

RESOLUTION # TC-2038

Approving a Loan for Operating Expenses to HPTE

Approved by the Transportation Commission on: November 17, 2011

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, the Transportation Commission promulgates and adopts all budgets for the Colorado Department of Transportation (CDOT) and state transportation programs; and

WHEREAS, the High Performance Transportation Enterprise (HPTE) was authorized and created pursuant to C.R.S. 43-4-806 as a government-owned business, a TABOR-exempt enterprise and a division of CDOT charged with aggressively pursuing innovative means of financing surface transportation projects; and

WHEREAS, HPTE has a Director and three (3) additional full-time equivalent employees who have been pursuing innovative financing alternatives for a number of surface transportation infrastructure projects; and

WHEREAS, HPTE has engaged the services of financial and legal consultants to assist and facilitate the evaluation of various innovative financing alternatives; and

WHEREAS, HPTE was not capitalized at its creation and is therefore presented with the challenge of paying for its operating expenses; and


WHEREAS, although the I-25 Express Lanes generate excess revenue for HPTE, such revenue is restricted and not available for payment of HPTE's operating expenses; and

WHEREAS, revenue from the US 36 Managed Lanes will not be available to HPTE for some time and HPTE therefore has no unrestricted revenues available to pay for on-going operating expenses; and

WHEREAS, C.R.S. 43-4-806(4) authorizes the Transportation Commission to transfer money from the state highway fund to HPTE to defray expenses of HPTE and provides that, notwithstanding any state fiscal rule or generally accepted accounting principle to the contrary, such a transfer shall be treated as a loan and shall not be considered a grant for purposes of TABOR; and

WHEREAS, the Transportation Commission recognizes and respects the legal principle that it cannot bind future Transportation Commissions with respect to budgetary and policy decisions, recognizes it cannot agree, in advance, to allocate and transfer state highway funds to the HPTE in future years for operating expenses and agrees that any decision as to whether or not to allocate and transfer such funds to the HPTE shall be made by the Transportation Commission, in its sole discretion, in the year in which the transfer is to occur.

NOW THEREFORE BE IT RESOLVED, the Transportation Commission of Colorado approves and authorizes CDOT entering into a Loan Agreement to provide funds for HPTE's operating expenses in the total amount of \$1 million, which total amount shall incur interest at the rate charged by the State Infrastructure Bank on the effective date of the loan. Such funds are anticipated to be sufficient to cover HPTE's operating expenses for FY2012 with future HPTE operating expense funding requests to be considered by the Transportation Commission, in its sole discretion, in the year in which HPTE's operating expense loan is requested.



Herman Stockinger, Secretary
Transportation Commission of Colorado