

From: Rubstello, Patty [RubsteP@wsdot.wa.gov](mailto:RubsteP@wsdot.wa.gov)  
To: Darren.Timothy@dot.gov  
Cc: Angela.Jacobs@dot.gov; Colyar, James (FHWA) [James.Colyar@dot.gov](mailto:James.Colyar@dot.gov); lindsey.handel@dot.gov  
Lindsey.Handel@DOT.GOV; White, John [WhiteJH@wsdot.wa.gov](mailto:WhiteJH@wsdot.wa.gov); Merkens, Todd  
[MerkeTo@wsdot.wa.gov](mailto:MerkeTo@wsdot.wa.gov)  
Subject: I-90 Draft Tolling Agreement  
Date: 2/26/2013 2:13:48 PM  
Attachments: 20130226\_I-90\_Tolling Agreement DRAFT\_Letter.pdf; 20130222\_I-90\_Tolling Agreement\_DRAFT.docx

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Darren,

Please find attached WSDOT's cover letter with a proposed draft tolling agreement for I-90. I've also attached a word version of the draft agreement for your use. As my letter states, I'd like to schedule a conference call to discuss any questions you might have before providing WSDOT with any comments. I'd like to start by proposing the following days and times that will work for me:

(All times are Eastern)

March 15<sup>th</sup> 12:30 to 5:00 PM

March 18<sup>th</sup> 12:00 to 2:00 PM

March 21<sup>st</sup> 11:30 to 3:30 PM

Let me know what will work for you and your team.

Thanks!

PS: Hard copy of the letter will be in the mail.

**Patty Rubstello, PE**

Toll Policy and System Development, Director

WSDOT

(206)464-1299



**Washington State  
Department of Transportation**  
**Paula J. Hammond, P.E.**  
Secretary of Transportation

**Toll Division**  
401 2nd Avenue South, Suite 300  
Seattle, WA 98104  
206-464-1220 / Fax 206-464-1189  
TTY: 1-800-833-6388  
[www.wsdot.wa.gov](http://www.wsdot.wa.gov)

February 26, 2013

Darren Timothy, Ph.D.  
FHWA - Office of Innovative Program Delivery  
Program Development Team Leader  
1200 New Jersey Ave, SE  
FHWA-HIN, Room E64-301  
Washington, DC 20590-9898

Re: I-90 Tolling Agreement

Dear Mr. Timothy:

Please find attached a draft Tolling Agreement to toll Interstate 90 (I-90) in the Seattle metropolitan area. The draft agreement is based on the Value Pricing Pilot Program requirements which this project falls within per federal regulations.

I would appreciate your review and comments on the draft agreement. Prior to submitting your comments, I would like to recommend that we have a conference call to discuss any questions you might have on the agreement. I would like to target having this call in the next few weeks. I will reach-out to you to coordinate a time that will work for you and others who may need to participate in this call.

I look forward to working with you on this important project. Please feel free to contact me at [Patty.Rubstello@wsdot.wa.gov](mailto:Patty.Rubstello@wsdot.wa.gov) or (206) 464-1299 if you have any questions or concerns.

Sincerely,

Patty Rubstello, P.E.  
Director of Policy and Systems Development

PKR:pkR

Attachment – Draft I-90 Tolling Agreement

CC: Project File

AGREEMENT  
By and Between

FEDERAL HIGHWAY ADMINISTRATION  
UNITED STATES DEPARTMENT OF TRANSPORTATION

AND

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

THIS AGREEMENT ("Agreement"), made and entered into this \_\_\_ day of \_\_\_\_\_, 2012, by and between the Washington State Department of Transportation, hereinafter referred to as "WSDOT," and the Federal Highway Administration, United States Department of Transportation, hereinafter referred to as the "FHWA" hereby provides as follows:

WITNESSETH:

WHEREAS, Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Public Law 102-240, as amended by section 1216(a) of the Transportation Equity Act for the 21st Century (TEA-21), and section 1604 (a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA- LU), Pub. L. 109-59 (August 10, 2005), establishes the Value Pricing Pilot Program, hereinafter referred to as the "pilot program," and permits the FHWA to allow the collection of tolls as part of a value pricing pilot program established under this section; and

WHEREAS, Section 1012(b) of ISTEA, as amended, authorizes the Secretary of Transportation to enter into cooperative Agreements with as many as fifteen (15) State or local governments or public authorities to establish, maintain, and monitor value pricing programs, or projects; and

WHEREAS, WSDOT, through the execution of cooperative Agreements for prior value pricing projects, is one of the fifteen participants in the pilot program; and

