



CLEAN TRANSIT ENTERPRISE BOARD MEETING - FEBRUARY 22, 2022

SCHEDULE & AGENDA

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| I. Welcome and Agenda Review (5 minutes)
<i>Kay Kelly, Chief, Innovative Mobility (CDOT)</i> | 2:00 - 2:05 p.m. |
| II. Board Elections (10 minutes)
<i>Kay Kelly, Chief, Innovative Mobility (CDOT)</i> | 2:05 - 2:15 p.m. |
| III. Action Agenda (15 min) | 2:15 - 2:30 p.m. |
| A. Approval of Minutes - January 31, 2022 CTE Board Meeting | |
| B. Clean Transit Enterprise Board Articles of Organization | |
| C. Clean Transit Enterprise Board Bylaws | |
| D. Approval of Transportation Commission Loan for Clean Transit Enterprise Start-up Costs | |
| IV. Federal & State Transit Funding Landscape (20 min)
<i>Amber Blake, Director, Division of Transit and Rail (CDOT)</i> | 2:30 - 2:50 p.m. |
| V. Transit ZEV Roadmap and 10-year Plan (30 min)
<i>Mike King, Assistant Director, Electrification and Energy (CDOT)</i> | 2:50 - 3:20 p.m. |
| VI. Rulemaking (20 min)
<i>Herman Stockinger, Deputy Director and Director of Policy (CDOT)</i> | 3:20 - 3:40 p.m. |
| VII. Wrap Up and Next Steps (15 min) | 3:40 - 3:55 p.m. |

The Clean Transit Enterprise Board Meeting took place on Monday, January 31st, 2022. These meetings were held in a virtual format only, in an abundance of caution due to the COVID-19 pandemic.

The documents are considered to be in draft form and for information only until final action is taken by the Clean Transit Enterprise Board.

Clean Transit Enterprise Board Meeting Monday, January 31st, 2022, 2:30pm – 4:30pm

Call to Order, Roll Call:

Board Members: Matt Frommer – SWEEP, Bonnie Trowbridge – Drive Clean Colorado, Mark Garcia – TC District 8, Cris Jones – Deputy Director of Community Vitality for the City of Boulder, David Averill – Executive Director for San Miguel Authority Regional Transportation, Shoshana Lew – Executive Director of CDOT, Kelly Blynn - CEO, Richard Coffin – CDPHE Air Pollution Control Division,

Kay Kelly – CDOT, Herman Stockinger – CDOT, Jeff Sudmeier – CDOT, Kathy Young – Colorado Attorney General's Office, Jennifer Uebelher – CDOT, Amber Blake – CDOT, Kate Hruska – CDOT, Michael King – CDOT, Sari Weichbrodt - CDOT

Welcome, Board Members, & CDOT Staff Introductions

Background (Kay Kelly)

Purpose: Describe how the Clean Fleet Enterprise fits into the broader CDOT and goals around climate and air quality.

Action: No approval action was requested.

Discussion:

- 9 board members. 6 board members are appointed by the governor, 1 member from CDOT, 1 member from CEO, 1 member from CDPHE
- SB260 created three transportation electrification enterprises, with approximately \$733 million to be invested over the next 10 years:
 - Community Access Enterprise – Colorado Energy Office
 - Clean Fleet Enterprise – Colorado Department of Health and Environment
 - Clean Transit Enterprise – CDOT
- The Clean Transit Enterprise will support electrification of public transit through electrification planning, facility upgrades, fleet vehicle replacements, and associated charging infrastructure.
- State of Colorado Zero Emission Vehicle Goals:
 - Reduce GHG emissions by 26% by 2025, 50% by 2030, 90% by 2050 relative to 2005 statewide GHG pollution levels.
 - Increase light duty electric vehicle registrations to 940,000 by 2030.
 - Convert the state transit fleet to 100% zero emission vehicles by 2050, with an interim target of 1,000 transit ZEVs by 2030.
 - Cover 100% of the State highway network within 30 miles of the DC fast charger
 - Increase electrification of scenic and historic byways to 100% by 2025.
- Development of Clean Truck Strategy underway.
- Creation of CDOT Transit Zero Emission Vehicle Roadmap in 2021.

Powers and Duties of the Board (Herman Stockinger)

Purpose: Primary business purpose of the Clean Transit Enterprise is to mitigate the adverse environmental and health impacts of air pollution and greenhouse gas emissions.

Action: No approval action was requested.

Discussion:

- Overview of board duties regarding rules, fees, grants, loans, 10-year plan, public accountability dashboard, and prepare annual report.

Bylaws and Articles of Organization (Herman Stockinger)

Purpose: Overview of Bylaws (how the board functions) and Articles of Organization

Action: No approval action was requested this month.

February board meeting: adopt articles of organization and bylaws.

Discussion:

- Articles of organization: business purpose, TABOR exemption, powers & duties, revenues & expenditures, and bylaw adoption.
- Bylaws: board composition, meeting frequency & methods, open meetings & records, officers & staff, fiscal year & budget, miscellaneous provisions.
 - No compensation for the board. Necessary and reasonable expenses such as travel for meetings can be reimbursed.
 - If a board member fails to attend three consecutive meetings that member may be subject to recommendation to the Governor for removal of the enterprise board.
 - This board must meet a minimum of four times per year. Notice and content of meetings should be posted on CDOT's clean transit enterprise webpage at least 24 hours before a meeting.

Board Officers (Herman Stockinger/Kay Kelly)

Purpose: CDOT support staff are expected to be Kay Kelly (Program Administrator) and Jennifer Uebelher (Secretary). Chairperson and Vice-Chairperson will also need to be elected at February board meeting.

Action: No approval action was requested this month.

February Board Meeting: Election of officers, Chairperson and Vice-Chairperson.

Discussion:

- No further discussion.

Clean Transit Enterprise Revenue Estimates and Start Up Loan Agreement (Jeff Sudmeier)

Purpose: Overview of forecasted revenues and review of startup loan agreement.

Action: No approval action was requested this month.

February board meeting: Formally request loan approval.

Discussion:

- FY2023 forecasted revenue for Clean Transit Enterprise is \$8 million, projected to grow to \$21 million per year by FY2032. No revenue is expected in FY2022.
- Loan stipulated by SB260 was approved by the Transportation Commission on December 16, 2021 for costs incurred between now and when revenue starts flowing in the next fiscal year.
 - Loan terms: interest rate is 2% annually, repayment starts September 1, 2022, full repayment due on June 20, 2023. Loan amount is approximately \$73,500.

Rulemaking (Herman Stockinger)

Purpose: Statutory purpose of the rule is to set the clean transit retail delivery fee and govern the grant process.

Action: No approval action was requested this month.

February board meeting: open official rules or authorize CDOT to open official rules on the board's behalf.

Discussion:

- "Clean Transit Retail Delivery Fee" is \$0.03 per retail delivery (may increase according to inflation).
- Staff recommends using the current State Management Plan process for awarding and overseeing grants.
- Process and Timeline (Rules must be in place by June 30, 2022)
 - Enterprise needs to open a draft rule in late February and authorize the CDOT Hearing Officer to conduct Public Hearing.
 - CDOT staff will file the rule with the Secretary of State
 - Conduct Public Hearing – late March or early April
 - Adopt rule in mid-April
 - Rule Effective date could be as early as May 31,2022

Board Ethics Training (Kathy Young)

Purpose: Mandatory ethics training and best practices for public boards including identifying and managing conflicts of interest, understanding the Colorado Open Records Act, and open meeting laws.

Action: No approval action was requested this month.

Discussion:

- Colorado requires annual training on statutory powers and duties, identifying and managing conflicts of interest, Colorado Open Records Act and Open Meeting laws.
- Clean Transit Enterprise
 - TABOR exempt enterprise – no more than 10% of the enterprise's annual revenue can come from state sources. The Clean Transit Enterprise has the ability to issue bonds, but issuing bonds is not a requirement.
 - Government owned business within CDOT
 - Type 1 transfer - within limits can manage yourself and create your own policies within the business purpose.
- Conflicts of interest:
 - Board directors receive no compensation other than a per diem.
 - Board members shall not perform an official act which may have a direct economic benefit on a business or other undertaking in which such member has a direct or substantial financial interest.
- CORA (Colorado Open Records Acts):
 - All public records shall be open for inspection unless otherwise provided by law.
 - Includes all writings made, maintained, or kept by the state, any agency, institution, a nonprofit corporation incorporated pursuant to section 23-5-121(2) C.R.S or political subdivision of the state. This includes internal and external communication, hard paper documents and electronic documents.

- o Documents excluded from public records can include but are not limited to any work product prepared for an elected official.
- o Reasons for denial of inspection can include but are not limited to test questions, scoring keys from licensing exams, security arrangements, trade secrets, and employment records.
- o Documents can also be withheld under the Deliberative Process Privilege: records of the enterprise's deliberative process while the board is deliberating a decision.
- o A reasonable time for a government entity to produce a record for an open records request is three days. The period may be extended by seven working days upon finding of "extenuating circumstances".
- o There is a 14-day cooling off period for open records requests – Section 24-72-204(5)(a), C.R.S.
- State Open Meeting Policy "the Sunshine Law"
 - o Public business should be conducted in public, it should not be conducted behind closed doors. Citizens should have the opportunity to become fully informed and to also allow citizens to participate in the legislative decision-making process. Meetings should be open and properly noticed.
 - o A meeting is defined as any type of gathering convened to discuss public business in person, on telephone, virtually, electronically, any means of communication including email. If the meeting did not need to be noticed, the board should include the unnoticed meeting in the next board meeting minutes. Meetings that consist of two or more board members where public business is discussed or formal action is taken are declared to be public meetings and open to the public.
 - o Notice: Full and timely notice should be given a minimum of 24 hours in advance. Notice should include date and time, meeting location, agenda, specific agenda information, and ADA considerations. The Clean Transit Enterprise is not required to allow public comment at the meeting. Meetings must be noticed if you have a quorum and/or are taking official action.
 - o Executive sessions: An exception to open meetings laws is the ability to go into executive session and meet as a board without the public present. The board cannot take official or formal actions, and minutes are not kept, during the executive session. Executive sessions must be recorded. Attorney-client privileged communication may occur during executive sessions. Executive sessions must be noted on the meeting agenda and must be initiated from an open public meeting.
 - o Open meetings can be held virtually.
- Rick Coffin, APCD, asked: Does public business mean business related to this enterprise only?
- Kathy Young responded: Yes. As far as you, as a board member of this enterprise, being able to create a meeting, it needs to be the public business of the board you're sitting on. For example, two board members attending the same training does not constitute a meeting unless they are discussing board business. Then the meeting should be noted in the minutes.
- Kay Kelly, CDOT, provided this example: A couple board members have been asked to present at the Division of Transit and Rail monthly meeting, that is permissible, how should we notice that?
- Kathy Young responded: Unless there is a quorum of 5 board members on another committee, the meeting does not need to be noticed, but the presentation should be captured in the Clean Transit Enterprise minutes. Board members are encouraged to clarify in what capacity they are speaking from if they serve on multiple organizations with similar tasks.
- Amber Blake, CDOT, provided this example: David Avril is Chair of the Transit and Rail Advisory Committee and on the board of the Clean Transit Enterprise. David will likely be asked to provide updates on the Clean Transit Enterprise to the Transit and Rail Advisory Committee. The Transit and Rail Advisory Committee meetings are publicly announced and available to the public. David would likely obtain feedback from the Transit and Rail Advisory Committee to bring back to the Clean Transit Enterprise.
- Kathy Young responded: That is fine because one person can't create a meeting. The board should be aware of any conflicts of interest between different entities. David's update to the Clean Transit Enterprise should be recorded in the minutes.
- Amber Blake, CDOT asked: For members that are sitting on both boards, if the Transit and Rail Advisory Committee wanted to vote on providing information to the Clean Transit Enterprise board, should members who are sitting on both boards abstain?

- Kathy Young answered: Yes, if the Transit and Rail Advisory Committee board is voting on what their position is to present to the Clean Transit Enterprise, then the director should abstain from voting on one board or the other.
- Please reach out to Kathy Young regarding specific guidance.

