

Colorado Transportation Commission

Schedule & Agenda

December 20, 2023

Virtual Meeting Only

Transportation Commission Workshops

Wednesday, December 20, 2023

Time	Topic	Speaker
1:30 p.m.	BTE 10-Year Plan Financing Progress Update and Draft Parameters Resolution Review Workshop (Informational)	Patrick Holinda and Katie Carlson
2 p.m.	Adjournment	None

The Transportation Commission meeting will begin immediately following the adjournment of the Transportation Commission workshops. Estimated Start Time: 2 p.m.

Transportation Commission Meeting

Wednesday, December 20, 2023

Time	Topic	Speaker
2 p.m.	Call to Order, Roll Call	Herman Stockinger
2:05 p.m.	Public Comments	Various
2:10 p.m.	Comments of the Chair and Individual Commissioners	Commissioners
2:25 p.m.	Executive Director's Management Report	Shoshana Lew
2:30 p.m.	Chief Engineer's Report	Keith Stefanik
2:35 p.m.	CTIO Director's Report	Piper Darlington
2:40 p.m.	FHWA Division Administrator Report	John Cater
2:45 p.m.	STAC Report	Vincent Rogalski
2:50 p.m.	Legislative Update Report	Emily Haddaway
2:55 p.m.	Act on Consent Agenda: Proposed Resolution #1: Approve the Regular Meeting Minutes of November 21, 2023 Proposed Resolution #2: IGA Approval >\$750,000 Proposed Resolution #3: Fiscal Year 2024 Maintenance Projects \$150K-\$250K Approval Proposed Resolution #4: Disposal: Parcel 1X, Nevada/Tejon Interchange, Colorado Springs Proposed Resolution #5: Disposal: Parcels 204-EX, 204B-EX, 204A Rev-EX	Herman Stockinger Lauren Cabot Jim Fox Shane Ferguson Jessica Myklebust
3 p.m.	Discuss and Act on Proposed Resolution #6: 6th Budget Supplement of FY 2023-2024	Jeff Sudmeier & Bethany Nicholas

3:05 p.m.	Discuss and Act on Proposed Resolution #7: State Infrastructure Bank Rate Update	Jeff Sudmeier & Bethany Nicholas
3:10 p.m.	Discuss and Act on Proposed Resolution #8: Fee Based ROW Access for Fiber	John Lorme
3:15 p.m.	Recognition for the Winners and Runners-up for the 2023 CDOT Innovations Challenge	Gary Vansuch
3:30 p.m.	Other Matters	None
3:35 p.m.	Adjournment	None

The Bridge and Tunnel Enterprise Board of Directors meeting will begin immediately following the adjournment of the Transportation Commission Meeting. Estimated Start Time: 3:35 p.m.

Bridge and Tunnel Enterprise Board of Directors Meeting

Wednesday, December 20, 2023

Time	Topic	Speaker
3:35 p.m.	Call to Order and Roll Call	Herman Stockinger
3:35 p.m.	Public Comments	Various
3:40 p.m.	Act on Consent Agenda <ul style="list-style-type: none"> Proposed Resolution #BTE1: to Approve the Regular Meeting Minutes of November 21, 2023 	Herman Stockinger
3:45 p.m.	Discuss and Act on Proposed Resolution #BTE2: Resolution to Adopt the Third Amended BTE Board Bylaws and Articles of Organization	Patrick Holinda
3:50 p.m.	Adjournment	None

The Fuels Impact Enterprise Board of Directors meeting will not be held this month.

Information Only

- Project Budget/Expenditure Memo (Jeff Sudmeier)
- December 2023 TC Grants Memo (Hannah Reed)
- 2023 Non-Attainment Air Pollution Mitigation Enterprise Annual Report (Darius Pakbaz and Phillip von Hake)
- Clean Transit Enterprise Annual Report (Kay Kelly)



MEMORANDUM

To: The Bridge and Tunnel Enterprise Board of Directors
From: Patrick Holinda, Bridge and Tunnel Enterprise Program Manager
Katie Carlson, Bridge and Tunnel Enterprise Financial Manager
Jeff Sudmeier, Chief Financial Officer
Date: December 20, 2023
Subject: BTE 10-Year Plan Financing Progress Update and Draft Parameters Resolution Review

Purpose

The Bridge and Tunnel Enterprise (“BTE” or the “Enterprise”) Board of Directors (Board) will be asked at the January 2024 meeting to approve the attached draft Parameters Resolution granting certain matters with respect to the Colorado Bridge and Tunnel Enterprise Infrastructure Revenue Bonds (Series 2024A Bonds). This includes, but is not limited to, providing approval to staff proceed with the transaction if certain parameters are met and granting the Enterprise Director or any member of the Enterprise Board the authority to determine the specific terms of the bonds and executing and delivering Bond Documents on behalf of the Enterprise.

Action

No approval action is being requested this month. Staff requests Board feedback on the attached draft Parameters Resolution.

Background

The passage of SB21-260 established BTE as a key strategic business partner and funding source for the 10-Year Plan. To allow BTE to program available resources in accordance with the statute and support CDOT with the funding and delivery of the 10-Year Plan, the Board adopted revisions to Policy Directive BE16.0, which provides direction to staff to prioritize 10-Year Plan projects when determining program funding allocations. Additionally, the Board approved the imposition of the bridge and tunnel impact fee and bridge and tunnel retail delivery fee (bridge and tunnel fees) using the authority granted by SB21-260. To date, approximately \$250MM in BTE funds have been budgeted to 10-Year Plan projects.

Details

As previously discussed at the October and November workshops, the timing and scale of several key strategic projects have created a funding gap of \$325MM to \$450MM, which BTE is planning to address through 3 financings. This would result in timely completion of projects and would manage program cash flows from FY2024 to FY2027. Due to its Enterprise status, BTE is authorized to issue revenue bonds and enter into agreements with governmental and non-governmental entities for loans or grants. The first bond issuance in Q1 2024 (calendar year) is estimated to be in the range of \$150MM and \$200MM with the need for subsequent bond issuances in calendar year 2025 and 2026 assessed based on project needs in future fiscal years.

Attached to this memo is a draft of the Parameters Resolution, which delegates the authority to staff for debt issuance within certain not to exceed parameters related to costs and interest rates. The current version of the Parameters Resolution includes all of the parameters to be adopted by the Board in January. Staff will continue to refine the





COLORADO

Department of Transportation

Statewide Bridge and Tunnel Enterprise

project scope for this financing, monitor market conditions, and coordinate with the financing team to determine the final parameters to be approved in January. Current financing timing contemplates issuing and closing on the Series 2024A Revenue Bonds in February in order to deliver the necessary funding ahead of the March target.

Next Steps

1. Staff will continue to work with the underwriting syndicate, its Municipal Advisor, and Bond Counsel to prepare all necessary financing documents.
2. Staff will evaluate and refine structuring considerations to balance overall debt service costs with pay-go targets and identify the appropriate parameters.
3. Staff will work with its Municipal Advisor to present the financing to the rating agencies in December, receiving the ratings for the Series 2024 Revenue Bonds ahead of the January Board Meeting.

Attachments:

Appendix A: BTE 10-Year Plan Financing Progress Update

Appendix B: Draft Parameters Resolution for the Series 2024A Infrastructure Revenue Bonds





COLORADO

Department of Transportation

Statewide Bridge and Tunnel Enterprise 10-Year Plan Financing Progress Update

December 20, 2023



Agenda

1. Background Information
2. Progress Update
3. Documents for BTE Board Review
4. Schedule and Next Steps





FY24-FY27 BTE 10-Year Plan Commitments

- BTE is committed to fully funding the poor-rated bridges included in CDOT's 10-year plan
- The scale and timing of these projects creates a funding gap for BTE between FY24-FY27
 - \$700M+ in expenditures over four years
 - Funding gap has been fluctuating between \$325M - \$450M
- BTE is well positioned to address the funding gap with financing
 - Business purpose includes financing to address poor-rated bridges and complete tunnel projects
 - Authorized to issue revenue bonds and to enter into agreements for loans or grants with governmental or non-governmental entities
 - Bonding capacity currently exceeds \$600M based on bridge safety surcharge revenues; capacity increases to over \$750M if Bridge and Tunnel fee revenues are pledged*

* Pending resolution of outstanding litigation/board approval of pledging additional revenues



Progress Update

- Onboarded municipal advisor, bond counsel, and underwriting syndicate
- Identified working group (BTE, DAF, OFMB, AG's office, DTD, external support)
- Completed 1st Draft of Preliminary Official Statement and Bond Indenture and held document review meeting
- Identified test scenarios for rating agencies' assessment processes
- Held ratings calls with Moody's and Standard and Poor's



Progress Update

General approach to financing has been confirmed

- Utilize multiple tranches
- Size tranches based on construction funding needs in each calendar year
- Issue \$150M-\$200M in long-term revenue bonds for the first tranche
- 30-year term
- Programmatic issuance (allow proceeds to be used for any project in BTE portfolio)
- Create new Infrastructure Revenue Bond lien



BTE Financial Status Summary incl. Future Revenue Bond Issuance

FY24-FY33 Available Revenues vs. Project Commitments by FY (\$ in Millions)

Category	FY24	FY25	FY26	FY27	FY28	FY29	FY30	FY31	FY32	FY33	Total
Forecast Revenues	\$ 149	\$ 156	\$ 175	\$ 182	\$ 190	\$ 199	\$ 202	\$ 203	\$ 207	\$ 208	\$ 1,871
Roll Forward	15	167	247	141	46	68	153	241	337	436	\$ 1,851
Non-Project Expenses	(51.0)	(52.0)	(65.0)	(65.0)	(66.0)	(70.0)	(69.0)	(70.0)	(70.0)	(70.0)	\$ (648)
10-Year Plan Projects	(47)	(181)	(278)	(181)	(64)	(7)	(8)	-	-	-	\$ (766)
Other Projects	(44)	(27)	(12)	(2)	(8)	(8)	(8)	(8)	(8)	(8)	\$ (133)
10-Year Plan Project Financing	150	200	100								\$ 450
New Debt Service	(5)	(16)	(26)	(29)	(29)	(29)	(29)	(29)	(29)	(29)	\$ (252)
Cumulative Capacity/Deficit	\$ 167	\$ 247	\$ 141	\$ 46	\$ 68	\$ 153	\$ 241	\$ 337	\$ 436	\$ 537	



Forecast low point in funding resources



FY28-FY32 Avg. Annual Funding Capacity = \$90M

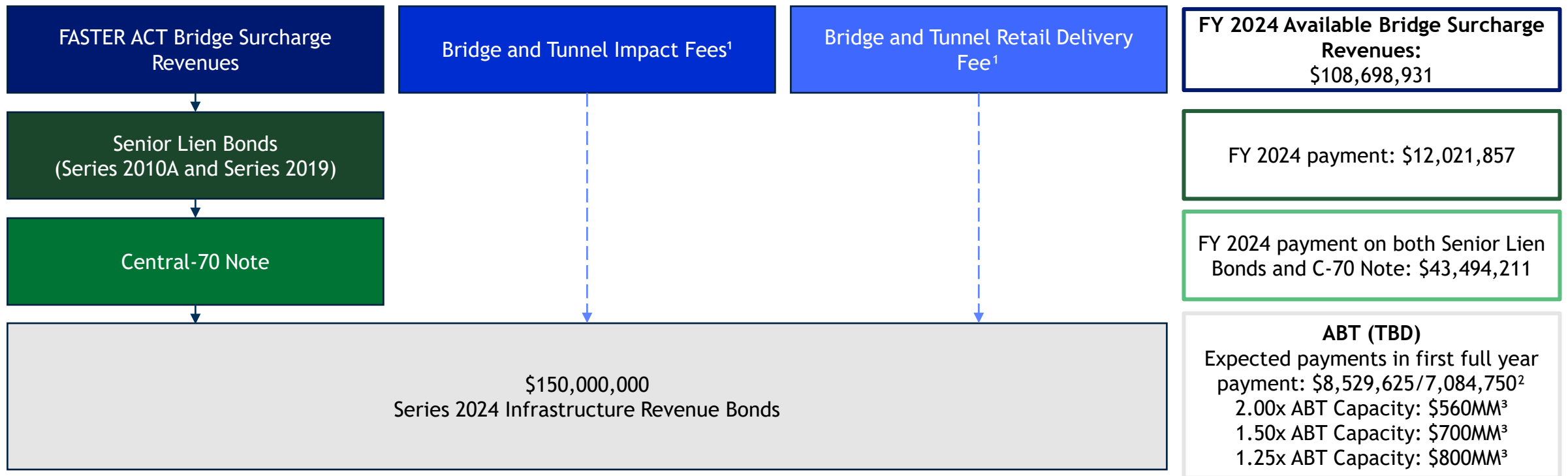
Analysis Assumptions:

- Three revenue bond issuances of \$150M, \$200M, and \$100M in FY24, FY25, and FY26 respectively
- 30-year term, Level debt service payment structure
- Maximization of available BTE pay-as-you-go revenues for 10-year plan projects
- Small residual budget maintained for additional safety critical bridge projects or other unforeseen needs
- Project funding needs subject to change as refined cost and schedule information becomes available



New Infrastructure Revenue Bond Lien

- One of the scenarios being considered for the Additional Bonds Test (“ABT”) on the new working lien is the surplus Bridge Surcharge revenues (current year Bridge Surcharge revenues, less current year 2010 Indenture Bonds (Series 2010/2019 and Central 70 note)) debt service



¹ Pending resolution of outstanding litigation/board approval of pledging additional revenues

² MADS for Level/Wrapped Debt Service for Series 2024

³ Based on current revenues and market conditions



Rating Agencies' Assessment Process

- BTE is pursuing ratings with S&P and Moody's for consistency with prior issuances
- BTE Series 2019A bond ratings = S&P (AA stable) and Moody's (Aa2 stable)

S&P	Moody's	Rating Grade and Description (Ref: Moody's)
AAA	Aaa	Highest quality, minimal risk
AA+	Aa1	High quality, very low credit risk
AA	Aa2	
AA-	Aa3	
A+	A1	Upper-medium-grade, low credit risk
A	A2	
A-	A3	
BBB+	Baa1	Moderate credit risk. They are considered medium grade and as such may possess speculative characteristics.
BBB	Baa2	
BBB-	Baa3	



Rating Agencies' Assessment Process

As BTE and CDOT continue to evaluate structure options for a new Infrastructure Revenue Bond Lien, the Moody's Rating Assessment Service and S&P Rating Evaluation Service will be utilized to assess various rating outcomes based on the following variables:

- Various additional bonds tests (ABT)
- Inclusion of a debt service reserve fund
- Future pledge of bridge and tunnel impact fees and bridge and tunnel retail delivery fees upon successful resolution of litigation



Documents for BTE Board Review

- The Draft Parameters Resolution has been included in this month's packet. Board approval will be requested in January 2024.
- In addition to the Parameters Resolution, the Board will be provided the official statement and bond indenture





Parameters Resolution

Parameters Resolution: Board approval of the issuance of the Bonds for the first tranche so long as certain financing conditions are met

What will be approved?

Not to exceed par amount

- Maximum amount that can be issued by BTE

Not to exceed interest rate

- Maximum interest rate that can be issued by BTE

Not to extend beyond final maturity date

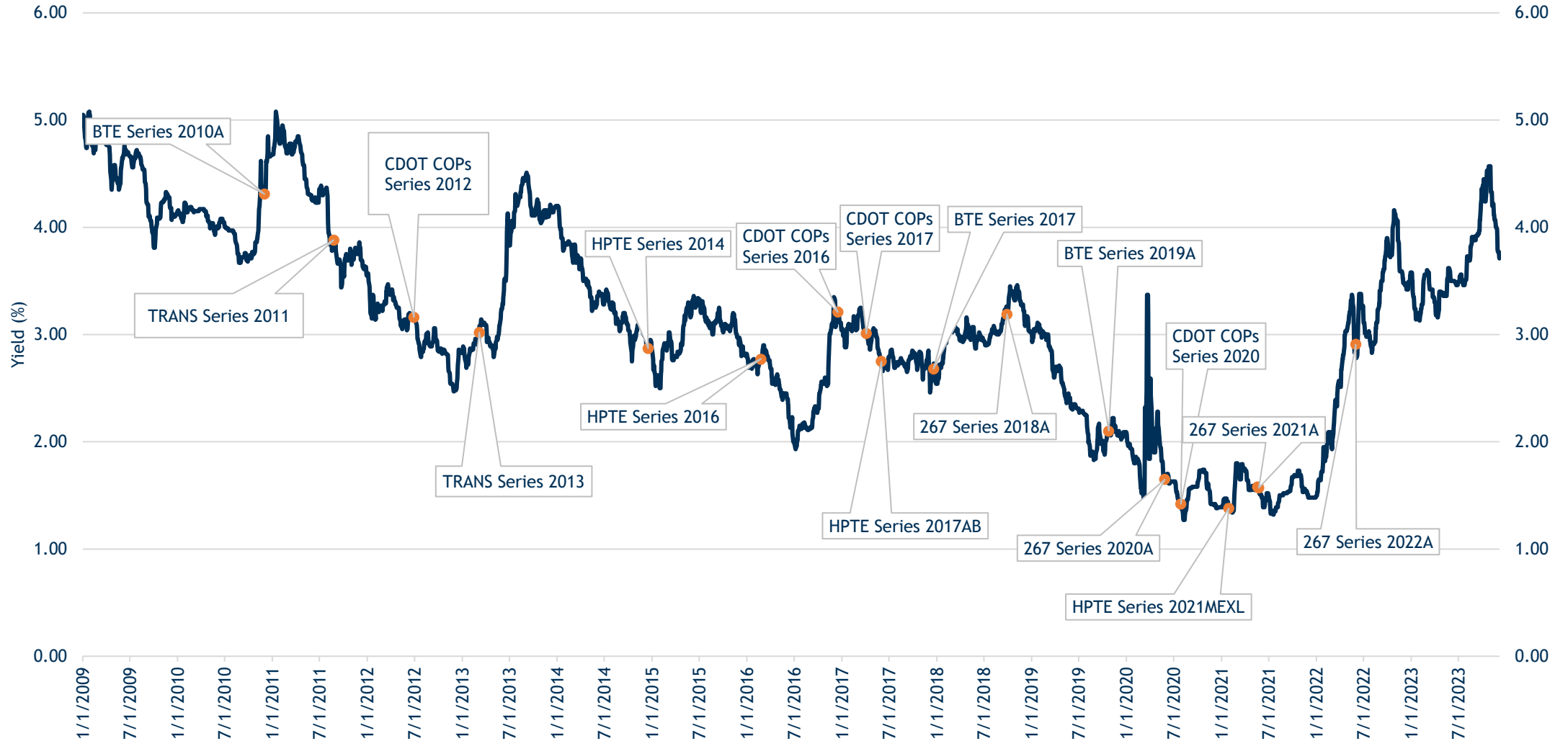
- Date the bonds must be fully paid by
- Does not limit refunding opportunities

The resolution will also provide Board authorization to Staff to execute the financing documents



30-Year MMD (Since 2009) with CDOT/CTIO/CBTE Bond Sale Dates

30-Year Municipal Market Data (MMD) Yield
January 2, 2009 - December 6, 2023





Prospective Timing and Key Steps for the Series 2024 Bonds

- As BTE and CDOT continue to evaluate financing options and timing for the Series 2024 Bonds, the timeline below outlines the key steps and general timing for the issuance. Events involving the Board have been bolded and underlined

December	January	February	March
<ul style="list-style-type: none"> 2nd draft of POS and financing documents distributed Rating packets distributed to agencies <u>Briefing at December workshop</u> Rating calls 	<ul style="list-style-type: none"> Ratings received <u>Request for BTE Board approval of parameters resolution and review of financing documents</u> Underwriter's due diligence call Post POS and investor presentation 	<ul style="list-style-type: none"> Pricing (expected February 6th) Final official statement posted Closing (expected February 21st) 	<ul style="list-style-type: none"> Funds needed for construction <u>Request for BTE Board approval to fund to construction phases of Floyd Hill CP#3 and I-25 through New Pueblo Freeway</u>



COLORADO

Department of Transportation

Questions or comments?



Patrick Holinda, P.E., Program Manager
Bridge and Tunnel Enterprise
Patrick.Holinda@state.co.us

Katie Carlson, Financial Manager
Bridge and Tunnel Enterprise
Katherine.Wagnon@state.co.us



Resolution #BE-24-[]-[]

Approving Certain Matters with Respect to the Colorado Bridge and Tunnel Enterprise Infrastructure Revenue Bonds, IRB Senior Series 2024A

WHEREAS, the Colorado General Assembly originally created the Colorado Statewide Bridge and Tunnel Enterprise (the “Enterprise”) as the “Colorado Statewide Bridge Enterprise” pursuant to the Funding Advancements for Surface Transportation and Economic Recovery Act of 2009, title 43, article 4, part 8, Colorado Revised Statutes, as amended (as so amended, “FASTER”), as a government-owned business within the Colorado Department of Transportation (“CDOT”), with the original purpose of accelerating the repair and reconstruction of deficient bridges further defined as structures that are “poor” (referred to in FASTER as “Designated Bridges”), and, to finance expenditures relating thereto, the authority to impose a Bridge Surcharge (as defined in FASTER); and

WHEREAS, in furtherance of such statutory purpose, the Enterprise entered into a Master Trust Indenture dated as of December 15, 2010 (the “2010 Master Indenture”) with Wells Fargo Bank, N.A., as trustee (as succeeded by Zions Bancorporation, National Association, in such capacity, the “2010 Indenture Trustee”), and: (a) a 2010 Supplemental Trust Indenture dated as of December 15, 2010 between the Enterprise and the 2010 Indenture Trustee, pursuant to which the Enterprise issued its Revenue Bonds, Senior Taxable Build America Series 2010A; (b) a 2017 Supplemental Trust Indenture dated as of December 21, 2017 between the Enterprise and the 2010 Indenture Trustee, pursuant to which the Enterprise issued its First Tier Subordinate Revenue Note (Central 70 Project) and made certain amendments to the 2010 Master Indenture; and (c) a 2019 Supplemental Trust Indenture dated as of December 3, 2019 between the Enterprise and the 2010 Indenture Trustee, pursuant to which the Enterprise issued its Senior Revenue Refunding Bonds, Series 2019A (the 2010 Master Indenture, the supplemental trust indentures referred to above in this recital, any future supplemental trust indentures executed pursuant to the 2010 Master Indenture are referred to herein collectively as the “2010 Indenture,” and the obligations of the Enterprise referred to above in this recital and any additional obligations issued by the Enterprise pursuant to the 2010 Indenture are referred to collectively herein as the “2010 Indenture Obligations”); and

WHEREAS, subsequent to the original enactment of FASTER, the Colorado General Assembly has enacted certain amendments to FASTER, including in SB 21-260 and HB 23-1276, pursuant to which the Enterprise was renamed as the “Colorado Statewide Bridge and Tunnel Enterprise,” and its lawful purposes were expanded to include the completion of Preventative Maintenance Bridge Projects and Tunnel Projects in addition to Designated Bridge Projects (as each such term is defined in FASTER) and

WHEREAS, to fund such additional statutory mandate, said amendments authorized the Enterprise to impose Bridge and Tunnel Impact Fees and Bridge and Tunnel Retail Delivery Fees (as each such term is defined in FASTER) in addition to Bridge Surcharges; and

WHEREAS, On April 27, 2022, plaintiffs filed litigation styled *Americans for Prosperity v. State of Colorado*, Case No. 2022CV30971 (referred to herein as the “AFP Lawsuit”) challenging the validity of SB 21-260 and the expansion of the powers of the Enterprise made thereby, including the authorization of the Enterprise to impose the Bridge and Tunnel Impact Fees and Bridge and Tunnel Retail Delivery Fees, under certain Colorado constitutional and statutory provisions; and

WHEREAS, as a means to fulfilling the Enterprise’s expanded statutory mandate, the Board of Directors of the Enterprise (the “Enterprise Board”) desires that the Enterprise enter into a new Master Trust Indenture (the “Master Indenture”) with Zions Bancorporation, National Association (in such capacity, the “Trustee”) for the purpose of authorizing the issuance of “infrastructure revenue bonds” (the “Bonds”) in one or more series for the purpose of financing Designated Bridge Projects, Preventative Maintenance Bridge Projects and Tunnel Projects (collectively, “IRB Projects”), as well as refunding outstanding IRB Bonds, 2010 Indenture Obligations or other financial obligations of the Enterprise; and

WHEREAS, the Master Indenture pledges to the Trustee the trust estate established thereby (the “IRB Trust Estate”), including without limitation (a) Bridge Surcharge revenues and other amounts transferred by the 2010 Indenture Trustee to the Trustee that are not required to pay debt service with respect to the 2010 Indenture Obligations, and (b) upon the rendering of a final, nonappealable favorable judgment with respect to the Enterprise in the AFP Lawsuit, revenues from the Bridge and Tunnel Impact Fees and Bridge and Tunnel Retail Delivery Fees; and

WHEREAS, in connection with the execution and delivery of the Master Indenture, the Enterprise Board desires to enter into a supplemental trust indenture supplementing the 2010 Indenture (the “2010 Indenture 2024 Supplemental Indenture”) for the purposes of (a) prohibiting the issuance or incurrence of further 2010 Indenture Obligations other than for purposes of refunding other outstanding 2010 Indenture Obligations for debt service savings, and (b) excluding the accounts established by the Master Indenture from the lien of the 2010 Indenture; and

WHEREAS, to finance costs of certain IRB Projects, the Enterprise Board desires to issue the “Colorado Bridge and Tunnel Enterprise Infrastructure Revenue Bonds, IRB Senior Series 2024A” (the “Series 2024A Bonds”) pursuant to the Master Indenture and the 2024A Supplemental Trust Indenture (the “2024A Supplemental Indenture”) between the Enterprise and the Trustee; and

WHEREAS, the Enterprise Board desires that the Series 2024A Bonds be sold pursuant to a Bond Purchase Agreement (the “Bond Purchase Agreement”) between the Enterprise and BofA Securities, Inc. as representative of the underwriting group composed of itself and Wells Fargo Bank, National Association, Piper Sandler & Co., Loop Capital Markets, LLC and Drexel Hamilton, LLC (collectively, the “Underwriters”); and

WHEREAS, in connection with the marketing and sale of the Series 2024A Bonds, the Underwriters have requested that the Enterprise approve the distribution and use of a preliminary official statement and final official statement with respect to the Series 2024A Bonds (the “Preliminary Official Statement” and the “Official Statement,” respectively); and

WHEREAS, in connection with the issuance of the Series 2024A Bonds, the Enterprise will be required to enter into a continuing disclosure undertaking (the “Continuing Disclosure Undertaking”), pursuant to which the Enterprise will be required to file certain financial and operating information with respect to the Enterprise and CDOT on an annual basis, and notice of the occurrence of certain enumerated events, with the Municipal Securities Rulemaking Board; and

WHEREAS, the Series 2024A Bonds, when issued, will be special, limited obligations of the Enterprise, payable solely from and secured solely by a senior pledge and lien on the IRB Trust Estate, and will not create, and shall not be deemed or construed as creating, a debt or multiple fiscal year direct or indirect debt or other financial obligation of CDOT or the State of Colorado (the “State”); and

WHEREAS, there is on file with the Enterprise Board forms of the Master Indenture, the 2024A Supplemental Indenture (including the form of the Series 2024A Bonds appended thereto), the 2010 Indenture 2024 Supplemental Indenture, the Bond Purchase Agreement and the Continuing Disclosure Undertaking (collectively, the “Bond Documents”), and a form of the Preliminary Official Statement with respect to the Series 2024A Bonds; and

WHEREAS, the Enterprise Board desires to authorize and approve the issuance of the Series 2024A Bonds, the execution and delivery of the Bond Documents, the use and distribution of the Preliminary Official Statement, and the execution, use and distribution of the Official Statement; and

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

NOW THEREFORE BE IT RESOLVED, pursuant to and in accordance with the Constitution and laws of the State, including, without limitation, FASTER and the Supplemental Public Securities Act, title 11, article 57, part 2, Colorado Revised Statutes, as amended (the “Supplemental Securities Act”), the Enterprise Board hereby approves and authorizes the issuance of the Series 2024A Bonds by the Enterprise, and the execution and delivery of the same on behalf of the Enterprise by the Director of the Enterprise (the “Enterprise Director”) or any member of the Enterprise Board, in a maximum principal amount not to exceed \$ _____ and with a final maturity not later than _____, 20__, in substantially the form appended to the 2024A Supplemental Indenture, with such changes therein and additions thereto, not inconsistent with this Resolution, as are approved by the person(s) executing the same (whose signature(s) thereon shall constitute conclusive evidence of such approval). The Enterprise Board hereby elects to apply all of the provisions of the Supplemental Securities Act to the issuance of the Series 2024A Bonds and, pursuant to the provisions of the Supplemental Securities Act, hereby delegates to the Enterprise Director or any member of the Enterprise Board the determination of those terms of the Series 2024A Bonds provided for in Section 11-57-205, Colorado Revised Statutes, as amended (subject to the maximum principal amount and maximum final maturity set forth above).