WHEREAS, WSDOT has requested that the FHWA enter into a cooperative Agreement to allow WSDOT to establish, maintain, and monitor a value pricing project, as part of its value pricing program, to toll all of Interstate 90 between Interstate 5 in the City of Seattle and Interstate 405 in the City of Bellevue in King County (hereinafter referred to as the "Toll Facility"); and

WHEREAS, the FHWA has determined that this Agreement is necessary to oversee and administer the collection of tolls pursuant to Section 1012(b)(4) of ISTEA, as amended, and to establish the implementation of tolls for this WSDOT value pricing project; and

WHEREAS, Section 1012 (b) of ISTEA, as amended, requires that all revenues received from the operation of a value pricing project be applied only toward the project's operating costs (including project implementation costs; mitigation measures to deal with adverse financial effects on low-income drivers; the proper maintenance of the facility; any reconstruction, rehabilitation, restoration, or resurfacing of the facility; any debt service incurred in implementing the project [including, but not limited to, principle and interest payments, reserves, and costs of issuance]; a reasonable return on investment of any private person financing the project), and other projects eligible for assistance under title 23, United States Code;

NOW, THEREFORE, the WSDOT and the FHWA hereby agree as follows:

1. The FHWA agrees that WSDOT may operate the Toll Facility (directly or through a third party public authority or private entity) in accordance with the provisions of this Agreement and as a value pricing project (the "project") within its value pricing program.
2. Pursuant to Section 1012(b) of ISTEA, as amended, WSDOT will use all revenues received from the operation of the Toll Facility first for operating costs of the project. Operating costs include project implementation costs; mitigation measures to deal with adverse financial effects on low-income drivers; the proper maintenance of the toll facility; any reconstruction, rehabilitation, restoration, or resurfacing of the toll facility; any debt service incurred in implementing the project; a reasonable return on investment of any private person financing the project. There is no priority in the uses of revenues for project operating costs. Any revenues in excess of these costs may be used by WSDOT for other projects eligible for assistance under title 23, United States Code, including but not limited to reconstruction, rehabilitation, restoration, or resurfacing activities of Interstate 90.
3. That the toll rates charged for the use of the Toll Facility will vary pursuant to the applicable regulations and guidance pertaining to section 1012(b) of ISTEA, as amended, and applicable State law.
4. That WSDOT agrees, upon reasonable notice, to make all of its records pertaining to the Toll Facility subject to audit by the FHWA. The WSDOT agrees to annually audit the records of the Facility for compliance with the provisions of this Agreement and report the results thereof to FHWA. In lieu of the WSDOT performing said audit, a report of an independent auditor furnished to FHWA may satisfy the requirements of this section.
5. Authorization for tolling under this Agreement shall be contingent upon completion of any required review under the NEPA review process.
6. The FHWA and WSDOT will cooperate and work together in the implementation of the project. Such cooperation shall include, as may be applicable, the monitoring of the project for a period of 10 years or until the end of the life of the Toll Facility, whichever is sooner.

The elements to be monitored include the effects the project has on driver behavior, traffic volume, transit ridership, air quality, and availability of funds for transportation programs.

7. This Agreement shall remain in effect until the end of the life of the Toll Facility.
8. In accordance with 49 C.F.R. § 18.40(b), within 30 days after the end of each quarter, WSDOT shall submit to FHWA a quarterly project progress report that briefly summarizes work accomplished, work planned, problems encountered, expenditures, recommended solutions, and any other pertinent information. A sample quarterly report format can be obtained from FHWA. At the end of each full year of the project, WSDOT shall submit to FHWA a report summarizing all activities for the year, with a particular emphasis on what has been learned. The FHWA will provide names and addresses of the specific individuals designated to receive these documents.
9. Authorization for tolling under this Agreement shall be contingent upon completion of any required review under the NEPA review process.
10. That WSDOT agrees to comply with all Federal and State laws and requirements applicable to this project, including the laws and policies applicable to the Value Pricing Pilot Program.
11. That this Agreement will be prepared in duplicate originals so that each signatory will have a signed Agreement. This Agreement may be signed in counterparts, each of which shall be deemed an original and taken together shall constitute one and the same Agreement.

IN WITNESS THEREOF, the parties hereto have caused this instrument to be duly executed, the day and year first written above.

