

**Resolution #TC-2023-06-06**

Approving CDOT Back Up Loan Agreement regarding the C-470 Express Lanes Project

**Approved by the Transportation Commission on June 16, 2022.**

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

**WHEREAS**, under § 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;

**WHEREAS**, CDOT is an agency of the State authorized under § 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;

**WHEREAS**, under § 43-1-110, C.R.S., the executive director of CDOT, is authorized to execute certain agreements on behalf of CDOT;

**WHEREAS**, the High Performance Transportation Enterprise ("HPTE") was created under § 43-4-806(2), C.R.S. and operates as a government-owned business within CDOT;

**WHEREAS**, under § 43-4-806 (6) (g), C.R.S., HPTE is empowered to enter into contracts or agreements with any public entity to facilitate a public-private partnership, including, but not limited to, an agreement in which the Enterprise, on behalf of CDOT, provides services in connection with a surface transportation infrastructure project;

**WHEREAS**, HPTE is further empowered, under § 43-4-806 (6) (h), C.R.S., to make and enter into all other contracts and agreements, including intergovernmental agreements under § 29-1-103, C.R.S., that are necessary or incidental to the exercise of its powers and performance of its duties;

**WHEREAS**, the business purpose of HPTE, as provided for in § 43-4-806 (2) (c), C.R.S. is to pursue public-private partnerships and other innovative and efficient means of completing surface transportation infrastructure projects, which HPTE may agree to complete for CDOT under agreements;

**WHEREAS**, in furtherance of CTIO's efforts to finance the C-470 Express Lanes Project and for the benefit of CDOT, CTIO has entered into that certain Master Trust Indenture dated as of March 1, 2017 ("Master Trust Indenture"), as supplemented by a First Supplemental Trust Indenture dated as of March 1, 2017 ("First Supplemental Indenture"), each between HPTE and Zions Bank, a division of ZB, National Association, as Trustee ("Trustee"), as well as that certain TIFIA Loan Agreement, dated as of March 1, 2017, with the United States Department of Transportation, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau ("TIFIA Loan Agreement"), which loan will be evidenced by a bond ("2017 TIFIA Bond") issued to the TIFIA Lender pursuant to the Master Trust Indenture, as supplemented by a Second Supplemental Trust Indenture dated as of March 1, 2017 ("Second Supplemental

Indenture") between HPTE and the Trustee (collectively, the "Financing Agreements") to finance a portion of the Project (as defined in the Intra-Agency Agreement);

**WHEREAS**, CTIO has requested a credit facility from CDOT in the amount of \$4,000,000 to satisfy the CTIO O&M Obligations (as defined in the Intra-Agency Agreement)] because due to lower revenues than originally projected, partially caused by the unforeseen impacts of Covid-19 on work and travel patterns, the C-470 Express Lanes project's cash flow has not been generated as originally anticipated; and

**WHEREAS**, CTIO has been placed in technical non-compliance under the Master Trust Indenture and First Supplemental Indenture, and to cure the non-compliance CTIO is requesting a back-up loan from CDOT as required under the Master Trust Indenture and First Supplemental Indenture; and

**WHEREAS**, the Transportation Commission has reviewed the back-up loan agreement; and

**NOW THEREFORE BE IT RESOLVED**, the Transportation Commission of Colorado approves and authorizes CDOT to enter the Back Up Loan Agreement in substantially the same form as reviewed by the Transportation Commission with changes to the commercial terms, to facilitate compliance with TIFIA Loan Agreement and Master Trust Indenture by CTIO, as maybe approved by the Executive Director, or his or her designee.

Herman  
Stockinger

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Herman Stockinger  
Date: 2023.06.15  
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Herman Stockinger, Secretary  
Transportation Commission of Colorado

Date\_\_\_\_\_