During the Term, only the Authority's ExpressToll® Transponders shall be used to process Tolls collected on the Concession Project. Concessionaire shall not issue any transponders for the Concession Project which would compete with the ExpressToll® or ExpressToll + brands.

c. Special Provisions Applicable to HOV Transponders.

i. HPTE, in conjunction with the Colorado Department of Transportation, shall purchase all HOV Transponders for the Concession Project and shall arrange for them to be shipped to the Authority. The Authority will serve as HPTE's agent for the purpose of providing the HOV Transponders to Concession Project Users as provided in this Section, at no cost. The Parties may later agree in writing that the HOV Transponders will be provided to Concession Project Users at a cost, in which case HPTE to be solely Responsible for all applicable sales and/or use taxes,.

ii. The Authority will make the HOV Transponders available only at the Authority's administrative headquarters facility at 6th Avenue Parkway and E-470.

iii. HPTE agrees to establish, own, operate and maintain up to two (2) remote locations in its sole discretion where Concession Project Users can use internet connected kiosks to access and utilize the web-based www.expresstoll.com to sign up for HOV Transponders. The remote locations will be not be staffed by the Authority nor will they provide HOV Transponders to Concession Project Users. The remote locations will also have telephone service for the purpose of allowing Concession Project Users to call the Authority's CSC. The Authority will provide training to HPTE or CDOT staff at the locations such that HPTE or CDOT staff understand the process and can assist Concession Project Users. HPTE agrees to directly reimburse the Authority for actual costs related to the establishment of the

above referenced kiosks and physical distribution of HOV Transponders as provided for herein.

d. Transponder Costs. The Authority will make Transponders available to Users and potential Users of the Concession Project and applicable costs shall be reimbursed to the Authority by the Concessionaire, depending on the Transponder type, as follows:

- i. ExpressToll® 6C single-position Transponder costs shall be billed to, and paid by, the Concessionaire as a Reimbursable Cost as contemplated in Section 15 based on the monthly cost of the newly issued 6C Transponders to existing or new Users allocated by each Tolling Facility's share of monthly ExpressToll® Billable Transactions within the Toll Collection System.
- ii. HOV Transponders will be purchased by HPTE in accordance with Section 11(c) of this Agreement. All other costs incurred by the Authority for HOV Transponder fulfillment and transfer to Concession Project Users, including printing, postage, shipping and handling will be billed to HPTE.

12. Toll Collection and Adjudication Services. The Authority shall provide, directly or through one or more contractors, back office functions pertaining to toll collection and toll evasion adjudication for the Concession Project, consistent with the HPTE Toll Violation Enforcement Rules and the HPTE Policy Guidelines, and to the extent not addressed in or foreclosed by the HPTE Toll Violation Enforcement Rules or HPTE Policy Guidelines, consistent with the operational practices utilized by the Authority with respect to E-470 as follows (provided that (a) none of the forgoing statements shall apply to the Authority operation or toll collection and adjudication for E-470, (b) differences between the HPTE Toll Violation Enforcement Rules/HPTE Policy Guidelines and the Authority's Toll Violation Enforcement Rules/HPTE Policy Guidelines will result in process differences, which may increase costs to Concessionaire and (c) any other capital costs arising from the difference between such rules incurred by the Authority to process per HPTE's Toll Violation Enforcement/Business Rules, in respect of the Concession Project only, will be paid by Concessionaire):

a. Customer Service. The Authority shall provide User service operations at the existing or a future CSC providing all customer service representatives with access to all electronic toll accounts and toll evasion information and the ability to resolve most issues or questions with the User through various channels, including: (1) transponder distribution support, (2) walk-in customer service and support, (3) staffing and maintaining call center operations for User and general inquiries with sufficient call handling capacity to answer calls in accordance with the Performance Standards, (4) operating and maintaining an interactive voice response (IVR) system configured to allow basic customer self-service, without charge, to obtain automated information, to transfer or be directed to a specific source of information, to access basic Account maintenance functions and to speak with a live customer service representative during normal business hours, (5) creating and managing an interactive website, with the CSC portion of the website in English, which may be used for communicating information on the Authority's ExpressToll® and LicensePlateToll® programs and allowing a User to conduct secure account management activities, (6) maintaining an Internet e-mail address for all inquiries and comments regarding account maintenance matters from Users and the public, (7) receipt of and response to e-mails on a timely basis during normal business hours and (8) the ability of

Users to send facsimile and e-mail communications to the customer service center twenty-four (24) hours per day seven (7) days per week, and responding to such communications during normal business hours.

The Authority's Customer Service Center for the Concession Project is currently located at the Authority's administrative headquarters in Aurora, Colorado (the "CSC"). Should the Authority determine to relocate the CSC, the Authority will coordinate the relocation and associated relocation costs with Concessionaire.

b. Account Management and Maintenance. This function shall consist of establishing new ExpressToll® or LicensePlateToll® Accounts, managing Transponder replacement, automatic replenishing of Accounts to pre-determined levels when Accounts reach low Account balance thresholds, accepting payments to replenish Accounts, issuing monthly statements to ExpressToll® and LicensePlateToll® Account holders (or other frequency as may be agreed between the Authority and Concessionaire) and providing an activity summary that itemizes usages, related toll charges and other incidental charges.

c. Transponder Issuance and Replacement. Subject to receipt of payments from Concessionaire (for non-HOV Transponders) and from HPTE for HOV Transponders, in each case as provided in this Agreement, and subject to availability of HOV Transponders ordered by HPTE, the Authority shall issue and replace all Transponders during the Term.

d. Transaction and Payment Processing. The Authority will, consistent with the Performance Standards and the HPTE Policy Guidelines: (1) post payments made to Accounts, issue statements to Account holders with itemized Tolls and related late fees and charges, (2) debit accounts and accept and process payments for Tolls (Tolls in the amount directed by HPTE), collection charges and civil penalties, including penalties for late payment, as specified for Account holders and (3) provide credit card processing services for all major credit cards as defined in agreements between the Authority and its merchant processing bank, which agreements will be subject to change from time to time in the normal course of the Authority's business.

e. Toll Collections and Violations Processing and Adjudication. The Authority will issue billing statements, notices and pursue collection and Toll violations adjudication actions, in accordance with all applicable Laws, the HPTE Toll Violation Enforcement Rules, to the extent not inconsistent with any of the aforementioned rules, the E-470 Public Highway Authority Toll Collection, Evasion and Administrative Adjudication Rules and the HPTE Policy Guidelines. HPTE and Concessionaire agree that any increase in costs for deviations from the Authority's current practices under the Authority's Toll Collection, Evasion and Administrative Adjudication Rules and Business Rules will result in changes to the costs which will be passed on to the Concessionaire as provided in Section 15.

f. Accounting and Financial Audit. The Authority will maintain appropriate reporting, reconciliation, accounting, audit and quality assurance processes, including internal controls to minimize the possibility of inadvertent and illegal diversion of Toll Revenues, and Other Revenues and including (1) controlled access to all Authority computer systems and subsystems, (2) virus protection and firewall services and (3) maintaining a secure record of

system access and breaches of security. The Authority will file annual financial audits as required by the Laws of the State of Colorado.

g. Data Back-up and Disaster Recovery. The Authority will at all times maintain a data back-up and disaster recovery plan.

h. Adequate Staffing. The Authority will provide adequate staffing, supervision, support services and data services to perform the Authority's responsibilities in accordance with the Performance Standards.

i. Overcharges. The Authority will bill for and collect the Tolls established by HPTE, with Concessionaire input. Under no circumstances will the Authority charge any Users a Toll for the Concession Project in addition to or higher than the specified Toll charge, together with the specified penalties or other charges, including those related to adjudication of Tolls. If the Authority becomes aware that an Account has been overcharged or incorrectly charged for use of the Concession Project, the Authority shall have the right and the obligation to arrange for a refund of the overcharged or erroneously charged amounts. In the event of such a refund, the Authority will bill Concessionaire for the amount remitted to the Concessionaire as a Reimbursable Cost per Section 15(b).

13. Confidential Nature of User Information. The Authority shall maintain the toll Accounts and travel records of Concession Project Users as confidential information and in compliance with applicable Laws and handle such information in accordance with this Section.

a. The Authority acknowledges that the data generated by, or accumulated or collected in connection with, its services under this Agreement, including User lists, User identification numbers, User contact information, User account information and billing records and other User specific information, including use and enforcement data, origin and destination information, system performance statistics, and real time traffic flow information may consist of or include information that identifies an individual who is a User of the Concession Project and that may be exempt from disclosure to the public or other unauthorized persons under the Colorado Open Records Act ("**Patron Confidential Information**"), Sections 24-72-200.1 *et seq.*, C.R.S.

b. The Authority shall comply with the Colorado Open Records Act, all other applicable Laws and requirements and protocols developed by the Authority limiting, restricting or pertaining to collection, use, confidentiality, privacy, handling, retention, reporting, disclosure or dissemination of Patron Confidential Information.

c. The Authority shall implement physical, electronic and managerial safeguards to prevent unauthorized access to Patron Confidential Information and to implement destruction of records containing Patron Confidential Information in accordance with its practices and procedures regarding Users of E-470 and the Driver's Privacy Protection Act of 1994, 18 U.S.C., §§2721, *et seq.*

14. Concessionaire/Authority Coordination and Meetings. Concessionaire and the Authority shall conduct meetings at mutually agreed intervals to review, discuss and resolve matters related to coordination, services, quality control, performance, compliance, customer services and

communications, tolling, Lane Level Transactions message reliability, Lane Level Transaction image processing, payment, tracking actual costs incurred pursuant to this Agreement as compared to budgeted costs, marketing, use of technologies and other matters arising under this Agreement (“**Coordination Meetings**”). The Coordination Meetings shall be scheduled at a mutually convenient date, time and location. HPTE shall receive Notice of the Coordination Meetings and may choose to attend and participate. In addition to the Coordination Meetings, the Parties shall cause their Authorized Representatives to be available at all reasonable times (generally during standard business hours) for consultation with one another.

15. Compensation and Billing of Expenses.

a. Cost Model.

- i. The Authority is performing the Tolling Services under this Agreement using the cost model attached hereto as Attachment 7, (the “**Cost Model**”).
- ii. Monthly Billing. Expenses shall be classified as either Reimbursable Costs or Transaction Costs or costs per dollar of Gross Toll Revenue, without duplication of any expenses within or between the foregoing classes. Transaction Costs and costs per dollar of Gross Toll Revenue shall be billed to Concessionaire on a monthly basis as provided in Section 15(c). Reimbursable Costs shall be billed to the Concessionaire as provided in Section 15(b). For the avoidance of doubt, the Authority shall not bear the risk of any changes of any nature whatsoever where changes increase the cost of the Tolling Services. Increased costs resulting from changes requested by the Concessionaire for its exclusive benefit shall be borne exclusively by the Concessionaire. Additionally, changes to HPTE’s Toll Violation Enforcement or HPTE’s Policy Guidelines, which increase the Authority’s costs for providing the Tolling Services, shall be passed on to and paid by the Concessionaire. Future costs, if any, incurred for the Authority’s sole and exclusive benefit shall not be Reimbursable Costs or Transaction Costs or costs per dollar of Gross Toll Revenue.
- iii. Annual Cost and Year-End Reconciliation. The cost per Lane Level Transaction and cost per dollar of Gross Toll Revenue to be charged to the Concessionaire on the Concession Project shall be set by the Authority based on Authority’s final annual budgeted costs, total forecasted Lane Level Transactions and Gross Toll Revenue at the lane level based on the most recent Authority 3rd party traffic and revenue consultant report for E-470. For other Tolling Facilities, the forecast will be based on a mutually agreed upon methodology which may include actual historical information reasonably adjusted for future growth. The Authority will consult with the Concessionaire regarding forecasted Lane Level Transactions and Gross Toll Revenue for the US 36 Phase I Managed Lanes, the US36 Phase II Managed Lanes and the I-25 Managed Lanes.
- iv. Within forty five (45) Business Days after the Authority closes its books for the fiscal year ending on December 31, or such other fiscal year which

may in the future be adopted by the Authority, for of each year of the Term, the Authority shall reconcile for such year then applicable:

- the budgeted costs with actual general ledger account level costs;
- total forecasted Lane Level Transactions with actual Lane Level Transactions by Tolling Facility; and
- Forecasted Gross Toll Revenue with actual Gross Toll Revenue derived from operations at the lane level by Tolling Facility.

Following this fiscal year-end reconciliation, if the actual total annual costs for Transaction Costs and/or cost per dollar of Gross Toll Revenue exceed what was charged to the Concessionaire during the fiscal year, the Authority will provide the Concessionaire with an itemized accounting and invoice of additional amounts due for which the Concessionaire shall reimburse the Authority. The Concessionaire shall remit payment to the Authority such that the Authority receives it no later than the Invoice Due Date. If payment is not received from the Concessionaire by the Invoice Due Date, Concessionaire shall be obligated to pay the Default Rate in addition to such payment then overdue until both the overdue payment and the Default Rate are paid in full. If invoiced payments remain unpaid (including the Default Rate) for an additional thirty (30) Business Days from the Invoice Due Date, then, in addition to the requirement to pay interest at the Default Rate such failure to pay shall be a Concessionaire Default. Similarly, following the fiscal year-end reconciliation, should the actual total annual costs for Transaction Costs and/or costs per dollar of Gross Toll Revenue be less than what was charged to the Concessionaire during the fiscal year, the Concessionaire shall receive itemized accounting and payment from the Authority for the cost difference within thirty (30) Business Days of completion of the fiscal year-end reconciliation. If payment is not received from the Authority within the thirty (30) Business Days' time-frame, the failure to pay shall be an Authority Default.

- v. Cost Allocation Review. The Cost Model allocation percentages which are in effect for the Calendar Year 2014 will remain in effect for a full Calendar Year after the Full Services Commencement Date. Subsequent to the first full Calendar Year of operations after the Full Services Commencement Date, and thereafter on each three year anniversary thereof, HPTE and the Authority shall confer with the Concessionaire and the Authority shall evaluate and adjust accordingly the Transaction Cost and Cost per Dollar of Gross Toll Revenue allocations based on actual data and assumptions provided by the Authority by category, as used in the Cost Model, and such allocations may be modified at such time (as agreed by negotiations between HPTE, the Concessionaire and the Authority, subject to the Dispute Resolution Regime), each such adjustment referred to as the "Three-Year Adjustment". Any agreed upon changes to the cost allocation percentages will be effective for

the current and subsequent two Calendar Years' Cost Models as provided in Section 15(a)(iii)

b. Reimbursable Costs. Reimbursable Costs (“**Reimbursable Costs**”) are the Concessionaire’s share of any out-of-pocket expenses incurred by the Authority on the Concessionaire’s behalf. For ease of administration these costs shall be accumulated and billed on a monthly basis. Payment from the Concessionaire will be due for the gross amount of incurred expense (including any supplier rebates or other incentives based on volume of purchases or other similar discounts) made for the benefit of the Concessionaire. Reimbursable Costs include, but may not be limited to, payment for aged unpaid negative ExpressToll® account balances as agreed upon between the Concessionaire and Authority, applicable shared cost by the Concessionaire of newly issued 6C single-position Transponders as contemplated in Section 11(d)(i), switchable HOV Transponders as contemplated in Section 11(d)(ii), costs associated with significant increases in CSC call volumes coinciding with the opening of new Tolling Facilities, tracking and reporting of HOV Transactions, Non-Revenue Transactions, Motorcycle Transactions and Voided Transactions at an initial rate of \$0.0003 per HOV transaction (subject to the Three Year Adjustment defined above), insurance premiums for requested excess coverage, greater than normal Level 2 Maintenance described in Section 8(f), marketing efforts requested by the Concessionaire for the sole benefit of Concessionaire, additional costs incurred resulting from HPTE/Concessionaire making changes in their business operations which alter the Authority’s Tolling Services obligations without prior written agreement, costs incurred in responding to Concessionaire audit requests beyond those of a routine nature to substantiate costs included in the cost model as contemplated in Section 15(d) costs to implement requested programming changes, or other costs for actions undertaken by the Authority at Concessionaire’s request which the Authority does not routinely undertake for its own business operations or other costs incurred with Concessionaire’s prior approval. The Concessionaire shall remit payment to the Authority such that the Authority receives it no later than the Invoice Due Date. If payment is not received from the Concessionaire by the Invoice Due Date, Concessionaire shall be obligated to pay the Default Rate in addition to such payment then overdue until both the overdue payment and the Default Rate are paid in full. If invoiced payments remain unpaid (including the Default Rate) for an additional thirty (30) Business Days from the Invoice Due Date, then, in addition to the requirement to pay interest at the Default Rate, such failure to pay shall be a Concessionaire Default.

c. Transaction Costs and costs per dollar of Gross Toll Revenue. Transaction Costs and costs per dollar of Gross Toll Revenue include but are not limited to, *pro rata* allocations of labor, contractor expenses, IT, utilities, bank and credit card fees, and other overhead, but not including, during the term of this agreement, depreciation of applicable capital costs for assets in service at January 1, 2014 as calculated and defined in the Cost Model. The exclusion of depreciation for capital assets has been incorporated by the Authority as a matter of cooperative intergovernmental assistance in accordance with Section 33. Transaction Costs and costs per dollar of Gross Toll Revenue shall be aggregated and billed on a monthly basis at the cost per transaction or cost per dollar of Gross Toll Revenue at the lane level rates as specified in the Cost Model. Changes in costs may derive from a variety of circumstances during the Term, including but not limited to Changes in Law, technology, Authority practices, Force Majeure occurrences and other changes which may occur. These changes will be reviewed during the Concessionaire’s and Authority’s Coordination Meetings and may be reflected as an adjustment

to the Cost Model. Statements for Transaction Costs and costs per dollar of Gross Toll Revenue and the associated invoice will be sent to Concessionaire following each month end. The Concessionaire shall remit payment to the Authority such that the Authority receives it no later than the Invoice Due Date. If payment is not received from the Concessionaire by the Invoice Due Date, Concessionaire shall be obligated to pay the Default Rate in addition to such payment then overdue until both the overdue payment and the Default Rate are paid in full. If invoiced payments remain unpaid (including the Default Rate) for an additional thirty (30) Business Days from the Invoice Due Date, then, in addition to the requirement to pay interest at the Default Rate, such failure to pay shall be a Concessionaire Default.

d. Cost Model Audit Rights. Following issuance of the year-end reconciliation the Concessionaire may request evidential support for specific line items contained in the Cost Model. Such request shall occur, unless otherwise agreed by amendment of this Agreement, no sooner than thirty (30) Business Days, nor later than ninety (90) Business Days following the date that the year-end reconciliation was provided to the Concessionaire. The Authority shall provide such evidential support within sixty (60) Business Days of the date the request was received by the Authority. If the Concessionaire should question the evidential support, it shall notify the Authority in writing within thirty (30) Business Days of receipt, citing its specific objections. The Parties shall then meet at a mutually-agreed date and time to resolve the issues. If the Parties cannot reach agreement on the issues within thirty (30) Business Days from the meeting date then the matter will be submitted for dispute resolution under Section 28. The Authority and Concessionaire will cooperate with transparency for all Cost Model items and Reimbursable Costs. However, the Authority may add any expense it incurs in responding to multiple Concessionaire requests for cost build up as a Reimbursable Expense.

16. Authority Remittance of Toll Revenue and Other Revenue.

a. Concessionaire shall, at its sole cost and expense, establish and maintain for the Term, a bank account for the purposes of receiving and retaining Toll Revenue and Other Revenue paid by the Authority pursuant to the terms of this Section (the “**Bank Account**”). Once the Bank Account is established, Concessionaire shall notify the Authority in writing of the particulars of such Bank Account and the Authority and the Concessionaire shall take all actions necessary to afford the Authority the ability to remit Toll Revenue and Other Revenue to the Bank Account.

- b. The Authority shall remit applicable Toll Revenue and Other Revenue as follows:
- i. Toll Revenue no later than three (3) Business Days after it is received by the Authority meaning, for the avoidance of doubt, within three (3) Business Days after a Billable Transaction is successfully posted to an ExpressToll® Account and within three (3) Business Days of receipt of cash sufficient to pay the Toll for a LicensePlateToll® Account, violation, or Billable Transaction pursued through collections, adjudication, or any other form delinquent Billable Transaction or Account processing. At such time, the Authority shall deposit the Toll Revenue, or cause the Toll Revenue to be deposited, in the Bank Account on or before 10:00 AM Mountain Time each applicable Business Day in accordance with the Performance Standards.

- ii. Other Revenue collected by the Authority on behalf of HPTE no later than ten (10) Business Days after the applicable monthly reporting is received from the Toll Collection System. At such time, the Authority shall deposit the Other Revenue, or cause the Other Revenue to be deposited, in the Bank Account on or before 10:00 AM Mountain Time on the tenth (10) Business Day following receipt of the applicable reporting from the Toll Collection System.

c. Notwithstanding any provision of this Agreement, the Parties agree that HPTE has irrevocably directed, pursuant to the Concession Agreement, and hereby directs the Authority, that the Toll Revenue and Other Revenue is, upon collection, to be treated as the Concessionaire's property from the moment it is collected by the Authority. The Authority agrees to deposit such Toll Revenue and Other Revenue collected by the Authority in the Bank Account as provided forth in 16(a) above.