**Washington State Department of Transportation**

BY: \_\_\_\_\_

Name: Craig J. Stone

Title: Assistant Secretary Toll Division

**Federal Highway Administration  
U.S. Department of Transportation**

BY: \_\_\_\_\_

Name: Jeffrey F. Paniati

Title: Executive Director

Approved As to Form:

\_\_\_\_\_

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By and Between

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UNITED STATES DEPARTMENT OF TRANSPORTATION

AND

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WHEREAS, WSDOT, through the execution of cooperative Agreements for prior value pricing projects, is one of the fifteen participants in the pilot program; and

WHEREAS, WSDOT has requested that the FHWA enter into a cooperative Agreement to allow WSDOT to establish, maintain, and monitor a value pricing project, as part of its value pricing program, to toll all of Interstate 90 between Interstate 5 in the City of Seattle and Interstate 405 in the City of Bellevue in King County (hereinafter referred to as the "Toll Facility"); and

WHEREAS, the FHWA has determined that this Agreement is necessary to oversee and administer the collection of tolls pursuant to Section 1012(b)(4) of ISTEA, as amended, and to establish the implementation of tolls for this WSDOT value pricing project; and

WHEREAS, Section 1012 (b) of ISTEA, as amended, requires that all revenues received from the operation of a value pricing project be applied only toward the project's operating costs (including project implementation costs; mitigation measures to deal with adverse financial effects on low-income drivers; the proper maintenance of the facility; any reconstruction, rehabilitation, restoration, or resurfacing of the facility; any debt service incurred in implementing the project [including, but not limited to, principle and interest payments, reserves, and costs of issuance]; a reasonable return on investment of any private person financing the project), and other projects eligible for assistance under title 23, United States Code;

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5. Authorization for tolling under this Agreement shall be contingent upon completion of any required review under the NEPA review process.
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**Washington State Department of Transportation**

BY: \_\_\_\_\_

Name: Craig J. Stone

Title: Assistant Secretary Toll Division

**Federal Highway Administration  
U.S. Department of Transportation**

BY: \_\_\_\_\_

Name: Jeffrey F. Paniati

Title: Executive Director

Approved As to Form:

\_\_\_\_\_

From: [Angela.Jacobs@dot.gov](mailto:Angela.Jacobs@dot.gov)  
To: RubsteP@wsdot.wa.gov; Darren.Timothy@dot.gov  
Cc: James.Colyar@dot.gov; lindsey.handel@dot.gov; WhiteJH@wsdot.wa.gov; MerkeTo@wsdot.wa.gov; ArnolPI@consultant.wsdot.wa.gov  
Subject: RE: I-90 Draft Tolling Agreement  
Date: 2/27/2013 6:48:43 AM  
Attachments:

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Patty,  
Unfortunately I am unavailable on the 15<sup>th</sup>  
18<sup>th</sup> 12 – 200 I am available  
21<sup>st</sup> I am available

Angela Fogle Jacobs, AICP  
Value Pricing Pilot Program Manager  
FHWA-HOTM-1, Room E86-204  
1200 New Jersey Avenue, SE  
Washington, DC 20590  
(202) 366-0076 (phone)  
(202) 366-3225 (fax)

---

**From:** Rubstello, Patty [mailto:RubsteP@wsdot.wa.gov]  
**Sent:** Tuesday, February 26, 2013 4:14 PM  
**To:** Timothy, Darren (FHWA)  
**Cc:** Jacobs, Angela (FHWA); Colyar, James (FHWA); Handel, Lindsey (FHWA); White, John; Merkens, Todd; Arnold, Paul (Consultant)  
**Subject:** I-90 Draft Tolling Agreement

Darren,

Please find attached WSDOT's cover letter with a proposed draft tolling agreement for I-90. I've also attached a word version of the draft agreement for your use. As my letter states, I'd like to schedule a conference call to discuss any questions you might have before providing WSDOT with any comments. I'd like to start by proposing the following days and times that will work for me:

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March 18<sup>th</sup> 12:00 to 2:00 PM  
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Let me know what will work for you and your team.

Thanks!

PS: Hard copy of the letter will be in the mail.

**Patty Rubstello, PE**  
Toll Policy and System Development, Director  
WSDOT  
(206)464-1299

From: Rubstello, Patty /O=WA.GOV/OU=WSDOT/CN=RECIPIENTS/CN=HOSLERP  
To: Darren.Timothy@dot.gov Rubstello; Patty; Darren Timothy; Ph.D.  
(Darren.Timothy@dot.gov); Angela.Jacobs@dot.gov; Handel; Lindsey (FHWA);  
Colyar; James (FHWA); Merkens; Todd; White; John; Angove; Angela; Arnold; Paul  
(Consultant)  
Cc:  
Subject: FHWA I-90 Agreement  
Date: 3/15/2013 7:30:52 PM  
Attachments:

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Updated to reflect a conference room for those in Seattle.

