



CLEAN TRANSIT ENTERPRISE BOARD MEETING - SEPTEMBER 24, 2024

SCHEDULE & AGENDA

- I. **Welcome, Roll Call, Agenda Review (5 minutes) 1:00 - 1:05 pm.**
Matt Frommer, Chair
- II. **Public Comments (5 minutes) 1:05-1:10 pm**
- III. **Action Agenda (5 minutes) 1:10-1:15 pm**
Matt Frommer, Chair
 - **DECISION ITEM: Approval of Minutes - 8/21/2024 CTE Board Meeting**
- IV. **Program Administrator Update (10 minutes) 1:15-1:25 pm**
Kay Kelly, (CDOT)
 - **DECISION ITEM: Approval of Final Motion for CTE Capital Awards**
- V. **Enterprise Financial Update (15 minutes) 1:25-1:40 pm**
Kay Hruska, Cassie Rutter & Sam Foster (CDOT)
 - **DECISION ITEM: Approval of TC Loan amount for SB24-230 Start-up Costs**
- VI. **CTE Planning Call for Projects (15 minutes) 1:40-1:55 pm**
Kay Kelly & Emily Crespín (CDOT)
- VII. **Adjournment (5 minutes) 1:55-2:00 pm**

Clean Transit Enterprise

8/21/2024

Regular Board Meeting – Wednesday, August 21, 2024. 1:00 – 3:00 pm, Virtual via Zoom Meeting

Video Recording: <https://www.youtube.com/watch?v=GYTb6KDtLol&t=4s>

1. Call to Order, Roll Call (Matt Frommer) - Time 10:40

Director Dawn Block, Director Bonnie Trowbridge (indicated she'll be joining a little late), Director Mark Garcia, Director Cris Jones, Director David Averill (will be joining late), Director Theresa Takushi, Director Kelly Blynn, Director Richard Coffin, Chair Matt Frommer.

2. Action Agenda - Time 10:40

A motion by Chair Frommer to approve the meeting minutes from the last board meeting on June 27, 2024. Seconded by Director Coffin. The motion passes unanimously. No abstentions.

3. Program Administrator Update (Kay Kelly) – Time 10:45

- The Board will be asked to approve our first capital grants at today's meeting which is an exciting milestone.
- We submitted the spending authority request to the Office of State Planning and Budget (OSPB) on August 1, 2024. We will keep the Board updated when we receive a response.
- The Oil and Gas Delivery Fee revenue stream will not start flowing until FY26, so we are seeking to establish a transportation commission loan in order to cover our start-up costs prior to revenue arriving at the Enterprise.
- The State of Colorado is submitting a Charging and Fueling Infrastructure (CFI) Program grant application for public medium- and heavy-duty charging hubs on NEVI-designated corridors. We are asking for letters of support from fleets who may wish to use public charging stations developed as part of this grant. Deadline to submit letters of support is August 26, 2024.
- CDOT will be sending staff to the Zero Emission Bus Conference (ZEB Con) in Philadelphia on August 27-29.
 - Questions:
 - Matt Frommer:
 - Are stations allowed to be used by anyone in the buffer zones around the EV Corridors for the CFI grant?
 - Response:
 - This charging would be open to everyone and could benefit anyone operating a medium/heavy duty vehicle in the area, including transit agencies.
 - Mark Garcia:
 - How does transportation commission approval for the TC loan work with the OSPB spending authority request?
 - Response: They are separate topics. Oil and gas fees are already continuously appropriated. The retail delivery fees are annually appropriated, which is why we are seeking a change to our spending authority with OSPB related to the retail delivery fees.

4. CTE Financial Update (Kay Hruska & Cassie Rutter) – Time 10:50 am

- The year to date figures are through June 2024, but they are not the audited final year end figures, so they may change slightly. Most expenses are related to staff costs implementing CTE.
- We are still finalizing revenue forecasts for the new Oil and Gas Fees.
 - FY 2023-24 Revenue (\$0.0311 Fee)
 - Total Forecasted : \$8,982,450 | Collected: \$10,670,012
 - FY 2024-25 Revenue (\$0.0322 Fee)
 - Forecast in FY21 Q1: \$9,902,388 (based on an estimated fee of \$0.0317)
 - Forecast in FY24 Q4: \$11,300,000 (based on an approved fee of \$0.0322)
 - FY 2025-26 Oil and Gas Production Fee | Total of \$56,777,910
 - Local Transit Operations: \$39,744,527
 - Local Transit Grant Programs: \$5,677,791
 - Rail Funding Program: \$11,355,582
- Cash Balance:
 - Ending cash balance is near \$19.4 million
 - Cash Fund Balance: \$20,336,509
 - Total FY25 Spending Authority adopted by Joint Budget Committee on 2/8/24 : \$18,134,321
- SB24-230 Oil and Gas Fee Start-up loan:
 - Fee collections will begin on July 1st 2025 for this new revenue stream.
 - We have asked for a temporary loan from the CDOT Transportation Commission so staff can begin to implement the bill requirements even though the revenue is not available yet.
 - Terms of the loan:
 - Interest rate of 3.5% is the base interest rate adopted by the Transportation Commission for FY25
 - We anticipate a full payback in 2026.
 - SB24-230 Start-up loan process:
 - Funding has been set aside by the Commission at their August meeting for this purpose and the CTE Board is being asked today to approve the loan amount.
 - The Transportation Commission will entertain a resolution at their September meeting to finalize the loan documents and then the CTE Board will be asked to formally accept the loan.
- Move for the Clean Transit Enterprise to approve the Transportation Commission loan amount of \$600,000 for start-up costs relating to SB24-230.
 - Motion by Chair Frommer. Seconded by Mark Garcia. Motion passes unanimously. No abstentions.