17. Malfunction, Damage or Destruction of Authority Facilities.

a. Without derogating the Authority's payment obligations under Section 15 above, if a Lane Level Transaction is properly transmitted to the Authority's Toll Collection System but is not received by the Authority due to problems, downtime or other malfunction of the Authority's Toll Collection System, or due to damage or destruction of the Authority's Toll Collection System or the facilities in which it is located, Concessionaire shall attempt re-transmission every two (2) hours for a period of twenty-four (24) hours. If transmission remains unsuccessful, Concessionaire shall thereafter attempt re-transmission expeditiously after the Authority notifies Concessionaire that the Authority's Toll Collection System is functioning and ready to receive transmissions. During the continuance of any period beyond the first twenty-four (24) hours that the Authority is unable to so receive Lane Level Transactions at the Authority's Toll Collection System, at the Authority's request, Concessionaire shall deliver Lane Level Transaction data to the Authority in digital form once per day, at Concessionaire's sole cost and expense. Concessionaire will immediately contact the Authority when any Transaction transmissions are ineffective.

b. The Authority shall be entitled to the relief set forth in Section 17(d) below in the following circumstances:

- i. The Authority's CSC, Toll Collection System or a related information technology system used to provide the Toll Collection Services, or the building in which such CSC, Toll Collection System or related information technology system is housed, is physically damaged or destroyed by means other than the negligence or willful misconduct or other culpability of the Authority or its officers, employees, sub-contractors or agents and as a result thereof the Authority is rendered unable to normally receive or process Lane Level Transactions for payment; or
- ii. The Authority's CSC, Toll Collection System or a related information technology system used to provide the Toll Collection Services or the building in which such CSC, Toll Collection System or related information technology system is housed is precluded from processing Lane Level Transactions due to a state of public emergency and as a result thereof the Authority is rendered

unable to normally receive or process Lane Level Transactions for payment;
or

- iii. The Authority's CSC, Toll Collection System or a related information technology system used to provide the Toll Collection Services or the building in which such CSC, Toll Collection System or related information technology system is housed is physically damaged or destroyed by an event of Force Majeure; and
- iv. With respect to each of i, ii, and iii above, the inability to render Toll Collection Services continues for a period in excess of two (2) consecutive days.

c. The Authority shall take all steps reasonably necessary to mitigate the consequences of the foregoing circumstances, including implementing its emergency backup and recovery systems and procedures. The Authority shall bear the costs of repair to and restoration of its own facilities required as a consequence of the events and occurrences contemplated by this Section 17.

d. If the circumstances described in Section 17(b) occur, then: in respect of Lane Level Transactions that occur up to the thirtieth (30th) consecutive day that the Authority is unable to normally receive Lane Level Transactions in order to process Billable Transactions for payment, the Authority shall be entitled to an extension of time to make payments to Concessionaire in accordance with Section 16(b)(i) for Lane Level Transactions that it is rendered unable to normally receive in order to process Billable Transactions for payment due to such circumstances. For those Billable Transactions for which the Authority is entitled to an extension of time, it shall make payment to Concessionaire for the Toll charges associated with such Billable Transactions on the first to occur of (1) five (5) Business Days after the Authority restores service and receives the Transaction at the Authority's Toll Collection System or through the Authority's back-up system, and (2) the date that is the earlier of thirty (30) Business Days after the Transaction occurs and five (5) Business Days after the date Concessionaire delivers to the Authority, in digital form, the data for the Transaction that would have been received by the Authority's Toll Collection System, absent the foregoing circumstances.

e. For the avoidance of doubt, if any payments owing by the Authority are delayed due to a malfunction that is not attributable to the circumstances described in Section 17(b), then the Authority shall not be excused from any contract remedies for such delayed payment provided for in this Agreement.

f. During any period that the Authority is unable to normally receive Lane Level Transactions in order to process Billable Transactions for payment, or to render other services hereunder, due to the circumstances described in Section 17(b), Concessionaire shall be free to seek and obtain substitute Tolling Services elsewhere. The Authority shall have no right to compensation, and no liability for payment to Concessionaire, respecting Billable Transactions that Concessionaire chooses to process through any such substitute service provider.

g. If the Authority remains unable to normally receive Lane Level Transactions in order to process Billable Transactions for payment, or to render other services hereunder, due to

the circumstances described in Section 17(b), for more than ninety (90) consecutive days, then the Concessionaire shall be entitled to terminate this Agreement.

18. Interface/Interoperability.

a. The Authority shall supply, operate and maintain the Authority's Toll Collection System, and in so doing shall retrieve Lane Level Transactions from the Lane Equipment and transmit them to the Authority's Toll Collection System. The Toll Collection System shall be consistent with, and meet all requirements of, the Lane Interface Specification, as the same may be revised or updated by the Authority from time to time, including such revisions and updates as may be made pursuant to the cooperation between the Authority and Concessionaire described above in Section 14.

b. Concessionaire shall be responsible for transmitting toll rates or exemptions for each User Lane Level Transaction in compliance with the Toll Pricing Model as specified in Section 9(d).

c. So long as this Agreement is in effect, Concessionaire shall deploy Toll System technology for the Concession Project that does not jeopardize in any manner the Authority's ability to meet the Performance Standards or the most recently issued Lane Interface Specification, for retrieval of data for the Authority's Toll Collection System, or jeopardize the Authority's ability to properly retrieve Lane Level Transactions.

d. The Authority acknowledges and agrees that Concessionaire may, together with HPTE, create and apply distinct business rules for the processing of Lane Level Transactions by Users and Tolls due from Users in relation to the Concession Project, so long as (1) such business rules are consistent with this Agreement and (2) Concessionaire or HPTE, as may be agreed by the Parties in each case, shall pay all of the Authority's costs including but not limited to development costs and increases in ongoing costs relating to Toll collection and adjudication arising from such business rules.

e. The Authority acknowledges that as of the date of this Agreement, both the HPTE Toll Violation Enforcement Rules and the HPTE Policy Guidelines attached to this Agreement as Attachment 6 are consistent with this Agreement and The Cost Model incorporates the current deviations between the HPTE Toll Violations Enforcement Rules and HPTE Policy Guidelines and the Authority's tolling processes. If HPTE and Concessionaire change either the HPTE Toll Violation Enforcement Rules or the HPTE Policy Guidelines from those in Attachment 6, the Concessionaire shall be obligated to pay the Authority's costs including but not limited to development costs and increased in ongoing costs relating to Toll collection and adjudication arising from the changes. Notwithstanding the foregoing, if the Parties all agree in writing that changes in the HPTE Toll Violation Enforcement Rules and the HPTE Policy Guidelines result in decreased Authority costs, then the Parties will review and revise, if appropriate, the Cost Model.

f. The Parties acknowledge that while as of the date hereof the Authority is not subject to any interoperability agreements with other toll agencies and entities, other than the arrangement for toll processing with Northwest Parkway, LLC, the ability to maintain interoperability with other toll agencies and entities regarding the deployment of tolling

technology, including Transponders, is a requirement specified by the Colorado Revised Statutes. During the Term, if the Authority, or any interoperability group of which the Authority is a party or member, desires to initiate or propose any changes in interoperability standards, protocols, rules or procedures, the Authority will notify Concessionaire ninety (90) Business Days in advance of such changes; provided that if the Authority determines that a change is required to be implemented in a shorter time period, the Authority will notify Concessionaire as soon as possible following such determination. Following such notice, the Authority shall consult with Concessionaire to explain the proposed change and obtain Concessionaire's analysis of the potential impacts on Concessionaire's revenues and expenses, and Concessionaire's alternative approaches, if any. The Authority also will discuss any updates or other information the Authority may have with respect thereto during the Coordination Meetings. The Authority shall take Concessionaire's analysis and suggested alternatives into consideration and shall attempt to inform the other members of such interoperability group of Concessionaire's concerns (without any obligation to act as an advocate of any of Concessionaire's positions); but Concessionaire shall have no right to prevent, disapprove or modify any proposed change. During the Term, the Authority shall promptly deliver to Concessionaire written notice of any change in interoperability standards, protocols, rules or procedures agreed to by the Authority and HPTE. To the extent the proposed changes are commercially reasonable, Concessionaire agrees to implement any such changes to its equipment, technology and practices and any costs to the Concessionaire of making such changes shall be pro-rated and included in the Cost Model as contemplated in Section 15.

19. Concessionaire Intellectual Property and Licensing.

a. If Concessionaire utilizes any tolling system architecture, design, process, method or invention that is protected by intellectual property rights of another legal entity or individual, then before requiring the Authority to provide any services under this Agreement that utilize any such protected item, Concessionaire shall obtain and provide to the Authority, without cost to the Authority, any licenses that are required in order for the Authority to accept data and Lane Level Transactions derived from the matter so protected and to otherwise perform services using such protected items. Concessionaire shall indemnify, protect, defend and hold harmless the Authority from any loss, cost, liability, obligation or expense arising out of any infringement by the Authority of any such intellectual property rights in the performance of this Agreement (except to the extent that any such loss, cost, liability, obligation or expense relates to a modification to such intellectual property rights made by the Authority without authorization by Concessionaire).

b. Subject to Section 19.a, any systems that may be developed on Concessionaire's behalf that do not incorporate any technology owned or licensed by the Authority and that are paid for by Concessionaire shall be Concessionaire's intellectual property, but Concessionaire shall grant to the Authority a paid-up, non-exclusive license to use the same during the Term to the extent such systems are required for the Authority's performance of its responsibilities under this Agreement.

20. License Agreements.

a. Simultaneously with the execution of this Agreement, the Parties have executed the E-470 License Agreement.

b. Upon the request of any Party, the other Parties agree to execute an Additional License Agreement, unless one of the other Parties reasonably believes that executing such Additional License Agreement will materially interfere with rights provided in the E-470 License Agreement or a then-existing Additional License Agreement.

21. Concessionaire Default. Concessionaire shall be in default under this Agreement (“Concessionaire Default”) in the event:

a. Concessionaire fails to perform any material non-monetary obligation of Concessionaire hereunder and such failure continues for sixty (60) Business Days from the date the Authority provides written Notice of the default or, if the Parties agree in writing and prior to the expiration of the sixty (60) Business Day period, that the failure cannot be cured within sixty (60) Business Days, then Concessionaire has submitted, and the Authority and HPTE have approved, a written remediation plan which results in a cure within ninety (90) Business Days of approval of the remediation plan, or such greater time as the Parties may agree in writing; or

b. In the case of monetary obligation of Concessionaire, if the applicable payment is not made (including payment for the Default Rate if required by this Agreement), within thirty (30) Business Days of the Invoice Due Date, then, in addition to the requirement to be pay interest at the Default Rate, such failure to pay shall be a Concessionaire Default; or

c. Concessionaire shall file a voluntary petition in bankruptcy or insolvency or a petition for reorganization under any bankruptcy Law; or

d. Concessionaire consents to an involuntary petition in bankruptcy against it or fails to vacate within ninety (90) Business Days from the date of entry thereof any order approving an involuntary petition in bankruptcy against it; or

e. An order, judgment or decree shall be entered by any court of competent jurisdiction, on the application of a creditor, adjudicating Concessionaire as bankrupt or insolvent or appointing a receiver, trustee or liquidator of all or a substantial part of such party’s assets, and such order, judgment or decree shall continue unstayed and in effect for ninety (90) Business Days after its entry; or

f. Any representation or covenant of Concessionaire under Section 27 was not true when made and such failure has a material adverse effect on Concessionaire’s ability to perform its obligations in accordance with the requirements of this Agreement; or

g. Concessionaire assigns its rights and obligations under this Agreement in violation of this Agreement; or

h. Concessionaire violates the covenants of Section 27(h) or 27(i) of this Agreement and for any violation that is curable, the same is not remedied within ten (10) Business Days after notice from the Authority to Concessionaire; or in the event of a non-curable violation, without the right to cure; or

i. Concessionaire takes any action, or refuses to act, the result of which materially impedes the Authority's ability to perform its obligations under this Agreement (subject to applicable cure periods, if any);

22. Authority Default. The Authority shall be in default under this Agreement ("Authority Default") in the event:

a. The Authority fails (i) to process or collect Tolls as required by this Agreement (except in cases specified in Section 17(d)) or (ii) to remit Toll Revenue to the Concessionaire in accordance with this Agreement and such failure to remit Toll Revenue shall continue for a period of five (5) Business Days following the date required to do so under this Agreement; or

b. The Authority fails to perform any material non-monetary obligation of the Authority hereunder other than as addressed in clause (a) of this Section 22, and such failure continues for sixty (60) Business Days from the date the Concessionaire provides written Notice of the default or, if the Parties agree in writing and prior to the expiration of the sixty (60) Business Day period, that the failure cannot be cured within sixty (60) Business Days, then the Authority has submitted, and the Concessionaire and HPTE have approved, a written remediation plan which results in a cure within ninety (90) Business Days of approval of the remediation plan, or such greater time as the Parties may agree in writing; or

c. The Authority shall file a voluntary petition in bankruptcy or insolvency or a petition for reorganization under any bankruptcy Law; or

d. The Authority consents to an involuntary petition in bankruptcy against it or fails to vacate within ninety (90) Business Days from the date of entry thereof any order approving an involuntary petition in bankruptcy against it; or

e. An order, judgment or decree shall be entered by any court of competent jurisdiction, on the application of a creditor, adjudicating the Authority as bankrupt or insolvent or appointing a receiver, trustee or liquidator of all or a substantial part of such party's assets, and such order, judgment or decree shall continue unstayed and in effect for ninety (90) Business Days after its entry; or

f. Any representation or covenant of the Authority under Section 26 was not true when made and such failure has a material adverse effect on the Authority's ability to perform its obligations in accordance with the requirements of this Agreement; or

g. The Authority assigns its rights and obligations under this Agreement in violation of this Agreement; or

h. The Authority takes action, or refuses to act, the result of which materially impedes the Concessionaire's ability to perform its obligations under this Agreement, subject to applicable cure periods, if any; or

i. The Authority fails to meet Performance Standards; or

j. The Authority violates the covenants of Section 26.j. of this Agreement and for any violation that is curable, the same is not remedied within ten (10) Business Days after notice from the Concessionaire to the Authority; or in the event of a non-curable violation, without the right to cure.

23. HPTE Default. HPTE shall be in default under this Agreement (“HPTE Default”) in the event”

a. HPTE fails to perform any material obligation of HPTE hereunder and the failure to perform such other obligation continues for twenty (20) Business Days after Concessionaire or the Authority deliver written notice thereof to the HPTE (or if any such failure to perform any such other obligation, other than a payment obligation, cannot be cured within such twenty (20) Business Days but HPTE has begun diligently pursuing a cure of such failure within thirty (30) Business Days and continues to diligently pursue such cure, for thirty (30) Business Days; or

a. HPTE shall file a voluntary petition in bankruptcy or insolvency or a petition for reorganization under any bankruptcy Law; or

b. HPTE consents to an involuntary petition in bankruptcy against it or fails to vacate within ninety (90) Business Days from the date of entry thereof any order approving an involuntary petition in bankruptcy against it; or

c. An order, judgment or decree shall be entered by any court of competent jurisdiction, on the application of a creditor, adjudicating HPTE as bankrupt or insolvent or appointing a receiver, trustee or liquidator of all or a substantial part of such party’s assets, and such order, judgment or decree shall continue unstayed and in effect for ninety (90) Business Days after its entry; or

d. Any representation or covenant of HPTE under Section 25 was not true when made and such failure has a material adverse effect on the HPTE’s ability to perform its obligations in accordance with the requirements of this Agreement; or

e. HPTE assigns its rights and obligations under this Agreement in violation of this Agreement; or

f. HPTE takes action, or refuses to act, the result of which materially impedes the Concessionaire’s or the Authority’s ability to perform their obligations under this Agreement, subject to applicable cure periods, if any.

24. Remedies; Limitations on Liability; Mitigations.

a. Waivers; Remedies. No failure or delay by either Party in exercising any rights or power under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Parties hereunder, subject to the liability caps set forth in Section 24(b) below, are cumulative and are not exclusive of any rights or remedies that they would otherwise have.

b. Limitations on Liability.

- i. Authority. The aggregate liability of the Authority for damages under this Agreement shall be limited to the Toll Revenue and Other Revenue collected by the Authority and not remitted to Concessionaire.
- ii. Concessionaire. The aggregate liability of Concessionaire for damages under this Agreement shall be limited to the Reimbursable Costs, Transaction Costs and costs per dollar of Gross Toll Revenue not paid to the Authority.
- iii. HPTE. HPTE shall have no liability for damages under this Agreement.

c. Limitations on Liability: No Special, Consequential or Punitive Damages. In no event shall any Party hereto be liable to the others or obligated in any manner to pay to the other Parties any special, incidental, consequential, punitive or similar losses or damages or liable for direct damages in excess of the aggregate liability stated in Section 24(b) above based upon claims arising out of or in connection with the performance or non-performance of its obligations or otherwise under this Agreement, or any representation made in this Agreement being materially incorrect whether such claims are based upon contract, tort, negligence, warranty or other legal authority.

d. Mitigation of Damages. Each Party acknowledges its duty at law to mitigate damages arising out of each of the other Party's breach or failure to perform.

e. Injunctive Relief. The Parties agree that breach of this Agreement cannot be fully compensated at law, and therefore agree that the provisions of this Agreement may be enforced in equity by a court of competent jurisdiction.

25. HPTE Representations and Covenants.

a. HPTE represents to Concessionaire and the Authority that, as of the effective date of this Agreement:

- i. HPTE has full power, right and authority to execute, deliver and perform its obligations under, in accordance with, and subject to the terms and conditions of this Agreement;
- ii. This Agreement has been duly authorized, executed and delivered by HPTE and the obligations undertaken in this Agreement constitute valid and legally binding obligations of HPTE, enforceable against it in accordance with the terms of those documents, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity; and
- iii. No litigation, arbitration or other dispute resolution proceedings involving HPTE or to the best of HPTE's knowledge and belief (HPTE having made reasonable enquiries with a view to obtaining such knowledge and belief) is pending and HPTE is not aware of any threatened dispute, in each case that

could materially adversely affect the ability of HPTE to perform its obligations under this Agreement.

b. HPTE covenants with the Authority that for the Term:

- i. HPTE shall not take any action under this Agreement which would materially impair the collection of revenues by the Authority; provided that the Authority agrees and acknowledges that participation in the activities expressly contemplated under this Agreement shall not be deemed to violate this provision.
- ii. HPTE shall not violate the terms of the E-470 License Agreement or any Additional License Agreement.
- iii. HPTE shall not make any written or oral statements that materially injure the Authority's public image; provided, however, that nothing in this Section 25(f) shall preclude HPTE from seeking to enforce or defend its rights under this Agreement and presenting evidence or testimony relating to such enforcement or defense in a public forum.
- iv. During the Term, HPTE shall not contract in any manner with any other tolling services provider to provide the Tolling Services contemplated herein, including but not limited to providing alternative tolling vendors or technologies in respect of such Tolling Services. This restriction is limited to the Term. Concessionaire and the Authority agree and acknowledge that HPTE has no restriction on discussing, after notice in writing to Concessionaire and Authority, tolling services with any other tolling service provider or providers with respect to any other project or projects which are not the subject of the Concession Agreement or the Project TSA.

26. Authority Representations and Covenants.

a. The Authority represents to Concessionaire and HPTE that, as of the effective date of this Agreement:

- i. The Authority is duly organized and validly existing under the Laws of the State of Colorado and has full power, right and authority to execute, deliver and perform this Agreement and each and all of the obligations of the Authority provided for herein.
- ii. The execution, delivery and performance of this Agreement have been duly authorized by all necessary action of the Authority; each person executing this Agreement on behalf of the Authority has been duly authorized to execute and deliver it on behalf of the Authority; and this Agreement has been duly executed and delivered by the Authority.
- iii. Neither the execution and delivery by the Authority of this Agreement, nor the consummation of the actions contemplated hereby, is in conflict with or has resulted or will result in a default under, or a violation of, the governing instruments or

governing statutes of the Authority, any approvals or Laws applicable to the Authority or any other material agreement to which the Authority is a party.

- iv. This Agreement constitutes the legal, valid and binding obligation of the Authority, enforceable against the Authority in accordance with its terms, subject only to applicable bankruptcy, insolvency and similar Laws affecting the enforceability of the rights of creditors generally and general principles of equity.
 - v. There is no action, suit, proceeding, investigation or litigation pending and served on the Authority which challenges the Authority's authority to execute, deliver or perform, or the validity or enforceability of, this Agreement or which challenges the Authority's authority to officially execute this Agreement; and the Authority has disclosed to Concessionaire any pending and un-served or threatened action, suit, proceeding, investigation or litigation with respect to such matters of which the Authority is aware.
 - vi. The Authority has all necessary expertise, qualifications, experience, competence, skills and know-how to perform its obligations under this Agreement.
- b. The Authority covenants with the Concessionaire and HPTE that for the Term:
- i. The Authority will charge the Tolls, established by HPTE and Concessionaire in accordance with the Concession Agreement, as provided in this Agreement and under no circumstances will the Authority charge any Users a Toll for the Concession Project that is lower than the specified Toll charge (provided that this provision does not apply to (i) Authority waivers of tolls as allowed by agreement among HPTE, the Concessionaire and the Authority in accordance with HPTE Toll Violation Enforcement Rules and HPTE Policy Guidelines or (ii) Concessionaire data entry errors when the Concessionaire enters data into the Authority's Toll Collection System for which the Concessionaire shall be solely responsible); if the Authority becomes aware that an Account has been charged less than the Toll established by HPTE, the Authority shall forthwith arrange for collection of the remaining amount due, including coordinating with Concessionaire as necessary.
 - ii. The Authority shall provide Concessionaire with access to all information, including Transponders and Accounts, Concessionaire needs in order to ensure performance of its services subject to the requirements of the Colorado Open Records Act, PCI Compliance requirements and applicable federal privacy and other relevant laws which might prohibit Authority disclosure of sensitive personal and/or financial information.
 - iii. The Authority shall not violate the terms of the E-470 License Agreement or any Additional License Agreement.
 - iv. The Authority shall not make any written or oral statements that materially injure the Concessionaire's public image or HPTE's public image; provided, however, that nothing in this Section 26(iv) shall preclude the Authority from

seeking to enforce or defend its rights under this Agreement and presenting evidence or testimony relating to such enforcement or defense in a public forum.

