

**Resolution #TC-2021-05-06**

Adopt the proposed changes to the Emerging Small Business Program Rules, 2 CCR 604-1.

**Approved by the Transportation Commission on May 20, 2021.**

**WHEREAS**, § 43-1-106(8)(p), C.R.S. authorizes the Transportation Commission of Colorado (“Commission”) to promulgate all necessary and reasonable regulations to establish an Emerging Small Business (“ESB”) Program for the Colorado Department of Transportation (“CDOT”); and

**WHEREAS**, the Commission passed Resolution No. 20-09-07 on September 17, 2020, authorizing an Administrative Hearing Officer to conduct a hearing on the proposed changes to the ESB Program Rules; and

**WHEREAS**, § 43-1-106(8)(p), C.R.S. states that the Commission may provide assistance to small businesses as the Commission determines is appropriate to promote the participation of small businesses in the performance of highway construction work, professional services work, and practice of research work and thereby increase the competition and lower the cost to the State for such work; and

**WHEREAS**, CDOT has updated the ESB Rules to improve the effectiveness of the ESB Program in carrying out the goal of § 43-1-106(8)(p), C.R.S.; and

**WHEREAS**, the ESB Program Rules have been repealed and re-enacted to re-index the numbering of the administrative rules into a more user-friendly format; and

**WHEREAS**, the ESB Program Rules have been updated to streamline the certification requirements, better align the ESB Program with the CDOT’s administration of the Disadvantage Business Enterprise Program, and enhance program participation within Colorado’s small business community by codifying three distinct size levels for participating ESBs; and

**WHEREAS**, program benefits will be customized to meet specific program objectives and smaller ESBs will not be expected to compete with larger, more established ESBs for the same contracting opportunities; and

**WHEREAS**, pursuant to the Colorado Administrative Procedure Act, § 24-4-103, C.R.S., and the Commission Resolution No. 20-09-07, CDOT opened the official rulemaking process to modify the ESB Program Rules, and the Administrative Hearing Officer held a public hearing on March 05, 2021, in a virtual setting via GoToWebinar due to the State’s COVID-19 response, to receive public comment on the proposed changes to the ESB Program Rules; and

**WHEREAS**, the Administrative Hearing Officer reviewed the entire record consisting of 14 exhibits; and

**WHEREAS**, the Administrative Hearing Officer found that all requirements of the Colorado Administrative Procedure Act, § 24-4-103, C.R.S., have been satisfied, there is sufficient evidence in the record to support the rules as submitted, and the Commission has the authority to adopt the proposed changes to the ESB Program Rules; and

**WHEREAS**, the Administrative Hearing Officer recommends that the Commission adopt the proposed changes to the ESB Program Rules as further modified based on his review of the record, having held a hearing to allow the public opportunity for oral testimony and written comments regarding the proposed changes, and being fully apprised of this matter; and

**NOW THEREFORE BE IT RESOLVED**, the Commission adopts the proposed changes to the ESB Program Rules, 2 CCR 604-1 as recommended by the Administrative Hearing Officer.

*Herman F. Stockinger A.A.*

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Herman Stockinger, Secretary  
Transportation Commission of Colorado

5/20/2021

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Date