Wrap Up and Next Steps (Kay Kelly)

Purpose: Preview of February Clean Transit Enterprise board meeting.

Action: No action was requested.

Discussion:

- Actions for February Board Meeting
 - Elect Officers
 - Adopt Articles of Organization
 - Adopt Bylaws
 - Accept Loan
 - Open official rules or authorize CDOT to open official rules on the board's behalf
- Additional topics include: the Transit Zero Emission Vehicle Roadmap and development of the CTE's 10-Year Plan. Please reach out to Kay Kelly with additional topics.
- The Clean Transit Enterprise board is expected to meet monthly through June. After June, the Clean Transit Enterprise board is expected to meet on a quarterly basis.
- Future board packets, agendas, and meeting links can be found on the Clean Transit Enterprise webpage at: [https://www.codot.gov/programs/innovativemobility/Clean Transit Enterprise](https://www.codot.gov/programs/innovativemobility/Clean%20Transit%20Enterprise).
- The Clean Transit Enterprise can be reached at: cdot_cleantransitenterprise@state.co.us.

Questions and Board Discussion

- Kelly Blynn, CEO, would like to learn more about the current grant award process (State Management Plan Process) that the board will potentially adopt.
 - Kay Kelly responded: We will give a detailed overview of the Division of Transit and Rail process to govern grant programs. The statute has given us a lot of latitude to create a rule to govern the process by which the enterprise accepts applications for awards and overseas grants, loans, and rebates. That's the only direction we have in the statute. Similarly the statute does not provide a lot of guidance on the development of the 10-Year Plan, only that the CTE will publish a 10-Year Plan.
- Matt Frommer would like a better understanding of the federal grant opportunities - existing, new opportunities from the bipartisan infrastructure package, and matching funds for those federal grants.
 - Kay Kelly added this topic to her list.
- Matt Frommer requested a link to the Transit Zero Emission Vehicle Roadmap.
 - Michael King, CDOT, responded: Yes, the final version will be distributed later this week to transit agencies at the Transit Monthly meeting. This group will be included on the distribution list.

Meeting Adjourned at: 3:46

MEMORANDUM

TO: CLEAN TRANSIT ENTERPRISE BOARD OF DIRECTORS
FROM:
DATE: FEBRUARY 22, 2022
SUBJECT: FY22 INITIAL LOAN FOR CLEAN TRANSIT ENTERPRISE

Purpose

To summarize the CTE initial loan agreement from the CDOT Transportation Commission, including repayment terms and important dates.

Action

The Clean Transit Enterprise is requested to approve the loan from the CDOT Transportation Commission for \$74,350. This loan will enable the Clean Transit Enterprise to operate in FY 2021-22 prior to receiving revenue from new fees. The budget for launching the Clean Transit Enterprise is \$74,350 for FY 2021-22 and includes CDOT staff time and meeting-related expenses.

Clean Transit Enterprise		
Expense Description	Quantity	FY22 Funding
Director	5.0% of 1.0 FTE	\$6,500
Office of Innovative Mobility (OIM) Chief	2.5% of 1.0 FTE	\$3,500
OIM Staff	50.0% of 1.0 FTE	\$37,500
Program Assistant	5.0% of 1.0 FTE	\$2,750
Division of Accounting and Finance (DAF) Staff	15.0% of 1.0 FTE	\$15,000
Policy Staff	2.5% of 1.0 FTE	\$2,500
Board Travel/Reimbursement	\$1,000 per meeting for 6 meetings	\$6,000
Meeting Expenses	\$100 per meeting for 6 meetings	\$600
Total		\$74,350

Background and Details

SB21-260 prohibits a grant to the Clean Transit Enterprise and requires that the Enterprise reimburse the State Highway Fund for initial funding to cover meeting expenses and staff time. The loan was approved by the Transportation Commission on December 16, 2021, contingent on approval by the Enterprise Board. Repayment starts September 1, 2022 and the deadline for the principal amount and the interest (2% annually) on the unpaid principal balance is June 30, 2023. The Enterprise has the option to prepay all or a portion of the loan principal without penalty.

The retail delivery fee begins in FY23. Anticipated revenue for the first year the fee is in place is approximately \$8.3M and the ten year total revenue estimate is approximately \$134.9M.

Next Steps

- Review and approve the \$74,350 loan to fund initial expenses
- Enterprise staff will coordinate with the Office of Financial Management and Budget (OFMB) to ensure that the approved funding is distributed and available for use in order to meet project deadlines.
- Enterprise staff will communicate and coordinate on all future requests for project funding under the Agreement to CDOT CFO and OFMB Staff.

Attachments

- Attachment A: Clean Transit Enterprise CDOT TC IntraAgency Loan Agreement

CLEAN TRANSIT ENTERPRISE

ARTICLES OF ORGANIZATION

PREAMBLE

The General Assembly of the State of Colorado (the “State”) found and declared in C.R.S. § 43-4-1201 that:

(a) Retail deliveries are increasing and are expected to continue to increase in communities across the state;

(b) The motor vehicles used to make retail deliveries are some of the most polluting vehicles on the road, which has resulted in additional and increasing air and greenhouse gas pollution;

(c) The adverse environmental and health impacts of increased emissions from motor vehicles used to make retail deliveries can be mitigated and offset by supporting the widespread adoption of electric buses for transit fleets and reducing vehicle miles traveled by encouraging people to choose clean, efficient, public transit options instead of personal motor vehicle travel;

(d) Instead of reducing the impacts of retail deliveries by limiting retail delivery activity through regulation, it is more appropriate to continue to allow persons who receive retail deliveries to benefit from the convenience afforded by unfettered retail deliveries and instead impose a small fee on each retail delivery and use fee revenue to fund necessary mitigation activities;

(e) It is necessary, appropriate, and in the best interest of the state and all Coloradans to incentivize, support, and accelerate the electrification of public transit in rural and urban areas throughout the state because electrification:

(I) Reduces emissions of air pollutants, including hazardous air pollutants and greenhouse gases, that contribute to adverse environmental effects, including but not limited to climate change, and adverse human health effects in and between communities, including communities near high-use transit corridors and disproportionately impacted communities, and helps the state meet its statutory greenhouse gas pollution reduction targets and comply with air quality attainment standards; and

(II) By reducing fuel and maintenance costs associated with the use of motor vehicles, helps public transit providers operate more efficiently, use cost savings to provide more reliable and convenient transit service to more riders, and further reduce emissions by reducing personal motor vehicle use; and

(f) By reducing motor vehicle emissions, transit fleet electrification effectively remediates some of the impacts of retail deliveries by offsetting a portion of the increased motor vehicle emissions resulting from such deliveries.

The General Assembly thereupon created in C.R.S. § 43-4-1203(1)(a) a clean transit enterprise as a government-owned business in the Colorado Department of Transportation (the “Department”).

Article I. Name

The clean transit enterprise created in C.R.S. § 43-4-1203(1)(a) shall be known as the CLEAN TRANSIT ENTERPRISE (“Enterprise”).

Article II. Authority

The Colorado Legislature approved the creation of the Clean Transit Enterprise during its regularly scheduled session in 2021, and the Governor of the State of Colorado signed SB 21-260 into law on June 17, 2021. 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 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.

Article IV. TABOR Exemption

As provided in C.R.S. § 43-4-1203(4), the Enterprise constitutes an “enterprise” for purposes of section 20 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 annual revenue in grants from all Colorado state and local governments combined. So long as it constitutes an enterprise pursuant to C.R.S. § 43-4-1203(4), the Enterprise is not subject to section 20 of article X of the state constitution. By providing remediation services as authorized by C.R.S. § 43-4-1201 *et seq.*, the clean transit enterprise engages in an activity conducted in the pursuit of a benefit, gain, or livelihood and therefore operates as a business in accordance with the determination of the Colorado supreme court in *Colorado Union of Taxpayers Foundation v. City of Aspen*, 2018 CO 36. 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 declared that the revenue collected by the Enterprise is generated by fees, not taxes, because the clean transit retail delivery fee imposed by the Enterprise as authorized by C.R.S. § 43-4-1203(7) is imposed for the specific purpose of allowing the enterprise to defray the costs of providing the remediation services specified by law, including mitigating impacts to air quality and greenhouse

gas emissions caused by the activities on which the fees are assessed, and contributes to the implementation of the comprehensive regulatory scheme required for the planning, funding, development, construction, maintenance, and supervision of a sustainable transportation system. The fees are collected at rates that are reasonably calculated based on the impacts caused by fee payers and the cost of remediating those impacts.

Article V. Enterprise Board

The Board of the Enterprise shall consist of nine (9) Members as described and defined in C.R.S. § 43-4-1203(2)(a).

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

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 clean transit retail delivery fee as authorized in C.R.S. § 43-4-1203(7);
- (b) Issue grants, loans, and rebates as authorized in C.R.S. § 43-4-1203(8) ; and
- (c) Issue revenue bonds payable from the revenue and other available money of the Enterprise.

In addition to any other powers and duties specified in C.R.S. § 43-4-1203, the Board also has the following powers and duties:

- (a) To adopt bylaws for the regulation of its affairs and the conduct of its business;
- (b) To acquire, hold title to, and dispose of real and personal property;
- (c) To employ and supervise individuals, professional consultants, and contractors as are necessary in its judgement to carry out its business purpose;
- (d) To contract with any public or private entity, including state agencies, consultants, and the attorney general's office, for professional and technical assistance, office space and administrative services, advice, and other services related to the conduct of the affairs of the Enterprise;
- (e) To seek, accept, and expend gifts, grants, donations, or other payments from private or public sources, so long as the total amount of all grants from the state of Colorado and local governments received in any state fiscal year is less than ten (10) percent of the Enterprise's total annual revenue for the state fiscal year;

(f) To directly provide any service that it is authorized to provide indirectly through grants awarded;

(g) To promulgate rules for the sole purpose of setting the amount of the clean transit retail delivery fee at or below the maximum amounts authorized by law and to govern the process by which the Enterprise accepts applications for, awards, and oversees grants, loans, and rebates; and

(h) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers necessary and duties granted by law.

Article VIII. Revenues and Expenditures

The clean transit enterprise fund has been created in the state treasury. The fund consists of clean transit retail delivery fee revenue credited to the fund pursuant to C.R.S. § 43-4-1203(7), any monetary gifts, grants, donations, or other money received by the Enterprise, any federal money that may be credited to the fund, and any other money that the general assembly may appropriate or transfer to the fund. The state treasurer shall credit to the fund all interest and income derived from the deposit and investment of money in the fund. Subject to annual appropriation by the general assembly, the Enterprise may expend money from the fund to provide grants, pay its reasonable and necessary operating expenses, including repayment of any loan received by the Enterprise pursuant to C.R.S. § 43-4-1203(5)(b), and otherwise exercise its powers and perform its duties as authorized by law. [Money in the fund is continuously appropriated to the Enterprise for the purposes set forth in C.R.S. § 43-4-1301 *et seq.* and to pay the Enterprise's reasonable and necessary operating expenses, including the repayment of any loan received pursuant to).]

The Transportation Commission may transfer money from the state highway fund to the Enterprise for the purpose of defraying expenses incurred by the Enterprise before it receives fee revenue or revenue bond proceeds. 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 is a loan from the Transportation Commission to the Enterprise that is required to be repaid and is not a grant for purposes of section 20(2)(d) of article X of the state constitution or as defined in C.R.S. § 24-77-102(7). All money transferred as a loan to the Enterprise shall be credited to the clean transit enterprise initial expenses fund in the state treasury, and loan liabilities that are recorded in the clean transit initial expenses fund but that are not required to be paid in the current fiscal year shall not be considered when calculating sufficient statutory fund balance for purposes of C.R.S. § 24-75-109. The state treasurer shall credit to the fund all interest and income derived from the deposit and investment of money in the clean transit enterprise initial expenses fund. The clean transit enterprise initial expenses fund is continuously appropriated to the Enterprise for the purpose of defraying expenses incurred by the Enterprise before it receives fee revenue or revenue bond proceeds. As the Enterprise receives sufficient revenue in excess of expenses, the

Enterprise shall reimburse the state highway fund for the principal amount of any loan made by the Transportation Commission plus interest at a rate set by the Commission.