5. CTE Grants Update (Andy Geleske and Shilpa Kulkarni) Time - 11:30

- The CTE Board approved 4 CTE Planning awards for funding in October 2023. Contracting is underway with expected notice to proceed in Fall 2024.
- CTE capital funding for Vehicles, Infrastructure, and Facilities was included in the 2024 consolidated call for capital projects.
 - Application period closed on May 3, 2024
 - \$15 million in CTE funding was available
 - \$28.6 million in applications were received

- A panel of subject matter experts scored the applications based on criteria established by the CTE Board.
- Projects Recommended for Award
 - Via Mobility Services - Renewable Energy Microgrid (Facilities) - \$1,500,000
 - Town of Avon - EV Charging Equipment (Infrastructure) - \$384,000
 - Laradon Hall Society - 2 Vans (Vehicles) - \$238,484
 - Roaring Fork Transit Authority - 10 Buses (Vehicles) - \$5,460,000
 - Developmental Disabilities Resource Center - 2 Vans (Vehicles) - \$150,000
 - Town of Breckenridge - 7 Buses (Vehicles) - \$2,943,112
 - Town of Avon - 2 Buses (Vehicles) - \$1,714,706
 - Town of Winter Park - 2 Buses (Vehicles) - \$966,420
 - Town of Telluride - 1 Bus (Vehicles) - \$164,507
 - City of Ft. Collins - 1 Bus (Vehicles) - \$882,945
 - City of Boulder - 1 Bus (Vehicles) - \$595,826
- Projects Recommended for Denial
 - City of Ft. Collins - Depot and On-Route Chargers (Infrastructure) - \$4,397,600
 - Roaring Fork Transit Authority - Depot Chargers (Infrastructure) - \$2,000,000
- Projects Withdrawn by Applicant
 - Roaring Fork Transit Authority - Regional Transit Center (Facilities) - \$1,050,910
- If the Board approves the committee recommendations, CTE will be partially funding 28 electric transit vehicles, providing 80% of funding for one charger with two charging ports, and providing 50% of the funding for the first fleet electrification plus microgrid project in Colorado.
- Questions:
 - Mark Garcia: Why was Fort Collins denied?
 - Response (Shilpa Kulkarni):
 - Fort Collins applied to CTE for buses and infrastructure both through CTE and FTA 5339(b) and 5339(c). The proposed projects align well with their Zero Emission Bus Transition and Implementation Plan; however, limited funding forced the evaluation committee to prioritize other projects around the state for the infrastructure piece. They were awarded a single bus as part of their vehicle application.
 - David Averill: Why were private non-profits eligible for this grant? Can we request a written opinion on if they can. It would be good to have clear wording on who is eligible.
 - Response (Kay Kelly)
 - We have defined eligibility in our CTE Rule (2 CCR 607-1) and it is our understanding that they are eligible. Our rule states that a “Transit Agency” means an organization that provides Transit services to the general public or a segment of the public defined by age, disability, or low income.
 - David says he respectfully disagrees. He would offer a motion of approval as long as we seek a full eligibility review from the Attorney General’s Office.
 - Kathy Young (response)
 - Counsel will need to review this prior to giving an opinion. Counsel will report back to Kay.

- Mark Garcia:
 - Agrees that we should clarify what the definitions are so additional confusion does not happen.
 - Richard Coffin:
 - States he is very happy about everything so far, but is curious about project timelines. Are there estimates for vehicle delivery dates? Do we have flexibility on when things must be finished - especially with known manufacturing delays in this sector?
 - Response (Shilpa Kulkarni):
 - The project timelines should accommodate a typical extended delivery timeline for these types of projects. We do allow for extensions and recipients can work with project managers if extensions are necessary.
 - Mark Garcia:
 - What is the progress on the planning awards?
 - Response: (Emily Crespin)
 - Yes - we have finished the pre-award process, are finishing up the scope of the projects and will get the awards sent out by the end of the year.
 - The first round of a new grant program can be slower and we are expecting to see future rounds completed more quickly.
 - Response (Kay Kelly)
 - These were also not the only awards our team had to complete. Our transit grant programs team issued over 400 total awards in the last calendar year.
 - Matt Frommer
 - What is the timeline of the next round of planning projects?
 - Response (Kay Kelly):
 - We typically have a planning call in the fall and a capital call in the winter/spring.
 - How much of the Volkswagen grant money is left?
 - Response (Kay Kelly):
 - This will be the final round of the VW Settlement Program funding for transit. These funds were distributed to states based on how many VW diesel vehicles were registered in the state at the time of the emissions cheating. The state established a beneficiary mitigation plan with the EPA detailing how the funds would be spent, but it was always known to be a finite amount of funding. As the VW funds sunset, the CTE funds for zero emissions transit will pick up where they left off.
- **Motion:**
 - The board wishes to approve all awards that aren't in question for eligibility, but separate out the two non-profit transit agencies as conditional awards in the motion pending eligibility review by the Attorney General. The two awards in question are for Laradon Hall Society for Exceptional Children and Adults and Developmental Disabilities

Resource Council. The staff will re-draft a motion for the Board's consideration at the end of the meeting.