BE IT FURTHER RESOLVED, the Enterprise Board hereby approves the Bond Documents and authorizes and directs the Enterprise Director or any member of the Enterprise Board to execute and deliver each of the Bond Documents on behalf of the Enterprise, in substantially the respective forms filed with the Enterprise Board prior to the meeting of the Enterprise Board at which this Resolution is adopted, with such changes therein and additions thereto, not inconsistent with this Resolution, as are approved by the person(s) executing the same on behalf of the Enterprise (whose signature(s) thereon shall constitute conclusive evidence of such approval).

BE IT FURTHER RESOLVED, the Enterprise Board hereby approves and authorizes the distribution and use by the Underwriters, in connection with the marketing and sale of the Series 2024A Bonds, of the Preliminary Official Statement, in the form thereof filed with the Enterprise Board prior to the meeting of the Enterprise Board at which this Resolution is adopted, with such changes therein and additions thereto, not inconsistent with this Resolution, as are approved by the Enterprise Director, any member of the Enterprise Board or other duly authorized officer of the Enterprise, and hereby approves and authorizes the distribution and use by the Underwriters in connection with the marketing and sale of the Series 2024A Bonds, and the execution thereof by the Enterprise Director any member of the Enterprise Board or other duly authorized officer of the Enterprise, of a final Official Statement, in substantially the form of the Preliminary Official Statement, with such changes therein and additions thereto, not inconsistent with this Resolution, as are approved by the person(s) executing the same on behalf of the Enterprise (whose signature(s) thereon shall constitute conclusive evidence of such approval).

BE IT FURTHER RESOLVED, the Enterprise Board hereby finds, declares and determines that the Series 2024A Bonds, when issued, will be special, limited obligations of the Enterprise, payable solely from and secured solely by the IRB Trust Estate, and will not create, and shall not be deemed or construed as creating, a debt or multiple fiscal year direct or indirect debt or other financial obligation of CDOT or the State.

BE IT FURTHER RESOLVED, the Enterprise Board hereby finds, declares and determines that the Enterprise is an “enterprise” within the meaning of Article X, Section 20 of the Constitution of the State, and hereby covenants and agrees for the benefit of the registered owners of the Series 2024A Bonds that so long as any of the Series 2024A Bonds remain outstanding, the Enterprise will continue to qualify as an “enterprise” within such meaning; provided, however, after the Enterprise’s fiscal year ending June 30, 2024, the Enterprise Board may disqualify the Enterprise as an “enterprise” in any year in which the Enterprise Director certifies that said disqualification will not materially adversely affect the enforceability of the Series 2024A Bonds, any of the Bond Documents, the Master Indenture, the 2024A Supplemental Indenture, or the 2010 Indenture 2024 Supplemental Indenture.

BE IT FURTHER RESOLVED, the Enterprise Board hereby authorizes the Enterprise Director, any member of the Enterprise Board or other duly authorized officer of the Enterprise, to execute and deliver such certificates and other documents (including, but not limited to, one or more tax compliance certificates or similar documents with respect to the Series 2024A Bonds) and take such other actions as may be necessary or convenient to the accomplishment of the purposes of this Resolution and the documents referred to herein, including, without limitation,

the delivery of all certificates and other documents required to be delivered by the provisions of the Bond Purchase Agreement, the 2024A Supplemental Indenture or the Master Indenture.

BE IT FURTHER RESOLVED, the Enterprise Board hereby ratifies and confirms any action previously taken by the Enterprise Director and any other officers and employees of the Enterprise and any delegations the Enterprise Director has made prior to the date hereof with respect to the issuance of the Series 2024A Bonds.

BE IT FURTHER RESOLVED, all prior acts, orders or resolutions, or parts thereof, of the Enterprise that are in conflict with this Resolution are hereby repealed, except that this repealer shall not be construed to revive an act, order or resolution, or part thereof, heretofore repealed.

BE IT FURTHER RESOLVED, if any section, paragraph, clause or provision of this Resolution or any of the documents referred to herein shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Resolution.

BE IT FURTHER RESOLVED, this Resolution shall take effect immediately upon its introduction and passage.

[remainder of page intentionally left blank]

I hereby certify that the attached Resolution Number BE-24-_____ is a true and exact copy of the resolution adopted by the Board of Directors of the Colorado Statewide Bridge and Tunnel Enterprise on January 18, 2024.

By _____
Herman Stockinger, Secretary
Colorado Statewide Bridge and Tunnel Enterprise

Date of Approval

DRAFT

DRAFT November 15-16, 2023 Transportation Commission (TC) Meeting Notes

Workshops and Regular Meeting
Wednesday, November 15, 2023

1:00 pm to 5:00 pm

Youtube link:

[November 15, 2023 Transportation Commission Meeting Recording](#)

Transportation Commission Workshops

Call to Order, Roll Call

All 11 Transportation Commissioners were present: Chair: Karen Stuart, Vice Chair: Terry Hart, Eula Adams, Yessica Holguin, Mark Garcia, Shelley Cook, Hannah Parsons, Barbara Bowman, Jim Kelly and Rick Ridder, and Megan Vasquez.

Budget Workshop (Jeff Sudmeier and Bethany Nicholas), [Recording Timestamp 00:18:15](#)

Purpose and Actions:

- FY 2024-25 Proposed Budget Allocation Plan and 5th Budget Supplement
 - Purpose and Action: To review and approve the proposed FY 2024-25 Annual Budget Allocation Plan. The Division of Accounting and Finance (DAF) is requesting Transportation Commission (TC) review and approval of the Proposed FY 2024-25 Annual Budget Allocation Plan. The TC will be asked to adopt the proposed draft budget in November, and the final budget at the meeting in March 2024 after the plan is updated, based on the December 2023 revenue forecast.
 - As part of the FY 2024 5th Budget Supplement Region 2 is requesting \$733,000 - FASTER Safety funds for CO115 RAMPS @ US 50 - Request \$733,000 for the award of this project which will build a roundabout at the offramp intersection of US50 and SH115. Funds are available from the FASTER program.
 - Also part of the FY 2024 5th Budget Supplement - request for TC Contingency Funding for CO 17 culvert failures: Region 5 requests the use of \$5,500,000 of TC Contingency Reserve to complete repairs to two failed culverts located on Cumbres Pass. Part of the FY 2024 5th Budget Supplement.

Discussion:

- No substantial discussion arose from the TC members.

Overview of How CDOT Maintains our System in a State of Good Repair (informational)(Shoshana Lew, Keith Stefanik, and John Lorme) [Recording Timestamp 00:39:09](#)

Purpose and Action: To update the TC on CDOT's approach to maintain our transportation system. No action was required.

Discussion:

- CDOT is answering the question as the year ends of what is CDOT doing to improve the roads with maintenance funds as part of the 10-Year Plan.
- Keith Stefanik, CDOT Chief Engineer, noted the history of large project expenditures, pavement improvement projects, 10-Year Plan accomplishments, the rural paving program, and the current focus on fixing poor interstate pavement.
- John Lorme, Director of the Division of Operations and Maintenance and team conducted a presentation outlining the additional \$35M of funding from the TC for pavement investment and post winter critical pavement improvements, and the strategic pavement preservation program. Winter operations take the majority of the maintenance budget in Colorado. The accomplishments of this Division were highlighted, even when confronted with a 35% vacancy rate. CDOT has made a lot of gains over the past year to address this issue.
- Chief Stefanik also provided an overview of the Asset Management Program.
- A Commissioner noted that funds for some assets are lower than they have been previously. CDOT responded that we must strategize and funnel funds as best they can to meet performance targets established, as CDOT funding is limited.
- A Commissioner asked about costs associated with road closures. It was explained that it would be dependent on the roadway and traffic conditions when estimating an hourly cost.

BTE 10-Year Plan Financing Workshop (Informational)(Patrick Holinda and Katie Carlson) [Recording Timestamp 01:12:47](#)

Purpose and Action: To provide the Bridge and Tunnel Enterprise ("BTE" or the "Enterprise") Board of Directors (Board) and the TC additional information from the October workshop with specific information relating to the upcoming bond issuance to fund a portion of the 10-Year Plan. No approval action is being requested this month. Staff requests Board and TC feedback on ongoing Enterprise planning activities. Both Level and Wrapped debt service options for BTE were discussed.

Discussion:

- A Commissioner asked about the Retail Delivery fees and BTE impact Fees would like to understand this more.
- There is a fee schedule phased in over time - the delivery fee is indexed to inflation, and the BTE impact fee is phased in over 10 years.
- The fees are in the process of being collected today.
- It was explained that the rating impact is only impactful on BTE, with no impact to CDOT.

HR 23-1101 TPR Study (Informational)(Herman Stockinger and Jamie Grim) [Recording Timestamp 01:42:54](#)

Purpose and Action: To submit the final report to the TC of the Transportation Planning Region (TPR) Study pursuant to the provisions of HB 23-1101. CDOT staff plans to ask the TC to open the Planning Rules in January 2024. No Action is requested.

Staff Recommendations

1. Recommendations for CDOT Staff

- a. An improved TPR-related website to better enable the public to find information about all TPRs in the state.
- b. Increased outreach to elected officials, especially newly elected, to make sure they have the background and understanding of CDOT as an organization and the role of TPRs and MPOs.
- c. Organize annual or biannual meetings for all of the TPR administrators to discuss processes and share best practices for TPR management.
- d. Consider whether current funding to TPRs is adequate and make necessary adjustments if needed.

2. Statewide Transportation Advisory Committee (STAC) and Transit and Rail Advisory Committee (TRAC) Recommendations

- a. Establish term limits for STAC Chairs and Vice-Chairs. Up to two consecutive terms of two years each, with details worked out by STAC via an update to their bylaws.
- b. Rotate Chairs/Vice-Chairs between rural TPRs and urban TPRs, ensuring STAC leadership always has both a rural and urban voice, with details worked out by STAC via an update to their bylaws.
- c. Add the Chair of the Transit and Rail Advisory Committee (TRAC) to STAC as a non-voting member.
- d. Encourage multiple TPRs whose members have overlapping political jurisdictions to adopt governing documents to disallow a single political jurisdiction from representing two TPRs on STAC at any given time.

3. TPR Governance Recommendations

Ensure that TPR governing documents follow statutory requirements and best practices for public bodies. To ensure TPRs understand and incorporate these requirements, the TC should require the TPRs' governing documents and processes establish TPR Name, Members, TPR member and TPR administrator duties in accordance with state requirements, establish bylaws for selection of officers, election procedures, length of officer terms, quorum and voting procedures, etc., and ensure meetings are open to the public and publicly noticed, provide accessible (including internet accessible) meeting agendas and minutes, ensure meetings allow time for public comment on the agenda, and other required Regional Planning Commission/TPR practices and responsibilities outlined in state statute.

4. TPR Boundary Recommendations

- a. Combine SETPR and SCTPR into one new TPR.
- b. Divide the Intermountain TPR in two TPRs. The West IMTPR would include Garfield, Pitkin, and the SW portion of Eagle County. The East IMTPR would include Summit, Lake, and the bulk of Eagle County.

Next Steps

Now that CDOT has completed the required study, the TC can review this report and consider the recommendations. The rulemaking process is expected to kick off in January 2024, with the Department requesting the TC open the Planning Rules. The process will include formal public hearings and is expected to conclude by July 2024.

Discussion:

- A Commissioner noted receiving multiple emails on this subject. Asked about weighting factors and what data is most important to consider for TPR boundary changes. The statute includes a laundry list of data to consider, with no priority order. However VMT and population are important in terms of STAC representation, along with lane miles and truck VMT.
- It was explained that all of the TPR website posts, along with all the letters and emails received and are in an appendix to the study.

- The next steps and the role of the TC, was explained to the TC members. TC will be requested to open public rulemaking in January 2024, with public hearings after that, with a final TC decision in June 2024.
- TC members noted they are reading the emails and letters received from stakeholders and carefully considering them.

Fuels Impact Draft FY 2024 & FY 2025 Budgets (Informational)(Darius Pakbaz and Jeff Sudmeier) [Recording Timestamp 02:38:30](#)

Purpose and Action: Purpose This workshop intends to provide a summary of the draft budgets for Fiscal Year 2024 & Fiscal Year 2025 for consideration by the Fuels Impact Enterprise Board of Directors (Board). This is for discussion only. Draft Budgets, with adjustments requested by the Board of Directors, will be brought for adoption at a future board meeting. The FY 2024 revenue for the budget is anticipated to be \$ 11,250.00, and FY 2025 is anticipated to be \$16,160,500.00.

Discussion:

- Rules of Incorporation of the Organization and Bylaws of the Fuels Impact Enterprise are being requested to be adopted at the November TC meeting.
- A Commissioner asked about specific CDOT staff activities that are required to support this Enterprise. The response was: supporting budget development and project schedules, and project administration, using Enterprise funds, and act as the spokesperson. The project money is designed to fund projects for enhancing freight movement in local jurisdictions, and the TC is the Fuels Enterprise Board.
- Fuels Impact reduction fee is looking at \$15M for the Enterprise - the Enterprise can't collect more than that. Board directs expenditure for \$5.9M of projects.
- Final Fuel Impacts Enterprise budget adoption will occur with the final CDOT budget adoption.
- Anticipated to have staff person onboard for the second half of the FY 2024, if they start in January 2024.

CO 6 and Frontage Rd Devolution, Glenwood Springs (Decision)(Jason Smith) [Recording Timestamp 02:56: 54](#)

Purpose and Action: The City of Glenwood Springs would like CDOT to devolve US 6 and I-70 Frontage Road from just west of the Donegan Road interchange to 6th Street between Laurel and Maple Streets including the roundabout and portions of the interchanges as shown in the attached maps. Colorado Revised Statute 43-2-106 (1)(a) provides that the TC may determine that a state highway, or portion thereof, no longer functions as a state highway, and with the agreement of each affected county or municipality, the state highway, or portion thereof, can be abandoned to the affected county or municipality. CDOT Region 3 would like the TC to direct Region 3, by resolution if necessary, to initiate this process with the City of Glenwood Springs.

Discussion:

- This item will be under the consent agenda tomorrow.
- It was explained that this type of devolution has occurred elsewhere in the state, and the land use must be maintained as transportation, or the land reverts back to CDOT ownership.

Fee Based ROW Access - ITS Fiber Program (Informational) (Allie Axley) [Recording Timestamp 03:01:27](#)

Purpose and Action: CDOT is proposing authorization to implement a revised simplified fee structure and improved process to facilitate access to CDOT rights of way (“ROW”) for the deployment of broadband as mandated by Colorado Executive Order D-2022-0023 and Senate Bill 22-083. No action at this time, this workshop is informational only.

CDOT proposes charging an annual property use surcharge consistent with the United States Forest Service methodology and a one-time upfront fee to cover permitting costs. This method would cut the yearly fee by around 90% from our last proposal. Projects planned in the nine Colorado counties with over 200,000 people (Adams, Arapahoe, Boulder, Denver, Douglas, El Paso, Jefferson, Larimer, and Weld) would pay an annual surcharge of \$0.10 per foot of fiber optic cable. Projects planned in the remaining 55 counties would pay \$0.03 per foot annually. All counties would pay the same, one-time upfront permitting cost of \$0.05 per foot.

Discussion:

- Commissioner Garcia noted that there are gaps in the provision of fiber in Colorado. A key Issue noted includes the annual fee associated with the proposed fee structure. Legislation may come about to change fiber access rules.
- Emily Haddaway, State Legislative Liaison, noted that state Statute notes fair market value and includes the annual fee. May hear from the industry tomorrow regarding this proposal.
- Commissioner Adams asked about CDOT’s responsibility and where it lies for providing broadband.
- A project is under way to provide fiber from Ignacio to Pagosa Springs, initiated by two counties and other entities to address underserved communities including a tribe. Could use other routes for providing fiber, but would be a lost opportunity to CDOT.
- Director Lew noted this is not a money making venture for CDOT, just to cover costs or may not even cover CDOT’s cost.
- It was explained that the fees only relate to laying new fiber.
- The TC will act on this in December.

Mobility Committee - OIM Updates (Informational) (Kay Kelly) [Recording Timestamp 03:37:53](#)

Purpose and Action: To provide an overview of the Office of Innovative Mobility (OIM). This workshop was informational only. Goals and Accomplishments of OIM were outlined. OIM has received several grant awards that were highlighted in the presentation.

OIM reports to the CDOT Executive Director and is organized into four program areas with the following functions:

- Division of Transit and Rail - responsible for planning, developing, operating, and integrating transit and rail into the statewide transportation system.
 - Twelve Mobility Hubs are in development or under construction along I-25 and I-70.
 - Processing numerous grant awards annually
 - Work on Service Development Plan for Front Range Passenger Rail and other related work plan items.
- Electrification and Energy - working with partners across the public and private sectors to facilitate the expansion of both electric vehicles (EVs) and infrastructure across Colorado.
 - Stats on the rate of use and purchase of EVs for passenger, transit use were presented, along with the status of EV fueling access along EV Corridors.
 - The Clean Transit Enterprise overview was provided.

- Mobility Services - explores ways to make transportation more efficient and accessible by evaluating new and emerging transportation modes and data, along with encouraging and facilitating transportation demand management strategies.
 - TDM Grant Program Awards and the TDM Annual Conference were highlighted as accomplishments.
- Mobility Technology - guiding Colorado's strategy, policy and deployments of connected, autonomous and emerging transportation technologies.
 - Installation of Connected Vehicle Roadside Units continues, and approaching 250 units installed
 - Supporting CDOT's use of Autonomous Truck Mounted Attenuator vehicles, along with the Connected Colorado Project for coordinated transit trip planning.
 - CDOT is competing well nationally for grants to fund these types of projects.

Discussion:

- Commissioner Adams noted that CDOT OIM should highlight more and cover the topic of integrating equity in their programs. An Article in Urban Spectrum is one idea mentioned. Also, there is a need for a secondary market for EVs.
- Kay Kelly, CDOT OIM Chief, noted the work currently occurring for equity in existing OIM programs.
- Commissioner Bowman noted the future corridors identified for passenger rail service. and connected Colorado coordinated transit trip planning are interests.
- It was also noted that OIM is coordinating with Region 1 on the BRT projects.

Adjournment

Transportation Commission Regular Meeting, Thursday, November 16, 2023

9:00 am to 10:20 am

[November 16, 2023 Transportation Commission Meeting Recording](#)

Call to Order, Roll Call

Ten Transportation Commissioners were present: Chair: Karen Stuart, Vice Chair: Terry Hart, Eula Adams, Yessica Holguin, Mark Garcia, Shelley Cook, Hannah Parsons, Barbara Bowman, Jim Kelly and Rick Ridder were in attendance. Commissioner Megan Vasquez was excused.

Public Comments **(Recording Available upon Request)**

- Matt Salka, La Plata County Commissioner, represented the Southwest Region Coordinating Team which consists of: five counties, ten municipalities, the Ute Mountain Ute Tribe, and the Southern Ute Indian Tribe, ISPs, and Region 9. This group is working hard to improve broadband in their area. Three times this year the main line fiber was severed in southwest Colorado that resulted in waiting hours for connections to be restored, especially a concern for first responders. In terms of the CDOT proposed fee structure, the leasing existing CDOT fiber is not a problem, the fees for access to right-of-way to cover direct costs associated with permits is not a problem, but the recurring annual fees proposed are a problem. For CO

151 MP 0- MP 33.5 project - a four party partnership was formed between La Plata and Archuleta Counties, LaPlata Electric, and the Southern Ute Indian Tribe all contributing \$500,000 each to match a DOLA grant for the \$4M project from Ignacio to Pagosa Springs. Glad to hear that the Southern Ute Tribe is having right-of-way fees waived on tribal land by CDOT, as the project could not move forward with the annual fee structure proposed. Incorporating a fair market value (FMV) is controversial as part of any proposal. Commissioner Salka sits on many committees involved with broadband. Sixty-three counties in Colorado agreed to a bill to address the broadband annual fee, but the fee schedule is an issue negatively impacting rural areas of the state. Commissioner Salka requested the TC to hold off on approving the proposed right-of-way access fees for installing new infrastructure today, and wait to hear from the state legislature first.

- Earl Thomas Tafoya, Green Latinos - Thanked Commissioner Salka for the comments. There have been difficulties in communications with Latinos to coordinate work with the lack of internet access. A new employee at Green Latinos is Jacob Belgrad, who is a transportation advocate. Earl today is introducing his organization to CDOT, and Earl is very interested in working with Marsha Nelson, the CDOT Environmental Justice and Equity Branch Manager. Today at a meeting attended, they were talking about nuclear power, which is a concern for Latinos.
- Jason Hopfer, representing: Aero Wireless, Lumen, the Colorado Telecommunications Association, the Colorado Rural Broadband Coalition, and the Colorado Cable Telecommunications Association appreciated the time of CDOT staff to work with us and the reductions of the right-of-way fee structure. Even with the reduced fees, they pose a problem and are flat administrative costs on a per foot basis. Have a strong concern with the recurring annual fees. Assessing FMV is required by federal law, but we disagree and will bring more information on this later along with calculations on the impact of the proposed fee structure. Considering broadband as utility is something that is being researched. Fee schedule for both rural and urban areas, the term of length of permits are a concern. Need to understand better how the existing P3s will interact with this fee structure. Another question is will CDOT projects under 3 miles long use the P3 agreement. or the fee structure? Jason Hopfer will be sending his written comments as a backup to losing sound during this presentation. Jason was requested to please send written comments to Herman Stockinger, CDOT Deputy Executive Director.
- Stephanie Gonzales, Southeastern Colorado Enterprise Development Director, and the Southeast Transportation Planning Region (SETPR) Chair, expressed appreciation for the work of CDOT staff on the HB 23 - 1101 Study and their attendance at their TPR meetings, but further explained that Southeast TPR (SETPR) members do not agree with the proposed boundary merge of SETPR and South Central TPR (SCTPR) into one TPR. This change would make for a difficult planning process and issues surrounding each TPR are separate, and making one voice from two currently is also a concern. SETPR now has great participation and also the partnership with CDOT has improved, but now the risk of losing a voice has weakened the progress made in our partnership with CDOT, with this recommendation. Stephanie was willing to entertain any questions from the TC members.
- Ron Cook, SETPR and STAC member, reiterated Stephanie Gonzales' comments. All communities in SETPR are attempting to grow, but the data shows the population decreasing, but we don't believe that reflects what is happening in the area. Worried about the condition of our roads with a combination of TPRs occurring for their area. We are not in favor of the proposed combining of SETPR and SCTPR.
- Commissioner Stuart noted the amount of letters of opposition received that have been received and that are on file.

- David Corliss, Castle Rock Town Manager, noted that Castle Rock is enthusiastically embracing the Policy Directive 1601 requirements for the I-25 and Plum Creek Parkway interchange project. The community has assembled \$113 million for this interchange project at the rural/urban interface area. It is the most important project for our community in Castle Rock, with many other transportation projects denied approval in the past.

Comments of the Chair and Individual Commissioners ([Available Upon on Request Commissioners Adams through Ridder](#)) [Recording Timestamp Commissioner Bowman:00:00:30](#)

- Several Commissioners commented and thanked CDOT staff for their support with introducing new TC members to CDOT, and for maintenance staff for their hard work.
- Key events that were noted included attending the launch of the BRT projects along Colorado and Federal in CDOT Region 1, STAC meetings, and TPR meetings.
- Commissioner Adams mentioned attending the MOVE Colorado meeting and the Fiber Right-of-Way Committee meeting.
- Commissioner Ridder noted the Passenger Rail options being considered for Northwest Colorado.
- Commissioners Bowman and Holguin appreciated the deep dive into the CDOT budget. Commissioner Bowman attended the Brush Creek Park-n-Ride ribbon cutting, and both Commissioners Stuart and Bowman spoke of attending the Eisenhower Johnson Memorial Tunnel Operations Center opening.
- Several Commissioners noted thanking Herman and Jamie for their work on the TPR Study, and are reviewing and taking into account the letters and comments received regarding the TPR Study associated with HB 23-1101.
- Commissioner Parsons noted attending meetings at Fort Carson, a meeting in Fountain Rail Facility and at the Rail Workshop at the Governor's Mansion.
- Commissioner Holguin appreciated the I-70 and 32nd Bridge Replacement project being delivered on time and within budget.
- Commissioner Hart noted attending the Front Range Passenger Rail Meeting.
- Commissioner Stuart spoke at the TDM Conference, and appreciated the new Commissioners coming onboard, being becoming acclimated, and for the 101 lessons being offered to them.

Executive Director's Management Report (Shoshanna Lew) [Recording Timestamp 00:20:14](#)

- Director Lew acknowledged and thanked members of the public who offered their comments to the TC and to CDOT.
- CDOT is preparing for the winter travel season.
- We have hit exciting milestones for winter preparation, with the vacancy rate now at 17% compared to over 30% last year.
- It is time for Public Service Announcements (PSAs) on safe driving, as crash statistics rise nationally during the holidays. Director Lew cautioned travelers to keep aware of their surroundings while traveling.
- Projects - there are lots of big closures and ribbon cuttings, with lots more in the pipeline. For example, what do SB 260 dollars look like? That bridge over there.
- I -70 Auxiliary lanes between MP 203 and 205 are wrapping up.
- PD 1601 discussions being had are important goals and an example of a good faith effort, and encouraged the TC to adopt this project.

Chief Engineer's Report (Keith Stefanik) [Recording Timestamp 00:24:12](#)

- Chief Stefanik is not present as he is representing CDOT at the American Association of State Highway and Transportation Officials (AASHTO) conference.

CTIO Report (Piper Darlington) [Recording Timestamp 00:24:20](#)

- Board held election for new officers - Chair Stuart is leading the CTIO Board, and Vice -Chair is Joel Nobel from DRCOG for 2024.
- Two Action Items - new toll rates approved for South Gap Toll lanes and they approved changes to tolling policy for dynamic tolling.
- In terms of safety enforcement there has been a 60% drop in violations from 30% last month.

Federal Highway Administration (FHWA) Division Administrator Report (Andy Wilson) Report [Recording Timestamp 00:26:54](#)

- John Cater is also attending the AASHTO Conference with Keith Stefanik.
- CDOT submitted to FHWA as required by the IJJA:
 - The Carbon Reduction Strategies Report
 - Vulnerable Road User (VRU) Safety Assessment
- CDOT is a leader in carbon reduction strategy development, along with GHG Rules adopted, and for the VRU is a start, the assessment considers where we need to focus our efforts to reduce crashes for bicycle/pedestrian, and other alternative transportation users.

Statewide Transportation Advisory Committee (STAC Report (Vince Rogalski-STAC Chair) [Recording Timestamp 00:29:48](#)

- November 7th was the most recent STAC Meeting.
- State Legislative Liaison had nothing to report, but the special session happening today for property taxes.
- The Shut down of the Government - did not occur
- Jack Lew, CDOT Executive Director Lew's father, was confirmed as the U.S. Ambassador to Israel, and Vince extended his congratulations to the family.
- HB 23-1101 was discussed. It is getting TPR administrative practices more consistent, such as their documents of incorporation, and bylaws, and in line with the recommendations of the study. Most recommendations, the ones that pertain to TPR administration, were supported by the STAC.
- Recommended to have STAC term limits for leadership that would be for no more than 2 terms for 2 years each. STAC recommended extending to a limit of 3 terms instead. It was a close vote. Seven yes to six no.
- In terms of any TPR boundary recommendations by CDOT staff, that included merging SETPR and SCTPR, and splitting IMTPR into two - these both would have to happen simultaneously to keep the required 10 rural TPRs in Colorado. The STAC voted unanimously no to any and all the recommended TPR boundary changes.
- For Program Distribution, the STAC recommended the formulas proposed by CDOT staff.
- Region 1 Transportation Director, Jessica Myklebust, provided a Region 1 update and noted the status of projects and accomplishments.
- A STAC Work Plan proposal was discussed and cDOT staff solicited comments from the STAC members on what to focus on in 2024.
- The next STAC meeting will be January 4, 2024. No December STAC meeting is scheduled.

Act on Consent Agenda (Herman Stockinger) [Recording Timestamp 00:39:11](#)

- Proposed Resolution #1: Approve the Regular Meeting Minutes of October 18, 2023
- Proposed Resolution #2: IGA Approval >\$750,000
- Proposed Resolution #3: Devolution: CO 6K and Frontage Rd, Glenwood Springs
- Proposed Resolution #4: Update to Disposal: Parcel 13-EX, US 40, Steamboat Springs

A Motion by Commissioner Parsons to approve, and seconded by Commissioner Bowman, passed unanimously.