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This meeting is to do a check-in on the draft tolling agreement we provided for I-90. The plan would be to discuss any questions you might have before submitting your comments.

From: Rubstello, Patty [RubsteP@wsdot.wa.gov](mailto:RubsteP@wsdot.wa.gov)  
To: Darren.Timothy@dot.gov  
Cc: Angela.Jacobs@dot.gov; Colyar, James (FHWA) [James.Colyar@dot.gov](mailto:James.Colyar@dot.gov); lindsey.handel@dot.gov  
Lindsey.Handel@DOT.GOV; White, John [WhiteJH@wsdot.wa.gov](mailto:WhiteJH@wsdot.wa.gov); Merkens, Todd  
[MerkeTo@wsdot.wa.gov](mailto:MerkeTo@wsdot.wa.gov); Arnold, Paul (Consultant) [ArnolPI@consultant.wsdot.wa.gov](mailto:ArnolPI@consultant.wsdot.wa.gov); Angove, Angela  
[AngoveA@wsdot.wa.gov](mailto:AngoveA@wsdot.wa.gov)  
Subject: Revised I-90 Draft Tolling Agreement  
Date: 3/21/2013 1:53:40 PM  
Attachments: 20130321\_I-90\_Tolling Agreement\_DRAFT.docx

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Please find attached another version of the I-90 draft tolling agreement.

**Patty Rubstello, PE**

Toll Policy and System Development, Director  
WSDOT  
(206)464-1299

---

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**Sent:** Tuesday, February 26, 2013 1:14 PM  
**To:** Darren Timothy, Ph.D. ([Darren.Timothy@dot.gov](mailto:Darren.Timothy@dot.gov))  
**Cc:** Angela.Jacobs@dot.gov; Colyar, James (FHWA); 'lindsey.handel@dot.gov'; White, John; Merkens, Todd; Arnold, Paul (Consultant)  
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Let me know what will work for you and your team.

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**Patty Rubstello, PE**

Toll Policy and System Development, Director  
WSDOT  
(206)464-1299

AGREEMENT  
~~By and~~ Between

FEDERAL HIGHWAY ADMINISTRATION  
UNITED STATES DEPARTMENT OF TRANSPORTATION

AND

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

THIS AGREEMENT ("Agreement"); ~~is made and~~ entered into this \_\_\_ day of  
, 2012, ~~by and~~ between the Washington State Department of Transportation, ~~hereinafter referred~~  
~~to as~~ "(WSDOT)," and the Federal Highway Administration, United States Department of  
Transportation (~~hereinafter referred to as the~~ "FHWA"). ~~hereby provides as follows:~~

WITNESSETH: RECITALS

WHEREAS, 1. Section 1012(b) of the Intermodal Surface Transportation  
Efficiency Act of 1991 (ISTEA), Public Law 102-240, as amended by section 1216(a) of the  
Transportation Equity Act for the 21st Century (TEA-21), and section 1604 (a) of the Safe,  
Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-  
LU), Pub. L. 109-59 (August 10, 2005), establishes the Value Pricing Pilot Program, hereinafter  
referred to as the "pilot program," and permits the FHWA to allow the collection of tolls as part  
of a value pricing pilot program established under this section. ~~;~~ ~~and~~

WHEREAS, 2. Section 1012(b) of ISTEA, as amended, authorizes the Secretary of  
Transportation to enter into cooperative Agreements with as many as fifteen (15) State or local  
governments or public authorities to establish, maintain, and monitor value pricing programs, or  
projects. ~~;~~ ~~and~~

WHEREAS, 3. WSDOT, through the execution of cooperative Agreements for  
prior value pricing projects, is one of the fifteen participants in the pilot program. ~~;~~ ~~and~~

WHEREAS, 4. WSDOT has requested that the FHWA enter into a cooperative  
Agreement to allow WSDOT to establish, maintain, and monitor a value pricing project, as part  
of its value pricing program, to toll all of Interstate 90 between Interstate 5 in the City of Seattle  
and Interstate 405 in the City of Bellevue in King County (hereinafter referred to as the "Toll  
Facility"). ~~;~~ ~~and~~

~~WHEREAS5.~~ ~~the~~ FHWA has determined that this Agreement is necessary to oversee and administer the collection of tolls pursuant to Section 1012(b)(4) of ISTEA, as amended, and to establish the implementation of tolls for this WSDOT value pricing project; ~~and~~