6. Annual Best Practices Training (Kathy Young) – Time 11:35

- Review:
 - The reason why we are doing this training is that all state public boards must get annual training on statutory power and duties, identifying and managing conflicts of interest, and understanding the requirements of the CO Open Records Act.
- Conflicts of Interest:
 - Rules of conduct - a commissioner who receives no compensation other than a per diem allowance shall not perform an official act which may have a direct economic benefit on a business or other undertaking in which such member has a direct or substantial interest.
 - Voluntary disclosure: 2-step process, You can make a written disclosure to the Secretary of State that adequately describes the financial interest or immediately before the vote, you state for the record the facts and summarize the nature of the interest.
- Amendment 41 in November 2006 - established Independent Ethics Commission
- CORA - All public records shall be open for inspection by any person at reasonable times, except as provided in part 2 or as otherwise provided by law.
 - Is my record a "public record"?
 - Internal and external communications, such as might take place among agency staff, between staff, and a board, between board members, another agency, etc
 - Public record denial of inspection:
 - There may be a basis for denying inspection of public records found in section 24-72-204. For example scoring keys from licensing exams, security arrangements, trade secrets, some employment records, etc.
 - There is a short turnaround time to provide records - 3 working days, but may be extended for extenuating circumstances.
 - Remedies:
 - 14-day "cooling off period".
 - Requester may apply to the district court for an order, with court costs, and reasonable attorney fees to the prevailing party.
 - The custodian may sue to obtain a declaratory order determining the status of records for CORA requests where it cannot be determined. No attorney fees in this scenario.
- Open Meetings Law (OML)
 - A meeting is defined as: "any kind of gathering, convened to discuss public business, in person, by telephone, electronically, or by any other means of communication".
 - Two or more directors discussing public business is considered a meeting. Minutes are required.
- Questions:
 - Chris Jones:
 - I work for the City of Boulder, am I okay to vote on the capital awards where Boulder is a recipient? I was not involved in the award submission.
 - Response (Kathy Young):
 - Yes, you are.

7. Capital Grants Recommendations (Matt Frommer) 12 pm

- Motion by Chair Frommer. Seconded by Director Averill: Move for the Clean Transit Enterprise Board to approve the 2024 Capital Awards as detailed in the award recommendations memo and based on the recommendations of the scoring committee and Enterprise staff:
 - \$1,500,000 in programmed funds for 1 facility project
 - \$384,000 in programmed funds for 1 infrastructure project
 - \$923,116 in programmed funds for 7 vehicle projects that will result in 24 vehicle purchases
 - With a conditional approval for \$388,484 in programmed funds for 2 vehicle projects that will result in 4 vehicle purchases for Laradon Hall Society for Exceptional Children and Adults and for Developmental Disability Resource Council pending eligibility review and confirmation from legal council.
- Motion passes unanimously. No abstentions.

8. Meeting Adjourned (Matt Frommer) - Time (12:04 PM)

CDOT AND CLEAN TRANSIT ENTERPRISE INTRA-AGENCY LOAN AGREEMENT AND PROMISSORY NOTE

THIS INTRA-AGENCY LOAN AGREEMENT and PROMISSORY NOTE (the “Agreement”) is made this _____, 2024 by and between the COLORADO TRANSPORTATION COMMISSION (“COMMISSION”) and the DEPARTMENT OF TRANSPORTATION (“CDOT” or the “Department”), an executive agency of the State of Colorado (“State”), collectively referred to herein as “LENDERS” and the CLEAN TRANSIT ENTERPRISE, a government-owned business within CDOT (“TRANSIT ENTERPRISE”). LENDERS and TRANSIT ENTERPRISE are hereinafter referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

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

B. Pursuant to C.R.S. § 43-1-106(8) the COMMISSION is authorized to formulate the general policy and promulgate and adopt all department budgets on behalf of CDOT.

C. TRANSIT ENTERPRISE was created pursuant to C.R.S. § 43-4-1203(1) and operates as a government-owned business within CDOT.

D. One of the TRANSIT ENTERPRISE’s primary business purposes is to reduce and mitigate the adverse environmental and health impacts of air pollution and greenhouse gas emissions produced by oil and gas development by investing in public transit, including vehicles, infrastructure, equipment, materials, supplies, maintenance, and operations and staffing, to achieve the level of frequent, convenient, and reliable transit that is known to increase ridership by replacing car trips with bus and rail trips and forms of transit known to support denser land use patterns that further reduce pollution due to shorter trip lengths and greater walking and cycling mode share.