Discuss and Act on Proposed Resolution #5: 5th Budget Supplement FY 2023-2024 (Jeff Sudmeier) [Recording Timestamp 00:40:22](#)

- As part of the FY 2024 5th Budget Supplement Region 2 is requesting:
 - \$733,000 - FASTER Safety funds for CO115 RAMPS @ US 50 - Request \$733,000 for the award of this project which will build a roundabout at the offramp intersection of US50 and SH115. Funds are available from the FASTER program.
 - Region 5 requests the use of \$5,500,000 of TC Contingency Reserve to complete repairs to two failed culverts located on Cumbres Pass. Part of the FY 2024 5th Budget Supplement.

A Motion by Commissioner Kelly to approve, and seconded by Commissioner Garcia, passed unanimously.

Discuss and Act on Proposed Resolution #6: FY 2024-2025 Proposed Budget Allocation Plan (Jeff Sudmeier & Bethany Nichols) [Recording Timestamp 00:42:16](#)

A Motion by Commissioner Holguin to approve, and seconded by Commissioner Ridder, passed unanimously.

Discuss and Act on Proposed Resolution #7: Crystal Valley Interchange 1601 Approval (Nyssa Beach) [Recording Timestamp 00:43:55](#)

A Motion by Commissioner Kelly to approve, and seconded by Commissioner Parsons, and a roll call vote of the Commissioners in attendance passed unanimously, with Commissioner Vasquez excused.

- Commissioner Kelly noted the meaningful discussion regarding the PD 1601 TDM requirements are to be applauded and many questions arose regarding how to judge the requirements and more discussion is planned and moved to approve.
- Commissioner Cook noted lack of synching between the Policy and Procedural Directives, but that there is more to discuss and appreciated how CDOT is moving us in the direction we need to go.
- Commissioner Parsons echoed Commissioner Cook's comments and noted and thanked Mr. Corliss for the support from Castle Rock for this project and for the coordination from DRCOG.
- Commissioners Hart and Stuart echoed comments on the appreciation of the Castle Rock support and the nature of the proposal.

Adjournment



COLORADO
Department of Transportation
Office of the Chief Engineer

Engineering Contracts
2829 W. Howard Place, Ste. 339
Denver, CO 80204-2305

Memorandum

TO: Transportation Commission

FROM: Lauren Cabot

DATE: December 7, 2023

SUBJECT: Intergovernmental Agreements over \$750,000.00

Purpose Compliance with CRS §43-1-110(4) which requires intergovernmental agreements involving more than \$750,000 must have approval of the Commission to become effective. In order stay in compliance with Colorado laws, approval is being sought for all intergovernmental agencies agreements over \$750,000 going forward.

Action CDOT seeks Commission approval for all IGAs contracts identified in the attached IGA Approved Projects List each of which are greater than \$750,000. CDOT seeks to have this approval extend to all contributing agencies, all contracts, amendments and option letters that stem from the original project except where there are substantial changes to the project and/or funding of the project.

Background CRS §43-1-110(4) was enacted in 1991 giving the Chief Engineer the authority to negotiate with local governmental entities for intergovernmental agreements conditional on agreements over \$750,000 are only effective with the approval of the commission.

Most contracts entered into with intergovernmental agencies involve pass through funds from the federal government often with matching local funds and infrequently state money. Currently, CDOT seeks to comply with the Colorado Revised Statutes and develop a process to streamline the process.



Next Steps Commision approval of the projects identified on the IGA Project List including all documents necessary to further these projects except where there are substancial changes to the project and/or funding which will need reapproval. Additionally, CDOT will present to the Commission on the Consent Agenda every month listing all of the known projects identifying the region, owner of the project, project number, total cost of the project, including a breakdown of the funding source and a brief description of the project for their approval. CDOT will also present any IGA Contracts which have already been executed if there has been any substantial changes to the project and/or funding.

Attachments IGA Approved Project List





TRANSPORTATION COMMISSION REQUEST

TO: Transportation Commission
FROM: John Lorme, Director of Maintenance & Operations
CC: Herman Stockinger, Deputy Executive Director

DATE: December 20, 2023
SUBJECT: FY 24 Maintenance Project List

Purpose

The Maintenance Sections have identified projects valued at between \$150,000 and \$250,000 for construction in FY 24. The resolution details additions to project locations, type, and dollar value.

Action Requested

Per CRS 24-92-109, and PD 703.0 require CDOT to prepare estimates of proposed work exceeding \$150,000 up to \$250,000 for Transportation Commission approval prior to undertaking the work.

Background

The program allows the Maintenance Sections the flexibility to react to current needs by treating individual segments of highways showing distress.

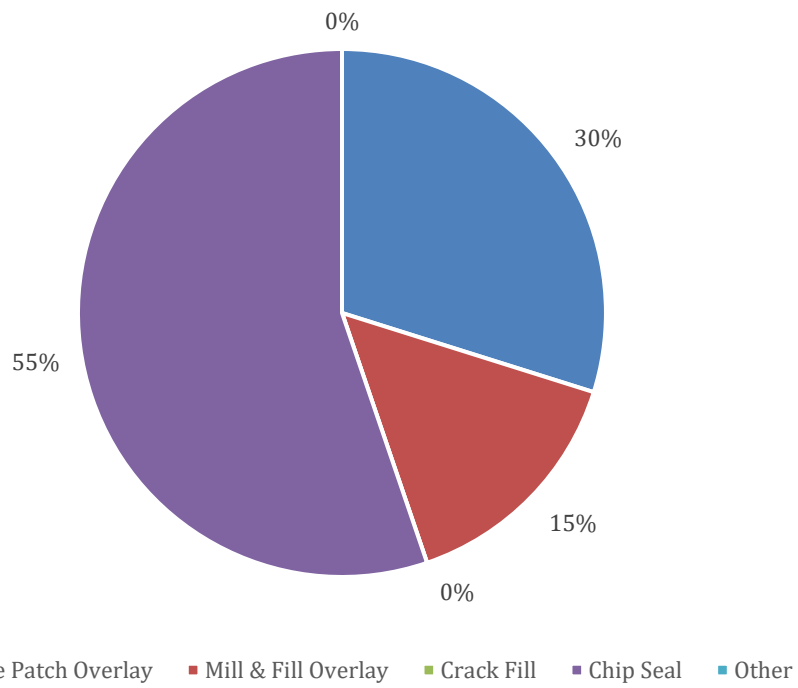
Sufficient funds exist within the appropriate MPA's to pursue these projects. The projects are in accordance with the directive and all other requirements. The Division of Maintenance & Operations recommends approval of the FY 24 over \$150,000 project list.

Key Benefits

Approval of these projects will allow the Maintenance forces to proceed with these projects ensuring the safety and mobility of the traveling public and enabling the continuation of commerce along the state highway system.



Fiscal-Year-to-Date Percentage for Each Project Category



Next Steps

Upon approval, the Maintenance forces will proceed with construction of these projects in FY 24.

Attachments

Resolution for Transportation Commission Approval - Includes Project List





MEMORANDUM

TO: THE TRANSPORTATION COMMISSION
FROM: KEITH STEFANIK, P.E. CHIEF ENGINEER
DATE: DECEMBER 21, 2023
SUBJECT: DISPOSAL OF PARCEL 1X, NEVADA & TEJON, COLORADO SPRINGS

Purpose

CDOT Region 2 is proposing to dispose of Parcel 1X, comprising 139,392 sq ft (3.2 acres) of right of way that is no longer needed for transportation or maintenance purposes. The property will be conveyed at fair market value in accordance with C.R.S. 43-2-210(5).

Action

CDOT Region 2 is requesting a resolution, in accordance with C.R.S. 43-1-210, approving the disposal of 139,392 sq ft (3.2 acres) of right of way that is no longer needed for transportation or maintenance purposes.

Background

Parcel 1X is located at the northwest corner of Nevada and Tejon, south of I-25 in Colorado Springs. It was originally acquired in 1955 as part of Project No. IM 0252-309 for a proposed off-ramp from I-25 to Arvada Street. The plans for the off-ramp shifted, leaving a large portion of the property unused. Region 2 constructed an office building on the site, which included space for both CDOT and the Colorado State Patrol, which was used until the current CMC site was built in 2001. Parcel 1X is currently vacant.

CDOT no longer needs the property for transportation or maintenance purposes and wishes to dispose of the property for fair market value. An appraisal report will be obtained, and the property will be sold for fair market value in accordance with C.R.S. 43-1-210(5).

Next Steps

Upon approval of the Transportation Commission, CDOT will market and sell Parcel 1X in accordance with C.R.S. 43-1-210(5). CDOT will execute a quitclaim deed to convey the subject property in exchange for fair market value. The deed will be recorded in the office of the El Paso and Recorder. Funds from the disposal shall be disbursed in accordance with Section 7.2.16 of the CDOT Right of Way Manual.

Attachments

Exhibits Depicting the Disposal Property



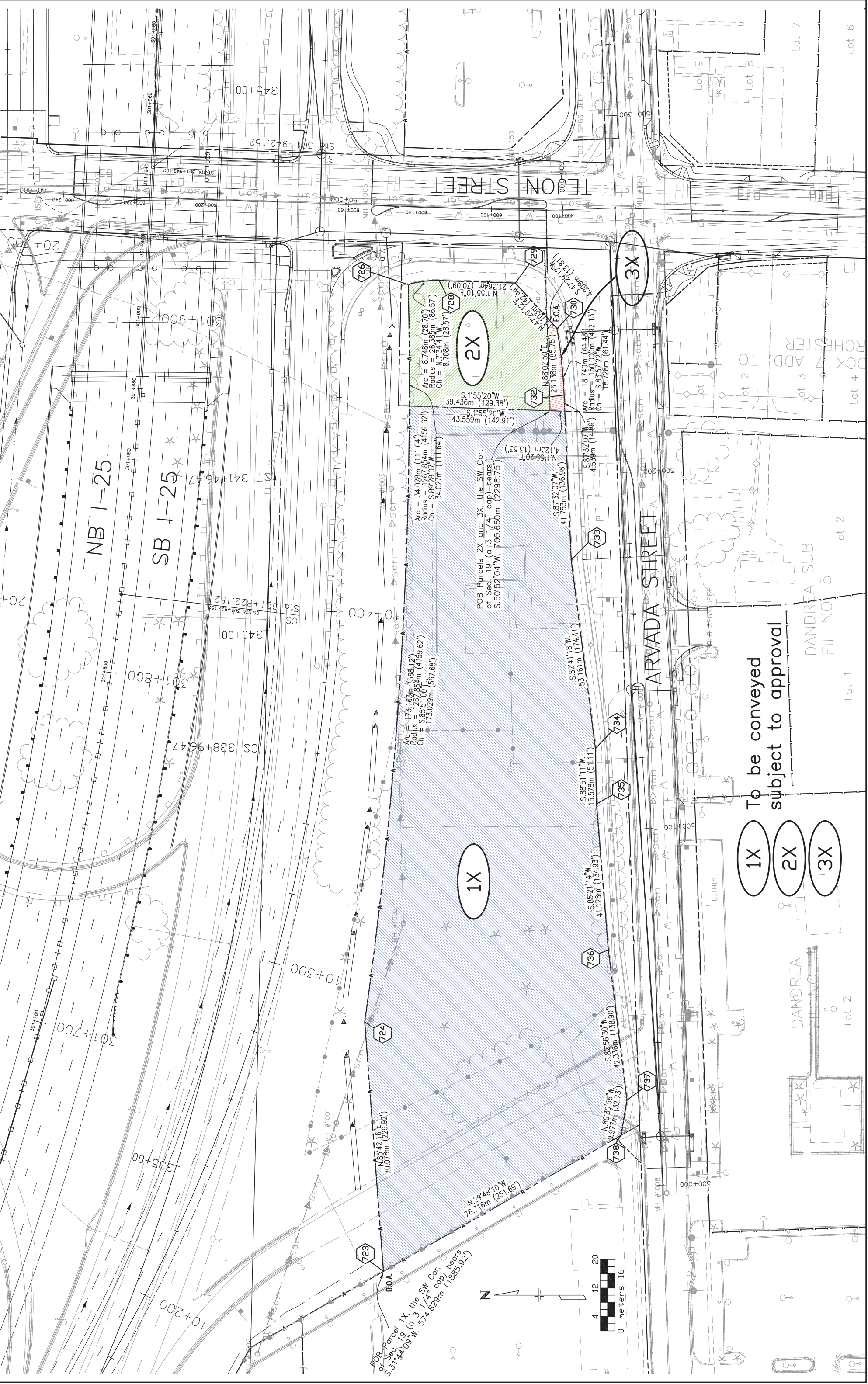
SW 1/4 Section 19,
T. 14 S., R. 66 W., 6th P.M.

REVISIONS	
5/6/04	Added new sheet

REVISIONS	

FEDERAL ROAD REGION NO.	DIVISION	PROJECT NO.	SHEET NO.	TOTAL SHEETS
VIII	COLORADO	IM 0252-309	7C	13

RIGHT OF WAY
NEVADA/TEJON INT.



1X To be conveyed
subject to approval

2X
3X

DANDREA SUB
FIL NO 5
Lot 2

DANDREA SUB
FIL NO 5
Lot 1

ROCK 7 ADD TO
Lot 4
Lot 3
Lot 2

TEJON STREET
Lot 7
Lot 6



MEMORANDUM

TO: THE TRANSPORTATION COMMISSION
FROM: KEITH STEFANIK, P.E. CHIEF ENGINEER
DATE: DECEMBER 21, 2023
SUBJECT: DISPOSAL: CLEAR CREEK COUNTY (PARCELS 204-EX, 204B-EX, 204A REV-EX)

Purpose

CDOT Region 1 is proposing to dispose of Parcels 204-EX, 204B-EX, and 204A Rev-EX, comprising a total of 37,026 Sq Ft (0.85 acres) that is no longer needed for transportation purposes.

Action

CDOT Region 1 is requesting a resolution, in accordance with C.R.S. 43-1-210(5), approving the disposal of 37,026 Sq Ft (0.85 acres) of property that is no longer needed for transportation or maintenance purposes.

Background

Parcels 204-EX, 204B-EX, and 204A Rev-EX were acquired in 1964 under project I 70-3(7)240 Section 1. C_51-0103-03. The subject parcels are located south of I-70, near MM 233, in Dumont, Clear Creek County. The parcels contain portions of Alvarado Road, which is maintained by Clear Creek County. Region 1 has determined the parcels are no longer needed for transportation or maintenance purposes. The County wishes to acquire the parcels at nominal value for the ongoing and future maintenance of Alvarado Road, in accordance with 23 CFR 710.403(e). Disposing of the road to Clear Creek County will relieve CDOT of the burden of maintenance on parcels that are not needed for transportation or maintenance purposes.

The Code of Federal Regulations 23.710.403 allows CDOT to dispose of property for less than fair market value to other governmental agencies for continued non-proprietary public use.

Next Steps

Upon approval of the Transportation Commission, CDOT will execute a quitclaim deed to convey 204-EX, 204B-EX, and 204A Rev-EX to Clear Creek County for nominal value, pursuant to the provisions of the C.R.S, 43-1-210(5) and 23 CFR 710.403. The deed will include a reversion provision stating that if the property that is the subject of the quitclaim deed is not used for non-proprietary public use, title to such property will automatically revert back to CDOT. The deed will be recorded in the office of the Clear Creek County Clerk and Recorder.

Attachments

Exhibit Depicting the Disposal Property



Exhibit A:

Parcels 204-EX, 204B-EX, 204A Rev-EX



Exhibit "A"

**NW 1/4 SEC 28
T3S R74W**

**NE 1/4 SEC 28
T3S R74W**

Alvarado Road shown
as paved

Anson P. Stephens Mill Site
M.S. No. 724

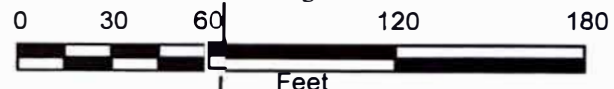
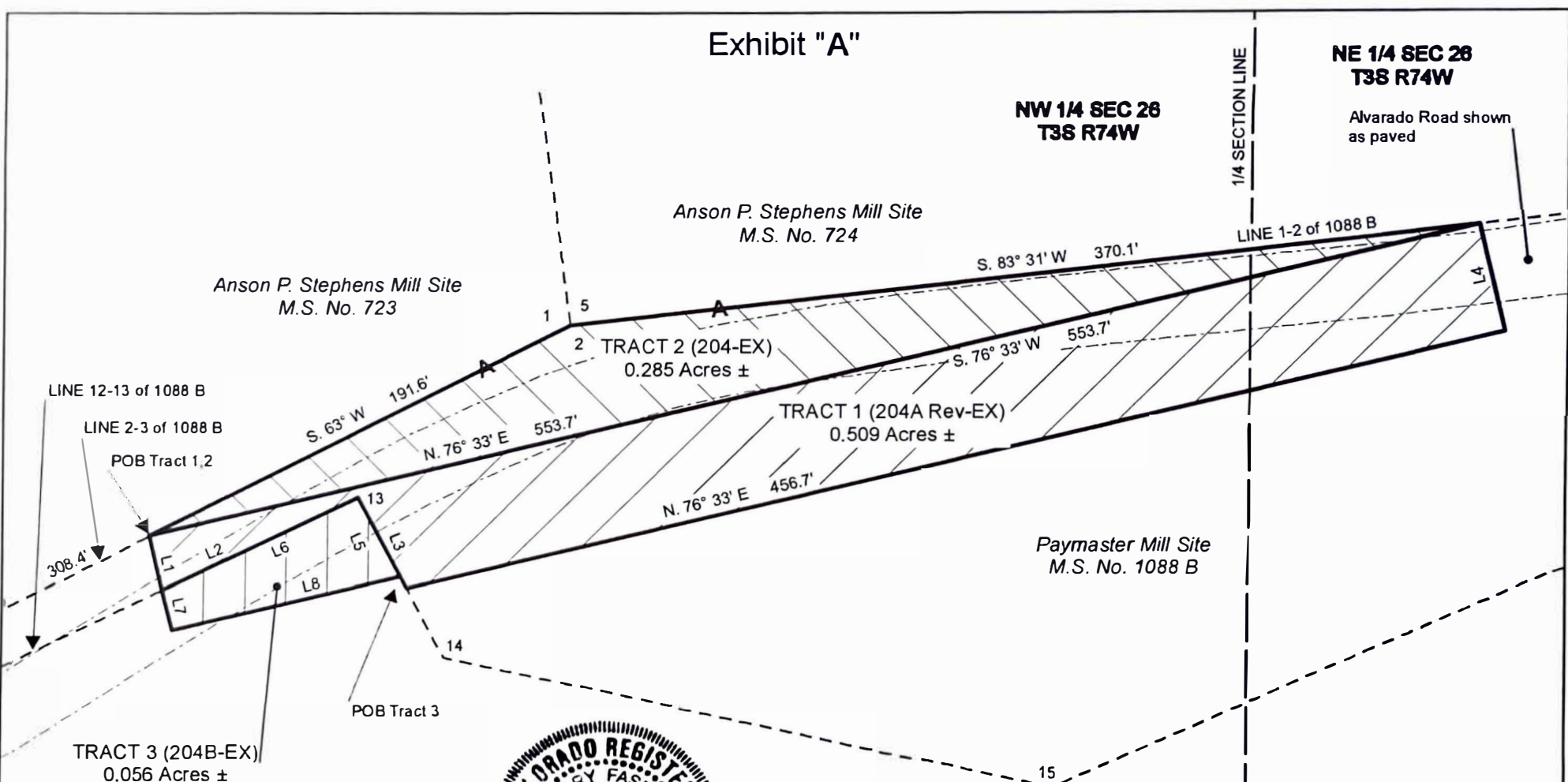
Anson P. Stephens Mill Site
M.S. No. 723

TRACT 2 (204-EX)
0.285 Acres ±

TRACT 1 (204A Rev-EX)
0.509 Acres ±

Paymaster Mill Site
M.S. No. 1088 B

TRACT 3 (204B-EX)
0.056 Acres ±



1 inch = 60 feet

LINE	BEARING	DISTANCE
L1	S. 13° 27' E.	23.0'
L2	N. 64° 08' E.	88.2'
L3	S. 28° 08' E.	42.8'
L4	N. 13° 27' W.	45.4'
L5	N. 28° 08' W.	37.2'
L6	S. 64° 08' W.	88.2'
L7	S. 13° 27' E.	17.1'
L8	N. 76° 33' E.	95.5'

EXHIBIT A		
Title: Alvarado Road CDOT Conveyance		
Date: 11/21/2023	Drawing No. CDOT Alvarado conveyance.mxd	Sheet No. 1 OF 1

THIS EXHIBIT DOES NOT REPRESENT A
MONUMENTED LAND SURVEY. IT IS ONLY
TO DEPICT THE ATTACHED PROPERTY
DESCRIPTIONS.



DATE: December 13th, 2023

TO: Transportation Commissioners, Executive Director, Executive Management Team, Branch Managers, and Office Directors

FROM: Emily Haddaway, Office of Policy & Government Relations

RE: Legislative Session Update

Transportation Legislation Review Committee

Over the interim the TLRC met and drafted ten bills, five of which would become official TLRC bills. The bills are listed below. This slate of legislation will be introduced next session and will not count against a lawmakers' "Top-five" (each legislator is guaranteed to be allowed to introduce five bills each session). CDOT has not taken an official position on any of the following drafts, but the department is likely to seek amendments on several of them.

- Bill A: Vulnerable Road User Protection Enterprise
- Bill B: Child Passenger Safety and Education
- Bill C: Railroad Safety Requirements
- Bill D: Towing Carrier Regulation
- Bill E: Methods to Increase the Use of Transit

To see the full bill drafts of these bills, visit this committee webpage here:

<https://leg.colorado.gov/content/itlrc2023alegislation>

CDOT Legislative Agenda

The department's legislative agenda can be categorized into two sets of priorities- improving road safety and supporting Transit and Rail. Our safety priorities include CMV Safety and Crash Mitigation, Reducing Distracted Driving, and pursuing a few statutory clean-ups to enable the department to utilize AVIS technology. Our Transit and Rail priorities include RTD Accountability and Reform, and identifying ways for Colorado to attract more of the unprecedented funding earmarked for passenger rail in the bipartisan infrastructure law.

The Polis Administration is also continuing to prioritize housing and strategic growth next session, as they did with the Land Use bill in 2023. These bills are not categorized as CDOT bills, but are administration priorities and we are expecting to work closely on this legislation.

Rumor Mill Bills

Staff is beginning to see bill drafts trickle in and hear of different legislative ideas in the rumor mill. Some topics we are expecting to see are related to the reduction of leaded aviation fuel, Lane-filtering for Motorcycles, ROW fees for Broadband Infrastructure, Improving Work Zone safety, and raising the CDOT maintenance cap.





MEMORANDUM

TO: THE TRANSPORTATION COMMISSION
FROM: JEFF SUDMEIER, CHIEF FINANCIAL OFFICER
BETHANY NICHOLAS, BUDGET DIRECTOR
DATE: DECEMBER 20, 2023
SUBJECT: SIXTH BUDGET SUPPLEMENT - FY 2023-2024

Region 2

- \$1,219,339- **FASTER Safety** -I-25 Baptist Rd & Terrazzo Intersection Improvements - Additional funds are needed for the award of this construction project. The pre-award project estimate was \$4,297,590, representing a 28% increase. Cost increases were driven by the removal of concrete pavement and asphalt, and availability of steel-based materials.

Per Policy Directive 703.0 project increases greater than 15% and \$499,999 require Transportation Commission approval.

- Net \$0 Transfer - **10 Year Plan** - \$1M additional funds for CO 67 North of Woodland Park needed based on updated pre-advertisement estimates. Savings are from various project closeouts listed below.
 - - \$926,307 - Decrease 0015 I-25 and CO 94 Safety and Mobility (MAMSIP)
 - - \$4,918 - Decrease 0017 I-25 Colorado Springs Ramp Metering - Phase 2
 - - \$55,946 - Decrease 2565 I-25 at Exit 104 - Dillon Drive Improvements
 - - \$590 - Decrease 0025 CO 96 near Eads to Sheridan Lake
 - - \$56,937 - Decrease 0028 CO 194A Surface Treatment and Drainage
 - + \$1,044,698 - Increase 2761 CO 67 North of Woodland Park

Per Policy Directive 703.0 transfers greater than or equal to \$1,000,000 require Transportation Commission approval.





COLORADO

Department of Transportation

Division of Accounting and Finance

Division of Transit and Rail

- Net \$0 Transfer - **Strategic Transit Program** - Grand Valley Transit (GVT) has requested the reallocation of funds between several GVT 10-Year Plan projects. GVT has needed a new fleet maintenance facility for several years as the space they use in the City of Grand Junction's facility is not sufficient for their current fleet. This has impacted both GVT operations and maintenance of their fleet. GVT used ARPA funds towards the design of the new facility, which is currently at 60% design. They expect to begin construction in 2024. GVT also received FTA low/no-emission funding for the facility and the original CDOT 10-Year Plan included funds toward the facility. However, the costs for the new facility are expected to come in higher than originally planned so GVT requests to reallocate \$1.74 million of the 10-Year Plan funds from other GVT projects to the facility to ensure the project is fully funded.
 - - \$1,200,000 - Decrease 2666 Bus Replacement
 - - \$540,000 - Decrease 2669 Compressed Natural Gas Storage
 - + \$1,200,000 - Increase 2667 System Enhancements
 - + \$540,000 - Increase 2668 Maintenance Facility

Per Policy Directive 703.0 transfers greater than or equal to \$1,000,000 require Transportation Commission approval.

Information Only

- \$30,726 - **Contingency Reserve** - CDOT buildings elevator repair and safety
- \$1,284,698 - **Cost Escalation Fund** - Region 4 CO14 Cameron Pass East
- \$450,000 - **Cost Escalation Fund** - Region 4 US40/287 and CR109 Intersection
- \$2,987,690 - **Cost Escalation Fund** - Region 1 US6 Wadsworth Phase 3
- \$750,000 - **Cost Escalation Fund** - Region 4 CO 61A: Sterling East





Reconciliation Tables

Transportation Commission Contingency Reserve Fund Reconciliation Sixth Supplement FY 2024 Budget

Date	Transaction Description	Amount	Balance
June-23	<i>Balance 12S23</i>		\$22,301,756
July-23	<i>Balance 1S24</i>		\$20,201,756
August-23	<i>Balance 2S24</i>		\$20,216,766
September-23	<i>Balance 3S24</i>		\$23,143,766
October-23	<i>Balance 4S24</i>		\$23,143,766
November-23	<i>Balance 5S24</i>		\$19,551,138
	<i>CDOT Property Elevator Repairs</i>	-\$30,726	
December-23	<i>Pending Balance 6S24</i>		\$19,520,412

Future Items *I-70 Glenwood Canyon Repayments* \$1,000,000

Cost Escalation Fund Reconciliation Sixth Supplement FY 2024 Budget

Date	Transaction Description	Amount	Balance
June-23	<i>Balance 12S23</i>		\$20,555,987
July-23	<i>Balance 1S24</i>		\$20,555,987
August-23	<i>Balance 2S24</i>		\$18,447,112
September-23	<i>Balance 3S24</i>		\$13,138,112
October-23	<i>Balance 4S24</i>		\$10,636,521
November-23	<i>Balance 5S24</i>		\$29,538,831
	<i>Region 4 - SH14B Cameron Pass East</i>	-\$1,284,698	
December-23	<i>Pending Balance 6S24</i>		\$28,254,133





**Transportation Commission Program Reserve Fund Reconciliation
 Sixth Supplement FY 2024 Budget**

Date	Transaction Description	Amount	Balance
June-23	<i>Balance 12S23</i>		\$14,774,236
July-23	<i>Balance 1S24</i>		\$10,774,236
August-23	<i>Balance 2S24</i>		\$9,354,509
September-23	<i>Balance 3S24</i>		\$188,354,509
October-23	<i>Balance 4S24</i>		\$167,354,509
November-23	<i>Balance 5S24</i>		\$53,591,030
	<i>No Pending Requests</i>	\$0	
December-23	<i>Pending Balance 6S24</i>		\$53,591,030

Future Items *Pending Revenue Adjustment* -\$13,200,000

**Transportation Commission Maintenance Reserve Reconciliation
 Sixth Supplement FY 2024 Budget**

Date	Transaction Description	Amount	Balance
June-23	<i>Balance 12S23</i>		\$0
July-23	<i>Balance 1S24</i>		\$12,000,000
August-23	<i>Balance 2S24</i>		\$12,000,000
September-23	<i>Balance 3S24</i>		\$12,000,000
October-23	<i>Balance 4S24</i>		\$12,000,000
November-23	<i>Balance 5S24</i>		\$12,000,000
	<i>No Pending Requests</i>	\$0	
December-23	<i>Pending Balance 6S24</i>		\$12,000,000





Memorandum

To: The Transportation Commission
From: Jeff Sudmeier, CDOT Chief Financial Officer
Date: December 8, 2023
Subject: State Infrastructure Bank (SIB) Interest Rate Recommendation for the Second Half of Fiscal Year 2023-24

Purpose

The purpose of this memorandum is to outline the proposed State Infrastructure Bank (SIB) interest rate for loans originating in the second half of State Fiscal Year 2023-24 and the origination fee schedule for Fiscal Year 2023-24.