Article IX. Articles of Organization – Amendment

The Board may amend, supplement, or repeal these Articles of Organization or adopt new Articles of Organization. All such changes shall affect and be binding upon the Enterprise, the Board and 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.

CLEAN TRANSIT ENTERPRISE BYLAWS

Article I. Board of the Clean Transit Enterprise

A. Enterprise Board. All of the powers of the Enterprise, as described in Section 43-4-1203, *et seq.*, C.R.S., and as otherwise provided by law, shall be vested in the Clean Transit Enterprise Board (“Enterprise Board”). The Enterprise Board shall manage the business and affairs of the Enterprise. The Enterprise Board shall consist of the members as determined pursuant to Section 43-4-1203(2)(a)(I), C.R.S. (each shall be a “Member” and collectively, the “Members”). Members of the Enterprise Board shall have the ability to vote.

B. Composition and Qualifications

1. The Enterprise Board consists of nine (9) Members.

2. The Governor shall appoint six (6) Members with the advice and consent of the Senate. The Governor shall make reasonable efforts to consider Members that reflect the state’s geographic diversity when making appointments.

- a. One such Member must be a member of the Transportation Commission and shall have statewide transportation expertise.
- b. One Member must represent an urban area and have transit expertise.
- c. One Member must represent a rural area and have transit expertise.
- d. One Member must have expertise in zero-emissions transportation, motor vehicle fleets, or utilities.
- e. One Member must represent a transportation-focused organization that serves an environmental justice community.
- f. One Member must represent a public advocacy group that has transit or comprehensive transportation expertise.

3. The three (3) Members not appointed by the Governor are:

- a. The Executive Director of the Department of Transportation or the Executive Director's designee.
- b. The Director of the Colorado Energy Office or the Director's designee.
- c. The Executive Director of the Department of Public Health and Environment or the Executive Director's designee.

C. Performance of Duties. By acceptance of the office, each Member of the Enterprise Board shall be deemed to have accepted the obligation to perform their duties in good faith and in a manner they believe to be in the best interests of the Enterprise.

D. Reimbursement. The Enterprise Board may provide for reimbursement of the Members for reasonable and necessary expenses incurred on behalf of the Enterprise consistent with State Fiscal Rules, but the Members shall otherwise serve without compensation.

E. Disclosures. Members of the Enterprise Board shall make financial disclosures and avoid conflicts of interest, as provided by law and any policies adopted by the Enterprise.

F. Term of Office.

1. The Transportation Commission Member Appointee shall continue to serve as an Enterprise Board Member for as long as they serve as a Commissioner.
2. The Governor's Appointees, other than the Transportation Commissioner Appointee, shall serve for terms of four (4) years. However, for the first term, three (3) of the appointed Members shall serve an initial term of three (3) years. These Members are the Member with expertise in zero-emissions transportation, motor vehicle fleets, or utilities, the Member representing a transportation-focused organization that serves an environmental justice community, and the Member representing a public advocacy group that has transit or comprehensive transportation expertise.
3. The Members serving as designees of the Department of Transportation, the Colorado Energy Office, and the Department of Public Health and Environment shall serve for as long as they hold their agency positions or are designated to serve.

4. Vacancies. Members appointed to fill a vacancy will serve the remainder of the unexpired term of the former Member.
5. Removal. Any Enterprise Board member who fails to attend three (3) consecutive Enterprise Board meetings without being excused may be subject to recommendation to the Governor for removal from the Enterprise Board.

Article II. Meetings of the Board

- A. Place of Meetings. The regular or special meetings of the Enterprise Board or any committee designated by the Enterprise Board shall be held at the principal office of the Enterprise or at any place that a majority of the Enterprise Board, or any such committee, designates.
- B. Regular Meetings. The Clean Transit Enterprise shall hold regular meetings at such dates, times, and locations, including virtual meetings, as the Enterprise Board shall determine, but no less than four (4) times per calendar year. Members of the Enterprise Board are expected to attend all regular Enterprise Board meetings unless excused in advance.

Any Enterprise Board Member may participate in any regular or special meeting through telephonic and virtual participation, provided that all directors participating are able to hear each other during the meeting.

The Chair of the Enterprise Board (“Chair”) may postpone or advance the time and date of any regular meeting for a period not to exceed one week. The Enterprise 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 Chair or by a majority of the Members of the Enterprise Board with three (3) days advance notice by mail, electronic mail, or telephone. In an emergency, 24 hours of advance notice by telephone or electronic mail is sufficient, unless otherwise provided by law.
- D. Notice of Meetings. A notice of the time, date, and location of a meeting will be sent to each Enterprise Board Member by the Program Manager for regular meetings at least two (2) weeks in advance. A public notice of the meeting shall also be posted to the Clean Transit Enterprise website at least two (2) weeks in advance of the meeting.

- E. Quorum. A quorum of the Clean Transit Enterprise Board shall be a majority of the voting Enterprise Board Members. If a quorum of the Enterprise Board is present, a simple majority vote of Members present shall be required to carry any motion, order, regulation, bylaw, or other action. All formal action of the Enterprise Board shall be by resolution adopted at a duly called meeting of the Enterprise Board and no individual Member shall exercise any individual administrative authority with respect to the Enterprise.
- F. Voting. Each Member of the Enterprise Board shall be entitled to one vote. The Enterprise 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 Enterprise Board or at the discretion of the Chair. Any Member of the Enterprise Board shall be disqualified from voting on any issue with respect to which they have a private interest, unless such Member has disclosed such interest in compliance with Section 24-18-110, C.R.S.
- G. Conduct of Meetings. All meetings of the Enterprise Board shall be conducted under Robert's Rules of Order unless specifically provided otherwise by the Enterprise Board or these Bylaws. When action is to be taken at a meeting, a motion shall be made by one of the Members to undertake the action; another Member must second the motion. The Chair or other individual facilitating the meeting shall entertain discussion on the motion, and a vote shall be taken. The motion shall be adopted by a majority of those casting votes, unless a greater margin of votes is otherwise required by these Bylaws or State law. The Members may vote to govern their proceedings by additional procedures contained in Robert's Rules of Order if they so desire.
- H. Committees. The Enterprise Board may, by a motion or resolution adopted by a majority of the Members of the Enterprise Board, designate not less than two (2) of its Members to constitute one or more 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 Enterprise Board is made as herein provided, all references to the Enterprise Board contained in these Bylaws, the Articles of Organization, Section 43-4-1203, *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.
- I. Advisory Groups. The Enterprise Board may establish ad hoc advisory groups for specific projects, as needed.

Article III. Open Meetings and Open Records

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

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

Article IV. Officers and Staff

A. General. The Chair and Vice-Chair shall be the officers of the Enterprise Board. The Enterprise Board shall appoint a Secretary who shall not be a Member of the Enterprise Board. The Chair and Vice-Chair shall be elected by the Enterprise Board at its meeting in January 2022 and shall serve two (2) year terms in office or until a successor is elected by a vote of the Members of the Enterprise Board. Thereafter, the Enterprise Board shall elect a Chair and Vice-Chair in January in even-numbered years. 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.

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 Enterprise Board not inconsistent with these Bylaws.

1. Chair. The Chair shall preside at all meetings of the Enterprise Board. The Chair shall be a Member of the Enterprise Board. The Chair shall serve as the principal spokesperson for the Enterprise Board, and shall aid the Enterprise Program Manager and/or Secretary in coordination of meetings and agendas, and perform all duties incident to the office.

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 be a Member of the

Enterprise Board. The Vice-Chair shall also perform such other duties as may be prescribed by the Enterprise Board from time to time.

3. Secretary. The Secretary, a member of the Colorado Department of Transportation (“CDOT”) staff, shall keep the records of the Enterprise Board. The Secretary shall perform all of the other administrative duties usually pertaining to this office, including taking the minutes of Enterprise Board meetings, and coordinating all communications, announcements, etc. The Secretary shall work with the Chair to coordinate Enterprise Board meeting details, including securing a location, posting the agenda, board packets, and notification of meetings. The Secretary’s term of office shall be at the will of the Enterprise Board.

4. Program Administrator. The Program Administrator is a senior member of the CDOT staff assigned to provide strategic management and support for the Enterprise Board. The Program Administrator shall serve as a point of contact for the Enterprise and the Enterprise Board. The Program Administrator may suggest policies, procedures, and agenda items for the Board’s consideration and shall see that all policies, directions and orders of the Board are carried out. The Program Administrator shall have such other authority, powers, or duties as may be prescribed by the Board.

5. Other Officers. The Enterprise Board may appoint other officers as it deems necessary and appropriate.

C. Delegation of Duties. Whenever an officer is absent for any reason, the Enterprise Board may delegate the powers and duties of an officer to any other officer or to any Member of the Enterprise Board.

D. No Contract Right. Service on the Enterprise Board shall not of itself create contract rights in the office.

Article V. 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).

B. Budget. The Enterprise Board shall set and adopt annual estimates of revenues and other available funds for the operating fund and for the special revenue fund, respectively. These estimates shall be adopted not later than June of each year for the following fiscal year. If circumstances change, the Enterprise Board may, at a regular

or special Board meeting, modify the estimates to ensure expenditures do not exceed available funds or to allow for additional appropriate expenditures if additional funds are available.

Article VI. Amendments

- A. General. The Enterprise Board may amend, supplement, or repeal these Bylaws or adopt new bylaws; all such changes shall affect and be binding upon the Enterprise Board. Any amendments, supplement, or repeal of these Bylaws, or adoption of new bylaws, shall require a majority vote of all Members.
- 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 special meetings pursuant to Article III, Section C of these Bylaws.
- C. Vote Necessary. Any adoption of new bylaws, or amendment, supplement, or repeal of these Bylaws, shall require approval by a majority of the Enterprise Board at any regular meeting at which the amendment, supplement, repeal, or adoption is considered.

Article VII. Miscellaneous

- A. Invalid Provision. The invalidity or unenforceability 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 Section 43-4-1203, *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 plural the singular, and one gender shall include the other.
- D. Contracts and Amendments. The Enterprise Board shall set budgets for its operations and shall have authority to approve and enter into contracts and amend existing contracts so long as the total projected expenditures for either the operating fund or the special revenue fund do not exceed the estimate of available funds approved for the fiscal year by the Board.

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

THIS INTRA-AGENCY LOAN AGREEMENT and PROMISSORY NOTE (the “Agreement”) is made this ___ day of _____, 2022 by and between the COLORADO TRANSPORTATION COMMISSION (“COMMISSION”) and the DEPARTMENT OF TRANSPORTATION (“CDOT” or the “Department”), an executive agency of the State of Colorado (“State”), collectively referred to herein as “LENDERS” and the CLEAN TRANSIT ENTERPRISE, a government-owned business within CDOT (“TRANSIT ENTERPRISE”). LENDERS and TRANSIT ENTERPRISE are hereinafter referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

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

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

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

D. TRANSIT ENTERPRISE has the primary business purpose of reducing and mitigating 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 transit vehicles and providing the associated charging infrastructure for electric transit fleet vehicles, supporting facility modifications that allow safe operation and maintenance of electric transit vehicles and funding planning studies that enable transit agencies to plan for transit vehicle electrification.

E. TRANSIT ENTERPRISE is authorized pursuant to C.R.S. § 43-4-1203(7) to impose a clean transit retail delivery fee on retailers who make retail deliveries beginning in state fiscal year 2022-2023 to serve its business purpose. Fiscal year 2022-2023 commences on July 1, 2022.

F. Pursuant to C.R.S. § 43-4-1203(8) TRANSIT ENTERPRISE is authorized to make grants, loans or rebates to support electrification of public transit within the state.

G. TRANSIT ENTERPRISE is further empowered, pursuant to C.R.S. § 43-4-1203(6) to employ and supervise consultants and contractors as necessary to carry out its business purpose and to contract with any public or private entity necessary or incidental to the exercise of its powers and performance of its duties.