E. TRANSIT ENTERPRISE is authorized pursuant to C.R.S. § 43-4-1204(1)(a) to impose, on or after July 1, 2025, a production fee for clean transit to be paid by oil and gas producers.

F. Pursuant to C.R.S. § 43-4-1204(3)(a) the local transit operations cash fund is created in the State Treasury and pursuant to C.R.S. § 43-4-1204(3)(c) the TRANSIT ENTERPRISE is authorized to allocate money from the local transit operations cash fund to eligible entities.

G. Pursuant to C.R.S. § 43-4-1204(4)(a) the local transit grant cash fund is created in the State Treasury and pursuant to C.R.S. § 43-4-1204(4)(c) the TRANSIT

ENTERPRISE is authorized to provide competitive grants from the local transit grant cash fund to eligible entities.

H. The COMMISSION is authorized pursuant to C.R.S. § 43-4-1203(5)(b) to transfer money from the state highway fund to the TRANSIT ENTERPRISE for the purpose of defraying expenses incurred by the TRANSIT ENTERPRISE before it receives production fee revenue and the TRANSIT ENTERPRISE may accept and expend any money so transferred, and, notwithstanding any state fiscal rule or generally accepted accounting principle that could otherwise be interpreted to require a contrary conclusion, such a transfer is a loan from the COMMISSION 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 in C.R.S. § 24-77-102(7).

I. The LENDERS and TRANSIT ENTERPRISE are authorized under law to execute this Agreement.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING RECITALS, THE PARTIES TO THIS AGREEMENT HEREBY AGREE AS FOLLOWS:

1. Incorporation by Reference. The Recitals set forth above are incorporated herein by reference.

2. Loan. The LENDERS shall disburse the sum of \$600,00000.00 from the State Highway Fund created in C.R.S. 43-1-219 to the Clean Transit Enterprise Initial Expenses Fund as provided in C.R.S. § 43-4-1203(5)(b). The loan disbursement shall be made to the TRANSIT ENTERPRISE by means of a financial instrument or transfer acceptable to CDOT.

3. Loan Term. The term of the loan shall be from the date this Agreement is signed by the State Controller, as evidenced by the date first appearing above, until full payment of the loan principal and the interest thereon is received by CDOT. The TRANSIT ENTERPRISE shall repay to CDOT the principal amount of the loan and the interest on the unpaid principal balance by June 30, 2026.

4. Interest. The loan to the TRANSIT ENTERPRISE shall bear interest at a rate of three and one have percent (3.5%) on the unpaid balance compounded annually which is the current interest rate established by the COMMISSION for the State Infrastructure Bank. The rate shall be fixed for the term of the loan and interest shall begin to accrue from the date of the loan disbursement.

5. Repayment. The TRANSIT ENTERPRISE shall repay the loan and all accrued interest out of the unrestricted revenues of the TRANSIT ENTERPRISE generated by the production fee for clean transit which will commence on or after July 1, 2025. No repayments shall be due until June 30, 2026 at the earliest. Loan payments of both principal and interest shall be payable to the Colorado Department of

Transportation, 2829 West Howard Place, Denver, CO 80204 or to such other location or person as may be designated in writing from time to time by CDOT. The TRANSIT ENTERPRISE shall have the option to prepay all or a portion of the loan principal without prepayment penalty if it so chooses.

6. Promissory Note. For value received, the TRANSIT ENTERPRISE hereby promises to pay to the order of the Colorado Department of Transportation and send to its cash receipts office at 2829 West Howard Place, Denver, CO 80204, or to such other location or person as may be designated in writing by CDOT, the principal sum of Six Hundred Thousand Dollars (\$600,000.00) with interest thereon from the date hereof as hereinafter set forth.

A. This promissory note shall bear interest at the rate of three and a half percent (3.5%) per annum on any unpaid balance, compounded annually. The principal and interest shall be payable out of unrestricted revenues of the TRANSIT ENTERPRISE generated by the clean transit production fee which commences on or after July 1, 2025. The date and schedule for such payments of principal and accrued interest shall not be fixed in time or manner except that no payments shall be due prior to June 30, 2026 and all principal and interest on the unpaid principal balance shall be due by June 30, 2026.

B. This promissory note is not assumable without the written consent of CDOT. The TRANSIT ENTERPRISE shall have the option to prepay all or a portion of the loan principal without penalty. The TRANSIT ENTERPRISE waives demand, presentment, protest and notice.

C. If payments do not commence beginning June 30, 2026, the TRANSIT ENTERPRISE shall be in default of this Agreement, unless the TRANSIT ENTERPRISE has prior written approval to defer the repayment of the loan. In the event of default, CDOT shall have all rights and remedies available at law or in equity, and such other remedies as provided herein. The rate of interest for payment on which the TRANSIT ENTERPRISE is in default hereof shall be ten percent (10%) over the effective rate described above, computed from the date of any default to the date of cure.

D. The TRANSIT ENTERPRISE shall use the loan amount of Six Hundred Thousand Dollars (\$600,000.00) for its initial operating expenses related to the implementation of the production fee. The TRANSIT ENTERPRISE shall, at all times during this Agreement, comply with all federal and State laws as they currently exist and may hereafter be amended.