Action

The Division of Accounting and Finance (DAF) recommends that the Transportation Commission (TC) maintain the current SIB interest rate of 3.50% for loans originating in Fiscal Year 2023-24 Q3/Q4 and maintain the recommended origination fee schedule detailed in the memorandum.

Background

SIB Loan Rates: The SIB, established in 43-1-113.5(3) CRS. Rule V. Article 2 of 2CCR 605-1, requires that the TC set bi-annual interest rates for SIB Loans. Established rates over the past 18 months have been:

FY 2022-23 Q1/Q2: 3.00%	FY 2022-23 Q3/Q4: 3.50%	FY 2023-24 Q1/Q2: 3.50%
-------------------------	-------------------------	-------------------------

Origination Fee Schedule: Rule V, Article 3 of 2 CCR 605-1 outlines the following origination fee schedule to be maintained for the current fiscal year as adopted by the TC. The TC may at their discretion apply the fee, the maximum of:

- 1.00% for loan proceeds up to \$1 million
- 0.75% on the loan proceeds over \$1 million up to \$2.5 million
- 0.50% on the loan proceeds over \$2.5 million up to \$5 million
- 0.25% on the loan proceeds over \$5 million

Rate Recommendations/Interest Rate Outlook for US Treasury Market

The current U.S. Treasury market and Federal Funds Rate, as well as the Department’s Financial Advisor’s projections for the US Treasury market and Federal Funds Rate are used to determine the SIB interest rate. Current interest rates (Taxable and Tax-Exempt) have decreased the past month after hitting recent highs in October 2023. After a series of Fed Funds Rate pauses, the market consensus is for the Fed to continue holding rates steady, then begin lowering rates at their next few meetings in Q1 and Q2 2024. Notably, the 10-year US Treasury yield, which serves as the benchmark for the SIB interest rate, saw significant volatility since the previous memorandum as the country reacted to geopolitical tensions and various other market moving events, but is now experiencing a rally in lower yields since those yearly highs hit in October.



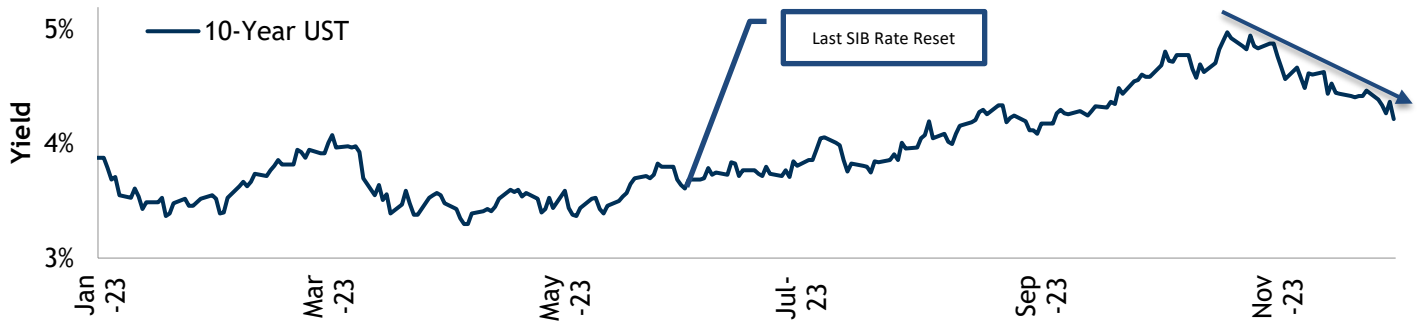
- This recommendation is based on the following:
 - Despite ongoing strength in the economy and the consumer, the relative loss of momentum in November has given some Fed officials confidence that monetary policy has done enough to eventually tackle inflation. According to Fed Governor Christopher Waller, the recent “slowing” of economic activity suggests policy may be sufficiently tight to contain inflation that remains “too high” still. Speaking in a moderated discussion at the American Enterprise Institute in Washington D.C. in Late November, Waller said he was “increasingly confident that policy is currently well positioned to slow the economy and get inflation back to 2%.”
 - Fed Governor Michelle Bowman also expressed a growing confidence in the current level of policy. While stopping short of supporting or rejecting the notion of any further policy adjustments, Bowman indicated any additional action would remain data dependent. The need for further rate hikes, she said, would be based on data that “indicate progress on inflation has stalled or is insufficient to bring inflation down to 2% in a timely way.”

Market Consensus Rate Forecast

Rate Type	Current	Q4 2023	Q1 2024	Q2 2024	Q3 2024
Fed Funds Rate	5.50	5.50	5.45	5.25	4.90
US 2-Year	4.56	4.90	4.70	4.39	4.07
US 10-Year	4.22	4.54	4.39	4.23	4.06
US 30-Year	4.40	4.69	4.57	4.42	4.28

Source: Bloomberg (12/1/2023)

10-Year UST Movement in Calendar Year 2023 YTD



Options and Recommendation

1. **Staff Recommendation:** Maintain the current interest rate of 3.50% for all SIB loans originating in Fiscal Year 2023-24 Q3/Q4 and maintain the recommended origination fee schedule for all loans during the same period.
2. Adopt a new interest rate determined by the Transportation Commission.
3. Deny the recommended SIB loan interest rate, request additional staff analysis, and/or delay approval consideration for a future month.

Next Steps

If approved as recommended, Department staff will apply the approved interest rate and origination fee schedule to all SIB loans originating in the second half of Fiscal Year 2023-24.

Attachments:

Attachment A: Proposed SIB Rate Resolution

MEMORANDUM

TO: Transportation Commission
CC: Shoshana Lew, CDOT Executive Director; Herman Stockinger, Deputy Executive Director; John Lorme, Division of Maintenance & Operations Director; Deputy Director of Operations Bob Fifer; Allie Axley, Intelligent Transportation Systems Branch Manager

FROM: Allie Axley, Intelligent Transportation Systems Branch Manager

DATE: December 2023

SUBJECT: TC Resolution #8 - Fee Based ROW Access for Fiber

Purpose

CDOT is proposing authorization to implement a simplified fee structure and improved process to facilitate access to CDOT rights of way for the deployment of broadband as mandated by Colorado Executive Order D-2022-0023 and Senate Bill 22-083.

Action

CDOT seeks to have the commission approve the annual fee structure as presented in the November TC Workshop and as requested in TR-8, which aligns with federal and state regulations and compensates CDOT for the operation and maintenance expenses incurred from allowing Public and Private entities to use CDOT rights of way for the deployment of broadband.

Background

In February 2022, the Governor issued Executive Order D 2022 009 (restated in June in EO D 2022 023) and Senate Bill 22-083, Accelerating Broadband Deployment in Colorado. This Executive Order and Senate Bill directed CDOT to make improvements to its dark fiber lease and right of way program.

In March 2023, CDOT proposed a ROW Fee Structure per directives in the Governor's Executive Order and the corresponding legislation passed in 2022. While the initial fee structure was cost-based and in line with many surrounding states, it received several comments in opposition from industry stakeholders. In May 2023, CDOT incorporated stakeholder feedback and introduced a second proposal reduced by 55% to 64% from the previous iteration. Working with the Governor's Office and a TC subcommittee, staff developed a revised fee structure that was presented at a November TC workshop. The revised structure is consistent with the Bureau of Land Management and United States Forest Service methodology for charging fair market value for using federal land in broadband development and is a reduction of approximately 90% for the initially proposed fee structure in March 2023.

Section 43-1-1206, C.R.S. permits the Transportation Commission to implement rules associated with the Public Private Initiatives Program Act if the Transportation Commission determines such rules are necessary or appropriate. The Transportation Commission has previously determined, in consultation with its counsel at the Attorney General's Office, that Section 43-1-1206, C.R.S. is permissive, not mandatory. Additionally, CDOT believes its proposed fee structure is adequately supported based on CDOT's aforementioned work and collaboration to develop the proposed fee structure. As a result, CDOT believes the Transportation Commission does not need to implement rules associated with the proposed fee structure and has included proposed language within the draft TC Resolution #8 indicating the Transportation Commission has determined that it is not necessary to implement rules associated with CDOT's proposed fee structure.

Next Steps

The ITS Fiber Development Team is seeking approval of TC Resolution #8 to implement the annual fee structure as mandated by Colorado Executive Order D-2022-0023 and Senate Bill 21-083.

Exhibit A - ROW Use Fee Structure

December 20, 2023

The Department's fee structure uses fair market value data from the Bureau of Land Management. BLM maintains a comprehensive list of the adjusted average per-acre land value for every county in the United States. CDOT isolated Colorado counties and converted each county's fair market value from acreage to square foot.

Heavily populated counties, on average, have a significantly higher fair market value. Consistent with CDOT's property management program, the fee structure is tiered based on the nine counties that currently have a population over 200,000 people. Using the median fair market value for the urban counties and the median fair market value for the remaining 55 counties resulted in a determined annual property surcharge rate of \$0.10 per foot for urban counties* and \$0.03 per foot for all other counties.

All counties would pay the same, one-time upfront permitting cost of \$0.05 per foot.

The Department will adjust the fee structure by implicit price deflator-gross national product (IPD-GNP) annually.

	One-Time Installment Fee for Permitting Costs	Annual Property Use Surcharge
Proposed Fee for ROW Access for Fiber installations	\$0.05 per foot	<ul style="list-style-type: none">• \$0.10 per foot for urban counties* (>200k population)• \$0.03 per foot for everywhere else

*Urban counties currently include Adams, Arapahoe, Boulder, Denver, Douglas, El Paso, Jefferson, Larimer, and Weld



MEMORANDUM

TO: The Transportation Commission
FROM: Gary Vansuch, Director of Process Improvement
DATE: December 20, 2023
SUBJECT: Recognition for the Runners-up and the Winner of the 2023 CDOT Innovations Challenge

Purpose

To provide recognition for the innovators who developed and implemented the innovations that were chosen as the Runners-up and the Winner for the 2023 CDOT Innovations Challenge.

Action

The Office of Process Improvement is requesting the opportunity to highlight for the Commission the Runners-up and the Winner from the 2023 CDOT Innovations Challenge. The innovators who developed and implemented these innovations are emblematic of the Spirit of Innovation at CDOT.

Background

The Innovations Challenge is an annual competition at CDOT to highlight and recognize the Best of the Best innovations and improvements. The competition has two tracks:

- 1) An expert statewide Judges Panel, led by the CDOT Chief of Staff, evaluated innovations using a structure set of criteria to determine the statewide Winner and Runners-up.
- 2) Additionally, all members of Team CDOT were able to vote for their favorite innovation over a five-week period earlier this Fall, and that “People’s Choice” voting has also produced a statewide Winner and Runners-up.

More details are available on the CDOT Innovation, Improvement and Engagement Hub.
<https://sites.google.com/state.co.us/process-improvement/lei-innovation-engagement-services/cdot-innovations-challenge/2023-innovations-challenge>

Next Steps

None.

Attachments

PowerPoint Presentation

2023 CDOT Innovations Challenge: The Runners-up and The Winner



COLORADO

Department of Transportation



Wednesday, December 20, 2023



CDOT INNOVATIONS CHALLENGE
Innovate Your State



CDOT Innovations Challenge and the CDOT Spirit of Excellence!

together and with others
effectively to our custo

EXCELLENCE

We are committed to quality.
We are leaders and problem solvers,
continuously improving our products and
services in support of our commitment
to provide the best transportation
systems for Colorado.





Congratulations to the Runners-up and the Winner of the 2023 CDOT Innovations Challenge!

Judges Panel Awards

1st Place: Wildlife Underpass Sizing, by John Kronholm from Region 3

2nd Place: Standardized Work Order Process Improvement, by Brook Howard from Region 1

3rd Place: Tool Library, by Breanna Payne from the Division of Maintenance and Operations

People's Choice Awards

1st Place: Wildlife Underpass Sizing, by John Kronholm from Region 3 *(same as the Judge's Panel!)*

2nd Place: The Plow Spotter, by Matthew Stearns from Region 2

3rd Place Tie: Post-Construction Temporary Control Measure Removal Improvement, by Paul Juszczak, Nick Schipanski, Nick Mesenbrink, Kristyn Crowe, Michael Apps, Gregory Gaulin - from Region 4 and the Division of Transportation Development

3rd Place Tie: GIS Potholes Fieldmap and GEOHUB Layer Improvement, by Kalli Wegren, Bradley Myers, and Paul Juszczak from Region 4

Honorable Mentions

- Geotab Snowplow Tracking Improvement, by Bob DeMoss, Mark Mohr, Juan Dimas, and Jonathan Buehrle from Region 1
- Wedge Lock Socket Base Rounder, by Scott Claussen and Cooper Starmer from Region 3





Honorable Mention: Geotab Snowplow Tracking Innovation - Congratulations!!

Geotab Snowplow Tracking Innovation

Bob DeMoss, Mark Mohr, Juan Dimas,
Jonathan Buehrle Region 1

This innovation attaches to a snowplow, enabling real-time tracking of its location, and monitoring whether the plow is in the up or down position.



Tracking Snowplow Data Innovation!

Region 1, Welding Shop



A picture of the plow geotab

Challenge Knowing where snowplows are and where they have been is very difficult

Innovation A geotab attachment that tracks snowplow activity

Parts Used Metal attachment forged by a plasma cutter, geotab attachment

Benefits

- Saves money, time
- Improves internal and external customer experience



Bob DeMoss, Mark Mohr, Juan Dimas,
Jonathan Buehrle
Region 1

[CLICK HERE FOR MORE DETAILS](#)



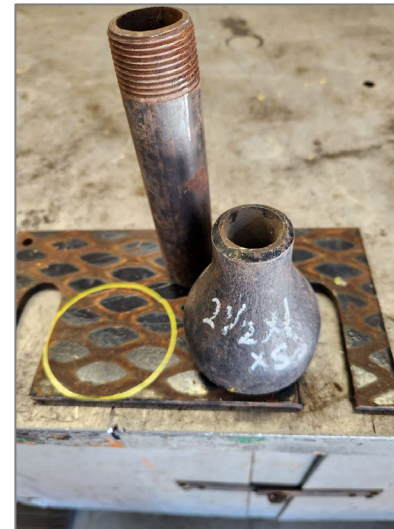


Honorable Mention: Wedge Lock Sign Socket Base Rounder - Congratulations!!

Wedge Lock Sign Socket Base Rounder

Scott Claussen and Cooper Starmer
Region 3

This specialized tool was designed and deployed to effortlessly repair deformed sign sockets, allowing for their efficient restoration and reuse – and, saving time and money in the process!



Wedge lock Sign Socket Base Rounder!
Region 3 Maintenance

Challenge Sign socket are usually distorted after a vehicle strike hits them, not allowing reuse without replacement

Innovation Tool allow socket to be returned to round, allowing reuse, saving time and money

Parts Used 1" x2-1/2"XH weld wedge, 1" XH pipe-6 inch long, 2 1/2 1/4" plate circle

Benefits
-Improves safety, Reduces time in traffic
-Saves time, Saves money,
-Improves internal customer experience

[CLICK HERE FOR MORE DETAILS](#)

Lean everyday ideas
The socket rounder being used



Scott Claussen
Cooper Starmer
Region 3





3rd Place, People’s Choice voting (a tie): The Post-Construction Temporary Control Measure Removal Innovation - Congratulations!

Post-Construction Temporary Control Measure Removal Improvement

Paul Juszczak, Nick Schipanski, Nick Mesenbrink, Kristyn Crowe, Michael Apps, and Gregory Gaulin

Region 4 and Division of Transportation Development (DTD)

This innovation is a mapping solution to help maintenance patrol members easily locate post-construction temporary control measures, to make it easier and faster to remove them.



Post Construction Temporary Control Measure Removal Innovation
Environmental, Maintenance - Region 4



Challenge PCTCM's left on finished construction sites can pollute the area and a system needed to be put in place to better facilitate their removal

Innovation Using new GIS capabilities both RWPCMs and Maintenance can accurately record and remove PCTCMs

Parts Used

- CDOT's GeoHub, ArcGIS Pro
- Phone/Tablet, Offline Mapping
- ESRIs Field Maps App

Benefits

- Saves money and time
- Improves internal and external customer experience
- Reduces time spent in traffic

A photo of the Mapping software being utilized!



[Paul Juszczak](#)
Contributors: [Nick Schipanski](#), [Nick Mesenbrink](#), [Kristyn Crowe](#), [Michael Apps](#), [Gregory Gaulin](#)

Region 4

[CLICK HERE FOR MORE DETAILS](#)

Innovate Your State



2023 People’s Choice 3rd Place
Post-Construction Temporary Control Measure Removal Improvement



INNOVATIONS CHALLENGE
Innovate Your State



3rd Place, People’s Choice voting (a tie): GIS Potholes Fieldmap and GeoHub Layer Improvement - Congratulations!

GIS Potholes Fieldmap and GeoHub Layer Improvement


Kalli Wegren, Bradley Myers, and Paul Juszcak

Region 4

This improvement streamlines the field data capture process for identifying locations of potholes, allowing users to input pothole data on their phones or tablets within just minutes of finding potholes. This real-time Geohub Pothole “layer” also facilitates more informed decision-making.



GIS Potholes Field Map & GeoHub Layer
Hydraulics Team / Region 4



Challenge Knowing what potholes exist and where can be difficult to know

Innovation The GIS Pothole Field Maps allows pothole data to be captured easily and efficiently in the field.


Parts Used

- Maintenance Personnel CDOT's GIS GeoHub (Online System)
- CDOT's GIS Field Map

Benefits

- Saves money and time
- Improves internal and external customer experience

A photo of a pothole in the Region 4 area



[Kalli Wegren](#)
[Bradley Myers](#)
[Paul Juszcak](#)
Region 4

[CLICK HERE FOR MORE DETAILS](#)

Innovate Your State



2023 People’s Choice 3rd Place
GIS Potholes Fieldmap & GEOHUB Layer Improvement

INNOVATIONS CHALLENGE
Innovate Your State





2nd Place, Judges Panel: Standardized Work Order Process Improvement - Congratulations!

Standardized Work Order Process Improvement Brook Howard

Region 1

This family of improvements created Standard Operating Procedures, training videos, newsletters, and a shared computer drive location with resources to help maintenance patrol members create accurate work orders. This improves the internal customer experience by making this process faster and easier for these TeamCDOTers!



Standardized Work Order Processes!

HQ / Region 1

Challenge Accurate reporting in work orders is directly tied to budgets and asset management

Innovation Create Standard Operating Procedures, workflows, training videos, newsletters, and plant maintenance drive to help with accurate work order creation

Parts Used

- Work order training documents
- SOP's, videos, newsletters, team drive

Benefits

- Saves time & money
- Improves internal customer experience

[CLICK HERE FOR MORE DETAILS](#)

Lean everyday ideas
An image of one of the training documents

COLORADO Department of Transportation Region 1

Know your Roads and Mile Points

The New Road FLOCs in Work Manager can sometimes be problematic. Each road is one functional location, but is defined by mile points. The mile points then determine what unit center is responsible. Patrol crews assess mile points, where your Road ends, another begins. When entering mile points for your roads, you need to be very specific when you create your work orders or else need for having the wrong Patrol, Section or Region.

If you use your exact mile points, and start with your lowest mile points, your work orders will charge your patrol. If you use your highest to lowest it charges the patrol to the East or South of you.

[Brook Howard](#)
Region 1 / HQ

Enter DOTL into the Order type field

Select Immediate into the Priority field

Enter the FLOC you are working at into the Functional Location field

Enter 1002 into the Planning Plant field

Then Enter on your keyboard.

COLORADO Department of Transportation

How to find an asset:

Utilize the Maps in Work Manager; using the satellite view can help you locate assets quicker.

Click on the asset you repaired and you will see the FLOC; this is what you enter into SAP.

Instructions for finding an asset in SAP can be found here: [Searching for FLOCs in IW31](#)

Building FLOCs can be found here: [R1S9 Buildings](#)

COLORADO Department of Transportation





2nd Place, People's Choice voting: The Plow Spotter - Congratulations!!

The Plow Spotter Matthew Stearns

Region 2



From a member of another Maintenance Patrol:

" ... in the last 4 to five years we have spent hours upon hours lining up these plows using 2-3 guys. This is just genius on how it will save time and money, not to mention how it is safer by not having someone having to stand in between the truck and plow to direct the driver to line up the plow. ... "

Innovate Your State

2023 People's Choice 2nd Place
The Plow Spotter

INNOVATIONS CHALLENGE
Innovate Your State

The Plow Spotter!

Region 2 - Facilities, Maintenance

- Challenge** Sight for Installing a Detached Plow
- Innovation** Allows an individual to see the truck-plow alignment as they pull forward to install a plow on a truck.
- Parts Used**
- A 2" Convex Safety Mirror, mild-steel used delineators
- Benefits**
- Improves safety, saves times
 - Improves internal and external customer experience

[CLICK HERE FOR MORE DETAILS](#)



A photo of the plow spotter being used!



Matthew Stearns
Region 2





Congratulations to the 1st Place Winner from the Judges Panel and the People's Choice voting: The Wildlife Underpass Sizing Improvement!!

Wildlife Underpass Sizing

John Kronholm

Region 3



This innovation used research findings to develop an approach for determining the optimal sizing for wildlife underpasses. The application of this to just one project, the West Vail Pass Auxiliary Lanes transportation construction project, saved \$1.7 million compared to the original design.



Innovate Your State

2023 Judges Panel Winner
Wildlife Underpass Sizing

INNOVATIONS CHALLENGE
Innovate Your State

Innovate Your State

2023 People's Choice Winner
Wildlife Underpass Sizing

INNOVATIONS CHALLENGE
Innovate Your State



How to Properly Size Wildlife Underpasses!
Region 3, Environmental, Pre-Construction Engineering

A wildlife underpass being built

Challenge Previous no specific methodology to size a wildlife underpass, and many experts just go with "bigger is better"

Innovation A statistical analysis of success rates of existing wildlife underpasses to correctly size with cost and efficiency in mind.

Parts Used PDF in Folder details statistics, an equation, and other data to implement this innovation

Benefits

- Saves money, improves safety
- Reduces environmental concerns
- Saved \$1.7 Million for the Wildlife Crossing on Vail Pass

[CLICK HERE FOR MORE DETAILS](#)

John Kronholm
Region 3





Spotlight on Innovation at CDOT!

Please visit the CDOT Innovation, Improvement, and Engagement Hub to watch interviews with these and other CDOT Innovators!



COLORADO Department of Transportation PROCESS IMPROVEMENT Home C2P: Business Project & Ch... LEI: Innovation & Engagem... More

SPOTLIGHT ON INNOVATION

Here at CDOT, one of our main values is Excellence! To accomplish this standard, we strive to innovate and create the best possible DOT for Colorado and ourselves. The following individuals took this goal to an entirely new level of success through their hard work and dedication to innovation. We want to highlight their stories to not only recognize their achievements, but to also inspire others to do the same! Great work, team CDOT!





Open NOW until June 30th
Judging begins in July

CDOT INNOVATIONS CHALLENGE
Innovate Your State



**Launching the 2024
Innovations
Challenge!!**



A Big Thank YOU to all of the Innovators, and their Mentors!!!!



Congratulations to the Runners-up and the Winner of the 2023 CDOT Innovations Challenge!

Judges Panel Awards

- 1st Place:** Wildlife Underpass Sizing, by John Kronholm from Region 3
- 2nd Place:** Standardized Work Order Process Improvement, by Brook Howard from Region 1
- 3rd Place:** Tool Library, by Breanna Payne from the Division of Maintenance and Operations

People's Choice Awards

- 1st Place:** Wildlife Underpass Sizing, by John Kronholm from Region 3 *(same as the Judge's Panel!)*
- 2nd Place:** The Plow Spotter, by Matthew Stearns from Region 2
- 3rd Place Tie:** Post-Construction Temporary Control Measure Removal Improvement, by Paul Juszczak, Nick Schipanski, Nick Mesenbrink, Kristyn Crowe, Michael Apps, Gregory Gaulin - from Region 4 and the Division of Transportation Development
- 3rd Place Tie:** GIS Potholes Fieldmap and GEOHUB Layer Improvement, by Kalli Wegren, Bradley Myers, and Paul Juszczak from Region 4

Honorable Mentions

- Geotab Snowplow Tracking Improvement, by Bob DeMoss, Mark Mohr, Juan Dimas, and Jonathan Buehrle from Region 1
- Wedge Lock Socket Base Rounder, by Scott Claussen and Cooper Starmer from Region 3

12/20/23

2023 Innovations Challenge Winners & Honorable Mentions

3



For questions or comments on the Innovations Challenge, please contact:

Gary Vansuch
Director, Office of Process Improvement
gary.vansuch@state.co.us | 303.757.9017



CDOT INNOVATIONS CHALLENGE
Innovate Your State



Questions and Comments?



Congratulations to the Runners-up and the Winner of the 2023 CDOT Innovations Challenge!

Judges Panel Awards

- 1st Place:** Wildlife Underpass Sizing, by John Kronholm from Region 3
- 2nd Place:** Standardized Work Order Process Improvement, by Brook Howard from Region 1
- 3rd Place:** Tool Library, by Breanna Payne from the Division of Maintenance and Operations

People's Choice Awards

- 1st Place:** Wildlife Underpass Sizing, by John Kronholm from Region 3 *(same as the Judge's Panel!)*
- 2nd Place:** The Plow Spotter, by Matthew Stearns from Region 2
- 3rd Place Tie:** Post-Construction Temporary Control Measure Removal Improvement, by Paul Juszcak, Nick Schipanski, Nick Mesenbrink, Kristyn Crowe, Michael Apps, Gregory Gaulin - from Region 4 and the Division of Transportation Development
- 3rd Place Tie:** GIS Potholes Fieldmap and GEOHUB Layer Improvement, by Kalli Wegren, Bradley Myers, and Paul Juszcak from Region 4

Honorable Mentions

- Geotab Snowplow Tracking Improvement, by Bob DeMoss, Mark Mohr, Juan Dimas, and Jonathan Buehrle from Region 1
- Wedge Lock Socket Base Rounder, by Scott Claussen and Cooper Starmer from Region 3

12/20/23

2023 Innovations Challenge Winners & Honorable Mentions

3



Bridge and Tunnel Enterprise Board
Meeting Minutes
November 23, 2023

PRESENT: Yessica Holguin, District 1
 Shelley Cook, District 2
 Eula Adams, District 3
 Karen Stuart, Chair, District 4
 Jim Kelly, District 5
 Rick Ridder, District 6
 Barbara Bowman, District 7
 Mark Garcia, District 8
 Hannah Parsons, District 9
 Terry Hart, Vice-Chair, District 10

EXCUSED: Megan Vasquez, District 11

AND: Staff members, organization representatives, and broadcast publicly

An electronic recording of the meeting was made and filed with supporting documents in the Transportation Commission office.

In November, the Bridge and Tunnel Enterprise Board of Directors approved:

- Regular Meeting Minutes of October 18, 2023
- 3rd BTE Budget Supplement of FY 2023-2024
- Draft FY2024-25 BTE Budget Allocation Plan
- BTE FY2024 USDOT Bridge Investment Program Discretionary Grant Funding Commitment

Staff also presented a workshop on the BTE Bylaws and Articles of Organization Workshop for action in December.



MEMORANDUM

To: The Bridge and Tunnel Enterprise Board of Directors
From: Patrick Holinda, Bridge and Tunnel Enterprise Program Manager
Date: December 20, 2023
Subject: Bridge and Tunnel Enterprise Articles of Organization and Board Bylaws

Purpose

Staff are requesting approval from the Bridge and Tunnel Enterprise (BTE or Enterprise) Board of Directors (Board) to adopt the proposed 3rd Amended BTE Articles of Organization and Bylaws.

Action

Approval action is being requested. Staff requests Board approval to adopt the proposed revisions to the Articles of Organization and Bylaws.

Background

In May 2023, Governor Polis signed HB 23-1276 Bridge and Tunnel Enterprise Scope of the Enterprise into law. The signing of the new bill expanded the scope of the legacy Bridge and Tunnel Enterprise to include preventative maintenance to good and fair bridges and fair bridge rehabilitation and replacements when bundled with a poor bridge. Per HB 23-1276, the updated business purpose of the Enterprise is to finance, repair, reconstruct, and replace (i) any designated bridge in the state, (ii) perform preventative maintenance on any bridges rated as fair and good in the state, and (iii) to repair, maintain, or enhance the operation of any tunnel that is part of the state highway system, as agreed upon by the Enterprise and the Commission, or the Department to the extent authorized by the Commission, to maintain the bridges it finances, repairs, reconstructs, and replaces.

With the Enterprise's scope being increased to include preventative maintenance and fair bridge bundling (see details below for additional information), there is a need to amend the Enterprise's governing documents to reflect these changes. Staff have prepared proposed revisions to the BTE Articles of Organization and Bylaws for consideration by the Board.