27. Concessionaire Representations and Covenants.

a. Concessionaire represents to the Authority that, as of the effective date of this Agreement:

- i. Concessionaire is a limited liability company duly organized and validly existing under the Laws of the State of Colorado, has the requisite power and all required licenses to carry on its present and proposed activities, and has full power, right and authority to execute and deliver this Agreement and to perform each and all of the obligations of Concessionaire provided for herein. Concessionaire is duly qualified to do business, and is in good standing, in the State of Colorado.
- ii. The execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate, partnership or limited liability company action (as the case may be) of Concessionaire; each person executing this Agreement on behalf of Concessionaire has been duly authorized to execute and deliver it on behalf of Concessionaire; and this Agreement has been duly executed and delivered by Concessionaire.
- iii. Neither the execution and delivery by Concessionaire of this Agreement, nor the consummation of the actions contemplated hereby, is in conflict with or has resulted or will result in a default under, or a violation of, the governing instruments of Concessionaire, any approvals or Laws applicable to Concessionaire or any other material agreement to which Concessionaire is a party.
- iv. This Agreement constitutes the legal, valid and binding obligation of Concessionaire, enforceable against Concessionaire in accordance with its terms, subject only to applicable bankruptcy, insolvency and similar Laws affecting the enforceability of the rights of creditors generally and general principles of equity.
- v. There is no action, suit, proceeding, investigation or litigation pending and served on Concessionaire which challenges Concessionaire's authority to execute, deliver or perform, or the validity or enforceability of, this Agreement or which challenges the authority of the Concessionaire official executing this Agreement; and Concessionaire has disclosed to the Authority any pending and un-served or threatened action, suit, proceeding, investigation or litigation with respect to such matters of which Concessionaire is aware.
- vi. Concessionaire is the "**Concessionaire**" named in the Agreement and is the legal and valid holder of the Concessionaire's interest under the Agreement.

b. Concessionaire covenants with the Authority that for the Term:

- i. Concessionaire shall not take any action under this Agreement which would materially impair the collection of revenues by the Authority; provided that the Authority agrees and acknowledges that participation in the activities expressly contemplated under this Agreement shall not be deemed to violate this provision.
- ii. Concessionaire shall not violate the terms of the E-470 License Agreement or any Additional License Agreement.
- iii. Concessionaire shall not make any written or oral statements that materially injure the Authority's public image or HPTE's public image; provided, however, that nothing in this Section 27(i) shall preclude Concessionaire from seeking to enforce or defend its rights under this Agreement and presenting evidence or testimony relating to such enforcement or defense in a public forum.
- iv. Concessionaire shall not have any right to, and shall not, access the Authority's Accounts without the Authority's prior written consent.
- v. Concessionaire covenants and agrees that it will maintain its existence and will remain in good standing in the State of Colorado and will maintain its existence for as long thereafter as any obligations remain outstanding under this Agreement. The provisions of this Section 27(j) shall survive the expiration or earlier termination of this Agreement.
- vi. Concessionaire shall not impose any tolls other than those Tolls permitted to be collected by HPTE under applicable Laws, and by Concessionaire pursuant to the Concession Agreement, in each case as the same are then processed under this Agreement.
- vii. During the Term, Concessionaire shall not contract in any manner with any other tolling services provider to provide the Tolling Services contemplated herein including but not limited to providing alternative tolling vendors or technologies in respect of such Tolling Services. This restriction is limited to the Term. HPTE and the Authority agree and acknowledge that the Concessionaire has no restriction on discussing, after notice in writing to the Authority and HPTE, tolling services with any other tolling service provider or providers (i) with respect to any other project or projects which are not the subject of the Concession Agreement or the Project TSA.

28. Dispute Resolution. All disputes under this Agreement shall be submitted to nonbinding mediation in accordance with the terms of Attachment 8 (Dispute Resolution Regime).

29. Termination.

- a. Termination by the Authority.

- i. For Cause. If either a Concessionaire Default under Sections 21(a) or 21(b) has occurred and remains uncured at the expiry of the applicable cure period specified in Section 21(a) or Section 21(b), as applicable, or if HPTE/Concessionaire have made a change in their business operations, excluding Agreement Changes and changes in business operations agreed by the Parties and documented in writing in the meeting minutes per Section 14, which would materially alter the Authority's obligations for the Tolling Services, then the Authority may deliver a Termination Notice to the Concessionaire, and HPTE if appropriate, which must specify the type and nature of the Concessionaire Default that has occurred or the change in business operations materially altering the Authority's obligations, giving reasonable details related to either cause and stating that the Agreement will terminate on the day provided in the Termination Notice, unless otherwise agreed by the Parties. However, HPTE shall have the option to cure any monetary Concessionaire Default, or any non-monetary Concessionaire Default which causes the Authority to incur substantial on-going costs and, further, HPTE shall have the option to make the Authority whole for increased costs associated with any changes to business operations which have materially altered the Authority's obligations for the Tolling Services. For the avoidance of doubt, curing or making whole as used in this Section 29(a)(i) shall mean payment to the Authority for any monetary Concessionaire Default, any increased costs incurred as a result of the non-monetary Concessionaire Default or the aforementioned changes to business operations. HPTE shall exercise its right to cure or make the Authority whole by providing written notice to the Parties, which notice shall be effective to toll the date of termination for so long as HPTE makes payment to the Authority in amounts matching the Authority's increased costs.
 - ii. Not for Cause. For a period of the five (5) years from the date the Term commences, the Authority shall only be entitled to terminate this Agreement for cause and may not terminate the Agreement without cause. Thereafter, the Authority shall be entitled to terminate this Agreement without cause by providing a Termination Notice to HPTE and Concessionaire, indicating that the termination is made without cause and specifying the date the Agreement shall terminate, which date shall be twenty-four (24) months from the date of the Termination Notice, unless otherwise agreed by the Parties.
- b. Termination by Concessionaire.
 - i. For Cause. If an Authority Default has occurred and remains uncured at the expiry of the cure period specified in Section 22(a), the Concessionaire may deliver a Termination Notice to the Authority which shall specify the type and nature of the Authority Default that has occurred, giving reasonable details of the Authority Default and which states that this Agreement will terminate on the day provided in the Termination Notice, which date shall be the date of the Termination Notice. In the event of this termination, HPTE shall pay the Authority all sums then due pursuant to Section 33.

- ii. Not for Cause. The Concessionaire shall be entitled to terminate the Agreement without cause at any time, but only after each of the following conditions precedent are satisfied: (1) The Concessionaire must provide a Termination Notice to the Authority and HPTE specifying the termination date which shall be twenty-four (24) months from the date of the Termination Notice, unless otherwise agreed by the Parties. (2) The Authority shall receive full recoupment from HPTE of all sums then due to the Authority, on the date of the Termination Notice as provided in Section 33.
- c. Step-in or Termination by HPTE.
 - i. For Cause. HPTE shall be entitled to terminate this Agreement for cause in the event HPTE terminates the Concession Agreement, if such a termination required to allow HPTE to directly engage the Authority to continue to provide the Tolling Services directly for HPTE. HPTE shall effectuate the for-cause termination by providing a Termination Notice specifying the termination date which shall be the date of the Termination Notice. If HPTE exercises this termination right, HPTE shall pay the Authority all sums then due pursuant to Section 33.
 - ii. Not for Cause. HPTE shall be entitled to terminate the Agreement without cause at any time, but only after the following conditions precedent are satisfied: (1) HPTE must provide a Termination Notice to the Authority and Concessionaire specifying the termination date which shall be no sooner than twenty-four (24) months from the date of the Termination Notice and (2) HPTE shall have paid the Authority, in full, all sums then due to the Authority pursuant to Section 33.
 - iii. Step-In. As an alternative to termination, HPTE may exercise a “step in” right through which HPTE will notify the Authority and the Concessionaire and thereafter, within the time provided in the notice, assume all rights and obligations of the Concessionaire under this Agreement.

30. Termination Wind-Down Period.

a. General. During any Termination Wind-Down Period, all Parties shall follow the termination and Agreement close-out process set forth in this Section including the performance of their obligations under this Agreement (including the Concessionaire continuing to make payments).

b. Concessionaire Obligations. During any Termination Wind-Down Period, the Concessionaire shall, in addition to its other contractual obligations under the Agreement, have the following obligations:

- i. The Concessionaire shall immediately and expeditiously seek an alternative provider of tolling services. In no event shall Concessionaire’s failure to procure an alternative provider of tolling services in any way limit the Authority’s termination rights hereunder.

- ii. The Concessionaire shall continue to remit all payments due to the Authority under the terms of this Agreement, including but not limited to the reimbursement and payment under Section 30 (c).

c. Authority Obligations. During any Termination Wind-Down Period, and except in the case of a for cause termination of the Authority, the Authority shall be reimbursed for all reasonable out of pocket expenses and internal costs incurred in connection with the foregoing services, which costs will be paid by the Concessionaire as Reimbursable Costs.

d. During any Termination Wind-Down Period, the Authority shall, in addition to its other contractual obligations under the Agreement, have the following obligations:

- i. Upon receipt of Notice from the Concessionaire, the Authority will seek to have relevant portions of the Authority's contracts relating to Level 2 Maintenance to be novated or assigned to the Concessionaire provided that the Authority will not be obligated to assign to the Concessionaire any of the Authority's rights to claim against the applicable contract that arose under such contract prior to the date of such novation or assignment.
- ii. The Authority will deliver to the Concessionaire, to the extent not already delivered to the Concessionaire, and subject to reasonable and generally applicable third party licensing terms, if applicable all existing designs, plans and other documents produced by the Authority or its subcontractors which directly relate to the operation of the Lane Equipment. The Authority shall have no obligation to produce any designs, plans or other documents which are part of or integrated into the Authority's Toll Collection System or which are proprietary to the Authority or its information technology vendors.
- iii. The Authority will provide, if created during the Term, one complete set of existing up to date maintenance, operation and training manuals for the Lane Equipment, if existing.
- iv. The Authority will turn over to HPTE any and all tangible materials, equipment or other supplies (previously paid or invoiced and due to be paid) that were purchased on behalf of the HPTE for use by the Concessionaire but are in the possession of the Authority, excluding software engineering and enhancements to the Authority's Toll Collection Systems.
- v. Subject to applicable third party licenses, the Authority will use reasonable efforts to ensure that the benefit of existing Concession Project intellectual property and all warranties in respect of Lane Equipment purchased by the Authority and paid for by the Concessionaire as a Reimbursable Cost but not previously assigned or licensed to the Concessionaire are assigned, licensed or otherwise transferred to the Concessionaire.
- vi. The Authority will deliver to the Concessionaire all available records related to Level 2 Maintenance.

- vii. The Authority will ensure that provision is made in all contracts relating to Level 2 Maintenance to ensure that the Concessionaire will be in a position to exercise its rights, and the Authority will be in a position to comply with its obligations, under this Section 30 without additional payment or compensation to any other party.
- viii. The Authority will retrieve any of its equipment within sixty (60) days of receipt of Notice to do so from the Concessionaire. If the Authority fails to retrieve its equipment within sixty (60) days, as provided herein, or to provide the Concessionaire with written justification for the failure, the Concessionaire shall have the right to sell the equipment and to retain the proceeds of any such sale.
- ix. The Authority will cooperate with the Concessionaire and any successor providing to the Concessionaire services in the nature of operations and transition of the Lane Equipment, in order to achieve a smooth transfer of the Lane Equipment to another tolling services provider.
- x. As soon as practicable following the expiration of the Termination Wind-Down Period, remove from the Tolling Facilities that are the subject of the Concession Project, all property of the Authority or any Authority party that is not transferred to the Concessionaire hereunder.
- xi. Deliver all keys, access codes or other devices required to operate the Lane Equipment that are the subject of the Concession Project in the control of the Authority; and any intellectual property required to be delivered by the Authority pursuant to Section 19(b).
- xii. As soon as practicable during the Termination Wind-Down Period vacate, and cause the Authority parties to vacate, those parts of the Tolling Facilities that are the subject of the Concession Project in which the Authority had control or access and will leave such parts of the Tolling Facilities that are the subject of the Concession Project in a safe, clean and orderly condition.

31. Assignment.

a. Other than assignment to a Lender as specifically permitted under Section 32(a), or in the event of a “step-in” by HPTE, Concessionaire shall not have the right to assign this Agreement without the Authority’s prior written consent, not to be unreasonably withheld or delayed.

b. The Authority acknowledges that this Agreement is for the personal services of the Authority. Accordingly, the Authority shall have the right to assign this Agreement only as follows:

- i. Without Concessionaire’s consent, to any other Person that succeeds to (i) all the governmental powers and authority of the Authority or (ii) all the tolling service functions and operations in the State of Colorado; and

- ii. To any other Person only with the prior written consent of Concessionaire and HPTE.

c. No assignment shall relieve the assigning Party from any liability under this Agreement arising prior to the effective date of assignment, or impair any of the other Parties' rights or remedies due to the assigning Party's default occurring prior to the effective date of assignment.

32. Agreement Changes. Given the extended duration of this Agreement, and recognizing that the passage of time may bring any number of practical, logistical or legal changes which have the potential to impact this agreement, the Parties wish to provide a framework through which they can agree to changes to their obligations which are not otherwise already addressed in this Agreement.

a. General Agreement Change Provisions.

- i. The Parties may (but shall not be obligated to) agree on Agreement Changes at any time during the Term of the Agreement.
- ii. The Concessionaire and HPTE agree that they shall not seek Agreement Changes which could in any way adversely affect the Authority's ability to maintain its performance in accordance with the Performance Standards, unless the Parties at the same time agree to amend the current Performance Standards.
- iii Except as otherwise mutually agreed in writing by the Parties, no provisions of this Agreement may be modified or amended by Change Order.
- iv. Subject to applicable Law, all negotiations of Agreement Changes shall be conducted on an Open Book Basis. Except as required to be disclosed by judicial order or applicable Law, all Parties shall maintain the confidentiality of confidential records obtained or reviewed on an Open Book Basis in connection with such negotiations.
- v. Non-impairment of Authority's Ability to Repay Bonds. No Agreement Change may be ordered by Concessionaire which interferes with the Authority's processing of its own tolls for the E-470 Public Highway, or which in any way interferes with the Authority's ability to repay its own bonds.

b. Effectiveness of Agreement Changes. Agreement Changes shall only be effective upon execution in writing by all Parties. The foregoing shall not preclude Concessionaire, HPTE or the Authority from granting written waivers, in general or in specific instances, of provisions of this Agreement or related Performance Standards.

c. Agreement Change Process.

i. Agreement Change Notice. If any Party wishes to make an Agreement Change or to cause a collective evaluation of whether to make an Agreement Change, that Party shall deliver to all other Parties a written notice of the proposed Agreement Change.

ii. Evaluation of Proposed Agreement Change. As further described in Section 31.d, within thirty (30) days after receipt of such notice, or longer or shorter period as the Parties may mutually agree, the Authority shall deliver to Concessionaire a written evaluation of the proposed change, together with the Authority's analysis and supporting documentation supporting estimated adjustments to any applicable element of compensation or any applicable Performance Standard required as a result of such proposed change. The Authority shall provide HPTE with a copy of the evaluation. Within thirty (30) days of distribution of the Authority's evaluation, or such longer or shorter period as the Parties may mutually agree depending upon the content of the proposed Agreement Change, the Parties shall meet and confer.

iii. Agreement Change Actions. Within sixty (60) days following date the Parties confer on the Authority's evaluation Concessionaire shall provide written notice of Concessionaire's intent to proceed or not to proceed with the Agreement Change. If Concessionaire elects to proceed with the change and accepts the Authority's evaluation, Concessionaire shall prepare an Agreement Change form for execution by the Parties. If Concessionaire elects to proceed with the Agreement Change, but does not accept the evaluation in total, Concessionaire shall negotiate a mutually acceptable Agreement Change terms with the Authority, absent which, no Agreement Change shall be made.

d. Evaluation of Proposed Agreement Changes. All of the following will be evaluated and agreed by the Parties before any Agreement Change may be made:

i. Changes to Authority Compensation. Modifications or adjustments of the Authority's compensation under this Agreement as a consequence of an Agreement Change shall be based upon the increase or decrease in (1) where applicable, the Authority's marginal costs directly attributable to the change, including as appropriate and agreed by the Parties, a reasonable rate of return commensurate with the risks undertaken by the Authority under the terms of this Agreement respecting the affected services and under the method of pricing such services, and (2) where marginal costs are not applicable because the change requires additional or supplemental services beyond those the Authority is already providing generally for itself, its road system, its customers, Concessionaire and other Concessionaires, or because the change reduces services originally priced other than on a marginal cost basis, then the Authority's reasonable costs directly attributable to the change and a reasonable rate of return commensurate with the foregoing risks. Notwithstanding anything to the contrary in this Section 31(d)(i), except as otherwise agreed by the Parties, adjustments to the Authority's compensation

shall employ the pricing structure and methodology set forth in the Cost Model;

ii. Impact to Performance Standards. If the Authority determines that any proposed Agreement Change would materially impair the Authority's ability to meet the Performance Standards, then Concessionaire and the Authority will negotiate an appropriate adjustment to the affected Performance Standards or, a change to the Authority's compensation.

iii. Impact on Authority's Tolling Operations for E-470. If the Authority determined that a proposed Agreement Change would necessitate a material change in the Authority's tolling operations, including but not limited to changes in customer interaction, changes in the hardware or software or the programming thereof for the customer service center, the Authority's website, marketing, adjudications or any other facet or component of the Authority's tolling operations, which material changes are unacceptable to the Authority, the Parties shall not proceed with the Agreement Change evaluation and no such Agreement Change shall be pursued by the Concessionaire or HPTE.

33. HPTE Agreement Regarding Payment of Depreciation Costs in the event of Termination of Agreement by HPTE or Concessionaire. In the event the Project TSA is terminated not for cause other than by the Authority or the Authority is no longer providing the Tolling Services for Managed Lanes, other than because of Authority termination for convenience, HPTE agrees to pay to the Authority within sixty (60) Business Days of such termination the then applicable Liquidated Depreciation Costs. The then applicable "Liquidated Depreciation Costs" shall be as provided below. In such event HPTE must provide no less than twenty-four (24) months' prior notice of the termination to the Authority (such notice can be provided beginning on the first day of the Project TSA). In the event the Authority terminates the Project TSA for cause, on the terms as provided for in the Project TSA within the time periods provided for therein, then HPTE agrees to pay to the Authority within eighteen (18) months of such termination the then applicable Liquidated Depreciation Costs effective as of the date of termination. In all instances the Liquidated Depreciation Costs described below shall be pro-rated down on a day for day basis from the last date in the applicable time period (e.g. if the notice is to be effective six months following the Phase 1 Tolling Commencement, the Liquidated Depreciation Costs will equal \$83,000.00).

a. For the period beginning on the first day of Phase 1 Tolling Commencement under the Project TSA and ending the day before the one year anniversary of the Phase 1 Tolling Commencement, the Liquidated Depreciation Costs on the day before the one year anniversary of the Phase 1 Tolling Commencement shall equal \$166,000.00.

b. For the period beginning on the one year anniversary of the Phase 1 Tolling Commencement under the Project TSA and ending the day before the two year anniversary of the Phase 1 Tolling Commencement, the Liquidated Depreciation Costs on the day before the two year anniversary of the Phase 1 Tolling Commencement shall equal \$332,000.00.

c. For the period beginning on the two year anniversary of the Phase 1 Tolling Commencement under the Project TSA and ending the day before the three year anniversary of the Phase 1 Tolling Commencement, the Liquidated Depreciation Costs on the day before the three year anniversary of the Phase 1 Tolling Commencement shall equal \$498,000.00.

d. For the period beginning on the three year anniversary of the Phase 1 Tolling Commencement under the Project TSA and ending the day before the four year anniversary of the Phase 1 Tolling Commencement, the Liquidated Depreciation Costs on the day before the four year anniversary of the Phase 1 Tolling Commencement shall equal \$664,000.00.

e. For the period beginning on the four year anniversary of the Phase 1 Tolling Commencement under the Project TSA and ending the day before the five year anniversary of the Phase 1 Tolling Commencement, the Liquidated Depreciation Costs on the day before the five year anniversary of the Phase 1 Tolling Commencement shall equal \$830,000.00.

f. Beginning on the five year anniversary of the Phase 1 Tolling Commencement and onward, there are no Liquidated Depreciation Costs.”