H. The COMMISSION is authorized pursuant to C.R.S. 43-4-1203(5)(b) to transfer money from the state highway fund to the TRANSIT ENTERPRISE for the purpose of defraying expenses incurred by the TRANSIT ENTERPRISE before it receives fee revenue and the TRANSIT ENTERPRISE may accept and expend any money so transferred, and, notwithstanding any state fiscal rule or generally accepted accounting principle that could otherwise be interpreted to require a contrary conclusion, such a transfer is a loan from the COMMISSION that is required to be repaid and is not a grant for purposes of Section 20(2)(d) of Article X of the State Constitution or as defined in C.R.S. 24-77-102(7).

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

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

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

2. Loan. The LENDERS shall disburse the sum of \$74,350.00 from the State Highway Fund created in C.R.S. 43-1-219 to the Clean Transit Enterprise Initial Expenses Fund as provided in C.R.S. 43-4-1203(5)(b). The loan disbursement shall be made to the TRANSIT ENTERPRISE by means of a financial instrument or transfer acceptable to CDOT.

3. Loan Term. The term of the loan shall be from the date this Agreement is signed by the State Controller, as evidenced by the date first appearing above, until full payment of the loan principal and the interest thereon is received by CDOT. The TRANSIT ENTERPRISE shall repay to CDOT the principal amount of the loan and the interest on the unpaid principal balance by June 30, 2023.

4. Interest. The loan to the TRANSIT ENTERPRISE shall bear interest at a rate of two percent (2%) on the unpaid balance compounded annually which is the current interest rate established by the COMMISSION for the State Infrastructure Bank. The rate shall be fixed for the term of the loan and interest shall begin to accrue from the date of the loan disbursement.

5. Repayment. The TRANSIT ENTERPRISE shall repay the loan and all accrued interest out of the unrestricted revenues of the TRANSIT ENTERPRISE generated by the clean transit retail delivery fee which will commence on July 1, 2022. No repayments shall be due until September 1, 2022 at the earliest. Loan payments of both principal and interest shall be payable to the Colorado Department of Transportation, 2829 West Howard Place, Denver, CO 80204 or to such other location or person as may be designated in writing from time to time by CDOT. The TRANSIT ENTERPRISE shall have the option to prepay all or a portion of the loan principal without prepayment penalty if it so chooses.

6. Promissory Note. For value received, the TRANSIT ENTERPRISE hereby promises to pay to the order of the Colorado Department of Transportation and send to its cash

receipts office at 2829 West Howard Place, Denver, CO 80204, or to such other location or person as may be designated in writing by CDOT, the principal sum of Seventy Four Thousand Three Hundred Fifty Dollars (\$74,350.00) with interest thereon from the date hereof as hereinafter set forth.

A. This promissory note shall bear interest at the rate of two percent (2%) per annum on any unpaid balance, compounded annually. The principal and interest shall be payable out of unrestricted revenues of the TRANSIT ENTERPRISE generated by the clean transit retail delivery fee which commences on July 1, 2022. The date and schedule for such payments of principal and accrued interest shall not be fixed in time or manner except that no payments shall be due prior to September 1, 2022 and all principal and interest on the unpaid principal balance shall be due by June 30, 2023.

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

C. If payments do not commence beginning September 1, 2022, the TRANSIT ENTERPRISE shall be in default of this Agreement, unless the TRANSIT ENTERPRISE has prior written approval to defer the repayment of the loan. In the event of default, CDOT shall have all rights and remedies available at law or in equity, and such other remedies as provided herein. The rate of interest for payment on which the TRANSIT ENTERPRISE is in default hereof shall be ten percent (10%) over the effective rate described above, computed from the date of any default to the date of cure.

D. The TRANSIT ENTERPRISE shall use the loan amount of Seventy Four Thousand Three Hundred Fifty Dollars (\$74,350.00) for its initial operating expenses. The TRANSIT ENTERPRISE shall, at all times during this Agreement, comply with all federal and State laws as they currently exist and may hereafter be amended.

7. Remedies in Event of Default. Upon the TRANSIT ENTERPRISE'S default in the performance of any covenant or agreement contained in this Agreement, and upon notice to the TRANSIT ENTERPRISE and failure by the TRANSIT ENTERPRISE to cure within thirty (30) days thereof, CDOT, at its option, may (a) terminate the loan commitment herein and take such other steps associated with such termination as are set forth below in the General Provisions; (b) declare the entire principal amount of the loan then outstanding immediately due and payable; (c) take any other appropriate legal action. Notwithstanding the exercise of any of the remedies above, the TRANSIT ENTERPRISE shall not be relieved of liability to CDOT for any damages sustained by CDOT by virtue of any breach of this Agreement by the TRANSIT ENTERPRISE.

8. General Provisions.

A. All federal and state statutes, regulations, specifications, administration checklists, directives, procedures, documents, and publications that are specifically identified and/or

referenced in this Agreement, together with all exhibits and attachments and addenda to this Agreement, are incorporated herein by this reference as terms and conditions of this Agreement as though fully set forth.

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

C. This Agreement may be terminated as follows:

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

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

(c) Termination Due to Loss of Funding. The parties hereto expressly recognize that the loan is made to the Transit Enterprise with funds which are available to CDOT for the purposes of making a loan to the Transit Enterprise, and therefore, the Transit Enterprise expressly understands and agrees that all its rights, demands and claims to a loan arising under this Agreement are contingent upon availability of such funds to CDOT. In the event that such funds or any part thereof are not available to CDOT, CDOT may immediately terminate or amend this Agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

STATE OF COLORADO
Jared S. Polis, Governor

COLORADO CLEAN TRANSIT
ENTERPRISE

By: _____
SHOSHANA LEW
EXECUTIVE DIRECTOR
DEPARTMENT OF TRANSPORTATION

By: _____
DIRECTOR

COLORADO TRANSPORTATION COMMISSION

By: _____
Chairperson

APPROVED:

Philip J. Weiser
ATTORNEY GENERAL

By: _____
ASSISTANT ATTORNEY GENERAL

ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

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



COLORADO

Department of Transportation

Clean Transit Enterprise Board

February 22, 2022



AGENDA

Topic	Presenter
Welcome, Agenda Review (5 min)	Kay Kelly, CDOT
Election of Board Officers (10 min)	Kay Kelly, CDOT
Action Agenda (15 min) <ul style="list-style-type: none">• Approval of Minutes - 1/31/22 CTE Board Meeting• CTE Board Articles of Organization• CTE Board Bylaws• Approval of Transportation Commission Loan	
Federal & State Transit Funding Landscape (20 min)	Amber Blake, CDOT
Transit ZEV Roadmap and 10-year CTE Plan (30 min)	Mike King, CDOT
Action Item: Rulemaking (20 min)	Herman Stockinger, CDOT
Wrap Up and Next Steps (15 min)	Kay Kelly, CDOT



Members of the Clean Transit Enterprise Board

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

Vacant: 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

Agency Appointments

Shoshana Lew: CDOT Executive Director

Kelly Blynn: Colorado Energy Office designee

Richard Coffin: Colorado Department of Public Health & Environment designee



Elected Positions

Chairperson: The principal duties of the Chairperson shall be to preside at all meetings of the Enterprise Board, to serve as the principal spokesperson for the Enterprise, and to aid the Secretary in coordination of meetings and agendas, and to perform all duties incident to the office

Vice-Chairperson: The principal duty of the Vice-Chairperson shall be, in the absence or disability of the Chairperson, to perform all the duties of the chairperson, and when acting shall have all the powers of the Chairperson. The Vice-Chairperson shall also have such powers and perform such duties as from time to time may be prescribed by the Membership

The Board may appoint other officers as it deems necessary and appropriate



Action Agenda

Motions to Approve:

1. Minutes of the January 31, 2022 CTE Board Meeting
2. CTE Board Articles of Organization
3. CTE Board Bylaws
4. Start-Up Loan Agreement between the CDOT Transportation Commission and the CTE Board in the amount of \$73,500



COLORADO

Department of Transportation

Transit Funding 101

Clean Transit Enterprise Board

February 2022₁



CDOT Transit Funding

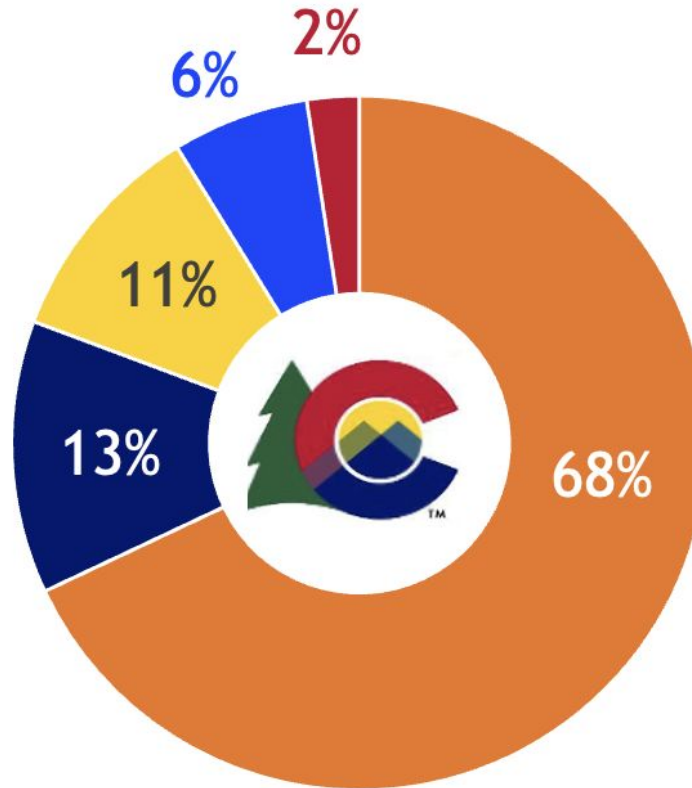


FY 2022-23 TRANSIT FUNDING - \$78.7M*

FASTER Local Transit Grants
\$5.0 million
State funded transit grants

Clean Transit Enterprise
\$8.3 million
Retail Delivery Fees

FASTER State Transit
\$10.0 million
Used for Bustang, state transit, administration



Bustang
\$1.9 million
Bustang farebox revenue

Federal Transit Grants
\$53.5 million
Includes local match

*This graph represents FY 2022-23 revenue only. Revenue from previous year will also be used for 10-year plan and MMOF transit projects.



FTA Transit Funding Overview

There are two types of FTA grant programs administered by CDOT.

Each grant program has its own set of criteria, eligibilities, and rules.

Discretionary

- Grants made through a competitive process.
- Discretionary funds may be subject to annual appropriations.

Formula Program

- Formula funds are a set amount of funds that are distributed annually.
- Formula funds are guaranteed.



FTA 5304 Statewide and Non-Metropolitan Planning

- **Program Purpose:** Statewide Planning and Nonmetropolitan Transportation Planning Program for transit planning, technical assistance, service and route planning, long range and short range planning.
- **Program Funding:** ~\$0.5 M forecasted for FY23 (federal dollars).
- **Program Overview:**
 - Eligible projects include development of transportation plans and programs, plan, design and evaluate a public transportation project, and conduct technical studies related to public transportation. (increase from 30% under the FAST Act).
 - The federal share of eligible costs for planning projects may not exceed 80 percent.

This funding administered by DTR and awarded as pass through grants via an annual call for projects.



5310 - Enhanced Mobility for Seniors and Individual with Disabilities

- **Program Purpose:** To improve transportation mobility and meet the needs of seniors and individuals with disabilities.
- **Program Funding:** ~\$2.8 M forecasted for FY23 (federal dollars)
- **Program Overview:**
 - The program provides capital and operating assistance (increase from 45% under the FAST Act).
 - Eligible projects include capital, operating, and mobility management.
 - The federal share of eligible capital costs may not exceed 80 percent, and 50 percent for operating assistance.

This funding administered by DTR and awarded as pass through grants via an annual call for projects.



FTA 5311 Rural Area Formula Program

- **Program Purpose:** The Formula Grants for Rural Areas program provides capital, planning, and operating assistance to states to support public transportation in rural areas with populations of less than 50,000, where many residents often rely on public transit to reach their destinations. The program also provides funding for training and technical assistance through the Rural Transportation Assistance Program.
- **Program Funding:** ~\$17.6 M forecasted for FY23 (federal dollars)
- **Program Overview:**
 - Three programs saw an increase of 30% compared to funding levels under the FAST Act.
 - 5311 - Operating and Admin, Capital (fleet, facilities, equipment).
 - 5311(b)(3) - Rural Transit Assistance Program (RTAP).
 - 5311(f) - Intercity Bus (Bustang, Outrider) (15% of total allocation)
 - The federal share is 80 percent for capital projects, 50 percent for operating assistance, and 80 percent for Americans with Disabilities Act (ADA) non-fixed route paratransit service.