~~WHEREAS6.~~ Section 1012 (b) of ISTEA, as amended, requires that all revenues received from the operation of a value pricing project be applied only toward the project's operating costs (including project implementation costs; mitigation measures to deal with adverse financial effects on low-income drivers; the proper maintenance of the facility; any reconstruction, rehabilitation, restoration, or resurfacing of the facility; any debt service incurred in implementing the project [including, but not limited to, principle and interest payments, reserves, and costs of issuance]; a reasonable return on investment of any private person financing the project), and other projects eligible for assistance under title 23, United States Code;~~;~~

~~NOW, THEREFORE, the~~ WSDOT and the FHWA hereby agree as follows:

1. The FHWA agrees that WSDOT may operate the Toll Facility (directly or through a third party public authority or private entity) in accordance with the provisions of this Agreement and as a value pricing project (the "project") within its value pricing program.
2. Pursuant to Section 1012(b) of ISTEA, as amended, WSDOT will use all revenues received from the operation of the Toll Facility first for operating costs of the project. Operating costs include project implementation costs; mitigation measures to deal with adverse financial effects on low-income drivers; the proper maintenance of the toll facility; any reconstruction, rehabilitation, restoration, or resurfacing of the toll facility; any debt service incurred in implementing the project; a reasonable return on investment of any private person financing the project. There is no priority in the uses of revenues for project operating costs. Any revenues in excess of these costs may be used by WSDOT for other projects eligible for assistance under title 23, United States Code, including but not limited to reconstruction, rehabilitation, restoration, or resurfacing activities of Interstate 90.
3. That the toll rates charged for the use of the Toll Facility will vary pursuant to the applicable regulations and guidance pertaining to section 1012(b) of ISTEA, as amended, and applicable State law.
4. That WSDOT agrees, upon reasonable notice, to make all of its records pertaining to the Toll Facility subject to audit by the FHWA. The WSDOT agrees to annually audit the records of the Facility for compliance with the provisions of this Agreement and report the results thereof to FHWA. In lieu of the WSDOT performing said audit, a report of an independent auditor furnished to FHWA may satisfy the requirements of this section.
5. Authorization for tolling under this Agreement shall be contingent upon completion of any required review under the NEPA review process, [FHWA's selection of the I-90 Toll Facility as its selected alternative](#), and FHWA's issuance of either a Finding of No Significant Impact or a Record of Decision under NEPA. Authorization for tolling under this Agreement shall consist of written notification to WSDOT from FHWA that these requirements have been met and that tolling may be implemented.

~~5.6.~~ Authorization for tolling under this Agreement is also contingent upon the enactment of state legislation authorizing tolling of I-90.

~~6.7.~~ The FHWA and WSDOT will cooperate and work together in the implementation of the project. Such cooperation shall include, as may be applicable, the monitoring of the project for a period of 10 years or until the end of the life of the Toll Facility, whichever is sooner. The elements to be monitored include the effects the project has on driver behavior, traffic volume, transit ridership, air quality, and availability of funds for transportation programs.

~~7.8.~~ This Agreement shall remain in effect until the end of the life of the Toll Facility.

~~8.9.~~ In accordance with 49 C.F.R. § 18.40(b), within 30 days after the end of each quarter, WSDOT shall submit to FHWA a quarterly project progress report that briefly summarizes work accomplished, work planned, problems encountered, expenditures, recommended solutions, and any other pertinent information. A sample quarterly report format can be obtained from FHWA. At the end of each full year of the project, WSDOT shall submit to FHWA a report summarizing all activities for the year, with a particular emphasis on what has been learned. The FHWA will provide names and addresses of the specific individuals designated to receive these documents.

~~9.10.~~ Authorization for tolling under this Agreement shall be contingent upon completion of any required review under the NEPA review process.

~~10.11.~~ ~~That~~ WSDOT agrees to comply with all Federal and State laws and requirements applicable to this project, including the laws and policies applicable to the Value Pricing Pilot Program.

~~11.12.~~ ~~That~~ ~~t~~ This Agreement ~~will~~ may be prepared in duplicate originals so that each signatory will have a signed Agreement. This Agreement may be signed in counterparts, each of which shall be deemed an original and taken together shall constitute one and the same Agreement.

IN WITNESS THEREOF, the parties hereto have caused this instrument to be duly executed, the day and year first written above.

**Washington State Department of Transportation**

BY: \_\_\_\_\_

Name: Craig J. Stone

Title: Assistant Secretary Toll Division

**Federal Highway Administration  
U.S. Department of Transportation**

BY: \_\_\_\_\_

Name: Jeffrey F. Paniati

Title: Executive Director

Approved As to Form:

\_\_\_\_\_