34. Miscellaneous Provisions.

a. Special Provisions for Compliance with Agreement.

- i. The Authority agrees to recognize and attorn to any Lender on the terms set forth in this Agreement and no others, upon receipt of written notice from the Lender that it has exercised step-in rights in regard to any loan agreement with the Concessionaire. If the Authority receives any such notice, it shall have no obligation to obtain Concessionaire’s consent or approval, and no obligation to determine whether the Lender validly exercised its step-in rights. Concessionaire hereby waives and releases any claim or cause of action against the Authority arising out of or relating to its recognition and attornment in reliance on any such written notice.
- ii. This Agreement shall automatically terminate, without further notice, upon any termination of the Concession Agreement, without liability of the Authority for any Concessionaire lost profits, lost business opportunity or any other loss, damage, cost or expense and without liability of Concessionaire for any Authority loss, damage, cost or expense, except for the Authority’s unamortized costs for Transaction Costs or Reimbursable Costs (without prejudice to the Authority’s right to damages under the Agreement).
- iii. If a Party’s failure to perform an obligation or duty under the Agreement causes the another Party to fail to perform an obligation or duty under this Agreement, then the failure to perform such obligation or duty under this Agreement shall not constitute a default by or result in other remedies provided under this Agreement against such other Party.

b. Insurance. The Authority has provided Concessionaire evidence of the Authority’s insurance, which Concessionaire finds satisfactory. The Authority shall maintain

each of the required insurance coverages in full force and effect during the Term, so long as each coverage type is available on a commercially reasonable basis. The Concessionaire has provided the Authority with evidence of the Concessionaire's insurance which the Authority finds satisfactory. The Concessionaire shall maintain each coverage of such insurance in full force and effect during the Term, so long as each coverage is available on a commercially reasonable basis.

c. Labor Practices.

- i. Each Party at all times shall comply with all applicable federal and State of Colorado labor, occupational safety and health standards, rules, regulations and federal and State of Colorado orders.
- ii. No Party shall discriminate on the basis of race, color, national origin, sex, age, religion or handicap in the performance of the services under this Agreement.

d. Designation of Authorized Representatives. The Authority and Concessionaire shall each designate an individual or individuals who shall be authorized to make decisions and bind the Parties on matters relating to this Agreement ("**Authorized Representative**"). The initial Authorized Representatives for each Party shall be:

Authority - John D. McCuskey

HPTE - Michael Cheroutes

Concessionaire - Terry Ostrom

Any Party may change its Authorized Representatives by a subsequent writing delivered to the other Parties in accordance with Section 34(e). The Parties shall cause their respective Authorized Representatives to cooperate and coordinate with one another in the administration of this Agreement.

e. Notices.

- i. Any communication, notice or demand of any kind whatsoever under this Agreement shall be in writing and delivered by personal service (including express or courier service), by electronic communication, whether by facsimile, with receipt confirmed, or electronic-mail, with receipt confirmed (if confirmed in writing sent by registered or certified mail, postage prepaid, return receipt requested), or by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Concessionaire:

Plenary Roads Denver
Wells Fargo Center, Suite 3000
Denver, Colorado 80203

Attention: Terry Ostrom
Facsimile: (970) 379-1120

If to HPTE:

Colorado Department of Transportation
High Performance Transportation Enterprise
4201 East Arkansas Avenue
Denver, Colorado 80222
Attention: US 36 Coordinator
Facsimile: (303) 757-9656

If to the Authority by U.S. mail:

E-470 Public Highway Authority
22470 East 6th Parkway, Suite 100
Aurora, CO 80018
Attention: John D. McCuskey

With copies to:

Icenogle Seaver Pogue, PC
4725 S. Monaco Street, Suite 225
Denver, Colorado 80237
Attention: Tamara K. Seaver
T. Edward Icenogle
Telephone: 303-867-3000
Facsimile: 303-292-9101

or to such other addresses and such other places as any party hereto may from time to time designate by written notice to the others.

ii. All notices and other communications required or permitted under this Agreement which are addressed as provided in this Section 32(e) are effective upon delivery, if delivered personally or by overnight mail, facsimile or electronic mail and, are effective five (5) Business Days following deposit in the United States mail, postage prepaid if delivered by mail.

f. Amendment. This Agreement may be amended only if in writing executed by Concessionaire, HPTE, and the Authority.

g. Cooperation. The Parties shall cooperate with one another and act reasonably and in good faith in relation to (a) their communications with Users and potential Users concerning the Tolling Services; and (b) in connection with the performance and administration of this Agreement, or in connection with any matter related hereto.

h. Governing Law. The laws of the State of Colorado shall govern this Agreement.

i. Interpretation.

- i. The title headings of the respective paragraphs of this Agreement are inserted for convenience only, and shall not be deemed to be part of this Agreement or considered in construing this Agreement.
- ii. Wherever the word “including,” “includes” or “include” is used in this Agreement, it shall be deemed to be followed by the words “without limitation.”
- iii. All references to “Section” or “subsection” mean the Section or subsection of this Agreement unless specifically provided otherwise.
- iv. This Agreement includes all the Attachments hereto.
- v. If the date to perform any act or give any notice specified in this Agreement (including the last date for performance or provision of notice “within” a specified time period) falls on a non-Business Day, such act or notice may be timely performed on the next succeeding day that is a Business Day. Notwithstanding the foregoing, requirements contained in this Agreement relating to actions to be taken in the event of an emergency and any other requirements for which it is clear that performance is intended to occur on a non-Business Day, shall be required to be performed as specified, even though the date in question may fall on a non-Business Day.

a. Counterpart Execution. This Agreement may be executed in one or more counterparts. Any single counterpart or a set of counterparts executed, in either case, by each of the Parties and the State Controller shall constitute a full and original instrument for all purposes.

35. Colorado Special Provisions for the Authority.

a. Controller’s Approval. CRS §24-30-202 (1). This Agreement shall not be valid until it has been approved by the Colorado State Controller or designee.

b. Fund Availability. CRS §24-30-202(5.5). Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

c. Governmental Immunity. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.

d. Independent Contractor. The Authority shall perform its duties hereunder as an independent contractor. Neither the Authority nor any agent, employee or contractor of the Authority shall be deemed to be an agent, employee or contractor of the State, except as

expressly provided in Section 11(c)(i). The Authority and its employees, contractors and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for the Authority or any of its agents or employees. Unemployment insurance benefits shall be available to the Authority and its employees and agents only if such coverage is made available by the Authority or a third party. The Authority shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Agreement. The Authority shall not have authorization, express or implied, to bind the State to any contract, liability or understanding, except as expressly set forth herein. The Authority shalli. (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by lawii. , (b) provide proof thereof when requested by the State, and (c) iii. be solely responsible for its acts and those of its employees and agents.

e. Compliance with Law. The Authority shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

f. Choice of Law. Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Agreement, to the extent capable of execution.

g. Binding Arbitration Prohibited. The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contact or incorporated herein by reference shall be null and void.

h. Software Piracy Prohibition. Governor's Executive Order D 002 00. State or other public funds payable under this Agreement shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. The Authority hereby certifies and warrants that, during the term of this Agreement and any extensions, the Authority has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that the Authority is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Agreement, including, without limitation, immediate termination of this Agreement and any remedy consistent with federal copyright laws or applicable licensing restrictions.

i. Employee Financial Interest. CRS 024-18-201 and 24-50-507. The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest

whatsoever in the service or property described in this Agreement. The Authority has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of the Authority services and the Authority shall not employ any person having such known interest.

j. Vendor Offset. CRS 024-30-202 (1) and 24-30-202.4. [*Not Applicable to intergovernmental agreements*] Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for(i) debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (ii) (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (iii) (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

k. Public Contracts For Services. CRS §8-17.5-101. [*Not Applicable to Agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental Agreements, or information technology services or products and services*] Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who shall perform work under this Agreement and shall confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Agreement, through participation in the E-Verify Program or the State program established pursuant to CRS §8-17.5-102(5)(c), Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. Contractor (a) shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed, (b) shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this Agreement, (c) shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the State program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this Agreement for breach and, if so terminated, Contractor shall be liable for damages.

1. Public Contracts With Natural Persons. CRS §24-76.5-101. The Authority, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this Agreement.

36. Colorado Special Provisions for the Concessionaire.

a. Controller's Approval. CRS §24-30-202 (1). This Agreement shall not be valid until it has been approved by the Colorado State Controller or designee.

m. Fund Availability. CRS §24-30-202(5.5). Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

n. Governmental Immunity. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.

o. Independent Contractor. Concessionaire shall perform its duties hereunder as an independent contractor. Neither Concessionaire nor any agent, employee or contractor of Concessionaire shall be deemed to be an agent, employee or contractor of the State. Concessionaire and its employees, contractors and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Concessionaire or any of its agents or employees. Unemployment insurance benefits shall be available to Concessionaire and its employees and agents only if such coverage is made available by Concessionaire or a third party. Concessionaire shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Agreement. Concessionaire shall not have authorization, express or implied, to bind the State to any contract, liability or understanding, except as expressly set forth herein. Concessionaire shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.

p. Compliance with Law. Concessionaire shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

q. Choice of Law. Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any

provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Agreement, to the extent capable of execution.

r. Binding Arbitration Prohibited. The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.

s. Software Piracy Prohibition. Governor's Executive Order D 002 00. State or other public funds payable under this Agreement shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Concessionaire hereby certifies and warrants that, during the term of this Agreement and any extensions, Concessionaire has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Concessionaire is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Agreement, including, without limitation, immediate termination of this Agreement and any remedy consistent with federal copyright laws or applicable licensing restrictions.

t. Employee Financial Interest. CRS 024-18-201 and 24-50-507. The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Agreement. Concessionaire has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Concessionaire's services and Concessionaire shall not employ any person having such known interests.

u. Vendor Offset. CRS 024-30-202 (1) and 24-30-202.4. Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action

v. Public Contracts For Services. CRS §8-17.5-101. Concessionaire certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who shall perform work under this Agreement and shall confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Agreement, through participation in the E-Verify Program or the State program established pursuant to CRS §8-17.5-102(5)(c), Concessionaire shall not knowingly employ or contract with

an illegal alien to perform work under this Agreement or enter into a contract with a subcontractor that fails to certify to Concessionaire that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. (v) Concessionaire (a) shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed(vi) , (b) shall notify the subcontractor and the contracting State agency within three days if Concessionaire has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this Agreement(vii) , (c) shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Concessionaire participates in the State program, Concessionaire shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Concessionaire has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Concessionaire fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this Agreement for breach and, if so terminated, Concessionaire shall be liable for damages.

w. Public Contracts With Natural Persons, CRS §24-76.5-101. Concessionaire, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have executed this Agreement as of the date first written above.

E-470 PUBLIC HIGHWAY AUTHORITY

By: John D. McCuskey
Its: Executive Director

APPROVED AS TO FORM:
ICENOGLE | SEAVER | POGUE
A Professional Corporation

General Counsel

Director of Finance

DATE APPROVED BY THE BOARD OF DIRECTORS: _____

HIGH PERFORMANCE TRANSPORTATION
ENTERPRISE

By: _____
Its: _____

ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Contract is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.

**STATE CONTROLLER
Robert Jaros, CPA, MBA, JD**

By: _____

Date: _____

PLENARY ROADS DENVER LLC

By: _____
Its: _____

By: _____
Its: _____

Attachment 1

Key Terms and Definitions

Key Terms and Definitions

“**Accounts**” shall mean the Authority’s ExpressToll® Account or LicensePlateToll® accounts associated with Users.

“**Additional License Agreement**” shall mean a license agreement in substantially the same form as the E-470 License Agreement for brands, trademarks and other images requested by any Party to this Agreement.

“**Agreement**” shall mean this Concession Project Tolling Services Agreement.

“**Agreement Change(s)**” shall mean any change to services the Authority is contractually obligated to provide under this Agreement.

“**Authority**” shall have the meaning given to such term in the introductory paragraph of the Agreement.

“**Authority Default**” shall have the meaning set out in Section 22.

“**Authorized Representatives**” shall mean those persons from time to time designated by the Parties pursuant to Section 33(d).

“**Billable Transactions**” shall mean those Lane Level Transactions delivered to the Authority’s Toll Collection System such that they may be billed to Accounts.

“**Bank Account**” shall have the definition assigned to such term in Section 15(a).

“**Business Days**” shall mean those regular week-days and shall exclude Saturdays, Sundays and all Authority-recognized United States’ holidays, which are New Year’s Day, Martin Luther King Day, President’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving Day, Christmas Day and one “floating holiday,” of which the Authority, upon Concessionaire’s request, will advise.

“**Calendar Year**” shall mean January 1st through December 31st each year.

“**Commencement Date**” shall mean 12:01 Denver, Colorado time on the ____ day of _____, 2014.

“**Concession Agreement**” shall mean the agreement entered into between the Concessionaire and HPTE for the US 36 and I-25 Managed Lanes, dated June 27, 2013.

“**Concession Project**” shall mean the operation and maintenance of the Phase 1 Managed Lanes and the I-25 Managed Lanes, as well as the design, construction, financing, operation and maintenance of the Phase 2 Managed Lanes, all as expressly described by and contemplated in the Concession Agreement.

“**Concessionaire**” shall mean Plenary Roads Denver LLC, a Colorado limited liability company.

“**Concessionaire Default**” shall have the meaning set out in Section 21.

“**Cooperative Agreement**” shall mean that Cooperative Agreement Regarding Depreciation Costs for US 36 between HPTE and the Authority dated, February 25, 2014.

“**Coordination Meetings**” shall have the meaning assigned to such term in Section 14.

“**Contract**” shall mean this Agreement.

“**Cost Model**” shall have the meaning assigned to such term in Section 15.

“**CSC**” or “**Customer Service Center**” shall mean the Authority’s customer service center; comprising call center operations, back office operations and other User customer service activities related to provision of the Tolling Services.

“**Dispute Resolution Regime**” shall mean the dispute resolution process set out in Attachment 8.

“**Decision**” shall have the meaning set out in Attachment 8.

“**Default Rate**” shall mean the Prime Rate plus five percent (5%) (or the maximum rate permitted by law if less than such amount).

“**E-470**” shall have the meaning given to it in the first recital of the Agreement.

“**E-470 License Agreement**” shall mean the license agreement in substantially the form attached as Attachment 10, by and among the Parties to the Agreement.

“**E-470 Public Highway Authority Toll Collection, Evasion and Administrative Adjudication Rules**” shall mean those rules attached hereto as Attachment 5, as such may be amended from time to time.

“**Expiration Date**” shall mean December 31, 2065.

“**ExpressToll®**” shall mean the registered trade mark owned by the Authority and the Authority’s brand for its User-maintained Accounts which provide for the direct payment of tolls for privilege of driving on E-470 Public Highway, the Northwest Parkway or the Concession Project. ExpressToll® is a registered trademark owned by the Authority.

“**ExpressToll +**” shall mean the registered trade mark owned by the Authority and the Authority’s brand related to HOV Transponders.

“**ExpressToll® Account**” shall mean those Users which have requested the direct payment of tolls for privilege of driving on E-470 Public Highway, the Northwest Parkway or the Concession Project.

“**Final Acceptance Testing**” shall mean testing of the communications between installed Lane Equipment and the Authority’s Toll Collection System under normal traffic patterns.

“Force Majeure” shall mean any cause beyond the control and not due to an act or omission of Concessionaire or the Authority, and which could not have been avoided by due diligence or use of reasonable efforts by the Authority including, without limitation:

- (a) any drought, earthquake, rebellion, war, riot or terrorist act;
- (a) any strike, labor dispute, work slowdown, work stoppage, secondary boycott, walkout or other similar occurrence;
- (b) any theft, vandalism or other intentional or negligent act of any third party;
- (c) the suspension, termination, interruption, denial or failure to obtain or non-renewal of any permit, license, consent, authorization or approval which is necessary for the performance of the Tolling Services and
- (d) any change in law.

“Full Services Commencement Date” shall mean that date upon which tolling operations have commenced for the entire Concession Project, including the US 36 Phase 2 Managed Lanes, such that the Authority can provide the Tolling Services for the entire Concession Project.

“FRDs” shall have the meaning assigned in Section 6(a).

“Gross Toll Revenue” shall mean all toll and/or violation revenue recognized at the lane level on Lane Equipment on all Tolling Facilities per the Toll Collection System.

“High Occupancy Vehicle” shall mean a vehicle with multiple human occupants based on the direction of HPTE and the Concessionaire and with an appropriate designating Transponder.

“HOV Calls” shall mean calls received and serviced by the call center which relate solely to transactions as HOV in the Toll Collection System or HOV Transponders.

“HOV Transactions” shall mean those Lane Level Transactions generated by an HOV Transponder.

“HOV Transponder” shall mean an ExpressToll® switchable 6C tolling tag or device designated as HOV in the Toll Collection System (item (c) under the definition of “Transponder”).

“HPTE” shall mean the High Performance Transportation Enterprise of the State of Colorado Department of Transportation.

“HPTE Policy Guidelines” shall mean those tolling policies of HPTE, dated April 14, 2013 and adopted in conjunction with the HPTE Toll Violation Enforcement Rules, and attached in Attachment 6.

“HPTE Toll Violation Enforcement Rules” shall mean those rules pertaining to the enforcement of toll collection and providing a civil penalty for toll evasion adopted by resolution of the board of HPTE on April 14, 2013, attached in Attachment 6.

“Invoice Due Date” shall mean thirty (30) calendar days after the date of any invoice submitted by either the Authority or the Concessionaire under this agreement, except in the case of invoices submitted by the Authority pursuant to Section 5(c), in which case it means ten (10) Business Days after receipt of the relevant shipment of Lane Equipment components. .

“I-25 Managed Lanes” shall mean the those I-25 managed lanes which already exist as of the date of this Agreement and which have been operated by the Authority on behalf of HPTE and its predecessor entity, Colorado Transportation Enterprise since 2008.

“IGA” shall mean that intergovernmental agreement by and between the Authority and HPTE dated effective July 1, 2011.

“Lane Equipment” shall mean all toll lane equipment and components, cameras, loops, arterials and all other image capture equipment located in or proximate to the Concession Project which are used to process Tolls as required under the Agreement.

“Lane Interface Specification” shall mean the document created by the lane equipment manufacturer which shall govern the interface and communication between the Lane Equipment and the plaza servers.

“Lane Level Transactions” shall mean a record at the plaza server level of a vehicle captured at a given tolling point that is transmitted to the Toll Collection System.

“Law or Laws” shall mean any statute, law, regulation, ordinance, rule, license, permit, judgment, order, decree, concession, grant, franchise, agreement, directive, guideline, policy requirement, or other governmental restriction or any similar form of decision of or determination by, or any interpretation or administration of any of the foregoing by, any federal, state, local or foreign government, any political subdivision or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or entity.

“Lenders” shall mean any person providing financing in connection with the Concession Project.

“Level 1 Maintenance” shall mean that Lane Equipment maintenance comprising, including but not limited to: (i) real time monitoring of servers and lane equipment including error logs, alarms, and specific messages (ii) visual camera and antenna inspections to ensure that camera and antenna angles/aim have not changed (iii) camera glass cleaning on a weekly basis and more frequently during weather events (iv) camera/antenna cable inspections on a quarterly basis (v) lane cabinet inspections of AVI Reader status lights, camera power supplies, loop detectors, and lane controllers and (vi) arranging lane closure and coordinating with the Authority in the event of Level 2 Maintenance support, attached in Attachment 4.

“Level 2 Maintenance” shall mean maintenance necessary after Level 1 Maintenance actions were unable to resolve the problem comprising: (i) diagnosis of the problem (ii) creation of plan to resolve the problem (iii) facilitation of any warranty claims for hardware or 3rd Party components (iv) installation of spare equipment (if available) (v) installation of vendor repaired equipment and (vi) testing to verify problem resolution, attached in Attachment 4.

“LicensePlateToll®™” shall mean the process through which Users are charged tolls if they are not an ExpressToll® User with a Transponder or the license plate on the User’s vehicle is not associated with an ExpressToll® Account. In this case, cameras will photograph the front and rear license plates and a statement is sent to the vehicle owner’s address on file with the Colorado State Department of Motor Vehicles (or retrieved through various means for States other than Colorado). LicensePlateToll® is a registered trade mark owned by the Authority.

“LicensePlateToll® Accounts” shall mean Users who will be charged tolls because they are not an ExpressToll® User with a Transponder or the license plate on the User’s vehicle is not associated with an ExpressToll® Account.

“Liquidated Depreciation Costs” shall mean those costs described in Section 33 of this Agreement.

“Managed Lanes” shall mean I-25 Managed Lanes, the Phase 1 Managed Lanes, and the Phase 2 Managed Lanes.

“MOU” shall mean that Memorandum of Understanding among HPTE, Concessionaire and the Authority which is Attachment 9 to this Agreement.

“Motorcycle Transactions” shall mean those Lane Level Transactions generated by a Transponder and classified within the Toll Collection System as a motorcycle.

“Non-Revenue Transactions” shall mean those Lane Level Transactions generated by a Transponder and classified within the Toll Collection System as non-revenue. _.

“Northwest Parkway” shall mean the toll road that connects from I-25 on the eastern terminus to near US 36 on the western terminus, as the same may be expanded or rebuilt.