This funding administered by DTR and awarded as pass through grants via an annual call for projects.



FTA 5339 Bus and Bus Facilities Formula Program

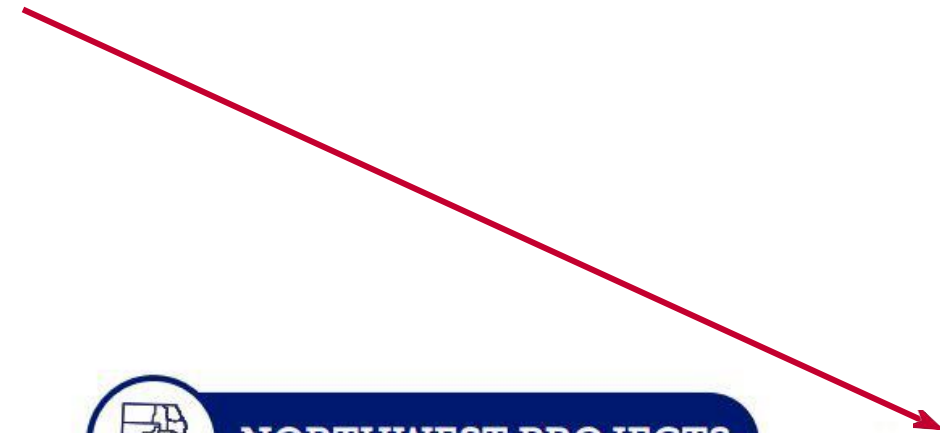
- **Program Purpose:** To maintain a State of Good Repair.
- **Program Funding:** ~\$6.5 M forecasted for FY23 formula program (federal dollars)
- **Program Overview:**
 - To provide funding to replace, rehabilitate and purchase buses and related equipment and to construct bus-related facilities including technological changes or innovations to modify low or no emission vehicles or facilities (increase from 30% under the FAST Act).
 - 5339(a) - formula pass through for Rural and Small Urban.
 - *5339(b) - Discretionary Program (competitive).*
 - *5339(c) - Low or No Emissions Vehicles (competitive).*

5339(a) funding administered by DTR and awarded as pass through grants via an annual call for projects. *5339(b) and (c) are competitive programs awarded directly through the FTA, projects are administered by DTR.*



Notable Funding Programs: Federal

Funding Program	Strategic Funding Source for 10-Year Plan?*
Surface Transportation Block Grant (STBG)	✓
Transportation Alternatives Program (TA)	
Congestion Mitigation and Air Quality (CMAQ)	
NEW! Risk/Resiliency Formula Program	✓
FTA 5304 - Statewide Planning	
FTA 5310 - Enhanced Mobility for Seniors and Individual with Disabilities	
FTA 5311 - Rural Area Formula Program	
FTA 5339 - Bus and Bus Facilities Formula Program	



NORTHWEST PROJECTS

	Project Type	Total Project Cost	Total Strategic Funding	Other Funding	F Y
Highway & Transit– Region 3					
I-70 Auxiliary Lane Frisco East to Silverthorne	H	\$25 M	\$25 M		
I-70 West: Vail Pass Safety Improvements - Phase 1*	H	\$140 M	\$33.5 M	✓	\$
Summit County Transit Operations Center (Design & Engineering)*	T	\$0.531 M	\$0.425 M	✓	\$0
I-70B East of 1st Street to 15th Street*	H	\$16 M	\$16 M		
North Avenue Transit Infrastructure Improvements	T	\$1.5 M	\$1.5 M		\$
Grand Junction Mobility Hub	T	TBD	\$4.08 M	✓	
I-70 and CO 9 (Exit 203) Interchange Improvements	H	\$30 M	\$30 M		

*Check marks indicate a “strategic” source of funding for the 10-Year Plan. However, all types of funding programs may be leveraged to fully deliver projects in the 10-Year Plan.



Transportation Alternatives (TA)

- **Program Purpose:** Implement non-motorized transportation projects and environmental mitigation.
- **Program Funding:** ~\$18.5 M forecasted for FY23 (federal dollars)*
- **Program Overview:**
 - 59% of funding allocated based on population (increase from 50% under the FAST Act)
 - This funding is split between the CDOT Regions by population, and the Transportation Management Areas (i.e. the large MPOs) by urbanized area population.
 - Remaining funding can be spent anywhere in the state and is allocated to the CDOT Regions based on 45% VMT, 40% lane miles, and 15% truck VMT.

Transit Eligibility: First and last mile connections (local agency projects)

*Draft FY23 Final Budget.



Congestion Mitigation and Air Quality (CMAQ)

- **Program Purpose:** Support activities with air quality benefits.
- **Program Funding:** ~\$46M forecasted for FY23 (federal dollars)*
- **Program Overview:**
 - Required to go to air quality nonattainment or maintenance areas, with a few exceptions.
 - Most of this funding goes to the ozone nonattainment areas (DRCOG, NFRMPO, and UFR TPR) on the basis of 75% population and 25% VMT.

Transit Eligibility: Transit Improvements, Operating assistance (1st 5 years only), Alternative fuels and vehicles

*Draft FY23 Final Budget.



PROTECT Formula & Discretionary Program

- **Program Purpose:** Provide formula and grant funding for resilience improvements
- **Program Funding:** \$19M forecasted for FY23 (federal dollars)* (formula funding)
 - \$1.4 Billion available nationally via competitive, discretionary grant funding available (non formula funding)
- **Program Overview:**
 - The full name of the program is Promoting, Resilient Operations for Transformative, Efficient, and Cost-saving Transportation (PROTECT) program.
 - Formula funding is available for highway, **transit**, and certain port projects, higher Federal share if the State develops a resilience improvement plan and incorporates it into its long-range transportation plan, of the amounts apportioned to a State for a fiscal year, the State may use: not more than 40% for construction of new capacity, or not more than 10% for development phase activities.
 - Competitive, discretionary grant funding covers highway, **transit**, intercity passenger rail, and port facilities, resilience planning activities, including resilience improvement plans, evacuation planning and preparation, and capacity-building, construction activities (oriented toward resilience), construction of (or improvement to) evacuation routes.



Carbon Reduction Program

- **Program Purpose:** To support the reduction of transportation emissions.
- **Program Funding:** \$16.8M forecasted for FY23 (federal dollars)*
- **Program Overview:**
 - New federal funding program from the IIJA.
 - Requires 65% of the funding to be obligated on the basis of population.
 - Population driven.

Transit Eligibility: Transit system improvements



Notable Funding Programs: State

Funding Program	Strategic Funding Source for 10-Year Plan?*
SB 267	✓
SB 260 State MMOF	✓
SB 260 Local MMOF	
FASTER	

*Check marks indicate a “strategic” source of funding for the 10-Year Plan. However, all types of funding programs may be leveraged to deliver projects in the 10-Year Plan.



- **Program Purpose:** Strategic funding from the state legislature.
- **Program Funding:** \$500M / yr on average for over four years (FY19-22)
- **Program Overview:**
 - 25% of the funding must be spent in rural areas
 - 10% minimum to transit projects
 - Capital projects



- **Program Purpose:** The Multimodal Transportation & Mitigation Options Fund (MMOF), created by Senate Bill 18-001, and seeks to promote a complete and integrated multimodal system
- **Program Funding:** \$17.4M forecasted for FY23*
 - \$2.6M allocated to CDOT, and \$14.9M to local entities
- **Program Overview:**
 - MMOF funds are split 15% to CDOT and 85% to local entities
 - All MMOF funding awards and projects will be administered and overseen by CDOT
 - **Transit projects including operating are eligible**



FASTER

- **Program Purpose:** FASTER allows the state of Colorado to improve roadway safety, repair deteriorating bridges, and **support and expand transit**.
- **Program Funding:** \$85M forecasted for FY23, for state transportation projects*
 - \$23M forecasted for FY23, for cities*
 - \$28M forecasted for FY23, for counties*
- **Program Overview:**
 - Senate Bill 09-108, also known as the Funding Advancements for Surface Transportation and Economic Recovery Act of 2009 (FASTER), was signed into law on March 2, 2009.
 - FASTER legislation created the Colorado Bridge Enterprise (CBE) and the High Performance Transportation Enterprise (HPTE)
 - FASTER revenue is generated through several vehicle registration fees and fines

*Draft FY23 Final Budget.



- Program Overview Transit Specific:

Eligible Expense	Annual Amount
Small agency capital (all except MMT, Transfort, RTD)	\$2.1 Million
Small agency admin & operating (all except MMT, Transfort, RTD)	\$2.0 Million
Large urban capital (MMT @ \$0.7 M/yr & TransFort@ \$0.2 M/yr)	\$0.9 Million
Local Pool	\$5.0 Million
DTR Administration, Planning, Technical Assistance	\$1.0 Million
CDOT Bustang Interregional Bus Services	\$3.5 Million
Operating Assistance for Other Regional / Interregional Bus Services	\$2.5 Million
Large urban capital (RTD)	\$3.0 Million
Statewide Pool	\$10.0 Million

*Draft FY23 Final Budget.



VW Settlement Funds

- **Program Purpose:** The Volkswagen Settlement program is designed to mitigate NOx pollution by replacing older diesel transit vehicles with new, zero emission options
- **Program Funding:** ~\$5 M forecasted for FY23
- **Program Overview:**
 - Settlement funds directly replace Model Year 2009 or earlier Class 4-8 passenger revenue vehicles that are diesel-fueled with zero emission vehicles:
 - Battery Electric Vehicles, Hydrogen Fuel Cell Vehicles, or Compressed Natural Gas Vehicles that are fueled by renewable natural gas (RNG)
 - Grantees are required to scrap an existing transit vehicle
 - Grant funding is also available for charging and fueling infrastructure to support zero-emission vehicles

This funding is administered by DTR and allocated through a call for projects annually.



CDOT Enterprise Funding

Funding Program	Strategic Funding Source for 10-Year Plan?*
SB 260 Clean Transit Enterprise	
SB 260 Non-Attainment Enterprise	

*Check marks indicate a “strategic” source of funding for the 10-Year Plan. However, all types of funding programs may be leveraged to deliver projects in the 10-Year Plan.



SB 260 Non-Attainment Enterprise

- **Program Purpose:** Created within CDOT to mitigate transportation-related emissions in ozone nonattainment areas.
- **Program Funding:**
 - Total fee revenue is \$7.1M forecasted for FY23*
 - Revenue ramps up over time with lower revenues in earlier years.
 - Enterprise can impose an air pollution mitigation fee on retail deliveries and rides provided by TNCs to fund its operations.
- **Program Overview:**
 - Enterprise funding is 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, etc.
 - Full name is the Nonattainment Area Air Pollution Mitigation Enterprise.



SB260 Clean Transit Enterprise

- **Program Purpose:** The Clean Transit Enterprise supports public transit electrification planning efforts, facility upgrades, fleet motor vehicle replacement, as well as construction and development of electric motor vehicle charging and fueling infrastructure.
- **Program Funding:** \$8.3M forecasted for FY23*
- **Program Overview:**
 - The bill allows the enterprise to impose a Clean Transit Retail Delivery Fee to fund its operations, issue grants, loans or rebates to support electrification of public transit
 - The Clean Transit Enterprise Board includes six members appointed by the governor, and executive directors or their designees from CDOT, Colorado Department of Public Health and Environment (CDPHE) and the Colorado Energy Office (CEO).
 - Appointed board members will serve terms of three or four year.

*Draft FY23 Final Budget.