7. Remedies in Event of Default. Upon the TRANSIT ENTERPRISE'S default in the performance of any covenant or agreement contained in this Agreement, and upon notice to the TRANSIT ENTERPRISE and failure by the TRANSIT ENTERPRISE to cure within thirty (30) days thereof, CDOT, at its option, may (a) terminate the loan commitment herein and take such other steps associated with such termination as are set forth below in the General Provisions; (b) declare the entire principal amount of

the loan then outstanding immediately due and payable; (c) take any other appropriate legal action. Notwithstanding the exercise of any of the remedies above, the TRANSIT ENTERPRISE shall not be relieved of liability to CDOT for any damages sustained by CDOT by virtue of any breach of this Agreement by the TRANSIT ENTERPRISE.

8. General Provisions.

A. All federal and state statutes, regulations, specifications, administration checklists, directives, procedures, documents, and publications that are specifically identified and/or referenced in this Agreement, together with all exhibits and attachments and addenda to this Agreement, are incorporated herein by this reference as terms and conditions of this Agreement as though fully set forth.

B. Neither the commitment of CDOT funds to the Transit Enterprise through this Agreement nor any other security or debt financing instrument issued or executed in connection with the loan to the Transit Enterprise shall constitute a commitment, guarantee, or obligation of the United States.

C. This Agreement may be terminated as follows:

(a) Termination for Cause. If, through any cause, the Transit Enterprise shall fail to fulfill, in a timely and proper manner, its obligations under this Agreement, or if the Transit Enterprise shall violate any of the covenants, agreements, or stipulations of this Agreement, CDOT shall thereupon have the right to terminate this Agreement for cause by giving written notice to the Transit Enterprise of its intent to terminate and at least thirty (30) days opportunity to cure the default or show cause why termination is otherwise not appropriate. In the event of termination, the Transit Enterprise shall return any funds that have been disbursed to the Transit Enterprise as part of the loan and any accrued interest thereon within 45 days of the date of termination. Notwithstanding above, the Transit Enterprise shall not be relieved of liability to CDOT for any damages sustained by CDOT by virtue of any breach of the Agreement by the Transit Enterprise.

(b) Termination for Convenience. CDOT may terminate this Agreement at any time CDOT determines that the purposes of the distribution of funds under the Agreement would no longer be served by the Transit Enterprise. CDOT shall effect such termination by giving written notice of termination to the Transit Enterprise and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination.

(c) Termination Due to Loss of Funding. The Parties hereto expressly recognize that the loan is made to the Transit Enterprise with funds which are available to CDOT for the purposes of making a loan to the Transit Enterprise, and therefore, the Transit Enterprise expressly understands and agrees that all its rights, demands and claims to a loan arising under this Agreement are

contingent upon availability of such funds to CDOT. In the event that such funds or any part thereof are not available to CDOT, CDOT may immediately terminate or amend this Agreement.

D. This Agreement is subject to such modifications as may be required by changes in federal or State law, or their implementing regulations. Any such required modification shall automatically be incorporated into and be part of this Agreement on the effective date of such change as if fully set forth herein. Except as specifically provided otherwise herein, no modification of this Agreement shall be effective unless agreed to in writing by both Parties in an amendment to this Agreement that is properly executed and approved in accordance with applicable law.

E. To the extent that this Agreement may be executed and performance of the obligations of the Parties may be accomplished within the intent of the Agreement, the terms of this Agreement are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof. The waiver of any breach of a term hereof shall not be construed as a waiver of any other term, or the same term upon subsequent breach.

F. This Agreement is intended as the complete integration of all understandings between the Parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein by writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written contract executed and approved pursuant to the State Fiscal Rules.

G. Except as herein otherwise provided, this Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

H. It is expressly understood and agreed that the enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties hereto, and nothing contained in this contract shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention of the Parties that any person or entity other than the Parties receiving services or benefits under this Agreement be deemed to be an incidental beneficiary only.

I. The Transit Enterprise shall maintain all books, documents, papers, accounting records and other evidence pertaining to any costs incurred, and if requested by CDOT, make such materials available to CDOT for three years from the execution date of this Agreement.

J. This Agreement shall not be deemed valid until the Controller of the State of Colorado or such assistant as he may designate shall have approved it.

K. Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

L. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions for the Parties, of the Colorado Governmental Immunity Act, Section 24-10-101 et seq. C.R.S. or the Federal Tort Claims Act, 28 U.S.C. 2671 et seq. as applicable, as now or hereafter amended.

M. The Transit Enterprise agrees to comply with the letter and the spirit of all applicable state and federal laws respecting discrimination and unfair employment practices.

N. The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision of this Agreement, whether or not incorporated herein by reference, which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this Agreement to the extent that the Agreement is capable of execution.

O. At all times during the performance of this Agreement, the Transit Enterprise shall strictly adhere to all applicable federal and state laws, rules, and regulations that have been or may hereafter be established.

P. The signatories aver that to their knowledge, no employee of the State of Colorado has any personal or beneficial interest whatsoever in the service or property described herein.