“Notice” shall mean a written communication mandated by or otherwise given pursuant to the terms and conditions of this Agreement, all of which shall meet the requirements of Section 32(e).

“Open Book Basis” shall mean that the Parties shall provide to all other Parties the documentary support for their positions related to Agreement Changes, subject to (i) constraints in any existing contracts and (ii) the Authority’s proprietary systems information and data.

“Operational Requirements” shall mean that discrete set of written requirements specifying the various functionality scenarios desired by the Concessionaire for its tolling operations relative to the Concession Project.

“Other Revenue” shall mean revenues other than Toll Revenues, as the Authority, from time to time, may collect in accordance with this Agreement for HPTE and remit to Concessionaire. Other Revenue may in the future include late or other fees as per the Operational Requirements.

“Parties” shall mean the Authority, HPTE and the Concessionaire and **“Party”** means any one of the Authority, HPTE or the Concessionaire.

“Patron Confidential Information” shall have the meaning set out in Section 13(a).

“Performance Standards” shall mean the required standards to which the Tolling Services shall be provided, which standards are contained in Attachment 2.

“Phase 1 Tolling Services Commencement” shall mean that date upon which tolling operations for Phase I Managed Lanes commence such that the Authority can provide the Tolling Services.

“Prime Rate” shall mean the prime rate of interest as published in the Wall Street Journal from time to time.

“Project TSA” shall mean a tolling services agreement for the Managed Lanes.

“Reimbursable Costs” shall have the meaning set out in Section 15(b).

“Responsible” shall mean the Party to which the term is attributed is responsible for both performing the matter at hand and for paying the costs related thereto.

“State” shall mean the State of Colorado.

“Term” shall have the meaning set out in Section 2.

“Termination Date” shall mean any date of early termination of this Agreement in accordance with Section 29.

“Termination Notice” shall mean any Notice of termination issued by any of the Parties in accordance with this Agreement.

“Termination Wind Down Period” shall mean the period of time commencing upon delivery of a Termination Notice, and extending for the duration specified in such Termination Notice.

“Tolls” shall mean the user fee imposed by HPTE for the privilege of traveling on all or a portion of the Managed Lanes.

“Toll Collection System” or “TCS” shall mean the Authority’s back office system and all components and equipment related thereto which are used to process Lane Level Transactions.

“Toll Pricing Model” shall mean Concessionaire’s pricing methodology.

“Toll Revenue” shall mean the Tolls collected by the Authority under this Agreement, excluding all related fees, charges or penalties regardless of whether HPTE retains any of the fees or charges, and any Other Revenue.

“Tolling Facilities” shall mean E-470, Northwest Parkway, I-25 Managed Lanes, Phase 1 Managed Lanes, Phase 2 Managed Lanes and any other highway or road that, in the future, processes tolls through the Authority’s Toll Collection System, each individually a “Tolling Facility.”

“Tolling Services” shall mean the Authority’s performance of back office toll collection and customer service operations through the Toll Collection System as well as pursuit of toll evasion enforcement processing, including contracting with a collections law firm, and operating an

administrative law court through which independent administrative law judges adjudicate unpaid toll and toll evasion transaction liability, all pursuant to the Public Highway Authority Law, Sections 43-4-501 et seq., C.R.S, and HPTE's enabling legislation, Sections 43-4-801 et seq., C.R.S.

"Toll System" shall mean both the Authority's Toll Collection System and Concessionaire's Lane Equipment used to process tolls on any of the Managed Lanes.

"Transactions" shall mean, collectively, HOV Transactions, Lane Level Transactions, Motorcycle Transactions and Non-Revenue Transactions.

"Transaction" shall mean, singularly, an HOV Transaction, a Lane Level Transaction, a Motorcycle Transaction or a Non-Revenue Transaction.

"Transaction Costs" shall mean the pro-rata allocations of costs which are incurred by the Authority in the processing of the various Toll Transactions and they shall include, but shall not be limited to, pro rata allocations of labor, contractor expenses, IT, utilities, bank and credit card fees, and other overhead.

"Transponder" shall mean:

- (a) an ExpressToll® 6C single position tolling tag or device; or
- (b) an ExpressToll® T21 tag or device
- (c) a HOV Transponder

"User" or **"Users"** shall mean the owners of vehicles driving within the roadway comprising the paved surface of E-470, the Northwest Parkway or the Concession Project.

"Voided Transactions" shall mean Lane Level Transactions voided directly by or at the request of the Concessionaire or HPTE using a portal during the initial hold period after the date of the Lane Level Transaction.

Attachment 2

Performance Standards

PERFORMANCE STANDARDS

Notwithstanding the provisions of this Attachment 2 relative to the obligations of Concessionaire in (1) Appendix 6-2 of Schedule 6, References 2.1 through 4.4, inclusive, of the Concession Agreement, and (2) Table 3 of Schedule 10, IDs 6 through 20, inclusive, of the Concession Agreement (collectively, the “Operations Provisions”), HPTE agrees and acknowledges to Concessionaire that if implemented and enforced, this Attachment 2 will be deemed to comply with the Operations Provisions for the duration of the Term of this TSA.

The term “Customer” shall be synonymous with User.

ELEMENT	PERFORMANCE REQUIREMENT	TIME TO RESPOND	INSPECTION AND MEASUREMENT METHOD	MEASUREMENT RECORD
Customer contact Line	Telephone line manned during business hours and 24 hour availability of messaging system. Faults to telephone line or message system rectified	1 Month	Monthly reporting	Monthly reports
Inbound Call Service Level	70% of all inbound calls should answered in thirty (30) seconds or less	1 Month	Monthly reporting	Monthly reports
Customer Driven Management Surveys (CDM)	Maintain an average of 4.0 or better on a scale of 1.0 to 5.0 on CDM customer service survey results	1 Month	Monthly reporting	Monthly reports
Phone Surveys	Maintain an average of 2.0 or better on a scale of 1.0 to 5.0 on after-call surveys done through the phone system	1 Month	Monthly reporting	Monthly reports
Schedule Conformity	This will be measured according to workforce management software in contact center. Maintain an average of 98.5%.	1 Month	Monthly reporting	Monthly reports
Schedule Adherence	This will be measured according to workforce management software in the contact center. Maintain an average of 94.0%	1 Month	Monthly reporting	Monthly reports
Seconds per Image	Maintain an average of 7.5 seconds per image for image processing	1 Month	Monthly reporting	Monthly reports
Final Image Accuracy	Maintain an image review accuracy rate of 99.6%	1 Month	Audit of reviewed Images	Monthly reports

Image Reprocess Rate	Maintain an image reprocess rate of less than 6.5% of all images reviewed	1 Month	Measured bi-weekly based on system reporting	Bi-Weekly reports
Customer Contact	Requirements for online customer access (web), email system functionality, phone system and IVR (Interactive Voice Response) system functionality are met.	1 Month	Monthly reporting	Monthly reports
Customer Contact	Comply with standards applicable to the retention of and use of customer records pursuant to Colorado law.	1 Month	Monthly reporting	Monthly reports
Customer Contact	Disclose a policy regarding privacy of Customer Confidential Information to Customers in accordance with Colorado law	1 Month	Monthly reporting	Monthly reports

Attachment 3

Intentionally Omitted

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Attachment 4

Equipment Monitoring and Maintenance – Level 1 and Level 2

Equipment Monitoring and Maintenance – Level 1 and 2

Level 1 Maintenance: Level 1 Maintenance shall be performed by HPTE/Concessionaire or their designated third party vendor. Level 1 Maintenance shall include:

- All Daily, Weekly, Monthly and Quarterly Monitoring and Preventive Maintenance, including but not limited to:
 - Daily real time monitoring of servers and lane equipment alarms and messages.
 - Daily check of lane controller operational and error logs.
 - Weekly check of 3M Readers and 3M operational logs.
 - Visual camera and antenna inspections to ensure that camera and antenna angles/aim have not changed.
 - Camera glass cleaning on a weekly basis and more frequently during weather events.
 - 3M Camera cable inspections on a quarterly basis.
 - 3M Reader and antenna cable and connector inspections on a quarterly basis.
 - Lane cabinet inspections of AVI Reader status lights, camera power supplies, loop detectors, lane controllers and network switch.
- Troubleshooting/Resolution – on-site if necessary
 - Level 1 Tech's will be responsible for scheduling lane closures when on-site presence is required.
 - Level 1 Tech's will be trained regarding troubleshooting various common degraded conditions.
 - Level 1 Tech's will be able to program and replace the following equipment.
 - 3M ARM Controllers
 - 3M TD724 Loop Detectors
 - 3M ALPR Cameras
 - 3M Reader and Antennas
 - Beacon Light
- Spare Inventory maintenance including bench testing and repair/replacement.
 - An inventory of spares (listed below) will be available in the case of module replacement.
 - 3M ARM Controllers
 - 3M TD724 Loop Detectors
 - 3M ALPR Cameras

- 3M Reader and Antennas
 - Beacon Light
- Level 1 Tech's will be responsible for proper security and storage of spare equipment.
 - Level 1 Tech's will be trained regarding testing and maintaining spare equipment.
 - Level 1 Tech's will be responsible for ensuring that spare inventory is working correctly.
 - Level 1 Tech's will be responsible for arranging vendor repair of equipment with the Authority during the initial 1 year labor warranty period.
 - Level 1 Tech's will be responsible for arranging Return Merchandise Authorizations with the vendor(s) to return faulty equipment removed from the lanes for repair (except during the Authority Labor Warranty 1 year period if purchased by HPTE/Concessionaire).
 - Level 1 Tech's will be responsible for procuring additional equipment to add to existing spares and for life cycling purposes.

Level 2 Maintenance is to be performed by the Authority in the event Level 1 actions, properly prosecuted, fail to resolve the problem. Level 2 Maintenance activities shall include:

- Diagnosis of the problem.
- Creation of plan to resolve the problem.
- Level 1 Tech's will be responsible for arranging any required lane closures to accommodate Level 2 actions.
- Document resolution and sign off that problem is correctly resolved with both the Authority and the Level 1 Tech's representing HPTE/Concessionaire.
- Level 2 support calls in excess of two per month will be billed as reimbursable expenses (see Maintenance of Lane Equipment terms in TSA).

One Year Installation Labor Warranty (if purchased by HPTE/Plenary)

- Labor to rectify any defects or deficiencies in the installation period (see Authority Labor Warranty term in TSA).
- Facilitation of any warranty claims for hardware or 3rd Party components.

Attachment 5

E-470 Public Highway Authority Toll Collection, Evasion and Administrative Adjudication
Rules

**RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
E-470 PUBLIC HIGHWAY AUTHORITY**

Resolution 12-03

**A RESOLUTION AMENDING THE E-470 PUBLIC HIGHWAY AUTHORITY
TOLL COLLECTION, EVASION AND ADMINISTRATIVE ADJUDICATION RULES**

WHEREAS, the E-470 Public Highway Authority (the "Authority") was established in accordance with the laws of the State of Colorado and by the political subdivisions which have executed the Authority's Establishing Contract for the purposes of financing, constructing and operating a tolled beltway on the eastern perimeter of the Denver metropolitan area; and

WHEREAS, pursuant to Section 43-4-506.5(2), C.R.S., the Authority has the power to make and pass rules and regulations regarding toll collection, enforcement and civil penalties for toll evasion; and

WHEREAS, pursuant to Sections 43-4-506.5(2) and 43-4-506.5(4)(b), C.R.S., the Authority may adopt rules creating an administrative toll enforcement process; and

WHEREAS, by Resolution 08-11, the Board of Directors of the Authority (the "Board") adopted the E-470 Public Highway Authority Toll Evasion and Administrative Adjudication Rules, amended and restated effective December 11, 2008, which were further amended by Resolution 10-05, were amended and restated effective April 28, 2011 by Resolution 11-03, and were amended and restated effective December 8, 2011 by Resolution 11-05 (the "Rules"); and

WHEREAS, the Board deems it necessary to amend the Rules from time to time.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF
THE E-470 PUBLIC HIGHWAY AUTHORITY AS FOLLOWS:**

1. The Board desires to amend the Rules regarding changes to toll evasion enforcement procedures, administrative adjudication proceedings and remedies and enforcement.
2. The Board hereby adopts the amended and restated Rules attached hereto as **Exhibit A** and incorporated herein by this reference, effective August 9, 2012.

ADOPTED AND APPROVED ON THE 9th DAY OF AUGUST, 2012.

(SEAL)

E-470 PUBLIC HIGHWAY AUTHORITY

By: *Richard M. Lee*
Its: *Vice Chair*

ATTEST:

By: *J. Scott*
Its: *General Counsel*

EXHIBIT A

**E-470 PUBLIC HIGHWAY AUTHORITY
TOLL COLLECTION, EVASION AND ADMINISTRATIVE ADJUDICATION RULES**

**E-470 PUBLIC HIGHWAY AUTHORITY
TOLL COLLECTION, EVASION AND ADMINISTRATIVE
ADJUDICATION RULES
(Amended and Restated Effective August 9, 2012)**

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**E-470 PUBLIC HIGHWAY AUTHORITY
TOLL COLLECTION, EVASION AND ADMINISTRATIVE
ADJUDICATION RULES
(Amended and Restated Effective August 9, 2012)**

These rules are promulgated by the Board of Directors ("Board") of the E-470 Public Highway Authority ("Authority"), a political subdivision of the State of Colorado, for the enforcement of toll collection and evasion and assessment of civil penalties and fees related thereto and the establishment and operation of an administrative adjudication process pertaining thereto, pursuant to the Colorado Public Highway Authority Law, Section 43-4-501, *et seq.*, C.R.S., as amended from time to time ("PHA Law"), in connection with the use of the E-470 public highway ("E-470"), and are subject to and to be interpreted in the context of the PHA Law.

Section 1.0 – Establishment of administrative adjudication process

There is hereby established, for the purposes of enforcement of toll collection and evasion and assessment of civil penalties and fees related thereto and the establishment and operation of an administrative adjudication process pertaining thereto on E-470, these administrative rules.

1.1 – Delegation and instruction to Authority staff

The Board hereby delegates and instructs its executive director and staff to establish, organize and operate an administrative adjudicative system for the determination of alleged toll evasion on E-470, which system shall be consistent with constitutional protections of due process, the PHA Law, these rules and such policies and actions as may be adopted from time to time by the Board.

1.2 – Administrative hearing officers

The Authority shall retain one (1) or more impartial administrative hearing officers, which officers may be state-employed administrative law judges or independent contractors of the Authority, shall be attorneys at law admitted to the practice of law in good standing in the courts of the State of Colorado and shall not be employees of the Authority. The arrangements and contracts therefor shall state that the Authority has granted to the hearing officers the same degree of independence as is granted by the State to its administrative law judges and, to the extent that grant of independence by the State is stated in writing, that same express grant shall be made a part of the Authority arrangements and contracts.

1.3 – Hearing facilities

The Authority shall establish and maintain hearing facilities, in the nature of a courtroom or courtrooms, for the conduct of toll enforcement hearings. The facilities shall be

located in the Denver Standard Metropolitan Statistical Area and may be facilities of other public entities or of the Authority.

Section 2.0 – Payment of tolls; toll evasion; civil penalty assessment

The Board and the Authority have established and, from time to time, may change tolls to be paid for use of E-470 by any motor vehicle.

2.1 – Payment of tolls

A toll imposed for the use of E-470 by a motor vehicle must be paid by or on behalf of the operator and/or registered owner of a motor vehicle in one of the following manners:

- 2.1.1 The operator and/or registered owner has entered into and adequately funded a user agreement with the Authority for an account for that vehicle for payment of tolls through the use of a transponder, sticker tag or other Authority approved technology or device (“EXpressToll Account”), from which EXpressToll Account the Authority has deducted payment;
- 2.1.2 By making payment to the Authority within thirty (30) days of the Authority’s issuance of a bill or statement to the registered owner of a motor vehicle, which is not the subject of an EXpressToll Account, for use of E-470, which bill or statement is based upon vehicle identification photography or other technology or device and is sent to the vehicle’s registered owner’s address of record (a “License Plate Toll Statement”).
- 2.1.3 Such other means as, from time to time, may be approved by the Authority.

2.2 – Toll Evasion

Any person who operates or is the registered owner of a motor vehicle for which vehicle the prescribed toll has not been paid and which vehicle is operated on E-470 commits toll evasion and a violation of the PHA Law and these rules (“Toll Evasion”). Toll Evasion includes, without limitation:

2.2.1 – Toll Evasion; nonpayment

- 2.2.1.1 Failure by the operator and/or registered owner of a motor vehicle to pay an E-470 toll by EXpressToll Account or by a means permitted pursuant to Section 2.1.3.
- 2.2.1.2 Failure by the operator and/or registered owner of a motor vehicle to pay the E-470 toll(s) billed in a License Plate Toll Statement,

within thirty (30) days after the issuance of the License Plate Toll Statement by the Authority.

2.2.2 – Toll Evasion; use of a delinquent EXpressToll Account

Use or attempted use of a delinquent or cancelled EXpressToll Account.

2.2.3 – Toll Evasion; use of electronic devices or equipment

Use or attempted use by the operator and/or registered owner of a motor vehicle of any electronic devices or equipment not authorized for use by the Authority in connection with identification of vehicles for purposes of toll payment.

2.2.4 – Toll Evasion; obfuscation

Obfuscation, alteration or obliteration of license plates or maintaining a license plate in violation of Section 42-3-202(2)(b), C.R.S. by an operator and/or registered owner of a motor vehicle to prevent identification of a motor vehicle without effective payment pursuant to Section 2.1 hereof.

2.2.5 – Toll Evasion; tampering

Tampering with or failing to maintain a transponder so as to cause it to not operate when driving on E-470.

The Board hereby establishes a civil penalty of Twenty-Five (\$25.00) per Toll Evasion (each a "Civil Penalty"). The Board authorizes and directs its executive director and staff to process such Civil Penalties, through its administrative adjudication process, and assess the Civil Penalties as approved, and which, from time to time, may be changed by the Board; provided, however that the executive director, in the interest of efficiency in billing and collection and the programs therefor, may systematically waive the assessment of such Civil Penalties.

Section 3.0 – Costs of toll collection and administrative adjudication process

Except in the interest of systematic efficiency in billing and collection and the programs therefor or except in the instance of any person that commits a Toll Evasion pursuant to Section 2.2.1.2 and subsequently agrees to open an EXpressToll Account, the Authority shall recover the costs of administering and operating its toll collection and administrative adjudication process by assessing in the case of each person (a) who has failed to pay the full amount of the first License Plate Toll Statement within the time specified therein, a late fee of \$ 5.00 ("Late Fee") (which Late Fee is assessed once per Toll Evasion cycle, not per toll), (b) who has failed to pay the full amount of a subsequent License Plate Toll Statement within the time specified therein and has been referred to a collection agency, a collection fee of \$ 20.00 ("Collection Fee") (which Collection Fee is assessed once per Toll Evasion cycle, not per toll) and (c) who has been found liable for an unpaid toll and/or Civil Penalty or who has failed to appear at a hearing on liability

for an unpaid toll, Civil Penalty, Late Fee and/or Collection Fee a fee of \$ 20.00 ("Adjudication Fee") (which Adjudication Fee is assessed per hearing officer's final order, not per toll).

The Late Fee, Collection Fee and Adjudication Fee are calculated to allow the Authority to recover its costs and to encourage compliance with the tolling provisions of the PHA Law. Provided, however, no Late Fee, Collection Fee or Adjudication Fee may be assessed against a person in a case in which the hearing officer determines there is no liability for an unpaid toll and/or a Civil Penalty.

Section 4.0 – Toll Evasion Enforcement Procedures

4.1 – Notice of Civil Penalty

The Authority shall notify a person liable for an unpaid toll, Civil Penalty, Late Fee, Collection Fee and/or Adjudication Fee either by a civil penalty assessment notice pursuant to Section 43-4-506.5(3)(b) of the PHA Law or by mail delivery notice pursuant to and in the manner prescribed by Section 43-4-506.5(6)(a) of the PHA Law (in either case, "Notice").

4.2 – Content of Notices

Each Notice shall contain:

4.2.1 – Notice issued by peace officer

Each Notice pursuant to Section 43-4-506.5(3)(b) of the PHA Law shall state the name and address of the person operating the motor vehicle, the license number of the motor vehicle involved, the number of such person's driver's license, the nature of the Toll Evasion, the amount of the Civil Penalty prescribed for the Toll Evasion, the date of the Notice, a place for such person to execute a signed acknowledgement of liability and such other information as may be required by law for the Notice to serve as a complaint to appear for an administrative adjudication proceeding if the prescribed toll, Civil Penalty Late Fee and/or Collection Fee are not paid within twenty (20) days of issuance of the Notice.

4.2.2 – Notice issued via technology not involving a peace officer

Each Notice pursuant to Section 43-4-506.5(6)(a) of the PHA Law shall state the name and address of a registered vehicle owner of the motor vehicle involved, the license number of the motor vehicle, the time and location of the Toll Evasion, the amount of the Civil Penalty prescribed for the Toll Evasion, a place for such person to execute a signed acknowledgement of liability and such other information as may be required by law to constitute such Notice as a complaint to appear for an administrative adjudication proceeding if the prescribed toll, Civil

Penalty, Late Fee and/or Collection Fee are not paid within thirty (30) days of the issuance of the Notice pursuant to Section 43-4-506.5(6)(a) of the PHA Law.