Total SB 260 Electrification Investments



\$733 million of new fee revenue supports 3 new electrification and charging infrastructure Enterprises:

Charging Infrastructure & Electric Vehicle Equity

- ◆ New **‘Community Access’ Enterprise** in Colorado Energy Office (CEO).
- ◆ Build charging infrastructure in communities across the State, and support electric vehicle and eBike adoption in low and moderate income communities.
- ◆ **\$310 million** investment
- ◆ Paired with existing CO EV Infrastructure Fund - \$115 million and potential federal funding

Fleet Electrification Incentives

- ◆ New **‘Clean Fleet’ Enterprise** in CO Department of Public Health and Environment (CDPHE)
- ◆ Support fleet replacement (delivery trucks, TNCs, school buses, and other light/medium/heavy duty vehicles) with incentives to meet climate and air quality goals
- ◆ Support CDPHE’s Mobile Source Program to complement vehicle investment.
- ◆ **\$289 million** investment

Public Transit Electrification

- ◆ New **“Clean Transit” Enterprise** in Colorado Department of Transportation (CDOT).
- ◆ Support electrification of public transit through electrification planning efforts, facility upgrades, fleet vehicle replacements and associated charging infrastructure.
- ◆ **\$134 million** investment

Transit Zero Emission Vehicle Roadmap



Clean Transit Enterprise
Board Meeting
2/22/2022



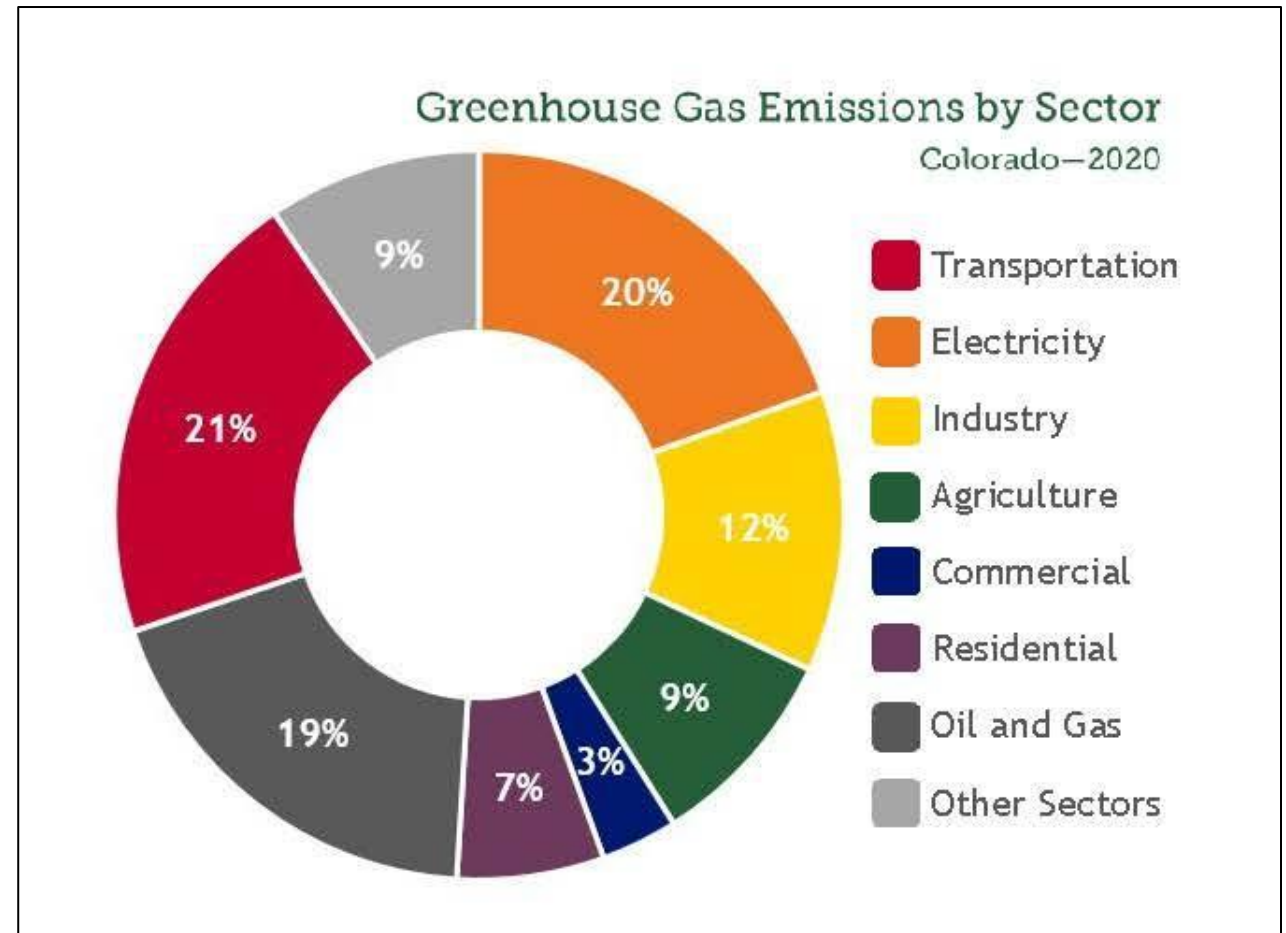
State of Colorado GHG Reduction Targets

House Bill 19-1261

Sets statewide greenhouse gas (GHG) reduction targets of:

- 26% by 2025
- 50% by 2030
- 90% by 2050

*From a 2005 baseline



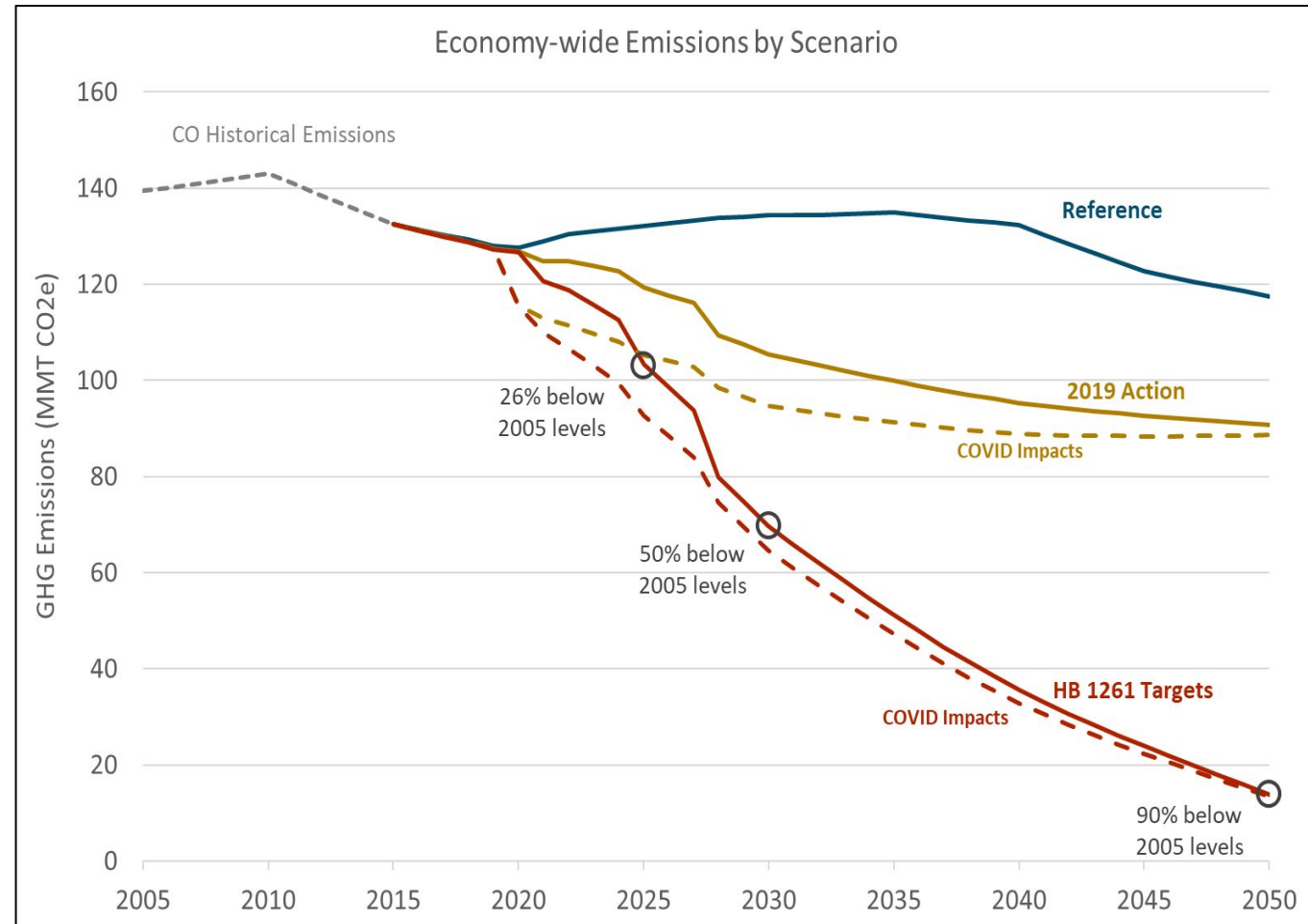


Colorado GHG Roadmap

Significant Progress Underway, But More Action Necessary

As a result of the state's actions to date, we are on a trajectory to achieving approximately half the level of emission reductions to meet the 2025 and 2030 goals.

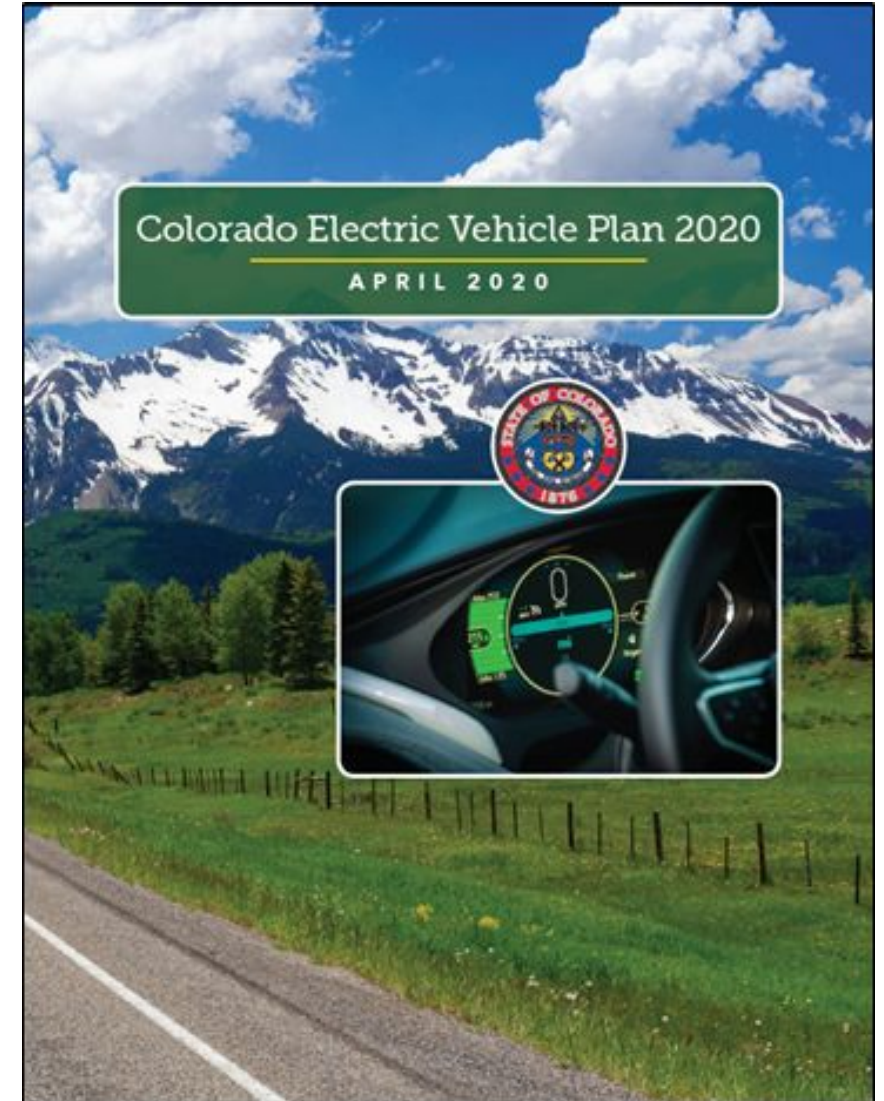
Additional strategies can advance co-benefits such as reducing local air pollution, generating economic growth, advancing environmental justice and equity.