Q. Notwithstanding any provision hereof, all financial obligations herein of the Transit Enterprise payable after the current fiscal year, including, without limitation, repayment of the principal amount of the loan evidenced hereby, payment of interest thereon, and payment of any damages, penalty interest, or any other financial obligations in the event of a default by the Transit Enterprise, shall be made solely from the revenues of the Transit Enterprise and are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available by the Board of the Transit Enterprise, acting in its

capacity as the governing body of the Transit Enterprise (in such capacity, the “Enterprise Board”).

R. Resolutions of the COMMISSION authorizing execution of this Agreement and of the Enterprise Board authorizing execution of this Agreement are attached hereto as Exhibits 1 and 2.

DRAFT

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

STATE OF COLORADO
Jared S. Polis, Governor
Department of Transportation
Shoshan M. Lew, Executive Director

COLORADO CLEAN TRANSIT
ENTERPRISE

By: _____
Keith Stefanik, P.E., Chief Engineer

By: _____
Kay Kelly, Program Administrator

COLORADO TRANSPORTATION COMMISSION

By: _____
Chairperson

APPROVED:

Philip J. Weiser

ATTORNEY GENERAL

By: _____
ASSISTANT ATTORNEY GENERAL

ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

§ 24-30-202, C.R.S. requires the State Controller to approve all State Contracts. This Agreement is not valid until signed and dated below by the State Controller or delegate of the State of Colorado.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: _____

Date: _____



COLORADO

Department of Transportation

Clean Transit Enterprise Board

September 24, 2024



AGENDA

- Welcome and Roll Call (Chair Frommer)
- Public Comments
- Action Agenda (Chair Frommer)
 - DECISION ITEM: Approval of Minutes - 8/21/24 CTE Board Meeting
- Program Administrator Update (Kay Kelly, CDOT)
 - DECISION ITEM: Approval of Final Motion for CTE Capital Awards
- Enterprise Financial Update (Kay Hruska, Cassie Rutter and Sam Foster, CDOT)
 - DECISION ITEM: Approval of TC Loan for SB24-230 Start-up Costs
- CTE Planning Call for Projects (Kay Kelly and Emily Crespin, CDOT)
- Adjournment

Program Administrator Update

Kay Kelly, CDOT



Program Administrator Update

- CTE Director Job Announcement closed September 12th
- Oil and Gas Production Fee Business:
 - Start-up Loan Approval
 - Administrative Preparations
- Retail Delivery Fee Business:
 - Planning for next round of Transit ZEV Planning Grants
 - Final, Corrected Motion for CTE Capital Grant Awards



Amended Motion for Board Consideration (Identical to Original Proposed Motion)

Move for the Clean Transit Enterprise Board to approve the 2024 Capital Awards as detailed in the award recommendations memo and based on the recommendations of the scoring committee and Enterprise staff:

- \$1,500,000 in programmed funds for 1 facility project*
- \$384,000 in programmed funds for 1 infrastructure project*
- \$13,116,000 in programmed funds for 9 vehicle projects that will result in 28 vehicle purchases*

Enterprise Financial Update

Kay Hruska, Cassie Rutter and Sam Foster, CDOT



CTE Accounting Update - Year-To Date Figures Through August 2024

Fiscal Year 2024-25 Budget to Actual for Fund 540						
Clean Transit Enterprise						
Line Item		Approved Budget	July 2024	August 2024	Total Quarter 1	Remaining Funds
1	Fiscal Year Revenues					
2	Clean Transit Retail Delivery Fee	\$ 9,902,388	\$ 851,113	\$ 918,486	\$ 1,769,600	
3	Interest Revenue	-	-	60,352	60,352	
4	Total FY 2024-25- Revenue	\$9,902,388	\$851,113	\$ 978,838	\$ 1,829,952	
5	Fiscal Year Allocations					
6	Administration & Agency Operations					
7	Administration and Agency Operations					
8	Staff Salaries	\$ 450,250	\$ -	\$ 3,851	\$ 3,851	\$ 446,399
9	Attorney General Fees	5,000	-	-	-	5,000
10	Office of the State Audit-Annual Financial Audit	2,000	-	-	-	2,000
11	Professional Services	100,000	-	-	-	100,000
12	Board/Staff Travel	2,000	-	-	-	2,000
13	Board Meeting Expenses	200	-	-	-	200
14	Miscellaneous	1,000	-	-	-	1,000
15	Total Administration and Agency Operations	\$ 560,450	\$ -	\$ 3,851	\$ 3,851	\$ 556,599
16	Contingency Reserve					
17	Board Reserve Fund (10%)	\$ 990,239	\$ -	\$ -	\$ -	990,239
18	Total Reserve Funds	\$ 990,239	\$ -	\$ -	\$ -	\$ 990,239
19	Programmed Funds					
20	Programmed Funds	\$ 8,231,933	\$ -	\$ -	\$ -	8,231,933
21	Total Programmed Funds	\$ 8,231,933	\$ -	\$ -	\$ -	\$ 8,231,933
22	Total FY 2024-25 Budget	\$9,902,388				
23	Total FY 2024-25 Allocations	\$9,782,622				



Revenue Forecasts

FY 2024-25 Revenue (\$0.0322 fee):

