

Resolution – HPTE # 342

Authorizing the Execution and Delivery of a First Amendment to Loan Agreement with Bank of America, N.A. in connection with the I-25 North Express Lanes Project – Segment 3

WHEREAS, pursuant to Colorado Revised Statutes (“C.R.S.”) Section 43-4-806, the General Assembly of the State of Colorado (the “State”) created the Colorado High Performance Transportation Enterprise (“HPTE”), as a government-owned business within the Colorado Department of Transportation (“CDOT”) and a division of CDOT; and

WHEREAS, the purpose of HPTE is to pursue innovative means of more efficiently financing important surface transportation projects that will improve the safety, capacity, and accessibility of the surface transportation system, can feasibly be commenced in a reasonable amount of time, and will allow more efficient movement of people, goods, and information throughout Colorado; and

WHEREAS, HPTE receives less than 10% of its annual revenue in grants, as such term is used in Article X, Section 20 of the State Constitution, from the State government and local governments in the State, combined; and

WHEREAS, C.R.S. Section 43-4-806(2)(c)(I) provides that HPTE may impose user fees on the travelling public for the privilege of using surface transportation infrastructure; and

WHEREAS, HPTE, in partnership with CDOT, is undertaking the I-25 North Express Lanes Project (Segment 3) (the "Segment 3 Project") to complete, implement and operate one new tolled express lane in each direction between approximately 120th Avenue and E-470; and

WHEREAS, C.R.S. Section 43-4-806(2)(c)(III) provides that HPTE may contract with any governmental or nongovernmental source of funding for loans to be used to support HPTE’s functions; and

WHEREAS, C.R.S. Section 43-4-806(2)(c)(II) authorizes HPTE to issue revenue bonds for the purpose of completing surface transportation infrastructure projects, and C.R.S. Section 43-4-803(2) defines “bond” to mean any bond, note, interim certificate, commercial paper, contract, or other evidence of indebtedness; and

WHEREAS, in 2016, HPTE entered into a loan agreement (the “Loan Agreement”) with Bank of America, N.A. (the “Lender”) pursuant to which the Lender made a loan to HPTE in the principal amount of \$23,630,000 (the “Loan”), the proceeds of which were used to fund a portion of the costs of the Segment 3 Project, pay capitalized interest on the Loan and pay costs of issuance associated with the execution and delivery of the Loan Agreement; and

WHEREAS, HPTE has determined that it is necessary, desirable and in the best interest of HPTE to amend certain provisions of the Loan Agreement, including, among other amendments, (i) deleting the provisions in the Loan Agreement that require HPTE to pay a Margin Rate Amount (as defined in the Loan Agreement) to the Lender, and

(ii) amending the provisions of Article IV of the Loan Agreement related to certain funds and accounts and the deposits made to such funds and accounts; and

WHEREAS, there is on file with the Board a form of the First Amendment to Loan Agreement (the "First Amendment") to be entered into between HPTE and the Lender; and

NOW THEREFORE BE IT RESOLVED, the High Performance Transportation Enterprise Board approves in all respects the First Amendment in substantially the form filed with the Board prior to the meeting of the Board at which this Resolution is adopted, and authorizes and directs the HPTE Director to execute and deliver the First Amendment on behalf of HPTE, in substantially the form filed with the Board prior to the meeting of the Board at which this Resolution is adopted, with such changes therein and additions thereto, not inconsistent with this Resolution, as are approved by the HPTE Director (whose signature thereon shall constitute conclusive evidence of such approval).

BE IT FURTHER RESOLVED, the Board hereby authorizes and directs the HPTE Director to take all action and execute and deliver for and on behalf of HPTE any and all certificates, documents and other papers, and to perform all other acts that the HPTE Director deems necessary or appropriate related to the execution and delivery of the First Amendment.

Signed as of January 20, 2021

Simon Logan
Secretary, HPTE Board of Directors