

Resolution #TC-2021-12-06

Approving Loan Agreement and Promissory Note for the Nonattainment Area Air Pollution Mitigation Enterprise

Approved by the Transportation Commission on December 16, 2021.

WHEREAS, the Transportation Commission is charged with formulating the general policy with respect to the management, construction and maintenance of public highways and other transportation systems in the State; and

WHEREAS, pursuant to § 43-1-106(8), C.R.S., the Transportation Commission promulgates and adopts all budgets for the Colorado Department of Transportation (“CDOT”) and state transportation programs; and

WHEREAS, CDOT is an agency of the State authorized pursuant to § 43-1-105, C.R.S., to plan, develop, construct, coordinate, and promote an integrated transportation system in cooperation with federal, regional, local, and other state agencies; and

WHEREAS, in 2021, the Colorado Legislature created the Nonattainment Area Air Pollution Mitigation Enterprise (“Air Pollution Mitigation Enterprise”), pursuant to § 43-4-1303(1), as a government-owned business within CDOT and with the primary business purpose of mitigating the adverse environmental and health impacts of air pollution and greenhouse gas emissions produced by motor vehicles used to make retail deliveries and prearranged rides provided by transportation network companies by providing funding for eligible projects that reduce traffic, including demand management projects that encourage alternatives to driving alone or that directly reduce air pollution, such as retrofitting of construction equipment, construction of roadside vegetation barriers and planting trees along medians; and

WHEREAS, the Air Pollution Mitigation Enterprise is authorized pursuant to § 43-4-1303(8), C.R.S., to impose an air pollution mitigation retail delivery fee on retailers who make retail deliveries and authorized pursuant to § 43-4-1303(7), C.R.S., to impose an air pollution mitigation per ride fee to be paid by a transportation network company for each prearranged ride requested and accepted through the company’s digital network, but cannot begin to impose these fees until on or after July 1, 2022; and

WHEREAS, CDOT is authorized pursuant to § 43-4-1303(5)(b), C.R.S., with budget approval from the Transportation Commission, to transfer money from any legally available source to the Air Pollution Mitigation Enterprise for the purpose of defraying expenses incurred by the Air Pollution Mitigation Enterprise before it receives fee revenues and the Air Pollution Mitigation Enterprise may accept and expend any money so transferred and such transfer is a loan from CDOT that is required to be repaid and is not a grant for purposes of Section 20(2)(d) of Article X of the State Constitution or as defined by § 24-77-102(7), C.R.S.; and

WHEREAS, the Transportation Commission has reviewed a sample CDOT and Air Pollution Mitigation Enterprise Intra-Agency Loan Agreement and Promissory Note, which details the loan amount of \$74,700.00, and other terms including interest and repayment; and

NOW THEREFORE BE IT RESOLVED, along with a separate budget action from the Transportation Commission, the Transportation Commission of Colorado approves and authorizes CDOT to enter into a loan agreement, in substantially the same form as reviewed by the Transportation Commission, to distribute the sum of \$74,700.00 from the source outlined in the budget action to the Nonattainment Area Air Pollution Mitigation Enterprise Initial Expenses Fund as provided in C.R.S. 43-4-1303(5)(b).

Herman
Stockinger

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Herman Stockinger
Date: 2021.12.16
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Herman Stockinger, Secretary
Transportation Commission of Colorado

Date