- Forecast in FY24 Q1: \$9,902,388
(based on estimated fee of \$0.0317)
- Forecast in FY24 Q4: \$11,300,000
(based on final approved fee of \$0.0322)

FY 2025-26 Revenue:

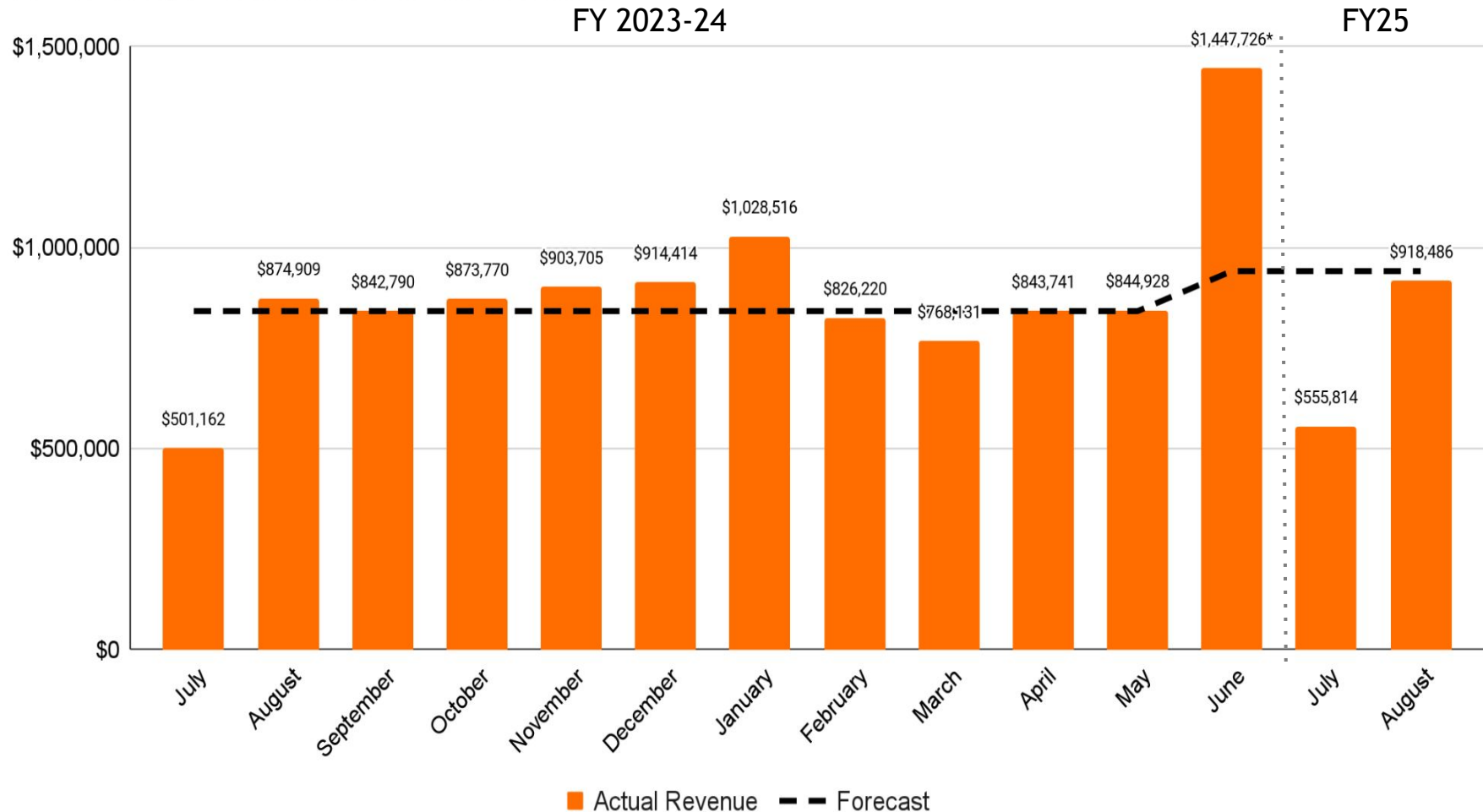
- Forecast in FY25 Q1: \$12,600,000

FY 2025-26 Oil and Gas Production Fee:

Total of \$56,777,910

- Local Transit Operations: \$39,744,537
- Local Transit Grant Program: \$5,677,791
- Rail Funding Program: \$11,355,582

Retail Delivery Fee Actual and Forecasted Revenue



*June 2024 includes \$611,012.13 in Period 13 accruals



Clean Transit Enterprise Cash Fund Status

Actual FY 2023-24 Year Ending Cash Balance	\$19,486,965
Cash Fund Balance as of September 17, 2024	\$21,027,496
Total FY25 Spending Authority Adopted by Joint Budget Committee 2/8/24	\$18,134,321



SB24-230 Start-Up Loan - Process Steps

- Staff developed an estimate of start-up costs that was presented at the Transportation Commission workshop on August 14, 2024.
- Transportation Commission approved setting aside \$600,000 from their Program Reserve fund for purposes of a loan to CTE for SB24-230 start-up costs at the August 15, 2024 meeting.
- CTE Board approved the loan amount at their August 21, 2024 meeting.
- Transportation Commission approved the loan agreement at their September 19, 2024 meeting.