2020 Colorado EV Plan

- Colorado's 2020 Electric Vehicle Plan established a state target of 940,000 registered ZEVs by 2030
- CDOT and its partner agencies are currently developing a Clean Trucking Strategy to reduce emissions from medium- and heavy-duty vehicles across the state
- Colorado also has a goal of converting all transit vehicles in-state to ZEVs, with an interim target of 1,000 transit ZEVs by 2030
- The plan also includes strategies to explore related issues like the hydrogen fuel market, supporting EV equity, and working with dealers and technical schools to develop a supportive ZEV workforce over the longer-term





Key Elements of the Transit ZEV Roadmap

- **Collecting data and conducting research and analysis** to inform the current state of Colorado's transit fleet, understand the current state of the national transit ZEV market, identify transit ZEV conversion barriers and opportunities, and determine and document complementary utility actions and policies needed to advance the transition of Colorado's transit fleet to ZEVs.
- **Conducting outreach and engagement with transit agencies and utilities** to understand current ZEV plans, issues, opportunities and potential strategies the State could implement to support the transit ZEV transition.
- **Engaging with transit agencies and utilities** to support the transition of 1,000 transit vehicles to ZEV by 2030 and a 100 percent fleet transition by 2050.
- **Crafting a comprehensive Transit ZEV Roadmap** that integrates findings and strategies from complementary planning efforts and provides statewide transit and utility decision-makers with the direction and tools to facilitate and manage the ZEV transition while continuing to deliver quality transit service to the traveling public



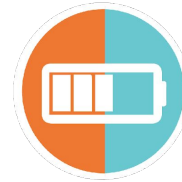
National ZEV Transit Trends

Barriers to ZEV Fleet Adoption



Knowledge Barriers

Lack of understanding of the technical, planning, financial, and governance factors critical to successful ZEV implementation.



Technological Barriers

Currently, available ZEV transit models cannot meet the needs of all transit services due to battery limitations that impact range and vehicles' ability to operate at varying grades and temperatures.



Financial Barriers

Some Colorado transit agencies report that the cost of transit ZEVs can be as much as double that of internal combustion engine vehicles. Significant financial barriers arise when combined with costly infrastructure upgrades and transit agency training required to develop electric rates collaboratively with utility companies.



Institutional Barriers

Transit agency and utility service territories cover diverse and dynamic geographic areas. Colorado utilities and transit agencies have varying levels of experience and inconsistent processes for coordinating across jurisdictional boundaries to meet service planning and transmission/distribution planning needs.



Colorado ZEV Environment

By the Numbers (2018)

- Approximately 3,301 total transit vehicles in Colorado*



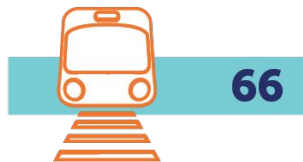
ZEV Transit Buses Deployed, On Order or Soon to be on Order in Colorado



Electric Gondola Transit Vehicles



Light Rail Train Cars



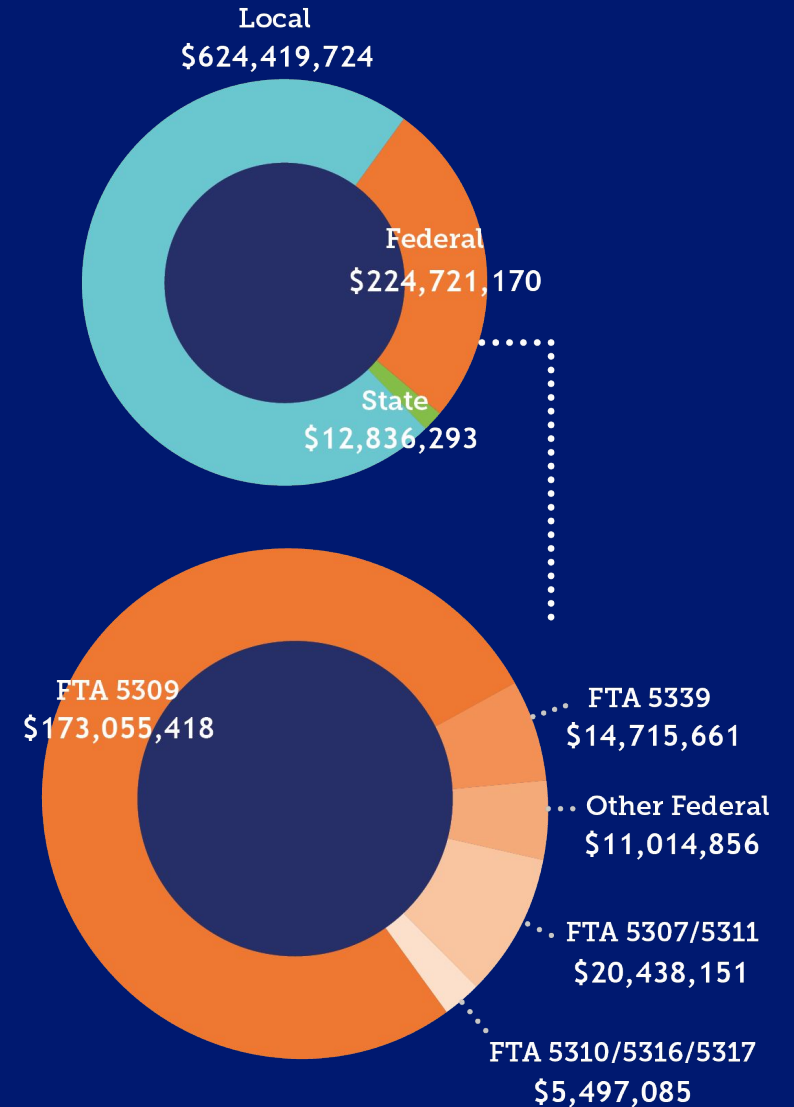
Commuter Rail Cars



Renewable Natural Gas (RNG) transit buses

*2021 data

Funding the 2018 Colorado Transit Fleet





Colorado ZEV Environment

2021 Transit ZEVs By the Numbers



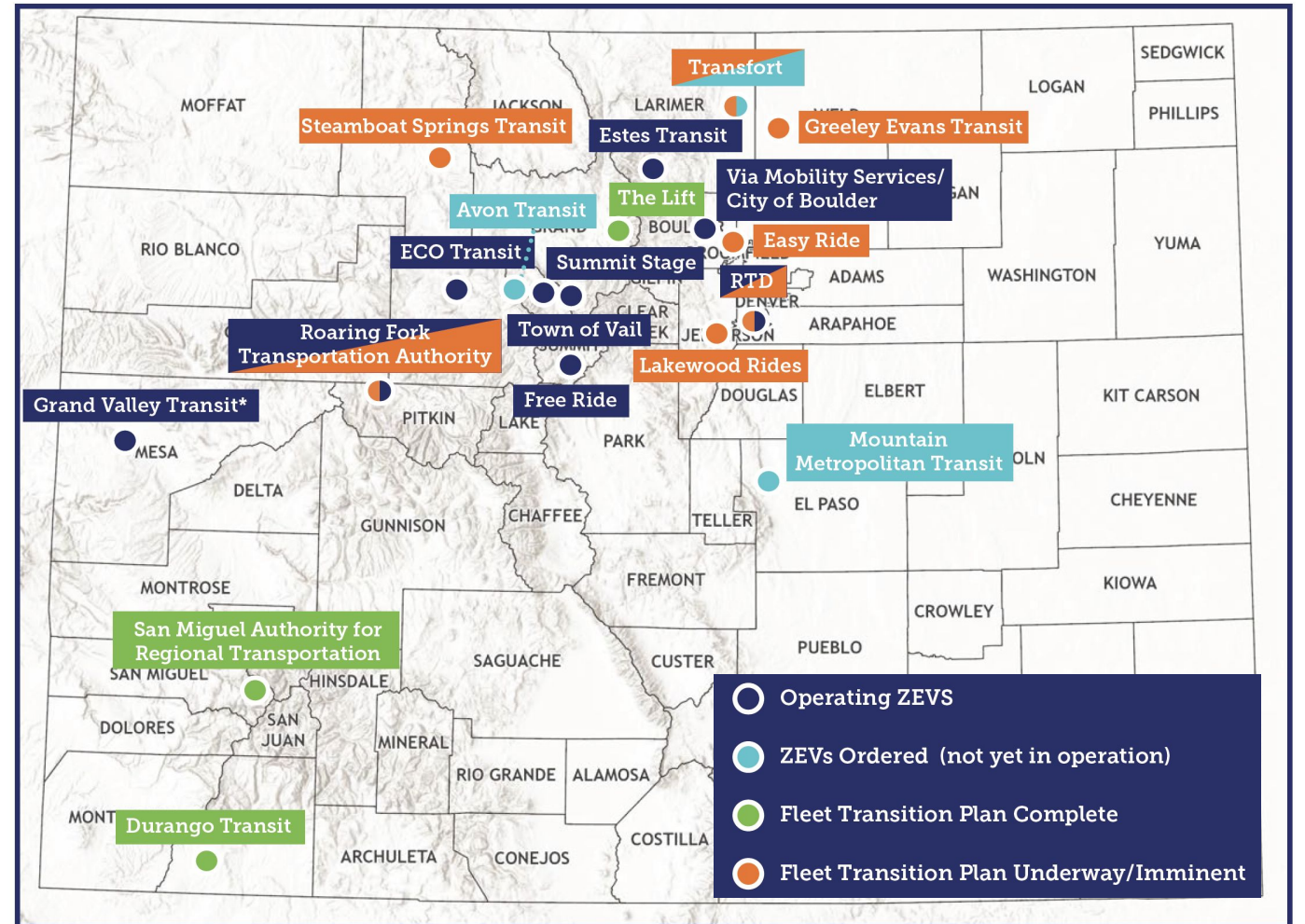
Colorado transit agencies operating ZEVs



Colorado transit agencies with ZEVs on order (not yet operational)



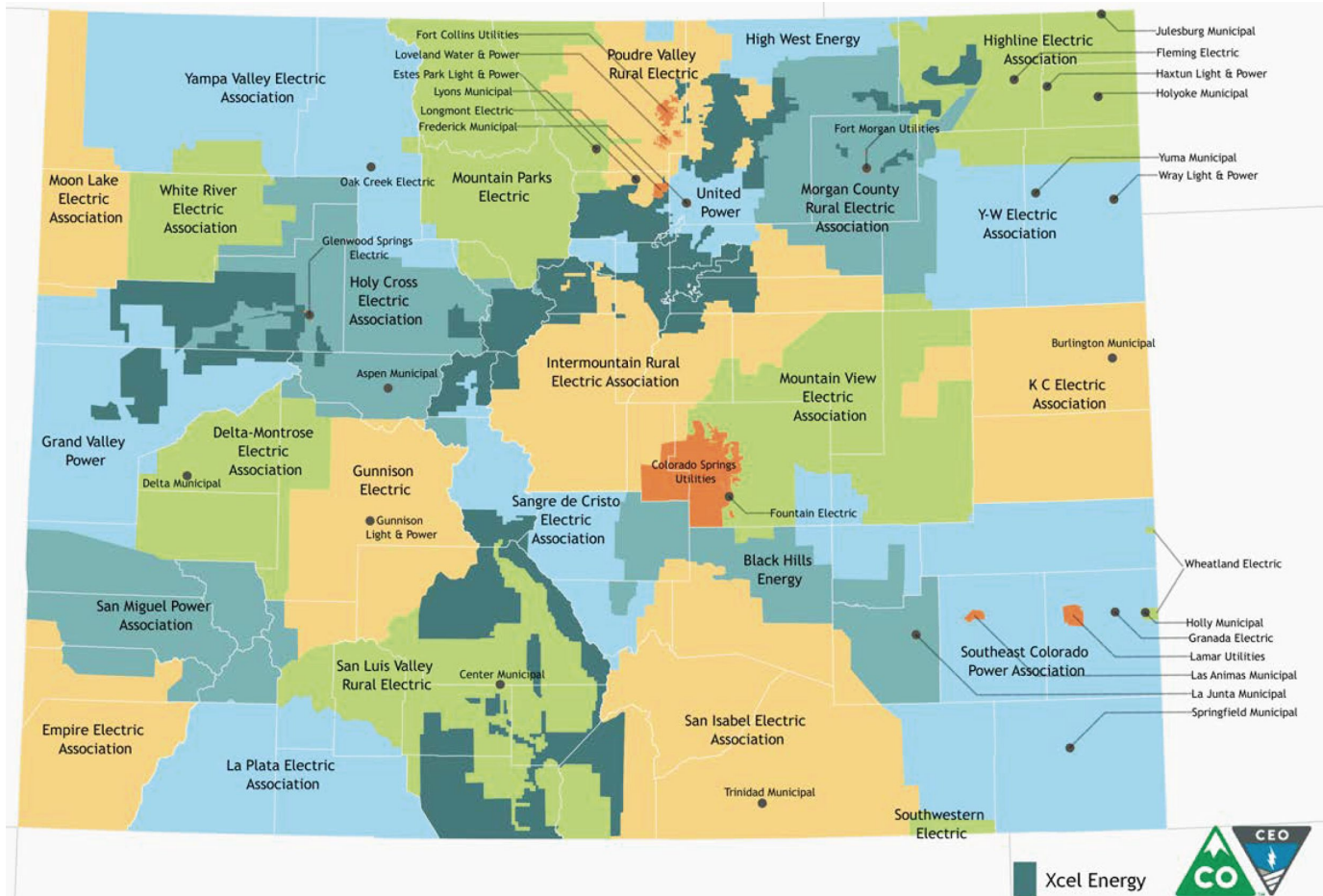
Colorado transit agencies that have completed, are in the process of, or will be completing a ZEV Transition Plan in the near future