4.2.3 – Contents of Notice and Process

Each Notice pursuant to Section 43-4-506.5(3)(b) or Section 43-4-506.5(6)(a) of the PHA Law shall state that such person must pay the unpaid toll, Civil Penalty, Late Fee and/or Collection Fee within twenty (20) days of issuance of the Notice, in the case of a Notice pursuant to Section 43-4-506.5(3)(b) of the PHA Law, or thirty (30) days of issuance of the Notice, in the case of a Notice pursuant to Section 43-4-506.5(6)(a) of the PHA Law, after which, if not paid, the Notice will be deemed a complaint to appear for adjudication of a toll evasion in an Authority administrative adjudication proceeding; that the registered owner of the vehicle will be the respondent (“Respondent”) to the complaint; that the Respondent may contest the complaint by filing an answer and requesting a hearing within thirty (30) days of issuance of a Notice pursuant to Section 43-4-506.5(3)(b) or Section 43-4-506.5(6)(a) of the PHA Law; and that, after thirty (30) days from issuance of such Notice and, absent an answer and request for a hearing, Respondent will be deemed to have admitted liability and have waived the right to a hearing, such that a hearing officer’s final order of liability in default against the Respondent may be entered. Each Notice shall state the media and procedure by which an answer is to be filed and a hearing requested.

4.2 – Acknowledgement of liability and payment of Civil Penalty

Upon execution and delivery to the Authority of an acknowledgement of liability and payment of the unpaid toll, Civil Penalty, Late Fee and/or Collection Fee stated in a Notice, an administrative adjudication proceeding shall be deemed concluded.

4.3 – Failure to acknowledge and pay

If, within twenty (20) days of the issuance of a Notice pursuant to Section 43-4-506.5(3)(b) of the PHA Law or within thirty (30) days of the issuance of a Notice pursuant to Section 43-4-506.5(6)(b) of the PHA Law, the recipient of the Notice has not acknowledged liability and paid the unpaid toll, Civil Penalty, Late Fee and/or Collection Fee associated therewith and the Authority has not dismissed the unpaid toll, Civil Penalty Late Fee and/or Collection Fee associated therewith, the Notice shall, at the end of such twentieth (20th) or thirtieth (30th) day, as applicable, constitute a complaint to appear for an administrative adjudication proceeding for the unpaid toll, Civil Penalty Late Fee and/or Collection Fee (the “Complaint”), in which adjudication the Authority shall be the complainant and the alleged violator shall be the respondent (“Respondent”).

4.4 – Exceptions to liability

In addition to the exceptions contained in Section 43-4-506.5(6)(a.5) of the PHA Law (which apply to leased and rental cars), the registered owner of the vehicle involved in a Toll Evasion shall not be liable for the unpaid toll, Civil Penalty Late Fee and/or Collection Fee imposed by the Authority if the registered owner proves that the vehicle involved was sold to another prior to the date of the Toll Evasion, or if the registered owner proves that the vehicle involved was not subject to the custody and control of the registered owner due to theft at the time of the Toll Evasion.

4.5 – Answer and request for hearing; failure to request

If a Respondent answers and requests a hearing any time after the issuance of a Notice and up to the date that is five (5) days after the date that the Notice becomes a Complaint, the Authority shall notify the Respondent of the time, date and place of the hearing and shall set the matter for hearing before a hearing officer, all as provided in these rules.

If a Respondent has not answered and requested a hearing any time after the issuance of a Notice and up to the date that is five (5) days after the date that the Notice becomes a Complaint, pursuant to a Notice, Complaint and these rules, Respondent shall be deemed to have admitted liability and to have waived the right to a hearing, and a hearing officer's final order of liability in default shall be entered.

A hearing officer may enter an order vacating a hearing officer's final order of liability in default and may set a matter for a hearing pursuant to these rules until such time as the expiration of the hold on renewal of vehicle registration which results from the Authority action described in Section 7.3 of these rules.

Section 5.0 – Administrative Adjudication Proceeding

5.1 – Hearing officer

An administrative adjudication proceeding or hearing shall be held before a hearing officer appointed pursuant to Section 1.2 of these rules. A motion to disqualify a hearing officer for bias or impropriety shall be made prior to commencement of a hearing. The hearing officer will preside over the hearing, explain to the parties the procedures to be followed in the hearing, administer oaths, rule on admissibility of and take evidence, examine witnesses and permit the parties to examine and cross-examine witnesses. The hearing officer shall make a finding as to whether Respondent is liable for an unpaid toll, Civil Penalty Late Fee and/or Collection Fee and, if applicable, Adjudication Fee and render a decision in the form of a hearing officer's final order.

5.2 – Conduct of hearing

The hearing officer shall render a decision based upon the evidence presented at the hearing. The Rules of Evidence of the Colorado judiciary and the Federal judiciary shall not apply to the evidence or to the hearing. The hearing officer may exclude evidence

which is irrelevant, immaterial or repetitious and may admit evidence commonly relied upon by reasonably prudent persons in the conduct of their affairs. Evidence admitted shall be under oath and may be oral, written or recorded by electronic means. The hearing officer's decision shall be upon a preponderance of the evidence.

- 5.2.1 Either party is entitled to representation of his or her own choosing at his or her own expense, consistent with applicable laws and the rules of the Colorado Supreme Court concerning the unauthorized practice of law. Either party may proceed on written or recorded evidence tendered to the hearing officer without representation.
- 5.2.2 The hearing officer may take notice of the scientific principles underlying technology utilized by the Authority to produce automatic vehicle identification imagery, the foundation of which may be presumed, subject to rebuttal.
- 5.2.3 Each party may make opening and closing statements, call examine and cross-examine witnesses and evidence and otherwise offer evidence. The hearing officer may examine witnesses.
- 5.2.4 Statements, including admissions, made in settlement discussions shall not be admitted into evidence.
- 5.2.5 Written stipulations of the parties shall be submitted at the commencement of a hearing and shall become part of the record of the proceeding.
- 5.2.6 Objections to offers of evidence shall be noted in the record, as shall rulings thereon.
- 5.2.7 The hearing officer or the Authority shall make and preserve, until a case is finally concluded, a verbatim record of the hearing.
- 5.2.8 Each party may have written discovery of documents the other party intends to introduce and of the identity of witnesses the other intends to call at hearing. Respondent may view automatic vehicle identification imagery evidence by appointment with the Authority on a date prior to that of the hearing at a time and location designated by the Authority.

5.3 – Continuances

The hearing officer may grant a hearing continuance upon a finding of good cause shown. Respondent shall have right to one (1) continuance to seek representation by legal counsel. Either party shall have the right to a continuance due to disruption of an automated or electronic adjudicatory file or processing system.

5.4 – Failure to appear

If a Respondent who has answered and requested a hearing fails to appear at the hearing as originally set or as continued by the hearing officer, upon satisfaction that notice of the hearing was given by the Authority to the Respondent, the Respondent will be deemed to have admitted liability and have waived the right to a hearing, and a hearing officer's final order of liability in default for the unpaid toll, Civil Penalty Late Fee and/or Collection Fee and Adjudication Fee and against the Respondent may be entered.

5.5 – Decision of hearing officer a final order

A decision by the hearing officer of liability or no liability for the Civil Penalty shall be final for purposes of the administrative adjudication process.

5.6 – Payment of hearing officer's final order

A Respondent shall pay the amount set forth in a hearing officer's final order within thirty (30) days of entry.

Section 6.0 – Appeal of Decision of Hearing Officer

Subject to judicial review, the decision of the hearing officer shall be final and binding upon the parties and shall be an order of the hearing officer and of the Authority. There shall be no appeal to Authority personnel or the Board. The hearing officer's adjudication may be appealed as to matters of law and fact to the county court for the county in which the Toll Evasion occurred within thirty (30) days of the entry of an order of liability. By law, the appeal shall be de novo.

Section 7.0 – Remedies and Enforcement

7.1 – No limitation

Neither the existence or utilization of an administrative adjudication process nor these rules shall be construed to limit the Authority's rights or remedies available under the PHA Law, the statutes of the State of Colorado or the common law.

7.2 – Hearing Officer's Final Order a judgment

The Authority may make the hearing officer's final order a judgment of the county court, as provided in Section 43-4-506.5(4)(e) of the PHA Law.

7.3 – Nonrenewal of vehicle registration

On and after April 1, 2006, the Authority may certify a hearing officer's final order to the State Department of Revenue for nonrenewal of the vehicle registration of the motor vehicle giving rise to a complaint pursuant to Section 43-4-506.5(6) of the PHA Law.

The Authority may recover the reasonable costs associated with such certification by assessing the registered owner of the motor vehicle a fee ("Vehicle Registration Nonrenewal Processing Fee").

7.4 – Nonpayment Fee Assessed

In the case of a hearing officer's final order which has not been satisfied by payment by the Respondent of the unpaid toll, the Civil Penalty Late Fee and/or Collection Fee and, if applicable, the Adjudication Fee within the time allowed for payment, a nonpayment fee may be added to the amount owed by Respondent as an additional fee and may be collected therewith ("Nonpayment Fee").

7.5 – Collection Costs Assessed

Should a hearing officer's final order which has not been satisfied by payment by the Respondent of the unpaid toll, the Civil Penalty Late Fee and/or Collection Fee and, if applicable, the Adjudication Fee, the Vehicle Registration Nonrenewal Processing Fee and/or the Nonpayment Fee be assigned by the Authority to a collection company, the reasonable cost of collection may be added to the amount owed by Respondent as an additional fee and may be collected therewith ("Collection Costs").

Section 8.0 – Effective Date

These E-470 Public Highway Authority Toll Collection, Evasion and Administrative Adjudication Rules shall be effective as of August 9, 2012 and all prior versions hereof shall be deemed amended and restated consistent herewith.

Attachment 6

HPTE Toll Enforcement Rules and HPTE Policy Guidelines

Department of Transportation

Colorado High Performance Transportation Enterprise ("HPTE") Board

Rules Governing the Administrative Toll Enforcement Process

2 CCR 606-1

Statement of Basis and Purpose and Statutory Authority

The High Performance Transportation Enterprise ("HPTE") is a type 1 board created pursuant to § 43-4-806(2)(a)(I), C.R.S., whose purpose is to pursue public-private partnerships and other innovative and efficient means of completing surface transportation infrastructure projects. Section 43-4-808(2)(b), C.R.S., grants the HPTE the authority to adopt rules pertaining to the enforcement of toll collection and provide a civil penalty for Toll Evasion for roads within the HPTE's jurisdiction. Section 43-4-808(2)(d)(II), C.R.S., provides authority to the HPTE to establish an administrative toll enforcement process and adopt rules creating such a process. The HPTE foresees an expansion of its managed lane network and recognizes the need for a formal administrative enforcement process for civil penalty collection. It is the intent of the HPTE to develop, based on the statutory requirements, an easily accessible, understandable toll enforcement hearing process.

1.00 Definitions

1.01 "Adjudication Fee" shall mean the fee assessed by the Administrative Hearing Officer and shall include costs arising from the cost of adjudication.

1.02 "Administrative Hearing Officer" shall mean an impartial person appointed by the HPTE or a Contractor on its behalf, to adjudicate Toll Evasion cases. The Administrative Hearing Officer may be an administrative law judge employed by the state or an independent contractor of the HPTE. The Administrative Hearing Officer shall have the same degree of independence granted to an administrative law judge employed by the state. § 43-4-808(2)(d)(IV), C.R.S.

1.03 "Automatic Vehicle Identification Photography" ("AVIP System") shall mean any photographic system which aids in the collection of Tolls and enforcement of toll violations. See § 43-4-408(2)(b), C.R.S.

1.04 "Certified Report" shall mean a report provided to the Department of Revenue, Division of Motor Vehicles either through certified letter, or through electronic file transfer pursuant to a protocol established by HPTE and Department of Revenue.

1.05 "Civil Penalty" shall mean the amounts assessed for Toll Evasion, including amounts assessed for late payment, established by the HPTE subject to any limits imposed by § 43-4-808(2)(b) and (c)(I), C.R.S. The Civil Penalty established by the HPTE Board for any Toll Evasion, shall be no less than \$10 nor more than \$250 per toll statement or per Civil Penalty Assessment if assessed by a Peace Officer. The Civil Penalty excludes the Adjudication Fee assessed by an Administrative Hearing Officer.

1.06 "Contractor" shall mean any public or private entity with which HPTE contracts to manage user accounts, billing functions and processing Toll Evasions through a Toll Account or other means.

1.07 "HPTE" for purposes of these Rules shall mean the Colorado High Performance Transportation Enterprise Board created by § 43-4-806(2)(a)(I), C.R.S.

1.08 "Toll Statement" shall mean an invoice for a Responsible Party reflecting Toll usage for such Responsible Party over a specific period of time generated by the AVIP System or other electronic device that will constitute the amount of the Tolls due and payable by such Responsible Party, plus any additional Civil Penalties. See § 43-4-808(2)(b), C.R.S.

1.09 "Notice of Civil Penalty Assessment" or "Notice" shall mean an assessment for Toll Evasion against the Person operating the vehicle if issued by a Peace Officer or against a Responsible Party if resulting from an AVIP System or other electronic means.

1.10 "Peace Officer" shall mean a person as described in § 16-2.5-101, C.R.S., including Colorado state troopers, officers of the ports, peace officers assigned to specific jurisdictions, and local law enforcement officers authorized to issue Notice of Civil Penalty Assessments for Toll Evasion.

1.11 "Person" shall mean the Person operating the vehicle at the time a Toll is incurred and to whom a Peace Officer may issue a Notice of Civil Penalty Assessment.

1.12 "Responsible Party" shall mean the registered owner of the vehicle who, based on their status as the registered owner of such vehicle, will be presumed to have given authority, express or implied, to the operator of the vehicle at the time a Toll is incurred and who will be presumed responsible for the payment of the Toll and any related Civil Penalty. If a Notice of Civil Penalty Assessment results from an AVIP System or other electronic means, the Responsible Party shall be liable for payment.

1.13 "Toll" shall mean the user fee established by the HPTE from time to time and paid to the HPTE or its Contractor on its behalf for the privilege of using surface transportation infrastructure, including managed lanes. The Toll may include a different rate which shall be established by the HPTE depending upon the method of collection. The Toll shall not include any Civil Penalty or Adjudication Fee.

1.14 "Toll Account" shall mean a user agreement with a Contractor establishing an account for payment of Tolls through the use of a Transponder, or other HPTE-approved device or method.

1.15 "Toll Evasion" shall have the meaning set forth in Rule 3.01.

1.16 "Transponder" means the electronic toll recording device linked to a Toll Account or another payment system approved by the HPTE by which payments of tolls may be imposed.

2.00 Administrative Toll Enforcement Process

2.01 Pursuant to § 43-4-808(2)(d)(II), C.R.S., at the request of the judicial department, the transportation enterprise may establish an administrative toll enforcement process.

2.02 Pursuant to § 43-4-808 (2)(d)(IV), C.R.S., the HPTE may enter into contracts for adjudication of the toll enforcement process.

2.03 The Administrative Hearing Officer shall have exclusive jurisdiction over the administrative toll enforcement process. See § 43-4-808(2)(d)(II), C.R.S.

2.04 The HPTE or a Contractor on its behalf shall retain one or more Administrative Hearing Officer(s). See § 43-4-808(2)(b), C.R.S.

3.00 Toll Evasion

3.01 Toll Evasion may result from actions of the Responsible Party or Person, including but not limited to:

3.01.1 Failing to pay a Toll or Avoiding a Toll:

- A. For which a statement has been sent, within the time set forth in the statement; or
- B. For which a Civil Penalty has been assessed, within the time required; or
- C. By entering or exiting the Toll Lane other than at a designated access/egress point.

3.01.2 Using a Toll Lane:

- A. Without having complied with such other requirements established by HPTE to record or exempt a vehicle from Tolls; or
- B. Having obfuscated, altered or obliterated a license plate or maintained a license plate in violation of § 42-3-202(2)(b), C.R.S., or while travelling without a license plate; or
- C. Tampering with or failing to properly set a Transponder or other electronic device required by HPTE to record or exempt a vehicle from Tolls, so as to cause it to not operate as intended;

3.02 The HPTE shall establish the Civil Penalty for Toll Evasion within the limits set forth in statute. The HPTE shall adopt by resolution a Civil Penalty structure for Toll Evasion.

4.00 Notice of Civil Penalty Assessment and Request for Hearing

4.01 A Notice of Civil Penalty Assessment may be issued to the Person operating the motor vehicle involved in a Toll Evasion by a Peace Officer, or may it may result from an unpaid Toll or Toll Statement issued as a result of an AVIP System or other electronic means and sent to the Responsible Party by mail. See § 43-4-808(2)(c)(II) and 43-4-808(2)(f)(I) C.R.S.

4.02 Determination of the time frames for the Notice of Civil Penalty Assessment shall be based on calendar days.

4.03 Notice of Civil Penalty Assessment Sent by Mail Pursuant to §43-4-808(2)(f)(I), C.R.S.

4.03.1 A Notice of Civil Penalty Assessment issued in the instance of Toll Evasion resulting from an AVIP System or other electronic means may be sent to the Responsible Party by first-class mail, or by any mail delivery service offered by an entity other than the United States Postal Service that is equivalent to or superior to first-class mail, or by other means as provided by § 24-4-105(2)(a).

4.03.2 The Notice of Civil Penalty Assessment shall contain:

- A. The name of the Responsible Party;
- B. The address of the Responsible Party;
- C. The license plate number of the vehicle involved;
- D. The date of the Notice;
- E. The date and time of the event(s) that gave rise to the Toll Evasion;
- F. The location of the event(s) that gave rise to the Toll Evasion;
- G. The amount of the Civil Penalty;
- H. A place for the Responsible Party to execute a signed acknowledgment of liability for the cited Toll Evasion; and
- I. Such other information as may be required by law to constitute the Notice of Civil Penalty Assessment as a complaint to appear for adjudication of a Civil Penalty for Toll Evasion if the Toll and Civil Penalty is not paid within thirty (30) days of the date of the Notice of Civil Penalty Assessment. See § 43-4-808(2)(f)(I), C.R.S.
- J. The method and procedure by which a Responsible Party may file an answer.
- K. The method by which a Responsible Party may pay the Notice of Civil Penalty Assessment. If a Notice of Civil Penalty Assessment results from an AVIP System or other electronic means, the Responsible Party shall pay the Civil Penalty either:
 - (1) In person at the location designated by the HPTE or Contractor on its behalf; or
 - (2) By postmarking the payment within twenty days of the Notice; or
 - (3) By other electronic means approved by the HPTE or a Contractor on its behalf

4.04 Notice of Civil Penalty Assessment Issued by a Peace Officer pursuant to § 43-4-808(2)(c)(I), C.R.S.

4.04.1 Any Peace Officer is authorized to issue a Notice of Civil Penalty Assessment for Toll Evasions. See § 43-4-808(2)(c)(I), C.R.S.

4.04.2 A Notice of Civil Penalty Assessment issued by a Peace Officer shall contain:

- A. The name of the Person operating the motor vehicle;
- B. The address of the Person operating the motor vehicle;

- C. The license plate number of the motor vehicle involved;
- D. The driver's license number of the Person operating the motor vehicle involved in the Toll Evasion;
- E. The nature of the Toll Evasion;
- F. The amount of Civil Penalty prescribed for the Toll Evasion;
- G. The date of the Notice;
- H. A place for the Person to execute a signed acknowledgement of person's receipt of the Notice of Civil Penalty Assessment; and
- I. A place for the Person to execute a signed acknowledgement of liability for the cited Toll Evasion, to be executed at the time the Person cited pays the Civil Penalty.
- J. Such other information as may be required by law to constitute the Notice and complaint to appear for adjudication if the Civil Penalty is not paid within twenty days of the date of the Notice. See § 43-4-808(2)(c)(II), C.R.S.
- K. The method and procedure by which the Person may file an answer.
- L. A statement that if the Person cited does not pay the prescribed Civil Penalty within twenty (20) days of the Notice, the Notice shall constitute a complaint to appear for adjudication of a Toll Evasion, and the Person cited shall, within the time specified in the Notice, file an answer to the complaint in the manner specified.
- M. A statement that failure to contest the alleged violations in the manner and time provided shall be deemed an admission of liability and that a final order of liability may be entered against the Person. See § 43-4-808(2)(f)(I), C.R.S.
- N. A statement that the Person cited shall pay the Civil Penalty either:
 - (1) In person at the location designated by the HPTE or a Contractor on its behalf; or
 - (2) By postmarking the payment within twenty (20) days of the Notice, or
 - (3) By other electronic means approved by the HPTE or a Contractor on its behalf. See § 43-4-808(2)(c)(IV), C.R.S.

5.00 Answer and Request for Hearing or Failure to Request a Hearing

5.01 Upon receipt of a timely request for a hearing from the Responsible Party, the HPTE or a Contractor on its behalf, shall set the matter for a hearing before an Administrative Hearing Officer and provide sufficient notice to the Responsible Party or Person of the date, time and place of the hearing as stated in § 24-4-105(2)(a), C.R.S., at least thirty (30) days prior to the hearing.

5.02 Time Frame for Filing Answer and Request for Hearing where Notice of Civil Penalty Assessment is provided by an AVIP System or other electronic means pursuant to § 43-4-808(2)(f)(I), C.R.S.