Next Steps:

- Loan documents have been prepared and are being presented to the CTE Board for final approval and signature at today's meeting.



Proposed Motion for Board Consideration

Move for the Clean Transit Enterprise to accept the Transportation Commission loan of \$600,000 for start-up costs relating to SB24-230.

CTE Planning Grants

Kay Kelly and Emily Crespín, CDOT



Importance of Transition Planning

- CTE capital programs include agency planning and readiness in their scoring criteria to ensure that awardees are in a position to successfully deploy ZEVs and supporting infrastructure
 - Agencies with an established fleet transition plan can document their goals, targets, anticipated challenges and how they will mitigate them, etc.
 - It also requires staff to work across silos to assess holistic impacts *before* jumping right into procurement and implementation
- FTA 5339(c) Low- and No Emission Program (aka “Low-No”) requires applicants to include a fleet transition plan that addresses:
 - Fleet management, available resources, relevant policy and legislation, facilities evaluation, relationship to utility/fuel provider, and workforce impacts
- Technology is rapidly changing, so transition planning helps agencies to balance opportunities and risks while building broader stakeholder support in advance



Schedule for Round 2 of CTE Planning Grants

- CTE rules state that we will coordinate our CTE Notices of Funding Availability (NOFAs) with standing DTR consolidated calls for projects
- DTR typically issues two calls for projects per year:
 - One NOFA in the Summer/Fall for the following calendar year of Admin/Operating/Planning/Mobility Management funding, which includes the CTE Planning grant opportunities
 - One NOFA in the Winter/Spring for Capital projects, which includes CTE Infrastructure, Facilities, and Vehicles grant opportunities
- Timing of FY25 Transit Funding NOFAs are as follows:
 - Planning - late Fall 2024
 - Capital - Winter/Spring 2025



Recap of Round 1 Awards

<u>Agency</u>	<u>Committee Recommendation</u>	<u>Recommended Grant</u>
City of Pueblo	Award	\$99,000
Laradon Hall Society for Exceptional Children and Adults	Award	\$90,000
Neighbor to Neighbor Volunteers (aka Chaffee Shuttle)	Award	\$40,500
Via Mobility	Award	\$67,500
Total	—	\$297,000



Other Transit ZEV Planning Resources

- The Joint Office of Energy & Transportation (JOET) offers free technical assistance and resources for transit agencies transitioning to low- and zero-emission vehicles on their webpage here:
 - <https://driveelectric.gov/transit-agencies>
- The [Clean Bus Planning Awards \(CBPA\) Program](#) is designed to provide school and transit bus fleets with free technical assistance to develop customized fleet electrification plans
 - 40 transit agency participants so far, but none from Colorado yet
 - Applications are reviewed on a rolling basis
 - After the completion of a transition plan, NREL offers up to 3 years of deployment assistance



Next Steps for Staff

- CDOT staff will review CTE Planning grant requirements and scoring criteria to assess whether or not any updates from the previous offering may be necessary and report back to the Board for input/approval
 - Once a timeline for the FY25 Planning Call is established, staff will promote it to potential transit agency applicants
- CDOT staff will also develop a Transit Fleet Transition Plan Tracking Sheet so that we can better understand who currently has a plan, who is actively developing one, and who might be interested in applying for CTE Planning funds in FY25 or beyond



Feedback & Discussion





Upcoming Meetings and Topics

Upcoming Meetings:

- Returning to Monthly Meeting Cadence

Topics:

- FY25-26 Budget Development
- SB24-230 Implementation
- Other topics at the Board's pleasure



Clean Transit Enterprise Information



COLORADO
Department of Transportation

<https://www.codot.gov/programs/innovativemobility/cte>

Programs

Resources

- Clean Transit Enterprise
- Electric Vehicle Ride & Drive Event
- Electrification
- Mobility Services
- Mobility Technology
- Transit and Rail

Clean Transit Enterprise

To support Colorado's transit electrification through planning efforts, transit site upgrades, procurement of electric transit buses, and deployment of associated charging infrastructure.



About the Clean Transit Enterprise

This enterprise is created within the Colorado Department of Transportation (CDOT) to support public transit electrification planning efforts, facility upgrades, fleet motor vehicle replacement, as well as construction and development of electric motor vehicle charging and fueling infrastructure. The bill allows the enterprise to impose a clean transit retail delivery fee to fund its operations, and to issue grants, loans or rebates to support electrification of public transit.

Contact Us

cdot_cleantransitenterprise@state.co.us

Resources

- [Board Appointments](#)
- [Enterprise Funds](#)
- [Board Powers & Duties](#)
- [Clean Transit Enterprise 10 Year Plan](#)
- [2021 Transit Zero Emission Vehicle \(ZEV\) Roadmap](#)
- [Clean Transit Enterprise Processes and Fees, 2 CCR 607-1](#)

Upcoming Meetings

Board of Directors Meeting
 July 13, 2022
 12:00-2:00 pm
[YouTube Link](#)
[Schedule & Agenda](#)

Prior Meetings

Board of Directors Meeting - January 31st, 2022
[Video Recording](#)

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THANK YOU!