Details

Articles of Organization

The substantive changes to the proposed Articles of Organization are primarily intended to recognize the following pertinent elements of HB 23-1276:

- 1) The authority of the Enterprise to include preventative maintenance for bridges rated as fair and good.
- 2) The authority of the Enterprise to include a fair-rated bridge may be included in a designated bridge project or other project involving the repair, replacement, or reconstruction of a designated bridge if (a) including the fair-rated bridge is an efficient use of Bridge Enterprise resources, and (b) will result in cost savings or schedule acceleration for a project that will improve safety (hereafter referred to as "bridge bundling projects").





COLORADO

Department of Transportation

Statewide Bridge and Tunnel Enterprise

Summary list of proposed changes to Articles of Organization:

- Title - Version control added (third amended)
- Preamble - Recognizes preventative maintenance bridge projects, updates language for “lease purchase agreements”
- Article I - Updated statutory references
- Article II - Recognizes HB 23-1276 being signed into law
- Article III - Recognizes preventative maintenance on any bridge rated as fair and good
- Article IV - No change
- Article V - No change
- Article VI - No change
- Article VII - Updates language for “lease purchase agreement”, recognizes fair bridge scope, typographical or grammar error, and updated statutory references.
- Article VIII - Recognizes preventative maintenance, typographical or grammar error, and updated statutory references, updates language that was previously paraphrased to conform with Section 43-4-805, C.R.S.
- Article IX - Version control added

Bylaws

While the passage of HB 23-1276 did not result in any substantive changes to the Bylaws, staff used this opportunity to review and update this document.

Summary list of proposed changes to the Bylaws:

- Article I - B. Version control added (third amended)
- Article II - A. Removal of potentially vague or inexact language, B. Clarification to address terms of Board members, D. Updated language for reimbursement, E. Updated language for financial disclosures
- Article III - B. Typographical or grammar error, F. Updated statutory reference, H. Updated statutory reference
- Article IV - No change
- Article V - C. Typographical or grammar error, D. Updated delegation of duties when Secretary absent
- Article VI - No change
- Article VII - No change
- Article VIII - B. Typographical or grammar error, E. Typographical or grammar error
- Article IX - B. Updated statutory reference

Next Steps

1) Future requests to amend the BTE governing documents will be brought to the Board as necessary

Attachments

Attachment A: Third Amended BTE Articles of Organization – redline and clean versions

Attachment B: Third Amended BTE Bylaws – redline and clean versions



STATEWIDE BRIDGE AND TUNNEL ENTERPRISE

THIRD AMENDED ARTICLES OF ORGANIZATION

PREAMBLE

The General Assembly of the State of Colorado (the “State”) found and declared in Section CRS-43-4-805-(1), C.R.S. that:

(a) The completion of designated bridge projects, preventative maintenance bridge projects, and tunnel projects is essential to address increasing traffic congestion and delays, hazards, injuries, and fatalities;

(b) Due to the limited availability of state and federal funding and the need to accomplish the financing, repair, reconstruction, and replacement of designated bridges, completion of preventative maintenance bridge projects, and completion of tunnel projects as promptly and efficiently as possible, it is necessary to create a statewide bridge and tunnel enterprise and to authorize the enterprise to:

(I) Enter into agreements with the Colorado Transportation Commission (the “Commission”) or the Colorado Department of Transportation (the “Department”) to finance, repair, reconstruct, and replace designated bridges, complete preventative maintenance bridge projects, and complete tunnel projects in the state; and

(II) Impose a bridge safety surcharge, a bridge and tunnel impact fee, and a bridge and tunnel retail delivery fee at rates reasonably calculated to defray the costs of completing designated bridge projects, preventative maintenance bridge projects, and tunnel projects and distribute the burden of defraying the costs in a manner based on the benefits received by persons paying the fees and using designated bridges and tunnels and receiving retail deliveries, receive and expend revenue generated by the surcharge and fees and other money, issue revenue bonds and other obligations, contract with the state, if required approvals are obtained, to receive one or more loans of money received by the state under the terms of one or more financed purchase of an asset or certificate of participation~~lease-purchase~~ agreements authorized by part 8 of article 4, title 43, Colorado Revised Statutes, expend revenue generated by the surcharge to repay any such loan or loans received, and exercise other powers necessary and appropriate to carry out its purposes; and

(c) The creation of a statewide bridge and tunnel enterprise is in the public interest and will promote the health, safety, and welfare of all Coloradans and visitors to the state by providing bridges and repairing, maintaining, and operating tunnels in a manner that incorporates the benefits of advanced engineering design, experience, and safety.

The General Assembly thereupon created and expanded in Section CRS-43-4-805(2)(a)(I), C.R.S., a statewide bridge and tunnel enterprise as a government-owned business in the Department.

Article I. Name

The statewide bridge and tunnel enterprise created in Section~~CRS~~ 43-4-805(2)(a)(I), C.R.S., shall be known as the STATEWIDE BRIDGE AND TUNNEL ENTERPRISE ("Enterprise").

Article II. Authority

The Colorado Legislature approved the creation of the Bridge Enterprise during its regularly scheduled session in 2009, and was signed into law by the Governor of the State of Colorado on March 1, 2009. The Colorado Legislature approved the expansion of the Bridge Enterprise to the Bridge and Tunnel Enterprise during its regularly scheduled session in 2021 and the law expanding to tunnels, SB 21-260, was signed into law by the Governor of the State of Colorado on June 17, 2021. The Colorado Legislature approved the expansion of the scope of the Bridge and Tunnel Enterprise's authority to include ~~performance of~~ (1) preventative maintenance for ~~on~~ bridges rated as fair and good, and (2) a fair-rated bridge may be included in a designated bridge project or other project involving the repair, replacement, or reconstruction of a designated bridge if (a) repair, reconstruction, replacement, and maintenance of bridges rated as fair if including the fair-rated bridge is an efficient use of Bridge Enterprise resources, and (b) will result in cost savings or schedule acceleration for a project that will improve safety (hereafter referred to as "bridge bundling projects"). ~~they are bundled with a project to address a designated bridge~~ The law expanding the scope of the Enterprise's authority regarding preventative maintenance projects and bridge bundling projects, HB 23-1276, was signed into law by the Governor of the State of Colorado on May 15, 2023. The Enterprise shall function pursuant to these Articles of Organization until such time as it may be abolished by a specific action under applicable Colorado state law.

Article III. Purpose

The business purpose of the Enterprise is to finance, repair, reconstruct, and replace (i) any designated bridge in the state, (ii) perform preventative maintenance on any bridges rated as fair and good in the state, and (iii) to repair, maintain, or enhance the operation of any tunnel that is part of the state highway system, as agreed upon by the Enterprise and the Commission, or the Department to the extent authorized by the Commission, to maintain the bridges it finances, repairs, reconstructs, and replaces.

Article IV. TABOR Exemption

As provided in Section 43-4-805(2)(c), C.R.S., the Enterprise shall constitute an "enterprise" for purposes of section 20 of article X of the state constitution so long as it retains the authority to issue revenue bonds and receives less than ten percent of its total revenues in grants from all Colorado state and local governments combined. So long as it constitutes an enterprise pursuant to Section 43-4-805(2)(c), C.R.S., the Enterprise shall not be subject to any provisions of section 20 of article X of the state constitution. Consistent with the determination of the Colorado supreme court in *Nicholl v. E-470 Public Highway Authority*, 896 P.2d 859 (Colo. 1995), that the power to impose taxes is inconsistent with "enterprise" status under section 20 of article X of the state constitution, the general assembly found and declared in Section 43-4-805(2)(c), C.R.S.,

that a bridge safety surcharge, a bridge and tunnel impact fee, or a bridge and tunnel retail delivery fee imposed by the Enterprise as authorized by subsection (5)(g), (5)(g.5) or (5)(g.7) of Section 43-4-805, C.R.S., is not a tax but is instead a fee imposed by the enterprise to defray the cost of completing designated bridge projects, preventative maintenance bridge projects and tunnel projects that the Enterprise provides as a specific service to the persons upon whom the fee is imposed and at rates reasonably calculated based on the benefits received by such persons.

Article V. Enterprise Board and Enterprise Director

The Commission shall serve as the Enterprise Board (“Board”) and shall, with the consent of the Executive Director of the Department, appoint a director of the Enterprise (the “Enterprise Director”) who shall possess such qualifications as may be established by the Commission and the State personnel board.

The Enterprise Director shall oversee the discharge of all responsibilities of the Enterprise and shall serve at the pleasure of the Board.

The Enterprise and the Enterprise Director shall exercise their powers and perform their duties as if the same were transferred to the Department by a **type 1** transfer, as defined in Section 24-1-105, C.R.S.

Article VI. Officers

The officers of the Enterprise shall be elected according to the Bylaws of the Board and shall have the duties set forth in the Bylaws.

Article VII. Powers

The Enterprise may:

- (a) Impose a bridge safety surcharge as authorized in Section 43-4-805(5)(g), C.R.S.;
- (b) Impose a bridge and tunnel impact fee as authorized in Section 43-4-805(5)(g.5), C.R.S.;
- (c) Impose a bridge and tunnel retail delivery fee as authorized in Section 43-4-805(5)(g.7);
- (d) Issue revenue bonds payable from the revenues and other available moneys of the enterprise pledged for their payment as authorized in Section 43-4-807, C.R.S.; and
- (e) Contract with any other governmental or nongovernmental source of funding for loans or grants, including, but not limited to, one or more loans from the state of moneys received by the state pursuant to the terms of one or more financed purchase of an asset or certificate of participation lease-purchase agreements authorized pursuant to Section 43-4-805(5)(r), C.R.S., to be used to support Enterprise functions.

In addition to any other powers and duties specified in Section 43-4-805~~(5)~~, C.R.S., the Board also has the following powers and duties:

- (a) To supervise and advise the Enterprise ~~d~~Director;
- (b) To adopt bylaws for the regulation of its affairs and the conduct of its business;
- (c) To issue revenue bonds, payable solely from the bridge special fund, for the purpose of paying the cost of financing, repairing, reconstructing, replacing, and maintaining designated bridges or fair-rated bridges if the fair-rated bridges are included as part of designated bridge projects or other projects pursuant to Section 43-4-805(3)(c)(IV), C.R.S., completing preventative maintenance bridge projects, and completing tunnel projects;
- (d) To acquire, hold title to, and dispose of real and personal property as necessary in the exercise of its powers and performance of its duties;
- (e) To acquire, by purchase, gift, or grant, or, subject to the requirements of articles 1 to 7 of title 38, C.R.S., by condemnation, any and all rights-of-way, lands, buildings, moneys, or grounds necessary or convenient for its authorized purposes;
- (f) To enter into an ~~agreements~~ with the Commission, or the Department to the extent authorized by the Commission, under which the Enterprise agrees to finance, repair, reconstruct, replace, and, if any given agreement so specifies, maintain a ~~designated bridge~~ or a fair-rated bridge is included as part of a designated bridge project or other project pursuant to Section 43-4-805, C.R.S.s, ~~or completing tunnel projects as specified in the agreements;~~
- (g) As necessary for the achievement of its business purpose, which, except as otherwise provided in Section 43-4-805(5)(g)(III) and (5)(g)(VII), C.R.S., to impose a bridge safety surcharge as provided in Section 43-4-805(5)(g), C.R.S.
- (h) In furtherance of its business purpose, to impose a bridge and tunnel impact fee as provided in Section 43-4-805(5)(g.5), C.R.S.
- (i) In furtherance of its business purpose, to impose a bridge and tunnel retail delivery fee as provided in Section 43-4-805(5)(g.7), C.R.S.
- (j) To make and enter into contracts or agreements with a private entity, to facilitate a public-private initiative pursuant to Sections 43-1-1203 and 43-1-1204, C.R.S., including, but not limited to:
 - (I) An agreement pursuant to which the Enterprise or the Enterprise on behalf of the Department operates, maintains, or provides services or property in connection with a designated bridge project, preventative maintenance bridge project, or tunnel project; ~~and~~

(II) An agreement pursuant to which a private entity designs, develops, constructs, reconstructs, repairs, operates, or maintains all or any portion of a designated bridge ~~or tunnel~~ project on behalf of the Enterprise; and

(III) An agreement pursuant to which a private entity participates in or completes a preventative maintenance bridge project or tunnel project.

(k) To make and to enter into all other contracts or agreements, including, but not limited to, design-build contracts, as defined in Section 43-1-1402-(3), C.R.S., and intergovernmental agreements pursuant to Section 29-1-203, C.R.S., that are necessary or incidental to the exercise of its powers and performance of its duties;

(l) To employ or contract for the services of consulting engineers or other experts as are necessary in its judgment to carry out its powers and duties;

(m) To prepare, or cause to be prepared, detailed plans, specifications, or estimates for any designated bridge project, preventative maintenance bridge project, or tunnel project within the state;

(n) In connection with any designated bridge ~~or tunnel~~ project, to acquire, finance, repair, reconstruct, replace, operate, and maintain any designated bridge ~~or tunnel~~ within the state or any fair-rated bridge if the fair-rated bridge is included as part of a designated bridge project pursuant to Section 43-4-805(3)(c)(IV), C.R.S.;

(o) To set and adopt, on an annual basis, a budget for the Enterprise;

(p) To purchase, trade, exchange, acquire, buy, sell, lease, lease with an option to purchase, dispose of, or encumber real or personal property or any interest therein, including easements and rights-of-way, without restriction or limitation;

(q) To enter into interest rate exchange agreements for bonds that have been issued in accordance with article 59.3 of title 11, C.R.S.;

(r) Pursuant to Section 24-1-107.5, C.R.S., to establish, create, and approve nonprofit entities and bonds issued by or on behalf of such nonprofit entities for the purpose of completing a designated bridge project, preventative maintenance bridge project, or tunnel project, to accept the assets of any such nonprofit entity, to obtain an option to acquire the assets of any such nonprofit entity by paying its bonds, to appoint or approve the appointment of members of the governing board of any such nonprofit entity, and to remove the members of the governing board of any such nonprofit entity for cause;

(s) To transfer money, property, or other assets of the Enterprise to the Department to the extent necessary to implement the financing of any designated bridge project, preventative maintenance bridge project, or tunnel project, or for any other purpose authorized in part 8, article 4, of title 43;

(t) To contract with the state to borrow moneys under the terms of one or more loan contracts entered into by the state and the Enterprise pursuant to subparagraph (III) of -paragraph (r) of Section 43-4-805(5), C.R.S., to expend any moneys borrowed from the state for the purpose of completing designated bridge projects, preventative maintenance bridge projects, and tunnel projects and for any other authorized purpose that constitutes the construction, supervision, and maintenance of the public highways of this state for purposes of section 18 of article X of the state constitution, and to use revenues generated by any bridge safety surcharge, bridge and tunnel impact fee, or bridge and tunnel retail delivery fee imposed pursuant to paragraph (5)(g), (5)(g.5), or (5)(g.7) of Section 43-4-805, C.R.S., and any other legally available moneys of the Enterprise to repay the moneys borrowed and any other amounts payable under the terms of the loan contract.

(u) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers and duties granted in Section 43-4-805(~~5~~), C.R.S.

Article VIII. Revenues and Expenditures

The statewide bridge enterprise special revenue fund, referred to in part 8, article 4, title 43, Colorado Revised Statutes as the "bridge special fund", has been created in the state treasury. All revenues received by the Enterprise, including, but not limited to, any revenues from a bridge safety surcharge imposed pursuant to Section 43-4-805(5)(g), C.R.S., revenue from a bridge and tunnel impact fee imposed pursuant to Section 43-4-805(5)(g.5), revenue from a bridge and tunnel retail delivery fee imposed pursuant to Section 43-4-805(5)(g.7), and any moneys loaned to the Enterprise by the state pursuant to paragraph (r) of Section 43-4-805(5), C.R.S., shall be deposited into the bridge special fund. The Board may establish separate accounts within the bridge special fund as needed in connection with any specific designated bridge project, preventative maintenance bridge project, or tunnel project. The Enterprise also may deposit or permit others to deposit other moneys into the bridge special fund, but in no event may revenues from any tax otherwise available for general purposes be deposited into the bridge special fund, ~~but in no event may revenue from any tax otherwise available for general purposes be deposited into the bridge special fund.~~ The state treasurer, after consulting with the Board, shall invest any moneys in the bridge special fund, including any surplus or reserves, but excluding any proceeds from the sale of bonds or earnings on such proceeds invested pursuant to Section 43-4-807(2), C.R.S. that are not needed for immediate use. Such moneys may be invested in the types of investments authorized in Sections 24-36-109, 24-36-112, and 24-36-113, C.R.S.

All interest and income derived from the deposit and investment of moneys in the bridge special fund shall be credited to the bridge special fund and, if applicable, to the appropriate designated bridge project account, preventative maintenance bridge project account, or tunnel project account. Moneys in the bridge special fund shall be continuously appropriated to the Enterprise for the purposes set forth in part 8, article 4, title 43, Colorado Revised Statutes. All moneys deposited in the bridge special fund shall remain in the bridge special fund for the purposes set forth in part 8, and no part of the bridge special fund shall be used for any other purpose.

The Board shall have exclusive authority to budget and approve the expenditure of moneys in the bridge special fund. The Enterprise may expend moneys in the bridge special fund to pay for:

- (a) ~~to~~ Bond or loan obligations;
- (b) ~~T~~, ~~to fund~~ the administration, planning, financing, repair, reconstruction, replacement, or maintenance of designated bridges;
- (c) ~~the completion of bridge-preventative maintenance bridge projects;~~
- (d) The administration, planning, financing, repair, replacement, reconstruction, or maintenance of bridge bundling projects;
- (e) ~~, and~~ ~~t~~ The completion of tunnel projects;
- (f) ~~, and for~~ ~~t~~ The acquisition of land to the extent required in connection with any designated bridge project; and
- (a)(g) The operating costs and expense of the Enterprise. project, bridge preventative maintenance project, or tunnel project. The Enterprise may also expend moneys in the bridge special fund to pay its operating costs and expenses. The Board shall have exclusive authority to budget and approve the expenditure of moneys in the bridge special fund.

The Commission may transfer moneys from the state highway fund created in Section 43-1-219, C.R.S., to the Enterprise for the purpose of defraying expenses incurred by the Enterprise prior to the receipt of bond proceeds or revenues by the Enterprise. The Enterprise may accept and expend any moneys 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 shall constitute a loan from the Commission to the Enterprise and shall not be considered a grant for purposes of section 20-(2)-(d) of article X of the state constitution. As the Enterprise receives sufficient revenues in excess of expenses, the enterprise shall reimburse the state highway fund for the principal amount of any loan from the state highway fund made by the commission plus interest at a rate set by the Commission. Any moneys loaned from the state highway fund to the Enterprise pursuant to this section shall be deposited into a fund to be known as the statewide bridge and tunnel enterprise operating fund, and shall not be deposited into the bridge special fund. Moneys from the bridge special fund may, however, be used to reimburse the state highway fund for the amount of any loan from the state highway fund or any interest thereon.

Article IX. Articles of Organization--Amendment

The Board may amend, supplement, or repeal these Third Amended Articles of Organization or adopt new Articles of Organization. All such changes shall affect and be binding upon the Enterprise, the Board and the Members heretofore, as well as hereafter, authorized. Any amendment, supplement or repeal of these Articles of Organization or adoption of new Articles of Organization shall require a majority vote of the Members at any regular meeting of the Board.

Article X. Bylaws

The Board shall adopt a set of Bylaws to govern its internal operations and procedures.

STATEWIDE BRIDGE AND TUNNEL ENTERPRISE
THIRD AMENDED ARTICLES OF ORGANIZATION

PREAMBLE

The General Assembly of the State of Colorado (the “State”) found and declared in Section 43-4-805(1), C.R.S. that:

(a) The completion of designated bridge projects, preventative maintenance bridge projects, and tunnel projects is essential to address increasing traffic congestion and delays, hazards, injuries, and fatalities;

(b) Due to the limited availability of state and federal funding and the need to accomplish the financing, repair, reconstruction, and replacement of designated bridges, completion of preventative maintenance bridge projects, and completion of tunnel projects as promptly and efficiently as possible, it is necessary to create a statewide bridge and tunnel enterprise and to authorize the enterprise to:

(I) Enter into agreements with the Colorado Transportation Commission (the “Commission”) or the Colorado Department of Transportation (the “Department”) to finance, repair, reconstruct, and replace designated bridges, complete preventative maintenance bridge projects, and complete tunnel projects in the state; and

(II) Impose a bridge safety surcharge, a bridge and tunnel impact fee, and a bridge and tunnel retail delivery fee at rates reasonably calculated to defray the costs of completing designated bridge projects, preventative maintenance bridge projects, and tunnel projects and distribute the burden of defraying the costs in a manner based on the benefits received by persons paying the fees and using designated bridges and tunnels and receiving retail deliveries, receive and expend revenue generated by the surcharge and fees and other money, issue revenue bonds and other obligations, contract with the state, if required approvals are obtained, to receive one or more loans of money received by the state under the terms of one or more financed purchase of an asset or certificate of participation agreements authorized by part 8 of article 4, title 43, Colorado Revised Statutes, expend revenue generated by the surcharge to repay any such loan or loans received, and exercise other powers necessary and appropriate to carry out its purposes; and

(c) The creation of a statewide bridge and tunnel enterprise is in the public interest and will promote the health, safety, and welfare of all Coloradans and visitors to the state by providing bridges and repairing, maintaining, and operating tunnels in a manner that incorporates the benefits of advanced engineering design, experience, and safety.

The General Assembly thereupon created and expanded in Section 43-4-805(2)(a)(I), C.R.S., a statewide bridge and tunnel enterprise as a government-owned business in the Department.

Article I. Name

The statewide bridge and tunnel enterprise created in Section 43-4-805(2)(a)(I), C.R.S., shall be known as the STATEWIDE BRIDGE AND TUNNEL ENTERPRISE ("Enterprise").

Article II. Authority

The Colorado Legislature approved the creation of the Bridge Enterprise during its regularly scheduled session in 2009, and was signed into law by the Governor of the State of Colorado on March 1, 2009. The Colorado Legislature approved the expansion of the Bridge Enterprise to the Bridge and Tunnel Enterprise during its regularly scheduled session in 2021 and the law expanding to tunnels, SB 21-260, was signed into law by the Governor of the State of Colorado on June 17, 2021. The Colorado Legislature approved the expansion of the scope of the Bridge and Tunnel Enterprise's authority to include (1) preventative maintenance for bridges rated as fair and good, and (2) a fair-rated bridge may be included in a designated bridge project or other project involving the repair, replacement, or reconstruction of a designated bridge if (a) including the fair-rated bridge is an efficient use of Bridge Enterprise resources, and (b) will result in cost savings or schedule acceleration for a project that will improve safety (hereafter referred to as "bridge bundling projects"). The law expanding the scope of the Enterprise's authority regarding preventative maintenance projects and bridge bundling projects, HB 23-1276, was signed into law by the Governor of the State of Colorado on May 15, 2023. The Enterprise shall function pursuant to these Articles of Organization until such time as it may be abolished by a specific action under applicable Colorado state law.

Article III. Purpose

The business purpose of the Enterprise is to finance, repair, reconstruct, and replace (i) any designated bridge in the state, (ii) perform preventative maintenance on any bridges rated as fair and good in the state, and (iii) to repair, maintain, or enhance the operation of any tunnel that is part of the state highway system, as agreed upon by the Enterprise and the Commission, or the Department to the extent authorized by the Commission, to maintain the bridges it finances, repairs, reconstructs, and replaces.

Article IV. TABOR Exemption

As provided in Section 43-4-805(2)(c), C.R.S., the Enterprise shall constitute an "enterprise" for purposes of section 20 of article X of the state constitution so long as it retains the authority to issue revenue bonds and receives less than ten percent of its total revenues in grants from all Colorado state and local governments combined. So long as it constitutes an enterprise pursuant to Section 43-4-805(2)(c), C.R.S., the Enterprise shall not be subject to any provisions of section 20 of article X of the state constitution. Consistent with the determination of the Colorado supreme court in *Nicholl v. E-470 Public Highway Authority*, 896 P.2d 859 (Colo. 1995), that the power to impose taxes is inconsistent with "enterprise" status under section 20 of article X of the state constitution, the general assembly found and declared in Section 43-4-805(2)(c), C.R.S., that a bridge safety surcharge, a bridge and tunnel impact fee, or a bridge and tunnel retail delivery fee imposed by the Enterprise as authorized by subsection (5)(g), (5)(g.5) or (5)(g.7) of Section 43-4-805, C.R.S., is not a tax but is instead a fee imposed by the enterprise to defray the cost of

completing designated bridge projects, preventative maintenance bridge projects and tunnel projects that the Enterprise provides as a specific service to the persons upon whom the fee is imposed and at rates reasonably calculated based on the benefits received by such persons.

Article V. Enterprise Board and Enterprise Director

The Commission shall serve as the Enterprise Board (“Board”) and shall, with the consent of the Executive Director of the Department, appoint a director of the Enterprise (the “Enterprise Director”) who shall possess such qualifications as may be established by the Commission and the State personnel board.

The Enterprise Director shall oversee the discharge of all responsibilities of the Enterprise and shall serve at the pleasure of the Board.

The Enterprise and the Enterprise Director shall exercise their powers and perform their duties as if the same were transferred to the Department by a **type 1** transfer, as defined in Section 24-1-105, C.R.S.

Article VI. Officers

The officers of the Enterprise shall be elected according to the Bylaws of the Board and shall have the duties set forth in the Bylaws.

Article VII. Powers

The Enterprise may:

- (a) Impose a bridge safety surcharge as authorized in Section 43-4-805(5)(g), C.R.S.;
- (b) Impose a bridge and tunnel impact fee as authorized in Section 43-4-805(5)(g.5), C.R.S.;
- (c) Impose a bridge and tunnel retail delivery fee as authorized in Section 43-4-805(5)(g.7);
- (d) Issue revenue bonds payable from the revenues and other available moneys of the enterprise pledged for their payment as authorized in Section 43-4-807, C.R.S.; and
- (e) Contract with any other governmental or nongovernmental source of funding for loans or grants, including, but not limited to, one or more loans from the state of moneys received by the state pursuant to the terms of one or more financed purchase of an asset or certificate of participation agreements authorized pursuant to Section 43-4-805(5)(r), C.R.S., to be used to support Enterprise functions.

In addition to any other powers and duties specified in Section 43-4-805, C.R.S., the Board also has the following powers and duties:

- (a) To supervise and advise the Enterprise Director.
- (b) To adopt bylaws for the regulation of its affairs and the conduct of its business;
- (c) To issue revenue bonds, payable solely from the bridge special fund, for the purpose of paying the cost of financing, repairing, reconstructing, replacing, and maintaining designated bridges or fair-rated bridges if the fair-rated bridges are included as part of designated bridge projects or other projects pursuant to Section 43-4-805(3)(c)(IV), C.R.S., completing preventative maintenance bridge projects, and completing tunnel projects;
- (d) To acquire, hold title to, and dispose of real and personal property as necessary in the exercise of its powers and performance of its duties;
- (e) To acquire, by purchase, gift, or grant, or, subject to the requirements of articles 1 to 7 of title 38, C.R.S., by condemnation, any and all rights-of-way, lands, buildings, moneys, or grounds necessary or convenient for its authorized purposes;
- (f) To enter into an agreement with the Commission, or the Department to the extent authorized by the Commission, under which the Enterprise agrees to finance, repair, reconstruct, replace, and, if any given agreement so specifies, maintain a designated bridge or a fair-rated bridge is included as part of a designated bridge project or other project pursuant to Section 43-4-805, C.R.S.;
- (g) As necessary for the achievement of its business purpose, which, except as otherwise provided in Section 43-4-805(5)(g)(III) and (5)(g)(VII), C.R.S., to impose a bridge safety surcharge as provided in Section 43-4-805(5)(g), C.R.S.
- (h) In furtherance of its business purpose, to impose a bridge and tunnel impact fee as provided in Section 43-4-805(5)(g.5), C.R.S.
- (i) In furtherance of its business purpose, to impose a bridge and tunnel retail delivery fee as provided in Section 43-4-805(5)(g.7), C.R.S.
- (j) To make and enter into contracts or agreements with a private entity, to facilitate a public-private initiative pursuant to Sections 43-1-1203 and 43-1-1204, C.R.S., including, but not limited to:
 - (I) An agreement pursuant to which the Enterprise or the Enterprise on behalf of the Department operates, maintains, or provides services or property in connection with a designated bridge project, preventative maintenance bridge project, or tunnel project;
 - (II) An agreement pursuant to which a private entity designs, develops, constructs, reconstructs, repairs, operates, or maintains all or any portion of a designated bridge project on behalf of the Enterprise; and

(III) An agreement pursuant to which a private entity participates in or completes a preventative maintenance bridge project or tunnel project.