5.02.1 If the Responsible Party does not pay the prescribed Toll and/or Civil Penalty within thirty (30) days of the date of the Notice of Civil Penalty Assessment, the Notice shall constitute a complaint to appear for adjudication of a Toll Evasion in an administrative Toll enforcement proceeding.

5.02.2 The Responsible Party shall, within the time specified in the Notice of Civil Penalty Assessment, file an answer to the complaint in the manner specified in such Notice.

5.02.3 If the Responsible Party fails to pay in full the outstanding Toll and/or Civil Penalty as set forth in the notice or to appeal and answer the complaint and request a hearing as specified in the notice, a final order of liability shall be entered against the Responsible Party for purpose of enabling the Responsible Party to appeal the final order of the Administrative Hearing Officer pursuant to Rule 7.07 hereof and allow the HPTE or a Contractor on its behalf, to proceed to judgment.

5.03 Time Frame for Filing Answer and Request for Hearing where the Notice of Civil Penalty Assessment is provided by a Peace Officer pursuant to § 43-4-808(2)(c)(III) and (IV), C.R.S.

5.03.1 If the Person cited does not pay the prescribed Civil Penalty within twenty (20) days of the Notice, the Notice of Civil Penalty Assessment shall constitute a complaint to appear for adjudication of a Toll Evasion and the Person cited shall, within the time specified in the Notice of Civil Penalty Assessment, file an answer to the complaint in the manner specified in such notice.

5.03.2 The acknowledgement of liability shall be executed at the time the Person cited pays the prescribed Civil Penalty.

6.00 Presumptions of Liability for Toll Evasion

6.01 Presumption Regarding the Registered Owner of a Vehicle. The Responsible Party shall be presumed liable for the Toll and Civil Penalty imposed by the HPTE or a Contractor on its behalf. See § 43-4-808(2)(f)(I), C.R.S.

6.02 The Responsible Party involved in a Toll Evasion violation may rebut the presumption of liability for the violation by proving by a preponderance of the evidence that:

6.02.1 The owner sold or otherwise transferred ownership of the vehicle to another person before the date of the violation as evidenced by a bill of sale or similar document;

6.02.2 The owner did not have custody and control of the vehicle at the time of the violation due to theft as evidenced by a report to a law enforcement agency; or

6.02.3 Other rights or defenses available under applicable law.

6.03 Liability Regarding the Owner of a Motor Vehicle Engaged in the Business of Leasing or Renting Motor Vehicles.

6.03.1 The owner of a motor vehicle who is engaged in the business of leasing or renting motor vehicles is liable for payment of a Toll Evasion violation Civil Penalty; except that, at the discretion of such owner:

A. The owner may obtain payment for a Toll Evasion violation Civil Penalty from the person or company who leased or rented the vehicle at the time of the Toll Evasion through a credit or debit card payment and forward the payment to the HPTE or a Contractor on its behalf; or

B. The owner may seek to avoid liability for a Toll Evasion violation Civil Penalty if the owner of the leased or rented motor vehicle can furnish sufficient evidence that, at the time of the Toll Evasion violation, the vehicle was leased or rented to another person.

6.03.2 To avoid liability for payment, the owner of the motor vehicle shall, within thirty (30) days after receipt of the Notice of Civil Penalty Assessment, furnish to the HPTE or a Contractor on its behalf an affidavit containing the name, address, and state driver's license number of the person or company who leased or rented the vehicle.

7.00 Administrative Adjudication Proceeding

7.01 General Provisions

7.01.1 Upon receipt of a request, the HPTE or a Contractor on its behalf shall set the matter for a hearing before an Administrative Hearing Officer.

7.01.2 The HPTE or a Contractor on its behalf shall establish and maintain hearing facilities for the conduct of Toll enforcement hearings, which shall be in the form of an administrative adjudication proceeding.

7.01.3 The Responsible Party or Person shall be the respondent to the complaint.

7.02 Conduct of Hearing

7.02.1 The Administrative Hearing Officer shall preside over the hearing and shall have all powers under the State Administrative Procedure Act set forth in § 24-4-105, C.R.S., except that for purposes of these Rules, the decision of the Administrative Hearing Officer shall be a Final Order and may not be appealed to the HPTE.

7.02.2 The State Administrative Procedure Act, § 24-4-105, C.R.S., shall apply to the administrative adjudication proceeding. In the case of a conflict between the requirements of § 43-4-808, C.R.S., and § 24-4-105, C.R.S., § 43-4-808, C.R.S., shall apply.

7.02.3 The standard of review shall be by a preponderance of the evidence.

7.02.4 With regard to § 24-4-105(8), C.R.S., the Administrative Hearing Officer may take notice of the scientific principles underlying technology utilized by the HPTE or the Contractor on its

behalf, to produce automatic vehicle identification imagery, the foundation of which may be presumed, subject to rebuttal by a preponderance of the evidence.

7.02.5 The Responsible Party may view automatic vehicle identification imagery evidence by appointment with the HPTE or a Contractor on its behalf, on a date prior to that of the hearing at a time and location designated by the Administrative Hearing Officer.

7.03 Continuances

7.03.1 The Responsible Party or Person, or their legal representative shall have right to one (1) continuance to seek representation by legal counsel.

7.03.2 Either party shall have the right to a continuance due to disruption of an automated or electronic adjudicatory file or processing system.

7.04 Failure to Appear

7.04.1 If a Responsible Party or Person who has answered and requested a hearing fails to appear at the hearing as originally set or as continued by the Administrative Hearing Officer, upon satisfaction that notice of the hearing was given by the HPTE or a Contractor on its behalf, to the Responsible Party or Person, the Responsible Party or Person will be deemed to have admitted liability and have waived the right to a hearing.

7.04.2 In this case, a final order of liability in default for Civil Penalty and Adjudication Fee, if any, may be entered against the Responsible Party or Person.

7.05 Decision of the Administrative Hearing Officer a Final Order

7.05.1 The Administrative Hearing Officer shall make a finding as to whether the Responsible Party or Person is liable for a Civil Penalty and, if applicable, an Adjudication Fee, and render a decision in the form of an Administrative Hearing Officer's final order.

7.05.2 The Administrative Hearing Officer may enter default against the Responsible Party or Person in a final order.

7.05.3 The Administrative Hearing Officer, upon the entry of default, shall find:

A. That the Notice of Civil Penalty Assessment was provided to the Responsible Party or Person; and

B. The Responsible Party or Person was provided with notice of the opportunity to appear at a hearing; and

C. The Notice was sent to the Responsible Party's or Person's last known address based on the vehicle records of the Department of Revenue, Division of Motor Vehicles, or the last known address for the Responsible Party or Person which the HPTE or Contractor on its behalf, has obtained during the course of the toll enforcement process.

7.05.4 A decision by the Administrative Hearing Officer of liability or no liability for the Toll and Civil Penalty shall be final for purposes of the administrative adjudication process.

7.05.5 The decision of the Administrative Hearing Officer shall be final and binding upon the parties. The Final Order may not be appealed to the HPTE pursuant to § 24-4-105(14)(a), C.R.S.

7.06 Payment of Decision of Administrative Hearing Officer

7.06.1 A Responsible Party or Person shall pay the amount set forth in a final order within thirty (30) days of the effective date.

7.07 Appeal of Administrative Hearing Officer's Final Order

7.07.1 The administrative adjudication of a Toll Evasion is subject to judicial review and may be appealed as to matters of law and fact to the county court for the county in which the violation occurred. See § 43-4-808 (2)(d)(VI), C.R.S.

7.07.2 The Administrative Hearing Officer's final order may be appealed within thirty (30) days of the effective date.

7.07.3 The county court shall conduct a de novo review upon appeal. See § 43-4-808 (2)(d)(VI), C.R.S.

7.07.4 The HPTE or a Contractor on its behalf may certify the record on appeal by filing a certified copy of the order imposing a Toll and Civil Penalty that is entered by the Administrative Hearing Officer with the clerk of the county court in the county in which the violation occurred at any time after the order is entered. See § 43-4-808 (2)(d)(V), C.R.S.

7.07.5 The clerk shall record the order in the judgment book of the court and enter it in the judgment docket. See § 43-4-808 (2)(d)(V), C.R.S.

7.07.6 The order shall thenceforth have the effect of a judgment of the county court and execution may issue on the order of the court as in other cases. See § 43-4-808 (2)(d)(V), C.R.S.

7.08 Remedies

7.08.1 Notwithstanding the specific remedies provided by § 43-4-808, C.R.S., the HPTE shall have every legal remedy available to enforce unpaid Tolls and Civil Penalties as debts owed to the HPTE. See § 43-4-808(2)(d)(VII), C.R.S.

7.08.2 The HPTE or a Contractor on its behalf may report to the Department of Revenue any outstanding judgment or warrant or any failure to pay the Toll or Civil Penalty for any Toll Evasion, including any Adjudication Fee imposed by an Administrative Hearing Officer. See § 43-408(2)(g), C.R.S.

7.08.3 Neither the existence nor utilization of an administrative toll enforcement procedure nor these rules shall be construed to limit the HPTE's or a Contractor's rights or remedies available under the law.

8.00 Department of Revenue Action

8.01 The HPTE or a Contractor on its behalf as stated in § 43-4-808(2)(g), C.R.S., may report to the Department of Revenue any outstanding judgment or warrant or any failure to pay the Toll or Civil Penalty for any Toll Evasion.

8.02 Upon receipt of a certified report from the HPTE or its Contractor on its behalf, stating that the owner of a registered vehicle has failed to pay a Toll or Civil Penalty including any Adjudication Fees imposed by an Administrative Hearing Officer, resulting from a final order, the Department of Revenue shall not renew the registration of the vehicle until the Toll and Civil Penalty are paid in full. See § 43-4-808(2)(g), C.R.S.

8.03 A Certified Report from the HPTE shall be provided to the Department of Revenue upon the owner successfully paying in full a Toll or Civil Penalty releasing the non-renewal of the owner's vehicle.

8.04 The Department of Revenue has no authority to assess any points against a driver's license under § 42-2-127, C.R.S., upon entry of a conviction or judgment for any Toll Evasion.

Attachment 7

Cost Model

Attachment 8

Dispute Resolution

A. Dispute Resolution Board. The Parties shall establish Dispute Resolution Board with the membership set forth in Section (C), to assist in the resolution of disputes related to this Agreement. The Parties shall select and approve their respective Dispute Resolution Board members within six (6) months after the date the Agreement is executed. All members except the Chairman shall be appointed, and shall sign contracts for their service with Concessionaire and the Authority in a form agreed by the Parties. The Dispute Resolution Board shall be the primary method by which disputes are resolved under this Agreement. However, Concessionaire and Authority may agree, in writing, with regard to a specific dispute, to choose one of the Alternative Dispute Resolution Methods set forth in Section (G).

The Dispute Resolution Board will fairly and impartially consider disputes referred to it and shall provide a written statement of findings, referred hereinafter as a "Decision," to the Authority and Concessionaire. Any Decision of the Dispute Resolution Board shall be non-binding on the Authority and Concessionaire. Neither the Decision nor any of the proceedings conducted before the Dispute Resolution Board may be admitted or used in any way as evidence by either party in a court of law or other tribunal. Unless jointly agreed by both Parties, no dispute or issue between the parties determined by a mutually agreed independent third party to exceed \$2,000,000 shall be referred to the Dispute Resolution Board.

B. Continuance of Tolling Services during Dispute. At all times during the course of the dispute resolution process and during the course of any litigation, subject to the termination provisions of this Agreement, the Authority shall continue with the Tolling Services as, in a diligent manner and without delay, or conform to Dispute Resolution Board's Decision or order, and shall be governed by all applicable provisions of the Agreement.

C. Membership. The Board shall consist of one member selected by the Authority and approved by Concessionaire, and one member selected by Concessionaire and approved by the Authority. The third member shall be the Chairman of the Board (the "Chairman") and shall be acceptable to and appointed by the first two members. All Board members shall be experienced in the tolling services industry and further experienced in the interpretation of contract documents.

D. The criteria and limitations for Board membership shall be as follows:

(1) No member shall have an ownership interest in or employment with the Authority or Concessionaire, or have a financial interest in this Agreement, except for payment for services on the Board and contribution to the Authority by generally applied fees, taxes and tolls.

(2) Except for fee-based consulting services on other projects, no member shall have been employed by any entity that is a part of either party within a period of two (2) years prior to award of the Agreement.

(3) No member shall have had substantial prior involvement in the E-470 Public Highway, the Concession Project or Concessionaire or any of Concessionaire's other projects of a nature which could compromise his/her ability to impartially resolve disputes.

(4) No member shall be employed by Concessionaire or the Authority during the Term of this Agreement.

(5) During the Term of this Agreement, no discussion shall be had nor agreement made between any Board member and Concessionaire or the Authority for employment after this Agreement is completed.

(6) Before their appointments are made, the first two prospective members shall complete disclosure statements for the review of both the Authority and Concessionaire. Each statement shall include a resume of experience, a disclosure of any circumstances likely to delay prompt hearings and Decisions or to create any bias, and a declaration describing all past, present and anticipated or planned future relationships to the Agreement, HPTE, the Authority or Concessionaire. The third Board member shall supply such a statement to the first two Board members before his/her appointment.

(7) The first two Board members will, within thirty (30) days after their appointment, initiate selection of the Chairman. The Authority and Concessionaire shall negotiate an agreement with the Board members within thirty (30) days after selection of the Chairman. The first two Board members shall ensure that the third Board member meets all criteria listed above. All Board members shall also meet the criteria contained in this Section (D). If the first two Board members cannot agree on the third Board member, the third Board member of the Board shall be selected by a judge of the Arapahoe County, Colorado District Court which judge may consider for appointment as the third Board member names (not to exceed two names each) submitted by the Authority or Concessionaire.

(8) Prior to hearing a dispute hereunder, each Board member shall supply the Authority and Concessionaire a declaration under penalty of perjury affirming that such member meets the criteria set forth in this Section (D) and agrees to be bound by the terms of the Agreement and the Dispute Resolution Board Agreement. If at any time a Board member fails to meet such qualifications, he or she shall be removed and replaced in accordance with the procedures for appointment of members set forth herein.

(9) The Parties and the Chairman shall execute the Dispute Resolution Board Agreement within thirty (30) days after the selection of the Chairman.

(10) The Authority and Concessionaire may, each in its respective election and without cause, remove from the Board the member it has selected. Board members may resign upon sixty (60) days' notice to the Parties. The Chairman may be removed upon concurrence of

the Parties. Appointment of a new member to fill any vacated position shall be made in the same fashion as was prescribed for the member being replaced.

E. Operation. The Board shall make its decisions pursuant to the terms of this Agreement and the laws of the State of Colorado. The Board shall hold an organizational meeting, establish a set of procedural rules subject to approval by the Authority and Concessionaire. Thereafter, the Board shall initiate, with the Authority's and Concessionaire's concurrence, new rules, or modifications to old ones, whenever this is deemed appropriate. The Board shall meet to resolve disputes and may visit the Concession Project, Customer Service Center any other areas necessary to make a determination. If a field inspection is undertaken, the Board shall be accompanied by representatives of both the Authority and Concessionaire. Seeking the Board member's advice or consultation is expressly prohibited. There shall be no ex parte contact between the Authority or Concessionaire and the Board or a Board member unless all Parties are notified in advance of, and allowed to participate in, any communication between the Authority or Concessionaire and a Board member or the Board.

F. Procedure and Schedule for Disputes Resolution.

(1) The Authority or Concessionaire may submit a dispute to the Board at any time by delivery of written Notice describing the dispute to Concessionaire and the Board.

(2) When a dispute is submitted to the Board, a prompt hearing will be scheduled by the Board.

(3) The Board shall conduct the hearing in accordance with procedures to be established by the Board. Concessionaire and the Authority shall each be afforded an opportunity to be heard by the Board and to offer evidence. If either the Authority or Concessionaire furnishes any written evidence or documentation to the Board, it must also furnish a copy of such information to the other party a minimum of ten (10) calendar days prior to the hearing date. The Board may also request that written arguments from both parties be sent to each member for study before the hearing begins. The Authority and Concessionaire shall each produce such additional evidence as the Board may deem necessary to an understanding and determination of the dispute and each shall provide the other with copies of such evidence.

(4) The Chairman of the Board will act as Chairman of dispute hearings, and the Authority and Concessionaire shall have representatives at all hearings. Concessionaire will discuss the dispute, followed by the Authority. Each Party will then be allowed one rebuttal. The Board members may ask questions, request clarification, or ask for additional data. In large or complex cases, additional hearings may be held in order to consider and fully understand all the evidence presented by both Parties. During the hearings, no Board member shall express any opinion concerning the merit of any facet of the case.

(5) After the hearings are concluded, the Board shall meet in private to reach a summary of findings in accordance with the Board's rules of operation. All Board deliberations shall be conducted in private.

(6) The Board's summary of findings regarding the dispute will be given in writing to both the Authority and Concessionaire within ten (10) days after completion of the hearing.

G. Dispute Resolution Board Compensation. Compensation for Board members shall be as agreed by the Parties.

H. Alternative Dispute Resolution Methods. The Alternative Dispute Resolution Methods set forth in this Section may be chosen by the mutual written agreement of the Parties, as an alternative to the Dispute Resolution Board, to settle any particular dispute at any point in the dispute process. The procedures set forth in Section (E) shall apply up to the point where they specify submittal to the Board. The Alternative Dispute Resolution Methods which the Parties may choose are:

(1) Non-Binding Mini-Trial. In this event, the parties will establish a trial panel consisting of the Authority's Executive Director, a Concessionaire's principal with authority to bind Concessionaire, and an agreed upon neutral third party who shall be an experienced legal practitioner or judge, and who shall serve as the trial panel's panel chairman. The trial panel will schedule a mini-trial date within ninety (90) days after the Parties select a non-binding mini-trial. The Authority and Concessionaire shall be represented by attorneys at the mini-trial and such attorneys shall present evidence (witness testimony and documentary evidence) according to the Colorado Rules of Evidence applicable to civil proceeding. Following the mini-trial, the Authority's Executive Director and Concessionaire's principal shall attempt to negotiate an agreement settling the dispute.

(2) Mediation. In this event, the Parties will submit the dispute to a mutually agreed and disinterested mediation expert who will attempt to facilitate settlement as between Concessionaire and the Authority. The costs of the mediation expert shall be shared equally by the Parties.

I. Dispute Provisions.

(1) Concessionaire agrees that at the Authority's request it will allow itself to be joined as a participant in any third party arbitration proceeding that involves the Authority and any other participant in the Concession or any portion of the E-470 Public Highway. This provision of this Agreement is solely for the benefit of the Authority and not for the benefit of any other party.

(2) In the event of any litigation (but not non-binding dispute resolution before the Board pursuant to Section (H)(1)) between the Authority and Concessionaire to enforce any provision of this Agreement or any right of either Party hereto, the unsuccessful Party to such litigation shall, to the extent permitted by law, pay to the successful Party all costs and expenses, including reasonable attorney's fees, incurred therein.

J. Failure to Resolve Dispute. In the event a dispute cannot be resolved according to the processes set forth herein, either Party may choose to pursue litigation to resolve the dispute.

The unsuccessful Party in such litigation shall pay to the successful Party all of the successful Party's costs and expenses, including reasonable attorney's fees, incurred therein.

Attachment 9

Toll Collection System Functionality

Authority Toll Collection System Functionality

The Authority's Toll Collection System provides the following elements of functionality:

- Vehicle Occupancy and Classification
 - Properly installed 6C multi-tag transponders will allow vehicles to travel the lanes in HOV or Tolloed modes.
 - Properly installed 6C single tag or T21 transponders will allow vehicles to travel the lanes in Tolloed mode.
 - Properly installed 6C or T21 transponders which have been issued as Non-Revenue in the toll collection system will allow vehicles to travel the lanes toll-free.
 - Vehicles with 3 or more axles will be identified and a tolling surcharge can be applied.
- Image Capture/LicensePlateToll®
 - If there is not a transponder read, images of the front and back of a vehicle will be captured and processed as a LicensePlateToll®.
- Toll Pricing
 - Toll rates may be established by tolling point, time of day, transponder rate, license plate rate, and axle surcharge.
- Transaction Processing
 - All Lane Level Transactions will be captured per the specifications in the Lane Interface Specifications.
- Customer Service/Back Office Systems
 - Services provided per the Tolling Services Agreement including Attachment 2 (Performance Standards).
- Citation Processing/Administrative Hearing
 - Services provided per the Tolling Services Agreement.
- HOV Enforcement Technology
 - Beacon light technology will be implemented in the 3M installed lanes to indicate when an HOV transponder read is captured.
- Variable Toll Message Signs
 - E-470 will provide a table of tolling rates by tolling point, time of day, transponder rate, license plate rate, and axle surcharge. Interfacing and any required manipulation of this data for purposes of display on Variable Toll Message Signs will be the responsibility of the entity controlling the Variable Toll Message Signs.
- Reconciliation

- All transactions will be tracked through the Toll Collection System and available for audit per the Tolling Services Agreement.
- Reporting
 - Definition of reporting requirements is the responsibility of Plenary, once that is complete E-470 can provide a cost estimate for creation of any required reports per the Tolling Services Agreement.
- ETCS System Performance Requirements
 - Tests of the Lane Equipment will be executed as part of the Lane Installation using test scripts provided by the Lane Equipment Manufacturer (3M).