(k) To make and to enter into all other contracts or agreements, including, but not limited to, design-build contracts, as defined in Section 43-1-1402(3), C.R.S., and intergovernmental agreements pursuant to Section 29-1-203, C.R.S., that are necessary or incidental to the exercise of its powers and performance of its duties;

(l) To employ or contract for the services of consulting engineers or other experts as are necessary in its judgment to carry out its powers and duties;

(m) To prepare, or cause to be prepared, detailed plans, specifications, or estimates for any designated bridge project, preventative maintenance bridge project, or tunnel project within the state;

(n) In connection with any designated bridge project, to acquire, finance, repair, reconstruct, replace, operate, and maintain any designated bridge within the state or any fair-rated bridge if the fair-rated bridge is included as part of a designated bridge project pursuant to Section 43-4-805(3)(c)(IV), C.R.S.;

(o) To set and adopt, on an annual basis, a budget for the Enterprise;

(p) To purchase, trade, exchange, acquire, buy, sell, lease, lease with an option to purchase, dispose of, or encumber real or personal property or any interest therein, including easements and rights-of-way, without restriction or limitation;

(q) To enter into interest rate exchange agreements for bonds that have been issued in accordance with article 59.3 of title 11, C.R.S.;

(r) Pursuant to Section 24-1-107.5, C.R.S., to establish, create, and approve nonprofit entities and bonds issued by or on behalf of such nonprofit entities for the purpose of completing a designated bridge project, preventative maintenance bridge project, or tunnel project, to accept the assets of any such nonprofit entity, to obtain an option to acquire the assets of any such nonprofit entity by paying its bonds, to appoint or approve the appointment of members of the governing board of any such nonprofit entity, and to remove the members of the governing board of any such nonprofit entity for cause;

(s) To transfer money, property, or other assets of the Enterprise to the Department to the extent necessary to implement the financing of any designated bridge project, preventative maintenance bridge project, or tunnel project, or for any other purpose authorized in part 8, article 4, of title 43;

(t) To contract with the state to borrow money under the terms of one or more loan contracts entered into by the state and the Enterprise pursuant to subparagraph (III) of paragraph (r) of Section 43-4-805(5), C.R.S., to expend any money borrowed from the state for the purpose of completing designated bridge projects, preventative maintenance bridge projects, and tunnel

projects and for any other authorized purpose that constitutes the construction, supervision, and maintenance of the public highways of this state for purposes of section 18 of article X of the state constitution, and to use revenue generated by any bridge safety surcharge, bridge and tunnel impact fee, or bridge and tunnel retail delivery fee imposed pursuant to paragraph (5)(g), (5)(g.5), or (5)(g.7) of Section 43-4-805, C.R.S., and any other legally available money of the Enterprise to repay the money borrowed and any other amounts payable under the terms of the loan contract.

(u) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers and duties granted in Section 43-4-805, C.R.S.

Article VIII. Revenues and Expenditures

The statewide bridge enterprise special revenue fund, referred to in part 8, article 4, title 43, Colorado Revised Statutes as the “bridge special fund”, has been created in the state treasury. All revenues received by the Enterprise, including, but not limited to, any revenues from a bridge safety surcharge imposed pursuant to Section 43-4-805(5)(g), C.R.S., revenue from a bridge and tunnel impact fee imposed pursuant to Section 43-4-805(5)(g.5), revenue from a bridge and tunnel retail delivery fee imposed pursuant to Section 43-4-805(5)(g.7), and any money loaned to the Enterprise by the state pursuant to paragraph (r) of Section 43-4-805(5), C.R.S., shall be deposited into the bridge special fund. The Board may establish separate accounts within the bridge special fund as needed in connection with any specific designated bridge project, preventative maintenance bridge project, or tunnel project. The Enterprise also may deposit or permit others to deposit other money into the bridge special fund, but in no event may revenue from any tax otherwise available for general purposes be deposited into the bridge special fund. The state treasurer, after consulting with the Board, shall invest any money in the bridge special fund, including any surplus or reserves, but excluding any proceeds from the sale of bonds or earnings on such proceeds invested pursuant to Section 43-4-807(2), C.R.S. that are not needed for immediate use. Such moneys may be invested in the types of investments authorized in Sections 24-36-109, 24-36-112, and 24-36-113, C.R.S.

All interest and income derived from the deposit and investment of moneys in the bridge special fund shall be credited to the bridge special fund and, if applicable, to the appropriate designated bridge project account, preventative maintenance bridge project account, or tunnel project account. Money in the bridge special fund shall be continuously appropriated to the Enterprise for the purposes set forth in part 8, article 4, title 43, Colorado Revised Statutes. All money deposited in the bridge special fund shall remain in the bridge special fund for the purposes set forth in part 8, and no part of the bridge special fund shall be used for any other purpose.

The Board shall have exclusive authority to budget and approve the expenditure of moneys in the bridge special fund. The Enterprise may expend money in the bridge special fund to pay for:

- (a) Bond or loan obligations;

- (b) The administration, planning, financing, repair, reconstruction, replacement, or maintenance of designated bridges;
- (c) The completion of preventative maintenance bridge projects;
- (d) The administration, planning, financing, repair, replacement, reconstruction, or maintenance of bridge bundling projects;
- (e) The completion of tunnel projects;
- (f) The acquisition of land to the extent required in connection with any designated bridge project; and
- (g) The operating costs and expense of the Enterprise.

The Commission may transfer money from the state highway fund created in Section 43-1-219, C.R.S., to the Enterprise for the purpose of defraying expenses incurred by the Enterprise prior to the receipt of bond proceeds or revenues by the Enterprise. The 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 shall constitute a loan from the Commission to the Enterprise and shall not be considered a grant for purposes of section 20(2)(d) of article X of the state constitution. As the Enterprise receives sufficient revenues in excess of expenses, the enterprise shall reimburse the state highway fund for the principal amount of any loan from the state highway fund made by the commission plus interest at a rate set by the Commission. Any money loaned from the state highway fund to the Enterprise pursuant to this section shall be deposited into a fund to be known as the statewide bridge and tunnel enterprise operating fund, and shall not be deposited into the bridge special fund. Moneys from the bridge special fund may, however, be used to reimburse the state highway fund for the amount of any loan from the state highway fund or any interest thereon.

Article IX. Articles of Organization--Amendment

The Board may amend, supplement, or repeal these Third Amended Articles of Organization or adopt new Articles of Organization. All such changes shall affect and be binding upon the Enterprise, the Board and the Members heretofore, as well as hereafter, authorized. Any amendment, supplement or repeal of these Articles of Organization or adoption of new Articles of Organization shall require a majority vote of the Members at any regular meeting of the Board.

Article X. Bylaws

The Board shall adopt a set of Bylaws to govern its internal operations and procedures.

STATEWIDE BRIDGE AND TUNNEL ENTERPRISE BOARD
AMENDED BYLAWS

Article I. Offices and Definitions

A. Principal Office. The principal office of the Statewide Bridge and Tunnel Enterprise (“Enterprise”) shall be 2829 W. Howard Place, Denver, Colorado 80204. The Enterprise may have other offices and places of business at such places within the State of Colorado as shall be determined by the Enterprise Board (“Board”), as defined below.

B. Definitions. Capitalized terms shall have the definitions ascribed to them in these Bylaws and the Statewide Bridge and Tunnel Enterprise Third Amended Articles of Organization.

Article II. Bridge and Tunnel Enterprise Board

A. Board. All the powers of the Enterprise, as described in §Sections 43-4-805 and 43-4-807, ~~et seq.~~, C.R.S. (as may be amended from time to time), and as otherwise provided by law, shall be vested in the Board. The Board shall manage the business and affairs of the Enterprise. The Board shall consist solely of the members of the Transportation Commission of Colorado (“Transportation Commission”). ~~as determined pursuant to § 43-1-106(1), C.R.S.~~ Members of the Board shall have the ability to vote.

B. Qualifications and Term. All members of the Board shall be, at the time of appointment and throughout their tenure on the Board, members of the Transportation Commission ~~of Colorado~~. The number of members comprising the Board and their respective term durations shall be consistent with the number of members comprising the Transportation Commission and their respective term durations as set forth ~~as provided~~ in Section§ 43-1-106(1), C.R.S. For the avoidance of doubt, any member of the Board’s term shall immediately expire in the event such Board member ceases to be a member of the Transportation Commission (whether by resignation, end of term, or otherwise).

C. Performance of Duties. By acceptance of his or her office, each member of the Board shall be deemed to have accepted the obligation to perform his or her duties in good faith and in a manner he/she believes to be in the best interests of the Enterprise.

D. Reimbursement. The Board may provide for reimbursement of the members of the Board for reasonable and necessary expenses incurred in the discharge of such Board member’s official duties on behalf of the Enterprise consistent with State Fiscal Rules ~~and the~~ but the members shall otherwise serve without compensation.

E. Disclosures. Members of the Board shall make financial disclosures and avoid conflicts of interest as provided by policies as may be adopted by the Board and as otherwise provided by law.

Article III. Meetings of the Bridge and Tunnel Enterprise Board

A. Place of Meetings. The regular or special meetings of the Board or any committee designated by the Board shall be held at the principal office of the Enterprise or at any other place that a majority of the Board or any such committee, as the case may be, designates from time to time.

B. Regular Meetings. Regular meetings of the Board shall be held at a time and date set by the Board, but will generally be held the third Thursday of every month. It shall be the duty of the members of the Board to attend Board meetings. The Board shall meet no less than eight (8) times per year. The Chair of the Board ("the Chair") may postpone or advance the time and date of any regular meeting for a period not to exceed one week. The Board may remove items from the agenda or rearrange the order of the agenda items at any time. Items may be added to the agenda only with adequate public notice prior to the meeting, as provided by law.

C. Special Meetings. Special meetings may be called by the Director of the Enterprise, the Chair, or a majority of the members of the Board, with three days' notice by electronic mail or, in an emergency, 24 hours' notice by telephone or electronic mail, unless otherwise provided by law.

D. Notice of Meetings. Notice of the time, date and place shall be provided to the Board and the public as required by law.

E. Quorum. A quorum of the Board shall be six (6) members. If a quorum of the Enterprise Board is present, a majority vote of the members present shall be required to carry any motion, order, regulation, bylaw or other action of the Board. All formal action of the Board shall be by resolution adopted at a duly called meeting of the Board, and no individual member shall exercise individually any administrative authority with respect to the Enterprise.

F. Voting. Each member of the Board shall be entitled to one vote. The Board may act only by resolution or motion at a duly called meeting. Voting shall be either by voice or roll call vote. A roll call vote shall be conducted upon the request of a member of the Board or at the discretion of the Chair. Any member of the Board shall disqualify himself or herself from voting on any issue with respect to which he/she has a private interest, unless such member of the Board has disclosed such interest in compliance with §Section 24-18-110, C.R.S.

G. Conduct of Meetings. All meetings of the Board will be conducted under Roberts Rules of Order, unless specifically provided otherwise by the Board or these Bylaws.

H. Executive and Other Committees. The Board may, by a motion or resolution adopted by a majority of the members of the Board, designate not less than two (2) of its members to constitute one or more other committees, each of which shall have and may exercise such authority as may be set forth in said motion or resolution. If any such delegation of authority of the Board is made as herein provided, all references to the Board contained in these Bylaws, the Articles of Organization, Sections § 43-4-801, *et seq.*, C.R.S. or

any other applicable law or regulation relating to the authority so delegated shall be deemed to refer to such committee.

Article IV. Open Meetings and Open Records

A. Open Meetings. All meetings of the Board shall be open to the public and shall be preceded by adequate public notice as required by law. Public notice of the Board agenda shall be made prior to Board meetings.

B. Open Records. The records of the Board shall be public records and shall be open for public inspection, as provided by law for public records. Board meetings shall be recorded by electronic recording device. Minutes shall be made of all Board meetings and shall be approved by the Board. After approval by the Board, minutes shall be made a part of the Board records.

Article V. Officers of the Bridge and Tunnel Enterprise Board

A. General. The Chair and Vice-Chair shall be the officers of the Board. The Board shall appoint a Secretary who shall not be a member of the Board. The officers shall be elected by the Board annually at the Board meeting in August. If the election of such officers is not held at such meeting, such election shall take place as soon thereafter as a meeting may be conveniently held. The Board shall elect a Chair and Vice-Chair, each of whom must be a member of the Board. Each officer shall serve at the pleasure of the Board.

B. General Duties. All officers of the Enterprise, as between themselves and the Enterprise, shall have the authority and shall perform such duties in the management of the Enterprise as may be provided in these Bylaws, the Articles of Organization or as may be determined by resolution or action of the Board not inconsistent with these Bylaws.

C. Specific Duties of Officers. In addition to duties designated by the Board, the duties of the officers shall include the following:

1. Chair. The Chair shall preside at all meetings of the Board. The term of the office ~~of~~ Chair shall be for one year or until a successor shall be elected.

2. Vice-Chair. The Vice-Chair shall, in the case of the absence or disability of the Chair, perform the duties of the Chair. The Vice-Chair shall also perform such other duties as may be prescribed by the Board from time to time. The term of office of Vice-Chair shall be for one year or until a successor shall be elected.

3. Secretary. The Secretary shall keep the records of the Board. The Secretary shall have the custody of the seal of the Enterprise and shall, in addition, perform all of the other duties usually pertaining to this office. The term of office shall be at the will of the Board.

D. Delegation of Duties. Whenever an officer is absent for any reason, the Board may delegate the powers and duties of an officer to ~~the Chair, Vice Chair, any other Officer~~ or to any member of the Board.

E. No contract right. Service on the Board shall not of itself create contract rights in the office.

Article VI. Fiscal Year and Budget

A. Fiscal Year. The fiscal year of the Enterprise shall be based on the State of Colorado fiscal year (July 1 – June 30). The fiscal year may be changed from time to time by the Board at its discretion.

B. Budget. The Board shall set and adopt on an annual basis a budget for the Enterprise. The budget shall be adopted not later than June of each year.

Article VII. Amendments

A. General. The Board may amend, supplement or repeal these Bylaws or adopt new bylaws and all such changes shall affect and be binding upon the Board and members heretofore, as well as hereafter, authorized. Any amendment, supplement or repeal of these Bylaws or adoption of new bylaws shall require a majority vote of all of the members at any regular meeting.

B. Notice. Specific notice of each meeting at which consideration of proposed amendment to, supplementation of, or repeal of these Bylaws or adoption of new bylaws shall be given in the same manner as notice of meetings is to be given pursuant to Article III, Section D. hereof.

C. Vote Necessary. Any adoption of new bylaws, or amendment, supplement, or repeal of these Bylaws shall require approval by a majority of the Board at any regular meeting at which the amendment, supplement, repeal, or adoption is considered.

Article VIII. Selection, Powers and Duties of Director

A. The Board shall appoint, with the consent of the CDOT Executive Director, an enterprise director who shall possess such qualifications as may be established by the commission and the state personnel board. The Director of the Enterprise (“Director”) may be the CDOT Executive Director, and the Director shall serve at the pleasure of the Board.

B. The Director shall be the chief executive officer of the Enterprise, and shall supervise the activities of the Enterprise, and shall direct and manage overall Enterprise staff and functions.

C. The Director or his or her designee shall report to the Board and recommend priorities, policies, and procedures to the Board.

D. The Director or his or her designee shall work with federal, state, local, and

private agencies on Enterprise projects, funding, and programs.

E. The Director or his or her designee shall see that all policies, directions, and orders of the Board are carried out and shall, under the supervision of the Board, have such other authority, powers, or duties as may be prescribed by the Board.

Article IX. Miscellaneous

A. Invalid Provision. The invalidity or non-enforceability of any particular provision of these Bylaws shall not affect the other provisions herein, and these Bylaws shall be construed in all respects as if such invalid or unenforceable provision were omitted.

B. Governing Law. These Bylaws shall be governed by and construed in accordance with the constitution and laws of the State of Colorado and Sections§ 43-4-805, *et seq.*, C.R.S. for the Enterprise, as amended from time to time.

C. Gender. Whenever required by context, the singular shall include the plural, the singular, and one gender shall include the other.

D. Contracts and Amendments. The Board shall set budgets for its operations and the Director, or his or her delegee, shall have authority to approve and enter into contracts and any amendments of existing contracts, so long as the total projected expenditures do not exceed the estimate of available funds approved for the fiscal year by the Board that are within an approved budget. The Director's signature or the signature of his or her delegee on such contracts and contract amendments shall legally bind the Enterprise.

**STATEWIDE BRIDGE AND TUNNEL ENTERPRISE BOARD
AMENDED BYLAWS**

Article I. Offices and Definitions

A. Principal Office. The principal office of the Statewide Bridge and Tunnel Enterprise (“Enterprise”) shall be 2829 W. Howard Place, Denver, Colorado 80204. The Enterprise may have other offices and places of business at such places within the State of Colorado as shall be determined by the Enterprise Board (“Board”), as defined below.

B. Definitions. Capitalized terms shall have the definitions ascribed to them in these Bylaws and the Statewide Bridge and Tunnel Enterprise Third Amended Articles of Organization.

Article II. Bridge and Tunnel Enterprise Board

A. Board. All the powers of the Enterprise, as described in Sections 43-4-805 and 43-4-807, C.R.S. (as may be amended from time to time), and as otherwise provided by law, shall be vested in the Board. The Board shall manage the business and affairs of the Enterprise. The Board shall consist solely of the members of the Transportation Commission of Colorado (“Transportation Commission”). Members of the Board shall have the ability to vote.

B. Qualifications and Term. All members of the Board shall be, at the time of appointment and throughout their tenure on the Board, members of the Transportation Commission. The number of members comprising the Board and their respective term durations shall be consistent with the number of members comprising the Transportation Commission and their respective term durations as set forth in Section 43-1-106, C.R.S. For the avoidance of doubt, any member of the Board’s term shall immediately expire in the event such Board member ceases to be a member of the Transportation Commission (whether by resignation, end of term, or otherwise).

C. Performance of Duties. By acceptance of his or her office, each member of the Board shall be deemed to have accepted the obligation to perform his or her duties in good faith and in a manner he/she believes to be in the best interests of the Enterprise.

D. Reimbursement. The Board may provide for reimbursement of the members of the Board for reasonable and necessary expenses incurred in the discharge of such Board member’s official duties on behalf of the Enterprise consistent with State Fiscal Rules but the members shall otherwise serve without compensation.

E. Disclosures. Members of the Board shall make financial disclosures and avoid conflicts of interest as provided by policies as may be adopted by the Board and as otherwise provided by law.

Article III. Meetings of the Bridge and Tunnel Enterprise Board

A. Place of Meetings. The regular or special meetings of the Board or any

committee designated by the Board shall be held at the principal office of the Enterprise or at any other place that a majority of the Board or any such committee, as the case may be, designates from time to time.

B. Regular Meetings. Regular meetings of the Board shall be held at a time and date set by the Board, but will generally be held the third Thursday of every month. It shall be the duty of the members of the Board to attend Board meetings. The Board shall meet no less than eight (8) times per year. The Chair of the Board (“the Chair”) may postpone or advance the time and date of any regular meeting for a period not to exceed one week. The Board may remove items from the agenda or rearrange the order of the agenda items at any time. Items may be added to the agenda only with adequate public notice prior to the meeting, as provided by law.

C. Special Meetings. Special meetings may be called by the Director of the Enterprise, the Chair, or a majority of the members of the Board, with three days’ notice by electronic mail or, in an emergency, 24 hours’ notice by telephone or electronic mail, unless otherwise provided by law.

D. Notice of Meetings. Notice of the time, date and place shall be provided to the Board and the public as required by law.

E. Quorum. A quorum of the Board shall be six (6) members. If a quorum of the Enterprise Board is present, a majority vote of the members present shall be required to carry any motion, order, regulation, bylaw or other action of the Board. All formal action of the Board shall be by resolution adopted at a duly called meeting of the Board, and no individual member shall exercise individually any administrative authority with respect to the Enterprise.

F. Voting. Each member of the Board shall be entitled to one vote. The Board may act only by resolution or motion at a duly called meeting. Voting shall be either by voice or roll call vote. A roll call vote shall be conducted upon the request of a member of the Board or at the discretion of the Chair. Any member of the Board shall disqualify himself or herself from voting on any issue with respect to which he/she has a private interest, unless such member of the Board has disclosed such interest in compliance with Section 24-18-110, C.R.S.

G. Conduct of Meetings. All meetings of the Board will be conducted under Roberts Rules of Order, unless specifically provided otherwise by the Board or these Bylaws.

H. Executive and Other Committees. The Board may, by a motion or resolution adopted by a majority of the members of the Board, designate not less than two (2) of its members to constitute one or more other committees, each of which shall have and may exercise such authority as may be set forth in said motion or resolution. If any such delegation of authority of the Board is made as herein provided, all references to the Board contained in these Bylaws, the Articles of Organization, Sections 43-4-801, *et seq.*, C.R.S. or any other applicable law or regulation relating to the authority so delegated shall be deemed to refer to such committee.

Article IV. Open Meetings and Open Records

A. Open Meetings. All meetings of the Board shall be open to the public and shall be preceded by adequate public notice as required by law. Public notice of the Board agenda shall be made prior to Board meetings.

B. Open Records. The records of the Board shall be public records and shall be open for public inspection, as provided by law for public records. Board meetings shall be recorded by electronic recording device. Minutes shall be made of all Board meetings and shall be approved by the Board. After approval by the Board, minutes shall be made a part of the Board records.

Article V. Officers of the Bridge and Tunnel Enterprise Board

A. General. The Chair and Vice-Chair shall be the officers of the Board. The Board shall appoint a Secretary who shall not be a member of the Board. The officers shall be elected by the Board annually at the Board meeting in August. If the election of such officers is not held at such meeting, such election shall take place as soon thereafter as a meeting may be conveniently held. The Board shall elect a Chair and Vice-Chair, each of whom must be a member of the Board. Each officer shall serve at the pleasure of the Board.

B. General Duties. All officers of the Enterprise, as between themselves and the Enterprise, shall have the authority and shall perform such duties in the management of the Enterprise as may be provided in these Bylaws, the Articles of Organization or as may be determined by resolution or action of the Board not inconsistent with these Bylaws.

C. Specific Duties of Officers. In addition to duties designated by the Board, the duties of the officers shall include the following:

1. Chair. The Chair shall preside at all meetings of the Board. The term of the office of Chair shall be for one year or until a successor shall be elected.

2. Vice-Chair. The Vice-Chair shall, in the case of the absence or disability of the Chair, perform the duties of the Chair. The Vice-Chair shall also perform such other duties as may be prescribed by the Board from time to time. The term of office of Vice-Chair shall be for one year or until a successor shall be elected.

3. Secretary. The Secretary shall keep the records of the Board. The Secretary shall have the custody of the seal of the Enterprise and shall, in addition, perform all of the other duties usually pertaining to this office. The term of office shall be at the will of the Board.

D. Delegation of Duties. Whenever an officer is absent for any reason, the Board may delegate the powers and duties of an officer to the Chair, Vice Chair, or to any member of the Board.

E. No contract right. Service on the Board shall not of itself create contract rights in the office.

Article VI. Fiscal Year and Budget

A. Fiscal Year. The fiscal year of the Enterprise shall be based on the State of Colorado fiscal year (July 1 – June 30). The fiscal year may be changed from time to time by the Board at its discretion.

B. Budget. The Board shall set and adopt on an annual basis a budget for the Enterprise. The budget shall be adopted not later than June of each year.

Article VII. Amendments

A. General. The Board may amend, supplement or repeal these Bylaws or adopt new bylaws and all such changes shall affect and be binding upon the Board and members heretofore, as well as hereafter, authorized. Any amendment, supplement or repeal of these Bylaws or adoption of new bylaws shall require a majority vote of all of the members at any regular meeting.

B. Notice. Specific notice of each meeting at which consideration of proposed amendment to, supplementation of, or repeal of these Bylaws or adoption of new bylaws shall be given in the same manner as notice of meetings is to be given pursuant to Article III, Section D. hereof.

C. Vote Necessary. Any adoption of new bylaws, or amendment, supplement, or repeal of these Bylaws shall require approval by a majority of the Board at any regular meeting at which the amendment, supplement, repeal, or adoption is considered.

Article VIII. Selection, Powers and Duties of Director

A. The Board shall appoint, with the consent of the CDOT Executive Director, an enterprise director who shall possess such qualifications as may be established by the commission and the state personnel board. The Director of the Enterprise (“Director”) may be the CDOT Executive Director, and the Director shall serve at the pleasure of the Board.

B. The Director shall be the chief executive officer of the Enterprise, shall supervise the activities of the Enterprise, and shall direct and manage overall Enterprise staff and functions.

C. The Director or his or her designee shall report to the Board and recommend priorities, policies, and procedures to the Board.

D. The Director or his or her designee shall work with federal, state, local, and private agencies on Enterprise projects, funding, and programs.

E. The Director or his or her designee shall see that all policies, directions, and orders of the Board are carried out and shall, under the supervision of the Board, have such other

authority, powers, or duties as may be prescribed by the Board.

Article IX. Miscellaneous

A. Invalid Provision. The invalidity or non-enforceability of any particular provision of these Bylaws shall not affect the other provisions herein, and these Bylaws shall be construed in all respects as if such invalid or unenforceable provision were omitted.

B. Governing Law. These Bylaws shall be governed by and construed in accordance with the constitution and laws of the State of Colorado and Sections 43-4-805, *et seq.*, C.R.S. for the Enterprise, as amended from time to time.

C. Gender. Whenever required by context, the singular shall include the plural, the singular, and one gender shall include the other.

D. Contracts and Amendments. The Board shall set budgets for its operations and the Director, or his or her delegee, shall have authority to approve and enter into contracts and any amendments of existing contracts, so long as the total projected expenditures do not exceed the estimate of available funds approved for the fiscal year by the Board that are within an approved budget. The Director's signature or the signature of his or her delegee on such contracts and contract amendments shall legally bind the Enterprise.



MEMORANDUM

To: The Transportation Commission
From: Jeff Sudmeier, Chief Financial Officer
Date: December 20, 2023
Subject: Monthly Cash Balance Update

Purpose

To provide an update on cash management, including forecasts of monthly revenues, expenditures, and cash balances in Fund 400, the State Highway Fund.

Action

No action is requested at this time.

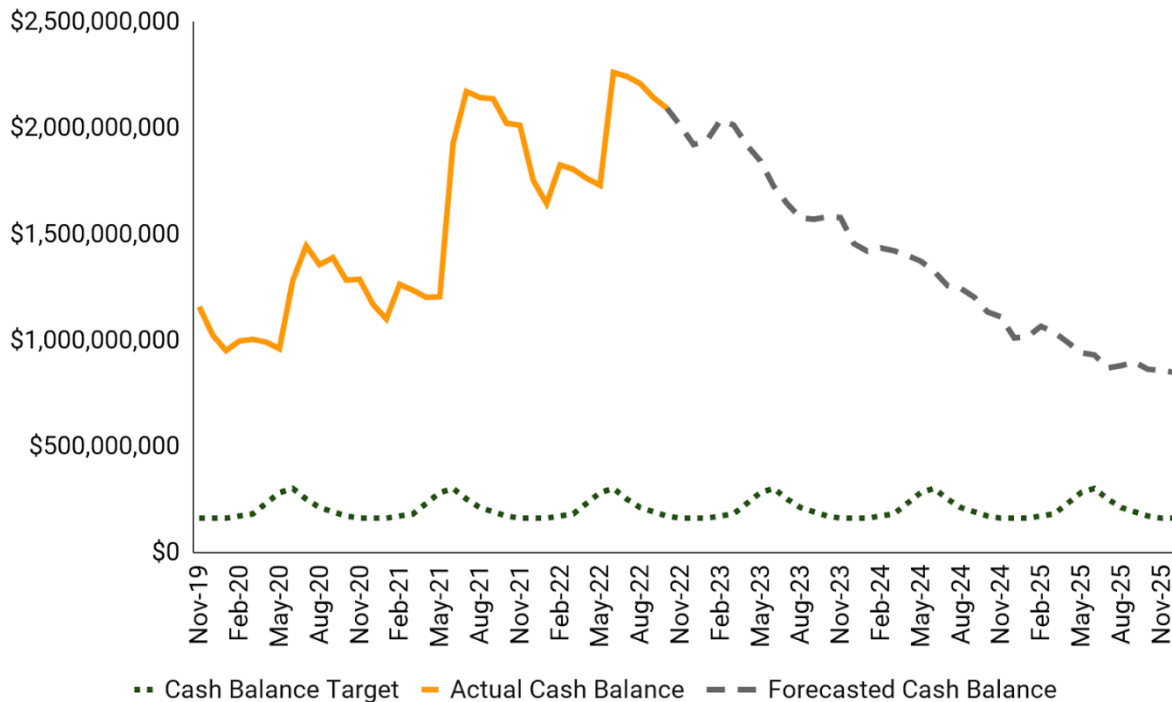
Background

Figure 1 below depicts the forecast of the closing Fund 400 cash balance in each month, as compared to the targeted minimum cash balance for that month (gray shaded area). The targeted minimum cash balances reflect the Transportation Commission's directive (Policy Directive #703) to limit the risk of a cash overdraft at the end of a month to, at most, a probability of 1/1,000 (1 month of 1,000 months ending with a cash overdraft).