Attachment 10

E-470 License Agreement

Summary of Allocated Costs and Total Cost Per Transaction

2015 Projected Transactions (A)

	Total Lane Level Transactions (excluding HOV)	Share	ExpressToll	ExpressToll Penetration %	LPT and Violations	LPT Penetration %	HOV Transactions (B)
E-470 (1)	70,787,000	89.6%	49,927,000	71%	20,860,000	29%	-
NWP (2)	4,064,000	5.1%	4,064,000	100%	-	0%	-
Plenary: I-25 Central (3)	1,216,000	1.5%	991,040	82%	224,960	19%	-
Plenary: US-36 Phase I (3)	2,853,185	3.6%	2,065,500	72%	787,685	28%	-
HPTE/CDOT: I-25 North (4)	-	0.0%	-	0%	-	0%	-
HPTE/CDOT: I-70 PPSL (5)	66,667	0.1%	46,667	70%	20,000	30%	-
Total Transactions:	78,986,852	100%	57,094,207		21,892,645		-

2015 Projected Revenue (A)

	Gross Toll Revenue	Share	ExpressToll	ExpressToll %	LPT and Violations	LPT %	HOV Revenue
E-470 (1)	188,066,000	91.8%	122,018,000	65%	66,048,000	35%	N/A
NWP (2)	11,479,000	5.6%	11,479,000	100%	-	0%	N/A
Plenary: I-25 Central (3)	3,258,637	1.6%	2,457,779	75%	800,858	25%	N/A
Plenary: US-36 Phase I (3)	1,589,379	0.8%	722,925	45%	866,454	55%	N/A
HPTE/CDOT: I-25 North (4)	-	0.0%	-	0%	-	0%	N/A
HPTE/CDOT: I-70 PPSL (5)	533,333	0.3%	373,333	70%	160,000	30%	N/A
Total Revenue	204,926,349		137,051,037		67,875,312		N/A

Operating Costs (excluding Information Technology) (A)

	2015 Budget	Total Allocated Costs	ExpressToll Allocated Costs (Transaction Based)	LPT Allocated Costs (Transaction Based)	ExpressToll Allocated Costs (Revenue Based)	LPT Allocated Costs (Revenue Based)	HOV Allocated Costs (Transaction Based) (C)
Salary	\$ 7,121,200	\$ 2,669,571	\$ -	\$ -	\$ 1,799,902	\$ 869,669	\$ -
Toll Operations	20,152,050	15,215,118	2,825,100	11,983,870	259,088	147,060	-
Roadway	5,314,750	-	-	-	-	-	-
Finance	5,573,050	4,420,764	93,608	303,692	3,289,188	734,276	-
Executive Director	723,950	59,500	-	-	-	59,500	-
Total Costs:	\$ 38,885,000	\$ 22,364,953	\$ 2,918,708	\$ 12,287,562	\$ 5,348,178	\$ 1,810,505	\$ -

Information Technology Operating Costs (A)

	2015 Budget	Total Allocated Costs	Allocated Costs Total Transactions Based	Allocated Costs (Total Revenue Based)	HOV Allocated Costs (Transaction Based)
IT Department	\$ 2,411,800	\$ 2,124,338	\$ 2,094,012	\$ 30,326	\$ -

Depreciation Costs - All depreciation for assets placed in service after 1/1/2014 (A)

	Total Depreciation	Allocated Depreciation	ExpressToll Allocation (Transaction Based)	LPT Allocation (Transaction Based)	HOV Allocated Costs
Administrative Building	45,384.30	17,064.50	8,890.78	8,173.71	N/A
Information Technology	-	-	-	-	N/A
ExpressToll Systems	875.03	875.03	875.03	-	N/A
LPT Systems	148,564.74	148,564.74	-	148,564.74	N/A
Shared Systems	73,111.12	73,111.12	53,371.12	19,740.00	N/A
Unallocated Assets	87,483.35	-	-	-	N/A
Total	\$355,418.54	\$239,615.39	\$63,136.93	\$176,478.45	N/A

2015 Allocation Percentages by Facility

	Transaction Allocations				Revenue Allocations		
	ExpressToll	LPT	Total Exp & LPT	HOV	ExpressToll	LPT	Total
E-470	87.45%	95.28%	89.62%	0.00%	89.03%	97.31%	91.77%
NWP	7.12%	0.00%	5.15%	0.00%	8.38%	0.00%	5.60%
Plenary: I-25 Central	1.74%	1.03%	1.54%	0.00%	1.79%	1.18%	1.59%
Plenary: US-36 Phase I	3.62%	3.60%	3.61%	0.00%	0.53%	1.28%	0.78%
HPTE/CDOT: I-25 North	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
HPTE/CDOT: I-70 PPSL	0.08%	0.09%	0.08%	0.00%	0.27%	0.24%	0.26%
	100.00%	100.00%	100.00%	0.00%	100.00%	100.00%	100.00%

2015 Allocation of Costs by Facility

Allocation – Operating Costs (excluding Information Technology)						
	Transaction Allocations			Revenue Allocations		Total
	ExpressToll	LPT	HOV	ExpressToll	LPT	
E-470	\$ 2,552,314	\$ 11,707,975	\$ -	\$ 4,761,540	\$ 1,761,763	\$ 20,783,592
NWP	\$ 207,755	\$ -	\$ -	\$ 447,948	\$ -	\$ 655,703
Plenary: I-25 Central	\$ 50,663	\$ 126,262	\$ -	\$ 95,911	\$ 21,362	\$ 294,198
Plenary: US-36 Phase I	\$ 105,590	\$ 442,100	\$ -	\$ 28,211	\$ 23,112	\$ 599,012
HPTE/CDOT: I-25 North	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
HPTE/CDOT: I-70 PPSL	\$ 2,386	\$ 11,225	\$ -	\$ 14,569	\$ 4,268	\$ 32,447
	\$ 2,918,708	\$ 12,287,562	\$ -	\$ 5,348,178	\$ 1,810,505	\$ 22,364,953

Allocation – Information Technology Operating Costs (Generic Cost for Tolled Transactions)				
	Transaction Allocations	Revenue Allocations		Total
	Generic (each/every Exp & LPT Trxn)	Generic (each/every Exp & LPT Trxn)		
E-470	\$ 1,876,626	\$ 27,831	\$ -	\$ 1,904,457
NWP	\$ 107,740	\$ 1,699	\$ -	\$ 109,439
Plenary: I-25 Central	\$ 32,237	\$ 482	\$ -	\$ 32,719
Plenary: US-36 Phase I	\$ 75,640	\$ 235	\$ -	\$ 75,876
HPTE/CDOT: I-25 North	\$ -	\$ -	\$ -	\$ -
HPTE/CDOT: I-70 PPSL	\$ 1,767	\$ 79	\$ -	\$ 1,846
	\$ 2,094,012	\$ 30,326	\$ -	\$ 2,124,338

Allocation – Depreciation			
	Transaction Allocations		
	ExpressToll	LPT	HOV
E-470	\$ 55,211	\$ 168,154	\$ -
NWP	\$ 4,494	\$ -	\$ -
Plenary: I-25 Central	\$ 1,096	\$ 1,813	\$ -
Plenary: US-36 Phase I	\$ 2,284	\$ 6,350	\$ -
HPTE/CDOT: I-25 North	\$ -	\$ -	\$ -
HPTE/CDOT: I-70 PPSL	\$ 52	\$ 161	\$ -
	\$ 63,137	\$ 176,478	\$ -

TOTAL ALLOCATIONS					
	ExpressToll Costs	LPT Costs	HOV Costs	Generic Costs	Total
E-470	\$ 7,369,085	\$ 13,637,893	\$ -	\$ 1,904,457	\$ 22,911,415
NWP	\$ 660,197	\$ -	\$ -	\$ 109,439	\$ 769,636
Plenary: I-25 Central	\$ 147,669	\$ 149,438	\$ -	\$ 32,719	\$ 329,826
Plenary: US-36 Phase I	\$ 136,085	\$ 471,561	\$ -	\$ 75,876	\$ 683,522
HPTE/CDOT: I-25 North	\$ -	\$ -	\$ -	\$ -	\$ -
HPTE/CDOT: I-70 PPSL	\$ 17,006	\$ 15,654	\$ -	\$ 1,846	\$ 34,507
Total	\$ 8,330,023	\$ 14,274,545	\$ -	\$ 2,124,338	\$ 24,728,906
				\$ 24,728,906	=Σ(7)

Cost per Unit of Measurement		
Cost per Express Toll Transaction	\$	0.05223 (1)
Cost per LPT Transaction	\$	0.56933 (2)
Cost per Generic (each/every) Toll Transaction	\$	0.02651 (3)
Cost Per HOV Transaction	\$	- (B)
Cost per \$ of Express Toll Revenue	\$	0.03902 (4)
Cost per \$ of LPT Revenue	\$	0.02667 (5)
Cost per \$ of Total Revenue (each/every dollar)	\$	0.00015 (6)

COST PER UNIT OF MEASUREMENT SUMMARY

TOTAL Cost per ExpressToll Transaction	\$	0.079	=(1)+(3)
TOTAL Cost per LPT Transaction	\$	0.596	=(2)+(3)
TOTAL Cost per HOV Transaction	\$	-	=(B)
TOTAL Cost per \$ of ExpressToll Revenue	\$	0.039	=(4)+(6)
TOTAL Cost per \$ of LPT Revenue	\$	0.027	=(5)+(6)

- Legend**
- (A) Pursuant to section 15(a)(iii) of the Tolling Services Agreement to which this model is attached, the cost model will be updated on an annual basis to include the Authority's final annual budgeted costs and, for each tolling facility, total forecasted Lane Level Transactions and Gross Toll Revenue at the lane level to determine the cost per Lane Level Transaction and cost per dollar of Gross Toll Revenue to be charged. Annual budgeted depreciation costs will be based on actual depreciation from the year prior for those assets placed in service after January 1, 2014. In addition, pursuant to section 15(a)(iv) of the Tolling Services Agreement, budgeted costs, forecasted Lane Level Transactions, and forecasted Gross Toll Revenue at the lane level will be reconciled with actual costs, actual Lane Level Transactions, and actual Gross Toll Revenue following each Authority fiscal year-end (also referred to as the "true up").
- (B) Due to the unknown impact of HOV calls at this time and as agreed upon with HPTE/CDOT and PRD, the cost model will include HOV transactions beginning with the 2015 annual true up and continuing with the 2016 and future cost models. Costs related to HOV calls, including but not limited to customer service center labor and related management and G&A fees within the Toll Operations department budget, will be reallocated, without duplication, from the ExpressToll and/or LPT columns to the HOV column and allocated on a pro rata basis based on number of HOV transactions. These costs will be allocated based on transactions rather than revenue since HOV transactions generate a \$0 toll due. This change will be implemented so that the costs incurred related to HOV transactions are properly borne by the entities that allow HOV transactions.
- (C) Costs related to HOV calls, including but not limited to customer service center labor and related management and G&A fees within the Toll Operations department budget, will be reallocated, without duplication, from the ExpressToll and/or LPT columns to the HOV column and allocated on a pro rata basis based on number of HOV transactions.
- (1) E-470 projected transactions and gross toll revenue were obtained from the CDM Smith 2014 Investment Grade Traffic and Toll Revenue letter dated October 2014.
- (2) NWP projected transactions and gross toll revenue for 2015 are based on NWP budgeted figures obtained from Danna Treiz, Director of Finance, on 2/18/15.
- (3) PRD projected transactions and gross toll revenue were developed using third party projections, historical data, and consultation with PRD staff.
- (4) Toll collection on other future HPTE/CDOT managed lane facilities (i.e. North I-25, C-470, other future facilities) is not expected to commence prior to December 31, 2015; therefore, transactions and revenue for these facilities are reflected as zero for purposes of the 2015 cost model.
- (5) HPTE/CDOT projected transactions and gross toll revenue were developed using projections, historical data, and consultation with HPTE/CDOT staff.

Salary & Burden

Salary & Burden										ExpressToll Allocation Method		LPT Allocation Method	
Department	2015 Budgeted Salary and Burden	Toll Collection Allocation	Total Amount	ExpressToll Allocation	ExpressToll Amount	LPT Allocation	LPT Amount	Revenue Based (Y/N)	Amount	Revenue Based (Y/N)	Amount		
Toll Operations	\$1,802,500	19%	\$342,475	12%	\$216,300	7%	\$126,175	Y	\$ 216,300	Y	\$ 126,175		
Finance	\$1,031,600	36%	\$371,376	16%	\$165,056	20%	\$206,320	Y	\$ 165,056	Y	\$ 206,320		
Information Technology	\$2,319,400	84%	\$1,948,296	61%	\$1,414,834	23%	\$533,462	Y	\$ 1,414,834	Y	\$ 533,462		
Roadway	\$1,596,500	0%	\$0	0%	\$0	0%	\$0	N	\$ -	N	\$ -		
Executive	\$371,200	2%	\$7,424	1%	\$3,712	1%	\$3,712	Y	\$ 3,712	Y	\$ 3,712		
Total Salary & Burden	\$7,121,200	37%	\$2,669,571	25%	\$1,799,902	12%	\$869,669						

Total Revenue Based Expenses	\$ 1,799,902	\$ 869,669
Total Transaction Based Expenses	\$ -	\$ -
Total Allocated Expenses	\$ 1,799,902	\$ 869,669

Toll Operations - Detail

2015 Budget	Total (LPT+ExpressToll)			ExpressToll Allocations		LPT Allocations		HOV Allocations		ExpressToll Allocation Method		LPT Allocation Method	
	Toll Collection Allocation %	2015 Budget Allocated Amount	Exp. Toll Collection Allocation %	2015 Budget Allocated Amount	LPT Collection Allocation %	2015 Budget Allocated Amount	HOV Collection Allocation %	2015 Budget Allocated Amount	Revenue Based (Y/N)	Amount	Revenue Based (Y/N)	Amount	
1,500	19%	285	12%	180	7%	105	0%	105	Y	\$	180	\$	105
OFFICE SUPPLIES													
Subtotal Office Supplies													
175,000	26.4%	46,200	13.2%	23,100	13.2%	23,100	0.0%	-	Y	\$	23,100	\$	23,100
150,000	16.6%	24,900	8.3%	12,450	8.3%	12,450	0.0%	-	Y	\$	12,450	\$	12,450
10,000	3.6%	360	1.8%	180	1.8%	180	0.0%	-	Y	\$	180	\$	180
335,000		71,460		35,730		35,730							
MARKETING													
102,000	50%	51,000	25%	25,500	25%	25,500	0%	-	Y	\$	25,500	\$	25,500
40,000	50%	20,000	25%	10,000	25%	10,000	0%	-	Y	\$	10,000	\$	10,000
65,000	0%	-	0%	-	0%	-	0%	-	N	\$	-	\$	-
38,000	50%	19,000	25%	9,500	25%	9,500	0%	-	Y	\$	9,500	\$	9,500
143,000		39,000		19,500		19,500							
PUBLIC RELATIONS													
755,000	0%	-	0%	-	0%	-	0%	-	N	\$	-	\$	-
336,000	0%	-	0%	-	0%	-	0%	-	N	\$	-	\$	-
2,383,000	100%	2,383,000	14%	333,620	86%	2,049,380	0%	-	N	\$	-	\$	-
2,987,000	100%	2,987,000	53%	1,588,410	47%	1,408,590	0%	-	N	\$	-	\$	-
-	0%	-	0%	-	0%	-	100%	-	N	\$	-	\$	-
808,000	100%	808,000	0%	-	100%	808,000	0%	-	N	\$	-	\$	-
446,000	83%	370,180	27%	120,420	56%	249,760	0%	-	N	\$	-	\$	-
8,100	0%	-	0%	-	56%	284,480	0%	-	N	\$	-	\$	-
508,000	83%	421,640	27%	137,160	56%	284,480	0%	-	N	\$	-	\$	-
96,000	83%	79,680	27%	25,920	56%	53,760	0%	-	N	\$	-	\$	-
-	0%	-	0%	-	0%	-	100%	-	N	\$	-	\$	-
-	83%	-	27%	-	56%	-	0%	-	N	\$	-	\$	-
55,000	83%	45,650	27%	14,850	56%	30,800	0%	-	N	\$	-	\$	-
187,000	83%	155,210	27%	50,490	56%	104,720	0%	-	N	\$	-	\$	-
108,000	83%	89,640	27%	29,160	56%	60,480	0%	-	N	\$	-	\$	-
8,687,100		7,350,000		2,300,030		5,049,970							
TOLL OPERATIONS - OPS CONTRACT													
112,000	100%	112,000	100%	112,000	0%	-	0%	-	N	\$	-	\$	-
367,000	100%	367,000	100%	367,000	0%	-	0%	-	N	\$	-	\$	-
670,000	100%	670,000	0%	-	100%	670,000	0%	-	N	\$	-	\$	-
1,472,000	100%	1,472,000	0%	-	100%	1,472,000	0%	-	N	\$	-	\$	-
44,000	100%	44,000	0%	-	100%	44,000	0%	-	N	\$	-	\$	-
385,000	100%	385,000	0%	-	100%	385,000	0%	-	N	\$	-	\$	-
416,000	100%	416,000	0%	-	100%	416,000	0%	-	N	\$	-	\$	-
6,200	100%	6,200	0%	-	100%	6,200	0%	-	N	\$	-	\$	-
5,200	100%	5,200	0%	-	100%	5,200	0%	-	N	\$	-	\$	-
634,000	100%	634,000	0%	-	100%	634,000	0%	-	N	\$	-	\$	-
TOLL OPERATIONS - AUTH. COSTS													
112,000	100%	112,000	100%	112,000	0%	-	0%	-	N	\$	-	\$	-
367,000	100%	367,000	100%	367,000	0%	-	0%	-	N	\$	-	\$	-
670,000	100%	670,000	0%	-	100%	670,000	0%	-	N	\$	-	\$	-
1,472,000	100%	1,472,000	0%	-	100%	1,472,000	0%	-	N	\$	-	\$	-
44,000	100%	44,000	0%	-	100%	44,000	0%	-	N	\$	-	\$	-
385,000	100%	385,000	0%	-	100%	385,000	0%	-	N	\$	-	\$	-
416,000	100%	416,000	0%	-	100%	416,000	0%	-	N	\$	-	\$	-
6,200	100%	6,200	0%	-	100%	6,200	0%	-	N	\$	-	\$	-
5,200	100%	5,200	0%	-	100%	5,200	0%	-	N	\$	-	\$	-
634,000	100%	634,000	0%	-	100%	634,000	0%	-	N	\$	-	\$	-

Executive Director & Board of Directors

	2015 Budget	Total (LPT+ExpressToll) ①=②+③		ExpressToll Allocations ④		LPT Allocations ⑤		ExpressToll Allocation Method		LPT Allocation Method	
		Toll Collection Allocation %	2015 Budget Allocated Amount	Exp. Toll Collection Allocation %	2015 Budget Allocated Amount	LPT Collection Allocation %	2015 Budget Allocated Amount	Revenue Based (Y/N)	Amount	Revenue Based (Y/N)	Amount
LEGAL											
General	350,000	17%	59,500	0%	-	17%	59,500	N	\$ -	Y	\$ 59,500
Special	100,000	0%	-	0%	-	0%	-	N	\$ -	N	\$ -
Subtotal Legal	450,000		59,500		-		59,500		\$ -		\$ -
Total:			59,500		-		59,500				

Total Revenue Based Expenses	\$ -
Total Transaction Based Expenses	\$ -
Total Allocated Expenses	\$ 59,500

Information Technology - Detail

	2015 Budget	Total (LPT+ExpressToll)		Allocation Method	
		Toll Collection Allocation %	2015 Budget Allocated Amount	Revenue Based (Y/N)	Amount
FREIGHT/COURIER SERVICE/DELIVERY					
Subtotal Courier Service/Delivery	3,000	90%	2,700	Y	\$ 2,700
OFFICE SUPPLIES					
Subtotal Office Supplies	15,000	84%	12,600	Y	\$ 12,600
PC AND LAPTOP LIFECYCLE					
Subtotal PC Lifecycle	10,000	37%	3,749	N	\$ -
PARTS AND SUPPLIES					
Subtotal Parts and Supplies	100,800	90%	90,720	N	\$ -
SOFTWARE LICENSING/MAINTENANCE					
Subtotal Software Licensing/Maintenance	321,600	88%	283,008	N	\$ -
EQUIPMENT MAINTENANCE					
Subtotal Equipment Maintenance	213,700	85%	181,645	N	\$ -
GENERAL TECHNICAL SUPPORT SERVICES					
Subtotal Technical Support Services	827,000	96%	793,920	N	\$ -
TCS TECHNICAL SUPPORT SERVICES					
Subtotal TCS Technical Support Services	540,000	100%	540,000	N	\$ -
UTILITIES - TELEPHONE					
Communications Contract - Internet and Phone	223,300	90%	200,970	N	\$ -
Mobile Phone Contract	68,300	22%	15,026	Y	\$ 15,026
Subtotal Utilities Telephone	291,600	74%	215,996		
Total:			2,124,338		
			Total Revenue Based Expenses		\$ 30,326
			Total Transaction Based Expenses		\$ 2,094,012
			Total Allocated Expenses		2,124,338