Summary

The actual closing cash balance for October 2023 was \$1.58 billion; \$1.40 billion above that month's minimum cash balance target of \$170 million. October's cash balance includes \$431.2 million in the State Highway Fund and \$1.01 billion in the Senate Bill 267 trustee account. The actual cash balance for October 2023 was \$10.9 million lower than forecasted. This forecast variance is primarily related to lower than expected federal reimbursements and lower than expected payments to contractors.

Figure 1 - Fund 400 Cash Forecast



The revenue forecast for future months was adjusted to reflect an anticipated reimbursement to CDOT from CTIO in October for expenses on the I-25 North Segment 7/8 corridor. The reimbursement is being provided through a recently executed TIFIA loan on the I-25 North corridor and includes reimbursement of \$121.0 million in October 2023, with additional draws against the TIFIA loan anticipated in subsequent months.

The large cash balance results from the additional revenues listed in the section below.

Cash Revenues

The cash balance forecast is limited to the State Highway Fund (Fund 400 and affiliated funds and trustee accounts), and does not include other statutory Funds including the Multimodal Mitigation and Transportation Options Fund and Funds associated with the following Enterprises:

- Colorado Transportation Investment Office
- Statewide Bridge and Tunnel Enterprise
- Clean Transit Enterprise
- Nonattainment Area Air Pollution Mitigation Enterprise

The State Highway Fund revenue forecast includes revenues from:

- Highway Users Tax Fund - This primarily includes Motor Fuel Taxes, Vehicle Registration Fees, Road Usage Fees, and Retail Delivery fees.

- Miscellaneous State Highway Fund Revenue - This revenue includes proceeds from the sale of state property, interest earned on the money in the cash fund, the issuance of oversized/overweight permits, and revenue from various smaller sources.
- SB 17-267 - This bill directed the State Treasurer to execute lease-purchase agreements on existing state facilities to generate revenue for priority transportation projects.
- Other Legislative Sources- This includes revenue transferred from the General Fund to the State Highway Fund through legislation passed by the Colorado General Assembly.

Cash balances will be drawn down closer to the target balances over the course of fiscal years 2022, 2023, and 2024 as projects funded with SB 17-267 and other legislative sources progress through construction.

Cash Payments to Construction Contractors

The current forecast of payments to construction contractors under state contracts (grants paid out under inter-government agreements for construction are accounted for elsewhere in the expenditure forecast) from Fund 400 is shown in Figure 2 below.

Figure 2 - Cash Payments to Construction Contractors

Calendar Year	CY 2019 (actual)	CY 2020 (actual)	CY 2021 (actual)	CY 2022 (actual)	CY 2023 (forecast)	CY 2024 (forecast)
Expenditures	\$669	\$774	\$615	\$841	\$869	\$850*

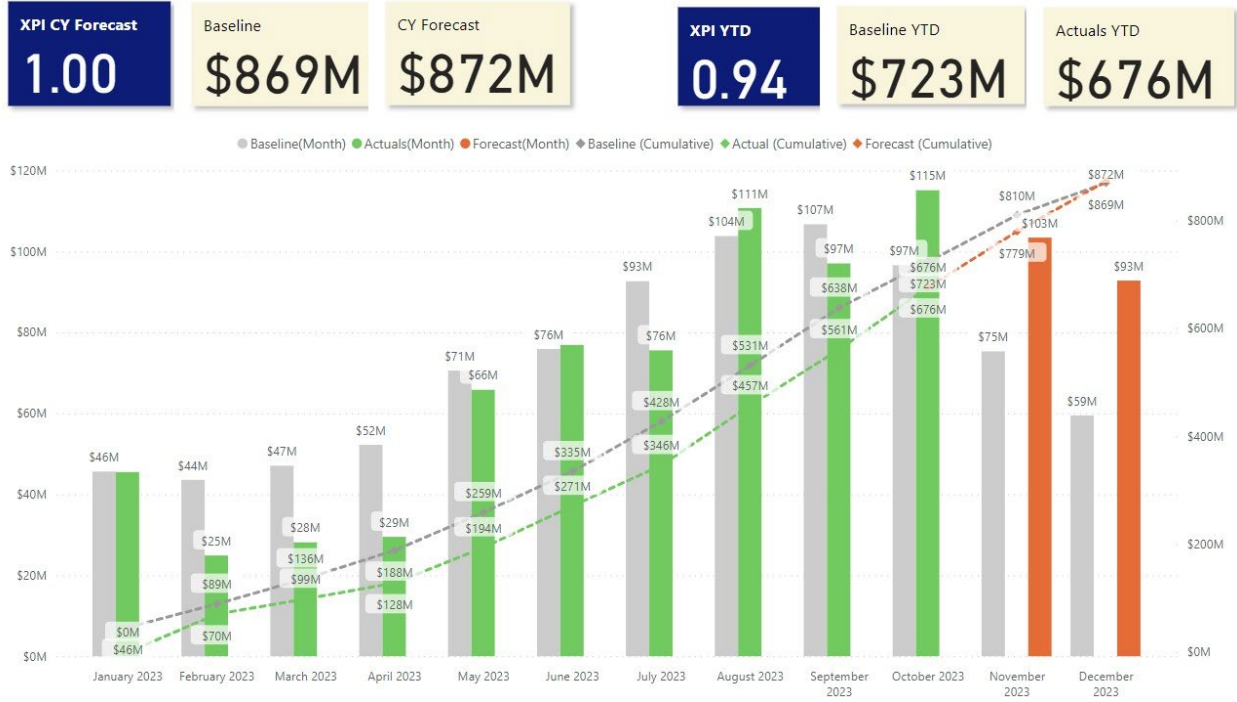
*This is preliminary information based on the 10-Year Plan update which was considered by the Transportation Commission for approval in September 2022. This information will be updated as additional project schedule detail becomes available.

Figure 3 details CY23 baseline and actual expenditures for the State Highway Fund (see Figure 2 above) as well as Bridge and Tunnel Enterprise. CDOT sets the CY baseline in January each year, using the best estimates, forecast, and schedule information available at the time.

Including Bridge Enterprise, October month end expenditures were corresponding to an Expenditure Performance Index (XPI) of 0.94 (actual expenditures vs. baseline). There were \$676M actual expenditures YTD vs. the baseline of \$723M. The CY 23 baseline includes expenditures from 169 projects.



Figure 3 - Dashboard View





COLORADO
Department of Transportation
Office of Policy and Government Relations

MEMORANDUM

TO: COLORADO TRANSPORTATION COMMISSION
FROM: HANNAH L. REED, FEDERAL GRANTS COORDINATOR IN OPGR
DATE: DECEMBER 20TH, 2023
SUBJECT: UPDATE TO TRANSPORTATION COMMISSION ON SUBMITTED, IN PROGRESS, AND FORTHCOMING GRANT APPLICATIONS TO IIJA DISCRETIONARY PROGRAMS

Purpose

To share progress on submitted applications, as well as current and future coordination of proposals to anticipated federal discretionary programs, primarily under the Infrastructure Investment Jobs Act (IIJA).

Action

Per PD 703.0, when the department intends to apply for grants with a match consisting of previously approved funding, no action is necessary by the Commission, but we provide the Commission with the projects we intend to pursue. If the match requires an additional commitment of funds not already approved by the Commission, or Bridge & Tunnel Enterprise (BTE), staff brings the projects to the Commission as an action item, with the additional funding being made contingent on a successful application and grant award.

As always, Commissioners and CDOT staff are encouraged to contact CDOT's in-house grant team with questions, comments, and suggestions.

Background and Details

For information on closed 2022 grant programs and awarded proposals, please refer to 2022 TC Grants Memos from December 2022 or prior.

The following discretionary grant programs have closed and all proposals have been reviewed:

1. NATIONAL SCENIC BYWAY PROGRAM (NSBP)
 - DTD Colorado Byways Team received 26 project proposals from local agencies statewide. Three eligible and competitive applications were submitted by CDOT:
 - Alpine Loop and Silver Thread Facilities, Safety, and Recreation Upgrades in Regions 3 & 5
 - **\$640k AWARDED**
 - Scenic Highway of Legends Wayfinding and Interpretive Materials Implementation in Region 2
 - Mount Evans Collaborative Renaming, Re-signing, and Educational Emphasis in Region 1
2. STRENGTHENING MOBILITY and REVOLUTIONIZING TRANSPORTATION (SMART)
 - CDOT-led ATMA proposal with MN DOT, OK DOT, and WI DOT as subrecipients
 - **\$1.89M AWARDED**
3. Enabling Middle Mile Broadband
 - CDOT submitted a \$119M proposal to build 7 middle mile corridors across the state
4. RAILROAD CROSSING ELIMINATION (RCE)
 - A planning application to study the elimination of two at-grade highway-rail crossings on US 34 in Region 4

- **\$700k AWARDED**
 - CDOT also provided letters of support for two local applications in Fort Collins
- 5. FTA's ADVANCED DRIVER ASSISTANCE SYSTEMS (ADAS)
 - Install ADAS demonstrative technologies into three of CDOT's Bustang fleet
 - **\$1.2M AWARDED**
- 6. RAISE 2023
 - The City of Lakewood and CDOT revised and resubmitted the 6th & Wadsworth Interchange Reconstruction proposal
 - **\$20M AWARDED**
 - Boulder County and CDOT revised and resubmitted the CO 119 Diagonal Multimodal Improvements proposal
 - **\$25M AWARDED**
 - Grand County and CDOT revised and resubmitted the US 40 Passing Lanes & Red Dirt Hill Safety Reconstruction proposal
 - Morgan and Weld Counties and CDOT revised and resubmitted the I-76 Phase IV Regional Improvements for Safety and Efficiency (RISE) proposal
 - La Plata County and CDOT revised and resubmitted the US 160 Safety and Mobility Improvements proposal
 - CDOT submitted an application for the preliminary phase of the I-70 Corridor Resiliency and Connectivity Improvements project
 - CDOT, with Summit County and Summit County Safe Passages, submitted an application for the I-70 East Vail Pass Wildlife Crossings project
- 7. CONSOLIDATED RAIL INFRASTRUCTURE & SAFETY IMPROVEMENTS (CRISI)
 - Unfortunately, the entire state of Colorado, as well as 13 other states nationwide, were awarded zero CRISI grants for FY22.
- 8. CORRIDOR IDENTIFICATION DEVELOPMENT PROGRAM (CIDP)
 - CDOT and FRPR-D co-sponsored an application for the Colorado Front Range Corridor
 - **\$500k AWARDED!**
- 9. As in previous years, CASTA and FHU Consulting coordinated applications with local agencies for the 5339 discretionary grant programs (Low-No Emissions and Bus & Bus Facilities). CDOT then reviewed applications and submitted under its UEI and Grants.gov profile
 - Archuleta County Mountain Express Low-E Fleet and Bus Facility Project
 - Avon Transit Diesel Bus Replacement with GILLIG Electric Bus
 - Gunnison Valley RTA's City of Gunnison Multimodal Transit Center
 - Town of Telluride Galloping Goose ZEV Incremental Costs and Facility Upgrades
 - ECO Transit Battery Electric/Hybrid Bus Replacement and Expansion
 - ECO Transit Vehicle Storage Facility Electrification Project
 - **\$1.5M AWARDED!**
 - RFTA - Ten Battery Electric Buses to Replace Diesel Buses
 - RFTA Regional Transit Center Phase 6 and Phase 8 Construction
 - ADA Bus for Wet Mountain Valley Rotary Transportation
 - Mountain Express Bus Storage, Maintenance, and Operations Facility
 - **\$753k AWARDED!**
 - Breckenridge Free Ride: Diesel to Electric Bus Transition & Safety and Efficiency Improvements
 - SMART Vanpool Vehicle Replacement Project
 - **\$233k AWARDED!**
 - Durango Transit Replacement Vehicles
 - Via Mobility Renewable Energy Microgrid for Enhanced Electric Transit Bus Charging
 - First Electric Bus & Charging Infrastructure Installation for the Town of Winter Park
 - **\$1.1M AWARDED!**
- 10. WILDLIFE CROSSING PILOT PROGRAM (WCPP)
 - CDOT, with Douglas County, revised the application for the Greenland Wildlife Overpass, as the final component of the I-25 Gap project in Region 1.
 - **\$22M AWARDED!**

- CDOT, with Summit County, repackaged the I-70 East Vail Pass Wildlife Crossings project in Region 3.
- CDOT submitted the US 160 Critical Wildlife Connectivity application in Region 5.

The following discretionary grant programs have closed, but applications are still being reviewed:

1. PROMOTING RESILIENT OPERATIONS for TRANSFORMATIVE, EFFICIENT and COST-SAVING TRANSPORTATION (PROTECT):
 - CDOT submitted the CO West RESCUE Project to address resiliency in and around rural Western Colorado. The scope includes I-70 Glenwood Canyon, Blue Hill on Cottonwood Pass, US 40, and SH 9.
 - The City of Boulder and CDOT co-sponsored an application in Region 4 to replace two poor bridges and an undersized culvert on CO 7. The existing bridges experience recurring flooding/overtopping that restrict accessibility of the highway.
 - This project will likely also be eligible for the FY23 cycle of Bridge Investment Program (BIP).
2. MULTIMODAL PROJECT DISCRETIONARY GRANTS (MPDG): A multi-billion dollar “umbrella” program that contains Mega, INFRA, and Rural Surface Transportation.
 - CDOT, with local agency partners, is prepared to revise eligible applications from the FY22 cycle, utilizing USDOT advice and guidance from FY22 application debriefs:
 - US 50 Safety Highway Improvements for Freight and Travel in Region 2
 - I-76 Phase IV Reconstruction in Region 4
 - US 160 Safety & Mobility Improvements in Region 5
 - Other eligible priority projects include:
 - I-70 East Vail Pass Wildlife Crossings in Region 3
 - CO West RESCUE: Resiliency in Rural Western Colorado in Region 3
 - North I-25 Segment 5 in Region 4 with Weld County
3. RECONNECTING COMMUNITIES AND NEIGHBORHOODS (RCN)
 - CDOT and Denver submitted a planning application for the Federal & Colfax Interchange in Region 1
 - CDOT continues to support the Trinidad East-West Reconnections under I-25 viaduct proposal in Region 2
4. STRENGTHENING MOBILITY AND REVOLUTIONIZING TRANSPORTATION (SMART)
 - CDOT resubmitted the Coordinated Adaptive Ramp Metering application from last year, utilizing the debrief notes from the SMART program staff, in Region 1
 - CDOT submitted an application to prepare to test new Adaptive Traffic Signal Control (ATSC) technologies at ~40 intersections in Region 4
5. TRANSIT-ORIENTED DEVELOPMENT PLANNING PROGRAM (TOD)
 - CDOT supported Denver and RTD with a proposal in Region 1 along Federal, related to BRT and First-Last Mile recommendations.
6. BRIDGE INVESTMENT PROGRAM (BIP) - LARGE BRIDGE
 - CDOT revised the Region 1 I-270 Corridor Improvements Bridge Bundle application
 - In addition to the original eight critical bridges, the scope was competitively expanded to include four other bridges on / connecting to the corridor.

IN PROGRESS

CDOT is actively pursuing the following discretionary grant program(s):

1. RAISE 2024
 - Open now through the end of February, CDOT is eager to pursue continued success through the legacy RAISE program. The current list of projects for RAISE 2024 is as follows, with requests out to regional leadership and project teams for more opportunities:
 - I-70 East Vail Pass Wildlife Crossings in Region 3
 - Colorado West RESCUE to address resiliency in and around rural Western Colorado. Due to the award restrictions on RAISE, the scope for this application

revision includes the I-70 Glenwood Canyon bridge joints and guardrail, and Blue Hill on Cottonwood Pass.

- 8 Mile in Region 2 with Fremont County

NEW & FORTHCOMING OPPORTUNITIES

The following discretionary programs are newly released or are expected to release in the near future. CDOT is interested in pursuing eligible and competitive projects or partnerships for each program:

1. ALL STATIONS ACCESSIBILITY PROGRAM (ASAP)
 - CDOT's Division of Transit and Rail is coordinating with regional station owners to prepare eligible and competitive applications for this program.
2. RAILROAD CROSSING ELIMINATION PROGRAM (RCE)
 - NOFO is now anticipated in December 2023
3. CONSOLIDATED RAIL INFRASTRUCTURE & SAFETY IMPROVEMENTS (CRISI)
 - NOFO anticipated in December 2023 / January 2024
4. BRIDGE INVESTMENT PROGRAM (BIP) - PLANNING & OTHER than LARGE BRIDGE
 - Combined rolling NOFO anticipated December 2023 / January 2024
5. 5339s (Low-No Emissions and Bus & Bus Facilities)
 - NOFO anticipated January 2024

CDOT DISCRETIONARY GRANT PROGRESS BY THE NUMBERS

Since the IIJA was signed into law in November 2021

- CDOT has applied for over \$1.3B between ~16 grant programs
 - Note: This number includes resubmissions and revisions of the same application to multiple eligible programs, as well as each annual cycle of a program, and/or independent components of a whole project that meet eligibility across multiple programs. It also includes strategic partnerships with local partners.
- We have been awarded over \$246M...so far!

Next Steps

ASAP applications are due January 30th, 2024

RAISE applications are due February 28th, 2024



COLORADO

Department of Transportation

Nonattainment Area Air Pollution
Mitigation Enterprise

2829 W. Howard Pl, 4th Floor
Denver, CO 80204-2305

Memorandum

To: The Transportation Commission

From: Darius Pakbaz, Administrator
Nonattainment Area Air Pollution Mitigation Enterprise Program

Date: December 20, 2023

Subject: Nonattainment Area Air Pollution Mitigation Enterprise - 2023 Annual Report

Purpose

The Nonattainment Area Air Pollution Mitigation Enterprise (NAAPME) is required by C.R.S. § 43-4-1303 (10)(a)(IV) to submit an annual report regarding its activities and funding to the Transportation Commission. The annual report for the Enterprise is presented to the Commission for calendar year 2023.

Action

Informational only, no action required.

Background

The Nonattainment Area Air Pollution Mitigation Enterprise (NAAPME) was created as part of SB21-260 legislation in 2021. The Enterprise is a government-owned business within CDOT to execute the business purpose as outlined in statute. The Enterprise's business purpose is "to mitigate the environmental and health impacts of increased air pollution from motor vehicle emissions in nonattainment areas that results from the rapid and continuing growth in retail deliveries made by motor vehicles and in prearranged rides provided by transportation network companies by providing funding for eligible projects that reduce traffic, including demand management projects that encourage alternatives to driving alone or that directly reduce air pollution, such as retrofitting of construction equipment, construction of roadside vegetation barriers, and planting trees along medians."

Next Steps

Please contact NAAPME staff with any questions regarding the 2023 Annual Report.

Attachments

Attachment A - Nonattainment Area Air Pollution Mitigation Enterprise 2023 Annual Report





COLORADO

Department of Transportation

Nonattainment Area Air Pollution
Mitigation Enterprise

Nonattainment Area Air Pollution Mitigation Enterprise (NAAPME)

2023 Annual Report

Pursuant to C.R.S. § 43-4-1303 (10)(a)(IV)

Reporting Period Encompasses January 1, 2023 to December 31, 2023

Background

The Nonattainment Area Air Pollution Mitigation Enterprise (NAAPME, or the Enterprise) was established within the Colorado Department of Transportation (CDOT) to support projects that mitigate the environmental and health impacts of increased air pollution from motor vehicles in nonattainment areas of Colorado. Created by Colorado Senate Bill 21-260 (SB 21-260), “Sustainability of the Transportation System,” the Enterprise imposes an Air Pollution Retail Delivery Fee and an Air Pollution per Ride Fee to fund programs and projects that fulfill its business purpose.

The primary business purpose of the NAAPME is to “mitigate the environmental and health impacts of increased air pollution from motor vehicle emissions in nonattainment areas that results from the rapid and continuing growth in retail deliveries made by motor vehicles and in prearranged rides provided by transportation network companies by providing funding for eligible projects that reduce traffic, including demand management projects that encourage alternatives to driving alone or that directly reduce air pollution, such as retrofitting of construction equipment, construction of roadside vegetation barriers, and planting trees along medians.”

Nonattainment areas in Colorado are designated areas from the U.S. Environmental Protection Agency (EPA) that do not meet ambient air pollution standards. Ozone is the only identified pollutant in which parts of Colorado are currently in nonattainment for these standards. Currently Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, Jefferson, a portion of Larimer, and Weld Counties are in the designated ozone nonattainment area within the state.

Projects funded by the Enterprise look towards reducing the impact of air pollution from ozone in the current nonattainment areas of Colorado. The Enterprise has identified three focus areas in which projects can support this objective, as outlined in its [10-Year Plan](#):

- **Sustainably reduce traffic congestion**

Projects that provide alternatives to single occupancy travel including transit services, active transportation alternatives, and carpool alternatives, as well as roadway operations improvements that sustainably reduce congestion, such as traffic incident management.

Examples Include:

- Expanding interregional transit services (e.g., Bustang);
- Development and expansion of bus rapid transit services;
- **Mobility Hubs:** destinations for transit services that connect interregional and local services, including first and last miles services, electric vehicle charging, and bike parking;
- New and expanded sidewalks and bike paths; and
- New and expanded vanpool, carpool, and other services for commuter travel.

- **Reduce the environmental and health impacts of transportation**
Reducing impacts from the construction and ongoing operation of transportation projects. Examples include:
 - Reduce the impact of large highway construction projects;
 - Retrofitting construction equipment for highway projects;
 - Air quality monitoring for larger highway construction projects; and
 - Roadside vegetation barriers.
- **Improve neighborhood connectivity for communities adjacent to highways**
Fund mitigation measures that help reconnect communities and provide multimodal options to move along and across large urban corridors. Examples include:
 - More sidewalks and bike paths along major corridors and local roads;
 - Safer bike and pedestrian connectivity along busy urban streets; and
 - Projects that reduce traffic speeds along busy urban streets.

Calendar Year 2023 Summary

Throughout calendar year 2023, the Enterprise and its Board of Directors worked to build on the foundation of its ten-year Plan, expanding on those concepts and learning more about needs with stakeholders throughout the ozone nonattainment area. Throughout the year, the Board of Directors met nine times, with discussions ranging from decisions regarding funding programs for the Enterprise to administrative and budgetary actions.

January 2023

The Board of Directors meeting was held on January 26th, with informational presentations and discussion on two topics:

- Presentation on the Central 70 Tolling Equity Program by the Colorado Transportation Investment Office.
- A presentation from the North Front Range Metropolitan Planning Organization (NFRMPO) on regional transit corridors, helping provide context with the specific transit needs in the north front range part of the nonattainment area.

February 2023

The Board of Directors meeting was held on February 23rd, and the Board approved recommendations for new levels for the Air Pollution per Ride fee and the Air Pollution Mitigation Retail Delivery fee, as well as final adoption of the enterprise Budget for Fiscal Year 2024 (see the “Enterprise Budget” section for details).

May 2023

The Board of Directors meeting was held on May 25th (both in-person at CDOT Headquarters and online), with informational presentations and discussion on the following topics:

- “Air Quality Issues and Perspectives” from the Regional Air Quality Council (RAQC).
- The Board began initial discussions on potential funding programs for the enterprise, with additional emphasis on Sidewalks & Bike Paths and Bus Rapid Transit (BRT).
- The needs in regards to translation services for alternative language options for enterprise documents as well as potential compliance with accessibility standards.

June 2023

The Board of Directors meeting was held on June 29th, with informational presentations and discussion on the following topics:

- Appointment of Suzanna Alvarado as new Board Secretary.
- Required annual “Open Meetings Training” with the Colorado Attorney General’s office.
- Determine meeting cadence for FY2024.

July 2023

The Board of Directors meeting was held on July 27th. In continuation of the initial discussion that occurred at the May Board of Directors meeting, the Board continued to discuss how enterprise funds are programed to fit the business purpose and needs outlined in the ten-year plan, with an emphasis on determining

August 2023

The Board of Directors meeting was held on August 24th, and the Board approved a Budget Amendment for FY2024. Additionally, the Board moved into an executive session pursuant to Section 24-6-402 (3) (a) (II) of the Colorado Revised Statutes for the purpose of receiving legal advice from counsel.

September 2023

The Board of Directors meeting was held on September 28th (in-person at CDOT Headquarters and online), with informational presentations and discussion on the following topics:

- Bus Rapid Transit from CDOT Region 1 and Denver Regional Council of Governments (DRCOG).
- Continuation of the “Enterprise Program Funding” discussion, with additional emphasis on eligibility, evaluation criteria, and other CDOT funding programs.

October 2023

The Board of Directors meeting was held on October 26th, with informational presentations and discussion on the following topics:

- NAAPME and CDOT Accounting & Finance staff presented a NAAPME FY 2024-25 Budget for initial consideration.
- The Colorado Department of Public Health and Environment (CDPHE) presented its “EnviroScreen” tool to help determine Disproportionately Impacted Communities (DICs) throughout Colorado and the ozone nonattainment area.
- NAAPME Staff continued its “Enterprise Program Funding” discussion, with additional emphasis on final details before presenting a proposal to the Board.

November 2023

The Board of Directors meeting was held on November 30th, with informational presentations and discussion on the following topics:

- NAAPME Staff presented a draft 2023 Annual Report for Board approval.
- The North Front Range Metropolitan Planning Organization (NFRMPO) presented on “Transit in the North Front Range.”
- NAAPME Staff presented a Public Accountability Dashboard (required by SB21-260) for initial consideration by the Board.
- NAAPME Staff continued its “Enterprise Program Funding” discussion, incorporating comments from the previous Board of Directors meeting.

Enterprise Budget

Fiscal Year 2022-23

Colorado's State fiscal Year 2022-23 concluded on June 30, 2023, the first full fiscal year the Nonattainment Enterprise was in operation. Most expenditures for this fiscal year were administrative to continue to support the establishment of the Enterprise and identify funding programs in line with the objectives outlined in statute and the Enterprise's 10-Year Plan. The Enterprise paid off the loan from the Colorado Department of Transportation to cover establishment expenses with fee revenue collected during the fiscal year. Enterprise expenses totaled \$103,662, with \$75,557 used for debt service towards the loan approved by the Colorado Transportation Commission for startup expenses, and \$28,368 used for Enterprise administration and salary compensation. The Enterprise allocated \$200,000 to the Board contingency fund for the fiscal year, which was not used. These funds, in addition to the remaining portion of the loan proceeds (\$14,539) and unused administrative expenses. (\$199,282) were added to the roll-forward of funds allocated to Enterprise funded programs (\$8,738,897).

Fiscal Year 2023-24

The Board of Directors adopted the Fiscal Year 2023-24 Budget in February 2023, apportioning \$9.2 million dollars in expected revenue for the fiscal year. The Enterprise anticipates having \$15.9 million available to invest in fiscal year 2023-24. As the Board continues to develop the Enterprise’s program of projects, it is anticipated that funds will start being allocated to specific programs that fit within its business purpose. Table 1 presents the estimated breakdown by revenue allocation category for the fiscal year.

Table 1 - Fiscal Year 2023-24 Final Allocation Plan

Revenue Allocation Category	Estimated Rollforward from FY 2022-2023	FY 2023-24 Final Allocation Plan	FY 2023-24 Total Available Budget
Program Funds	\$6,821,090	\$8,753,972	\$15,575,062
Administration & Agency Ops.	\$104,640	\$192,798	\$297,438
Debt Service	\$0	\$0	\$0
Contingency Reserve	\$0	\$200,000	\$200,000
Totals	\$6,925,730	\$9,146,770	\$16,072,500

Early in calendar year 2024, staff will provide a budget amendment to the approved fiscal year 2023-24 budget that will reconcile the discrepancies from estimated revenue collection and remaining funds from fiscal year 2022-23 to actuals from that year, and then post a revised version of the approved budget.

Fee Levels for the Air Pollution Per Ride Fee and Air Pollution Mitigation Retail Delivery Fee

In accordance with Colorado Revised Statutes § 43-4-1303(7)(c)(I) & (II), the Board is able to adjust the fee levels for both the Air Pollution per Ride fee and the Air Pollution Mitigation Retail Delivery fee. The NAAPME Board adopted new fee levels for fiscal year 2023-24, based on recommendations from the Colorado Department of Revenue and Enterprise, specifically:

- Increased Air Pollution per Ride fee for Non-Carshare and Gasoline Powered Vehicles from 22 ½ Cents to 23 ¼ Cents;
- Increased Air Pollution per Ride fee for Carshare/ZEV Rideshare rides from 11 ¼ Cents to 12 Cents; and
- Increased Air Pollution Mitigation Retail Delivery fee from 7/10 of one cent to 73/100 of one cent.

The revised fee levels were reported to the Colorado Department of Revenue ahead of the statutory deadline of March 15th.

Financial Status Report

The Air Pollution per Ride fee and the Air Pollution Mitigation Retail Delivery fee established by statute are ongoing revenue streams for the Enterprise. The Colorado General Assembly passed and Governor Polis signed [SB23-143 - Retail Delivery Fees](#), exempting smaller qualified businesses from collection of the retail delivery fee, in addition to other provisions. Along with the fee adjustments approved by the Board in February 2023 (detailed in the “Enterprise Budget” section of this report), the Board reviewed and approved an updated revenue estimate for fiscal year 2023-24 through fiscal year 2027-28. Table 2 details the estimated revenue collection by fee for these years, replacing original estimates from previously.

Table 2 - Estimated Future Revenue Collection by Fiscal Year and Source

Revenue Sources	Fiscal Year 2024-25	Fiscal Year 2025-26	Fiscal Year 2026-27	Fiscal Year 2027-28
Air Pollution Mitigation Retail Delivery Fee	\$2,308,478	\$2,550,107	\$2,812,952	\$3,102,741
Air Pollution Mitigation Per Ride Fee	\$8,338,066	\$10,170,251	\$12,364,329	\$15,004,277
Totals	\$10,646,544	\$12,720,358	\$15,177,281	\$18,107,018

Additionally, fee collection during fiscal year 2022-23 outpaced original estimates. Collections were 21% higher than anticipated, with an additional \$1,525,082 of revenue collected from both fees. The additional fee collection will be incorporated into programmatic funds, as outlined in the Enterprise’s 10-Year Plan. Table 3 details the collection of both fees per quarter as compared to the estimate.

Table 3 - Original Revenue Collection Estimate vs. Actual - Fiscal Year 2022-23

Revenue Sources	FY23 Quarter 1	FY23 Quarter 2	FY23 Quarter 3	FY23 Quarter 4	FY23 Total
Air Pollution Mitigation Retail Delivery Fee	\$328,812	\$530,177	\$545,638	\$774,847	\$2,179,474
Air Pollution Mitigation Per Ride Fee	\$0	\$1,556,049	\$1,569,570	\$3,345,214	\$6,470,834
Total Actual NAAPME Revenue	\$328,812	\$2,086,226	\$2,115,208	\$4,120,061	\$8,650,308
Revenue Collection Estimate	\$1,781,307	\$1,781,307	\$1,781,306	\$1,781,306	\$7,125,226
Difference	(\$1,452,495)	\$304,919	\$333,902	\$2,338,755	\$1,525,082

Upcoming Activities

The Board of Directors and Enterprise staff continue to identify areas of opportunity that it can support and meet its business purpose and the funding focus areas identified in its 10-Year Plan. With the information provided to the Board of Directors through each of this year's board meetings, it is anticipated that an overall eligibility and evaluation criteria for specific project selection will be adopted by the Board and incorporated into the 10-Year Plan. Additionally, the Enterprise anticipates establishing specific funding programs, along with funding over the next ten years, to begin to distribute funds to eligible projects through an established evaluation process.

In addition to adopting the fiscal year 2024-25 budget, the Enterprise plans to address requirements outlined in [HB21-1110 - Colorado Laws For Persons With Disabilities](#), ensuring that all reports and documentation from the Enterprise is accessible to all citizens within the nonattainment area and other interested parties. This effort will include language accessibility for major documents as well. The Board will also hold elections for Chair and Vice-Chair of the Board of Directors in April 2024 for the next two-year term.

While this is not an exhaustive list of all the potential activities for calendar year 2024, it is expected to be an exciting and busy year for the Nonattainment Area Air Pollution Mitigation Enterprise, which looks forward to beginning helping communities throughout Colorado's Northern and Central Front Range.



COLORADO

Department of Transportation

Clean Transit Enterprise

TO: THE TRANSPORTATION COMMISSION
FROM: Kay Kelly, Program Administrator, Clean Transit Enterprise
DATE: December 20, 2023
SUBJECT: Clean Transit Enterprise 2023 Annual Report

Purpose: Informational

Action: No action required

Background:

In 2021, the Clean Transit Enterprise (CTE) was established within the Colorado Department of Transportation (CDOT) to support public transit electrification planning efforts, facility upgrades, fleet vehicle replacements and the purchase and installation of electric vehicle (EV) charging and fueling infrastructure. Created by Colorado Senate Bill 21-260, the Enterprise imposes a Clean Transit Retail Delivery Fee to fund its operations and has the power to issue grants, loans and rebates to support the electrification of public transit in Colorado.

Pursuant to C.R.S. § 43-4-1203 (10)(a)(IV), the CTE is required to prepare an annual report regarding its activities and funding and to present this report to the CDOT Transportation Commission, along with the Transportation and Local Government and Energy and Environment Committees of the House Of Representatives and the Transportation and Energy Committee of the Senate.

The second year of activities for the CTE consisted of a mix of ongoing administrative activities, refining the details of CTE grant programs and policies, and the preparation, release, and award of the CTE's first notice of funding availability in the Planning category. The CTE Board of Directors approved four Zero-Emission Transition Planning grants totaling \$297,000 in October 2023 and the first call for projects for the Vehicles, Charging/Fueling, and Facilities categories is expected to be released as part of the Division of Transit and Rail's Capital Call for Projects in January 2024.

Next Steps: Please feel free to follow up with CTE staff if you have any questions or comments.

Attachments: Clean Transit Enterprise Annual Report CY2023





COLORADO

Department of Transportation

Clean Transit Enterprise

Clean Transit Enterprise (CTE) 2023 Annual Report

Pursuant to C.R.S. § 43-4-1203 (10)(a)(IV)

Reporting Period encompasses January 1 - December 31, 2023

Background

In 2021, the Clean Transit Enterprise (CTE) was established within the Colorado Department of Transportation (CDOT) to support public transit electrification planning efforts, facility upgrades, fleet vehicle replacements and the purchase and installation of electric vehicle (EV) charging and fueling infrastructure. Created by Colorado Senate Bill 21-260 (SB 21-260), the Enterprise imposes a Clean Transit Retail Delivery Fee to fund its operations and has the power to issue grants, loans and rebates to support the electrification of public transit in Colorado.

The primary business purpose of the CTE is to “reduce and mitigate the adverse environmental and health impacts of air pollution and greenhouse gas emissions produced by motor vehicles used to make retail deliveries by supporting the replacement of existing gasoline and diesel transit vehicles with electric motor vehicles, including motor vehicles that originally were powered exclusively by internal combustion engines but have been converted into electric motor vehicles; providing the associated charging infrastructure for electric transit fleet motor vehicles; supporting facility modifications that allow for the safe operation and maintenance of electric transit motor vehicles; and funding planning studies that enable transit agencies to plan for transit vehicle electrification” (CRS 43-4-1203). The statute defines electric motor vehicles to include battery electric, plug-in hybrid electric and hydrogen fuel cell electric vehicles. It also allows for funding of compressed natural gas vehicles fueled by at least 90 percent recovered methane in circumstances where an electric vehicle is not practically available.

Public transit electrification projects funded by the CTE will help the state reach its targets of 1,000 zero-emission transit vehicles (ZEVs) on Colorado roads by 2030 and a 100% zero-emission transit fleet by 2050. These targets, which were established by the 2020 Colorado EV Plan, further elaborated in the 2021 Colorado Transit Zero-Emission Vehicle Roadmap, and recommitted to in the 2023 Colorado EV Plan, apply to rubber-tired, conventionally fueled transit buses, cutaways, vans, minivans and automobiles. They do not apply to commuter rail, light rail and gondola systems, as these modes are frequently powered by electricity already.

To ensure transparency and accountability of the CTE, a 10 Year Plan was approved by the CTE Board at its May 25, 2022 meeting and is posted on the CTE Website [here](#). The plan reflects the vision and expertise of the CTE Board, along with valuable input from Colorado’s transit agency partners, transit advocates, public stakeholders and staff from CDOT’s Office of Innovative Mobility and Division of Transit and Rail. It details the estimated financial resources and expenditures for FY2023-2032 and describes the CTE funding strategy. The 10 Year Plan also provides detailed information on the four categories of funding programs - planning, facility modification, vehicle acquisition and charging/fueling infrastructure programs. No changes to the existing CTE Ten Year Plan were made in 2023.

Board of Directors

All of the powers of the CTE, as described in Section 43-4-1203, et seq., C.R.S., and as otherwise provided by law, are vested in the CTE Board. The CTE Board manages the

business and affairs of the Enterprise and consists of nine members determined pursuant to the composition and qualifications outlined in Section 43-4-1203(2)(a)(I), C.R.S.

The Governor appointed six members on September 29, 2021. One of the Governor's initial appointees, Deya Zevala of Westminster, was originally appointed for a term expiring September 28, 2024 to represent a transportation-focused organization that serves an environmental justice community, but was unable to complete her term. She was subsequently replaced by Dawn Block of La Junta on February 18, 2022. All Board members received the approval of the Senate Transportation and Energy Committee on March 15, 2022 and confirmation from the Colorado Senate on March 21, 2022. The remaining three members were designated by the heads of the state agencies - CDOT, Colorado Department of Public Health and Environment (CDPHE) and Colorado Energy Office (CEO). In November 2023, Erik Sabina replaced Theresa Takushi as the designated representative for the Colorado Department of Transportation.

For terms expiring 9/28/2024

- Matt Frommer (Denver): Member with an expertise in zero-emissions transportation, motor vehicle fleets or utilities
- Bonnie Trowbridge (Berthoud): Member representing a public advocacy group that has transit or comprehensive transit expertise
- Dawn Block (La Junta): Member representing a transportation-focused organization that services an environmental justice community

For terms expiring 9/28/2025

- Mark Garcia (Pagosa Springs): Member of the Transportation Commission and have statewide transportation expertise
- Cris Jones (Boulder): Member representing an urban area, having transit expertise
- David Averill (Telluride): Member representing a rural area having transit expertise

State Agency Appointments

- Erik Sabina: Colorado Department of Transportation designee
- Kelly Blynn: Colorado Energy Office designee
- Richard Coffin: Colorado Department of Public Health and Environment designee

Articles of Organization and Bylaws

The CTE Articles of Organization and Bylaws were approved by the Board on February 22, 2022. The Articles of Organization cover the name, authority, purpose, TABOR exemption, enterprise board, officers, powers, revenues and expenditures and process for amendments to the Articles of Organization. The Bylaws cover the Board composition, duties and responsibilities; Meetings of the Board; Open Meetings and Open Records; Officers and Staff; Fiscal Year and Budget; Amendment Process and other Miscellaneous provisions. No modification of the existing CTE Articles of Organization and Bylaws occurred in 2023.

Board Officers

The CTE Board, using the directions provided in the Bylaw and Articles of Organization, elected officers at the February 22, 2022 Board Meeting. Matt Frommer was elected Chair and David Averill was elected Co-Chair. In addition, the Board approved Kay Kelly, Chief of Innovative Mobility at CDOT, as the CTE Program Administrator and Deseri Scott, Program Assistant in the Office of Innovative Mobility at CDOT, as the CTE Secretary at the July 13, 2022 Board Meeting. No change in the officers of the CTE Board occurred in 2023.

Calendar Year 2023 Accomplishments

The second year of activities for the CTE consisted of a mix of ongoing administrative activities, refining the details of CTE grant programs and policies, and the preparation, release, and award of the CTE's first notice of funding availability in the Planning category. Looking ahead to 2024, the CTE is preparing to issue its first call for projects in the Vehicles, Charging/Fueling Infrastructure, and Facilities grant categories and establishing its public reporting dashboard to track and report on the number, location, amount, and status of awarded projects statewide.

Rulemaking

SB 21-260 established several new fees on the delivery of items that are subject to the state sales tax, including the retail delivery fee, a portion of which funds the activities of the CTE. The CTE was required by CRS 43-4-1203 (6)(g) to conduct a rulemaking in accordance with the administrative procedures act "to promulgate rules to set the amount of the clean transit retail delivery fee at or below the maximum amount authorized in this section and to govern the process by which the enterprise accepts applications for, awards, and oversees grants, loans and rebates...". CRS 43-4-1203 (7)(b) initially set the rate at \$0.03 per delivery, which is the maximum amount established by SB 21-260, although the fee may be adjusted for inflation in future years.

Following up on the Clean Transit Retail Delivery Fee rulemaking that was completed in 2022, in March 2023 the CTE Board approved an adjustment of the fee from \$0.03 to \$0.0311 for FY23-24 to account for inflation. In 2024, the CTE Board will work with staff of CDOT, the Colorado Department of Revenue (DOR) and other subject matter experts on whether further inflationary adjustments to the fee are merited for FY24-25.

Grant Program Development

In early 2023, the Board and staff of the Clean Transit Enterprise continued the ongoing effort started in 2022 to define funding program elements and procedures in advance of the anticipated release of the first CTE calls for projects. During the January board meeting, the topics of Match Requirements and the CTE's Equity Approach were discussed, as well as potential Data Reporting Requirements that would apply to any projects funded under future

CTE programs. At the March board meeting the Board finalized all remaining decision items ahead of the first DTR call for projects that would include CTE funding. While it is anticipated that the Board and staff of the CTE will continue to refine and adjust Enterprise grant policies and procedures in the future, the CTE Board has clearly established its expectations for program design, application review and selection, and monitoring and evaluation procedures that staff should follow in implementing the initial grant rounds.

Grant Awards

In May, the Clean Transit Enterprise released its first round of funding in the Planning category as part of the CDOT Division of Transit & Rail’s (DTR’s) Administration and Operating, Mobility Management, and Planning Call for Projects. A total of five applications were submitted. Following the scoring committee review and subsequent approval by the Board of Directors at the October 10, 2023 meeting, four Zero-Emission Transition Planning grants totaling \$297,000 were awarded to agencies around the state in October.

CTE Planning Grant Awards

Agency	CTE Grant Amount	Local Match	Total Project Cost
City of Pueblo	\$99,000	\$11,000	\$110,000
Larandon Hall Society for Exceptional Children and Adults	\$90,000	\$10,000	\$100,000
Neighbor to Neighbor Volunteers (Chaffee Shuttle)	\$40,500	\$4,500	\$45,000
Via Mobility	\$67,500	\$7,500	\$75,000
Total	\$297,000	\$33,000	\$330,000

The first call for projects for the Vehicles, Charging/Fueling, and Facilities categories is expected to be released as part of DTR’s Capital Call for Projects in January 2024.

Budget

The CTE Board established and approved its initial budget for FY 22-23 at the May 25, 2022 Board meeting and the initial FY23-24 budget at the March 7, 2023 Board meeting. Both budgets were subsequently revised at the August 8, 2023 board meeting to reflect revenue changes associated with SB23-143 which provided an exemption from the Retail Delivery Fee for businesses below a certain level of revenue, which was burdensome to track for the Department of Revenue.

Elements of the annual budgets include Administrative and Agency Operations to support day-to-day operations of the enterprise, Contingency Reserve to handle unexpected expenses that are outside the range of the usual budget, and Programmed Funds that will be made available in the form of grants, loans, rebates and revenue bonds to transit agencies to support zero emission vehicle transition. The CTE does not have dedicated staff members, but leverages existing CDOT staff to support Enterprise work.

CTE Budget

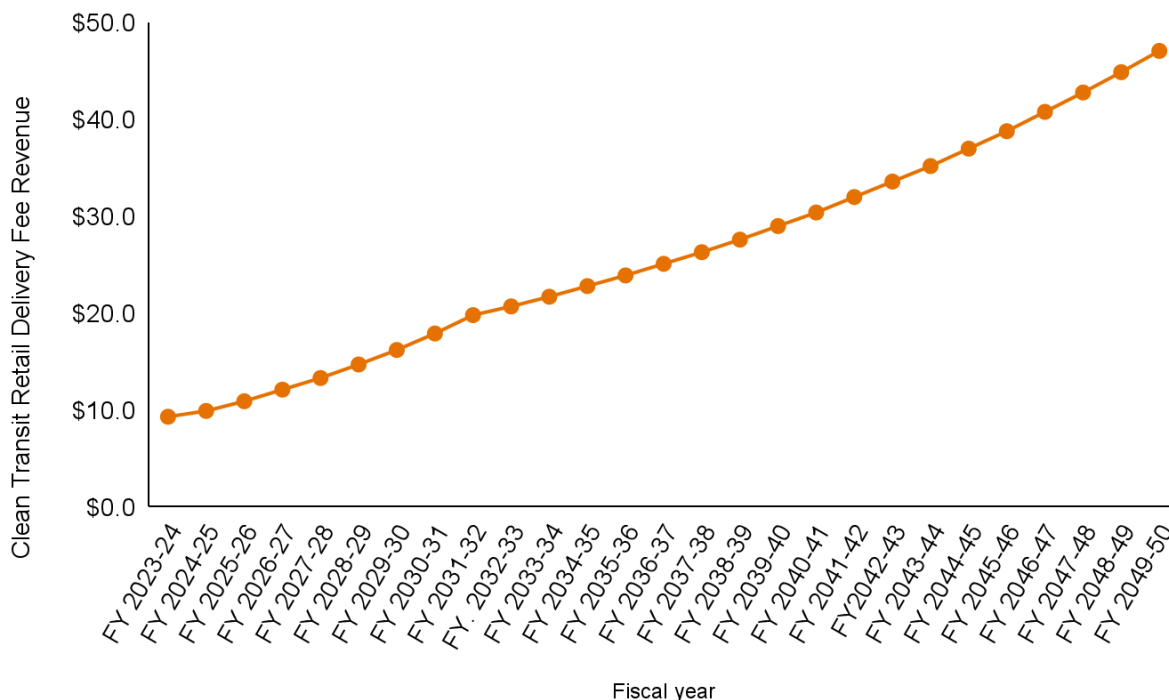
LINE ITEM	FY2022-23	FY2023-24
TOTAL REVENUES	\$ 8,246,309	\$ 8,982,450
Clean Transit Retail Delivery Fee	\$ 8,246,309	\$ 8,982,450
ADMINISTRATION & AGENCY OPERATIONS	\$ 592,608	\$ 410,495
Staff Salaries	\$ 377,880	\$ 275,895
Attorney General's Office Fees	\$ 5,000	\$ 1,000
Office of State Audit - Annual Financial Audit	\$ 2,000	\$ 2,000
Professional Services	\$ 126,000	\$ 100,000
Language Translation Services	\$ -	\$ 25,000
Administrative Expenses	\$ 5,600	\$ 6,600
Board/Staff Travel	\$ 5,000	\$ 5,000
Board Meeting Expenses	\$ 600	\$ 600
Supplies/Registration Fees/Etc.	\$ -	\$ 1,000
Loan Payments	\$ 76,128	\$ -
CONTINGENCY RESERVE	\$ 828,033	\$ 913,287
Board Reserve Fund (10.00%)	\$ 828,033	\$ 913,287
PROGRAMMED FUNDS	\$ 6,825,668	\$ 7,658,668
Programmed Funds	\$ 6,825,668	\$ 7,658,668
TOTAL - CTE	\$ 8,246,309	\$ 8,982,450

Financial Status Report

Funding from the CTE will be a key enabler for assisting transit agencies with ZEV transition. The fees established in SB 21-260 are on-going revenue streams and CDOT staff have estimated revenue amounts through 2050. The Clean Transit Retail Delivery Fee resulted in \$9.3 million in revenue in the first full year of implementation. As of October 31, 2023, the Clean Transit Retail Delivery Fee has collected \$12.4 million in revenue to support the business

purpose of the CTE. The table below outlines CDOT’s current revenue forecast for the Clean Transit Retail Delivery Fee through FY 2049-2050.

Clean Transit Retail Delivery Fee Forecast (millions)



Upcoming Activities

In 2024, the activities of the CTE will focus on moving into the contracting and implementation phase for the initial round of Planning grants awarded in fall 2023 while working through the program design, advertisement, application review, and selection of the first set of capital grants in the Vehicle, Charging/Fueling Infrastructure, and Facilities grant categories. CTE staff will also work to develop, review with the Board, and publish a public accountability dashboard as required by SB21-260 to report on and track CTE grant awards. Following the completion of the first round of grant awards in each category the Board may also consider refinements to existing programs and policies based on applicant demand, changing market conditions, and stakeholder feedback.

December 2023 TC Public Comments

Live Commenters:

Matt Salka, La Plata County Commissioner

Eric Bergman, Policy Director Colorado Counties, Inc.

Shak Powers, Regional Projects Manager, Region 9 Economic Development

Emily Lashbrooke, Executive Director of Pagosa Springs Community Development Corporation

Gary Beedy, former commissioner

Written Comments:

Shak Powers, Regional Projects Manager, Region 9 Economic Development Letter

Eric Hittle - Archuleta Co BSMO Letter



SOUTHWEST TRANSPORTATION PLANNING REGION

Colorado Department of Transportation's Transportation Commission
2829 Howard Place
Denver, CO 80204

Subject: Urgent Appeal to Vote Against or Delay the Proposed ROW Fees for Broadband Deployment

Dear Transportation Commission,

At the regularly scheduled meeting of the Southwest Transportation Planning Region on December 14, 2023, the SWTPR discussed the proposed Right of Way access fees. We are writing to express our deep concern and urge you to vote against, or at least delay a vote for the proposed Right-of-Way (ROW) fees for broadband deployment, as outlined in the recent notice of revised ROW fee structure from the Colorado Department of Transportation (CDOT). The proposed fees, as per the notice, include an annual property use surcharge and a one-time upfront fee, which could have significant implications for local communities, collaborative projects, and the overall public interest.

We acknowledge the importance of implementing a uniform and transparent fee structure, and we also believe the proposed fees may pose obstacles to critical broadband deployment initiatives, particularly in rural areas. We would like to bring to your attention several key reasons why the Transportation Commission should vote against or delay a vote for these proposed fees:

1. **Exception in the Overall Public Interest:** The proposed fees may not align with the overall public interest, as outlined in 23 CFR Part 710. Broadband deployment is vital for social, economic, and environmental benefits, and the proposed fees could hinder the achievement of these broader public goals.
2. **Collaborative Projects:** The proposed fees may impede collaborative projects, such as the proposed Alpine Loop from Denver to Grand Junction to Durango to Walsenburg and back to Denver. This project can contribute significantly to the middle mile broadband infrastructure and should be considered as an exception under Title 23 of the United States Code.
3. **Impact on Economic Development:** High fees, even if reduced from previous proposals, still act as barriers to economic development, especially in rural areas. The potential financial burden imposed by the fees could deter projects aimed at improving connectivity and stimulating economic growth.
4. **Equitable Access and Affordability:** The proposed fees disproportionately affect economically depressed jurisdictions, exacerbating the existing challenges related to equitable access and affordability of broadband services.
5. **Unsolicited Proposals and Public-Private Initiatives:** The fees could discourage private initiatives and collaboration, hindering innovative solutions to address broadband deployment challenges, as allowed under the Public-Private Initiatives Act.

Furthermore, because this issue holds significant implications for our communities, collaborative projects, and the overall public interest, we urge newly appointed Commissioners to take the necessary time to thoroughly understand the complexities surrounding the proposed Right-of-Way (ROW) fees for broadband deployment.

We respectfully request that the Transportation Commission carefully consider these concerns and vote against the proposed ROW fees for broadband deployment or, at least delay the vote until such a time that all members of the commission have had time to familiarize yourselves with the historical context, federal regulations, and local perspectives on broadband deployment. Your decision will play a crucial role in ensuring that Colorado continues to foster economic development, promote equitable access to broadband services, and support the Governor's goal of connecting 99% of Colorado households.

Thank you for your time and consideration of this matter. We appreciate your dedication to serving the public interest.

Sincerely,

A handwritten signature in black ink, appearing to read "SHill", written in a cursive style.

Sarah Hill
Chairwoman, Southwest Transportation Planning Region

I, on behalf of Archuleta County Broadband Services Management Office, am against the Transportation Commission adopting this annualized fee and ask that it be denied, or at least delayed until later next year (i.e. at least until after pending legislation can be decided).

While we appreciate ITS working on the on shortening the PPP approval and Special Use permitting timeline, and attempts to reduce the proposed fees, we don't feel that it's in the public interest, or required by our interpretation of statutes, to charge an annual fee for ROW access to buried fiber line.

Even with the decrease in an annual fee proposal, it still puts a higher per capita burden on rural Colorado residents, where distances are the longest and tax bases the smallest to pay this extra fee that provides no benefit to the community. For example, Kiowa County residents at the proposed \$0.03/ft rural fee would pay 90 TIMES the annual amount per person more than Jefferson County residents would at the \$0.10/ft urban fee, if all the CDOT maintained ROW in the county were utilized (It works out to \$18.92/person in Kiowa vs \$0.21/person in Jefferson). In essence, this fee requires that the public pay, again, for right to use the public ROW for critical communications, and it requires poorer, rural counties, with less available broadband infrastructure, but with a greater current need, to pay more proportionally.

We have an extreme lack of middle-mile connectivity in SW Colorado. Some of which, for my county in particular, will be alleviated by the completion of the CDOT Wolf Creek Pass fiber line to Pagosa Springs next year, which Archuleta County, along with Region 9 are already involved with leasing from CDOT via the well-established Dark Fiber lease fees for excess CDOT Fiber. We still, however, need fiber along an alternate geographical route to the west of Pagosa Springs, to protect our communications from fire, flood, and other natural or unnatural outages that can occur on a single path. We joined with La Plata County, The Southern Ute Tribe, and La Plata Electric Association to form a 4-way partnership and received a DOLA middle-mile grant that will build this missing length from Arboles to Pagosa Springs Colorado, along US Highways 151 and 160, predominately in the CDOT ROW. We have a statement from Secretary Stockinger, stating that CDOT will not charge annual fees for CDOT ROW use within the SUIT boundaries, but if this was not the case, this distance (34 miles), even at the reduced fee schedule would be \$5,385/year for access. There are little to no houses between these points, so there is practically no income to offset this cost, so the local taxpayers and tribal members would have to foot that bill, simply for using the public right of way, to connect critical communications links between their communities. The 6 miles of this project outside tribal boundaries, are still in limbo as to where they'll fall within this agreement. Other communities, with even greater distances to cover, should not have to pay to have their communities connected via the public ROW, just to have critical infrastructure needs satisfied. With some of the distances involved, this will easily lead to over \$10,000/year in ROW fees that have to be paid to CDOT, but are not commensurate with any maintenance activities being performed in the ROW, and are a barrier to getting these critical routes built.

On the topic of applicability of the statute being referenced requiring CDOT to charge annual ROW or "Fair Market Value" (FMV) for this "real property interest" in Title 23, Chapter I, Subchapter H, Part 710 of the Federal Code. Paragraph (E)(1) states that no FMV must be charged if "the grantee shows that an exception is in the overall public interest based on social, environmental, or economic benefits". While it is true that Broadband is not a "regulated" utility (even there is near universal agreement that it is a practical utility), but it is not hard to define the general public interest of a community being served, in social, economic, and environmental (i.e. public safety) areas by a functioning, redundant communications network between

communities. Our community has had our 911 services knocked out for over 6 hours 3 different times over the past 2.5 years by the single proprietary fiber line being cut in the next county, which also took out most Internet, and all cellular communications. Other Western Colorado communities have experienced similar critical failures. We should be using our public ROWs first as an obvious and available asset to build this critical communication infrastructure where it is currently lacking, and not placing impediments, including unnecessary monetary assessments, in the way for its use in improving our inter-community communications capabilities. Gov. Polis' Executive Order, oft referenced as the reason for this annual fee being assessed (EO D 2022 009), more than directing CDOT to streamline and clarify its DFL and ROW program, spends to bulk of its content describing the ways Colorado agencies should prioritize and remove barriers to building better broadband for Colorado, and the "standard pricing" mentioned does not reference that an annual access fee must be assessed, merely that it needs to be standardized and made clear on the website. The very 1st declaration of this EO states:

"Reliable broadband service is critical for anyone working or studying from home or accessing business, government, or healthcare services that are increasingly available online."

It also states that OIT, through the CBO, will coordinate and collaborate with all state agencies, but especially CDOT, in order to, among other things, address the broadband needs for "Federally recognized tribes" and "Challenges faced by rural communities" and that all efforts should be focused on the EO primary goal of how it "will help the State accomplish its Goal of connecting 99% of households to broadband". How does assessing a FMV annual fee, on just this one category of critical infrastructure, assist with this primary goal and the overall intent of the EO? Other states don't interpret Title 23 as requiring them to charge an annual fee (or even a one-time fee, in some cases), so why is this a unique CO requirement, at any price point?

We'd like to move beyond this issue, and feel there's a lot of cooperative, mutually beneficial opportunities, to CDOT and rural communities working together to build and maintain critical middle-mile infrastructure for both the community's communication needs and an expansion of CDOT's operational fiber footprint, and would like to see the focus move more towards these collaborative efforts, and not on somewhat arbitrary assessments of access fees that don't seem to serve either of these goals.

Eric Hittle, CISSP
Technical Director
Archuleta County Broadband Services Management Office (BSMO)
[mobile - 970.507.1092](tel:970.507.1092)
[office - 970.585.3246 x210](tel:970.585.3246)
<https://archuletacountybroadband.com/>