*Grand Valley Transit uses Renewable Natural Gas (RNG) for 50% of its operations; the remaining 50% uses Xcel Energy natural gas.



The Role of Utilities



- Local electric utilities will play an essential role in any successful ZEV planning and implementation process.
- Increased load associated with charging transit fleets could put significant strain on the existing electric infrastructure. Utilities and transit agencies will both have to invest in distribution upgrades and new infrastructure to meet the increased electrical demand to support electric fleets.
- The utility and transit agency relationship will look very different depending on the size of fleet, type of vehicles, type of chargers, and geographic location. Mutual understanding of both utility and transit agency operating needs will go a long way to ensuring reliable energy to meet evolving transit service schedules and operational needs. There are also opportunities to develop resiliency plans for planned and unplanned outages.
- State and local governments can encourage utility investment in ZEVs by supporting infrastructure development. For example, the state and CDOT could oversee and manage coordinated infrastructure planning processes for both utilities and transit agencies.



Questions for the Financial Model based on the 2020 EV Plan's identified transit goals:

What does it take to get to 1,000 Vehicles by 2030?



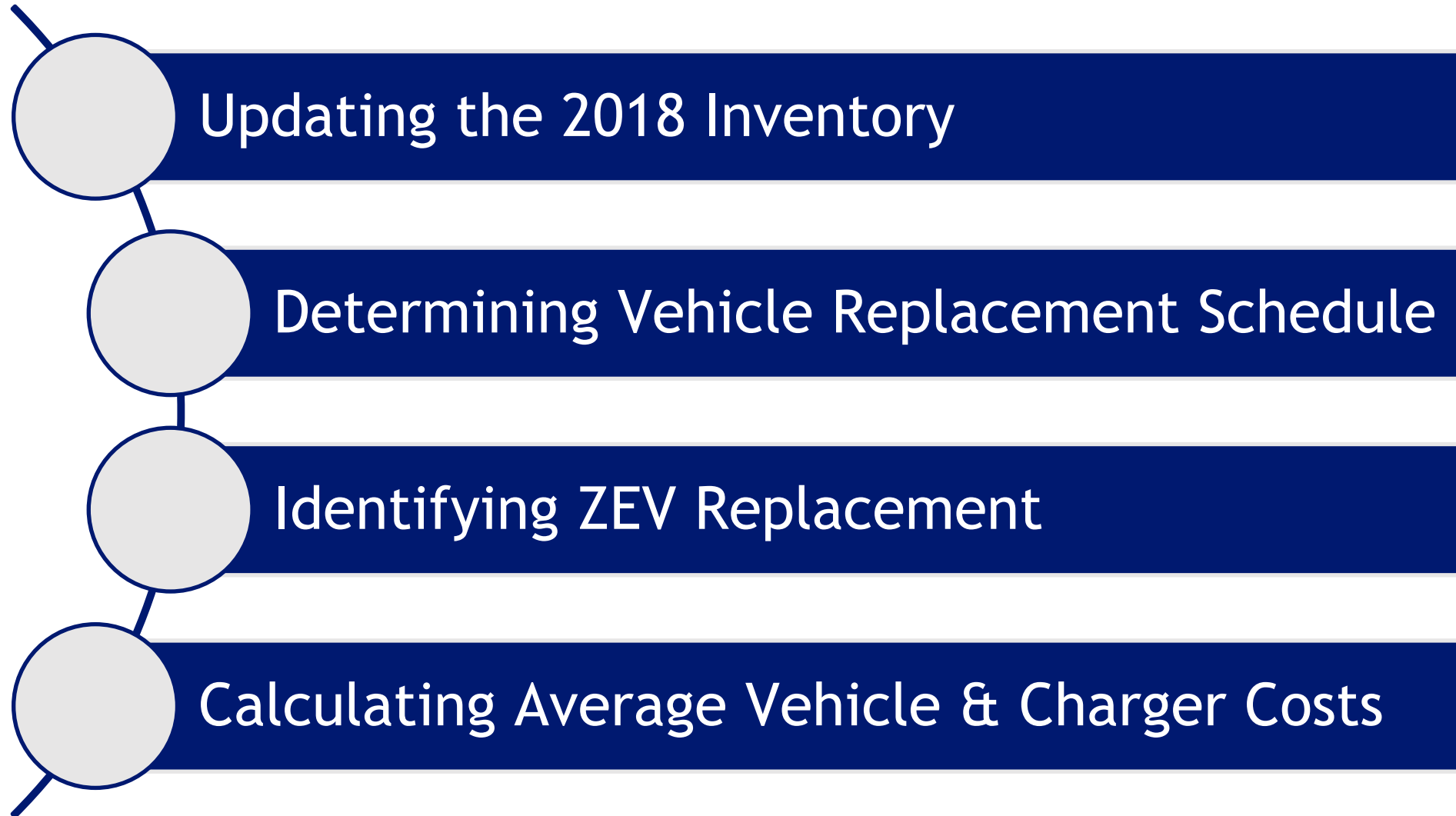
What does it take to get to 100 percent ZEV by 2050?



Is there a reasonable path forward?



Financial Modeling Assumptions





The Thought Exercise...

What will replacing vehicles like-for-like cost?

Scenario	Do we meet the 2030 goal? (# of ZEVs in 2030 Fleet, ULB/MUL)	Do we hit the 2050 goal? (Year Fleet is 100% ZEV, ULB/MUL)	Cost of Vehicle Replacements (ULB/MUL)	Incremental Cost (ULB/MUL)
No ZEVs (Baseline)	✗ (100)	✗ (N/A)	\$595M / \$785M	-

How does this compare to...

Replacing all
vehicles with
ZEVs starting
in 2022?

Somewhere in
between...2025?
2027?

Replacing all
vehicles with
ZEVs starting
in 2030?



Financial Modeling

Scenario	Do we meet the 2030 goal? (# of ZEVs in 2030 Fleet, ULB/MUL)	Do we hit the 2050 goal? (Year Fleet is 100% ZEV, ULB/MUL)	Cost of Vehicle Replacements (ULB/MUL)	Incremental Cost (ULB/MUL)
No ZEVs (Baseline)	✗ (100)	✗ (N/A)	\$595M / \$785M	-
2022	✓ (2,050 / 2,325)	✓ (2035 / 2033)	\$870M / \$1,070M	\$275M / \$285M
2025	✓ (1,580 / 2,250)	✓ (2038 / 2036)	\$840M / \$1,045M	\$245M / \$260M
2027	✓ (1,150 / 1,225)	✓ (2040 / 2038)	\$830M / \$1,020M	\$235M / \$235M
2030	✓ (245 / 205)	✓ (2043 / 2041)	\$825M / \$1,015M	\$230M / \$230M

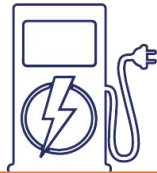
Transitioning the CO fleet to ZEVs is projected to cost \$230M to \$285M (30-45%) more than maintaining the existing fleet.



Financial Modeling



Transitioning the Colorado fleet to ZEVs is projected to cost \$230 to \$285 million more than the baseline scenario, equating to a 30 to 45 percent premium over maintaining the existing fleet.



Initial capital investment in EV chargers represent most of the incremental ZEV costs (\$225 million to \$230 million).



Incremental cost difference (excluding associated charger costs) is \$45 to \$60 million, reflecting a 5 to 10 percent premium over the vehicle costs of replacing the existing non-ZEV fleet.



The near-term push to 1,000 will cost an additional \$5 to \$10 million in transit ZEV replacement costs to meet the 2030 goal.



Achieving Colorado's Transit ZEV Goals



Policy

Identify policies to reduce barriers to ZEV transition and implementation.



Planning & Technical Support

Provide training to promote workforce readiness and educational programs for riders and policy-makers.



Information Sharing & Research

Increase access to technical resources and expertise to support the planning, design, and implementation activities.



Funding

Define data collection, research, and analysis methods to facilitate statewide information sharing and support a successful transition to transit ZEVs in Colorado.



Education & Training

Prioritize funding and identify state funding types and methods to effectively support ZEV planning and implementation.

Implementation Timeframes

Near-Term: 2021-2024

Mid-Term: 2025-2027

Long-Term: 2028-2030



Policy Strategies

Near-Term (2021 - 2024)



Policy

- Integrate Transit ZEV Roadmap strategies into the next revision of the Colorado EV Plan.
- Develop a ZEV Transition Plan for CDOT operated transit services (e.g., Bustang, Outrider, Snowstang) to demonstrate CDOT's commitment to ZEV goals and to lead by example.
- Integrate recommendations from CEO's EV Equity Study into transit electrification grants, programs, and initiatives.
- Explore opportunities to better define the process for tracking RNG and to substantiate the use of RNG as a transit ZEV option.
- Evaluate opportunities and methodologies for integrating environmental impact analyses to capture the environmental and societal costs of tailpipe emissions in procurement processes.
- Serve as a facilitator or convenor to bring together transit agencies and utilities to actively address known ZEV transition challenges and overcome barriers to transit ZEV fleet transition. Workshop and/or working group topics should include:
 - Transit agency and utility programmatic coordination
 - Generation, transmission, and distribution planning
 - Best practices for transit agency/utility coordination
 - Facility planning (including strategies for overcoming building and lease limitations)
 - Transit ZEV electric rate design
 - ZEV model availability and applications

- Education & Training
- Information Sharing & Research
- Funding
- Policy
- Planning & Technical Support

Strategies that span multiple goal areas are indicated with multicolored bullets.



Planning & Technical Support Strategies

Near-Term (2021 - 2024)



Planning & Technical Support

- Education & Training
- Information Sharing & Research
- Funding
- Policy
- Planning & Technical Support

Strategies that span multiple goal areas are indicated with multicolored bullets.

- Define a standard approach for measuring GHG emissions and reductions for transit agencies that is consistent with the Transit Emission Dashboard methodology.
- Hire staff and/or contract with consultants to provide on-call technical assistance to transit agencies to support ZEV fleet transition planning. Support activities could include utility coordination, grant application support, route modeling, maintenance/operations planning, facility planning, GHG emissions tracking, etc.
- Identify opportunities to streamline data collection for the entire Colorado transit fleet to efficiently track progress toward the statewide ZEV transit and related GHG emission reductions goals. Build on the CEVC Transit Subgroup Zero-Emission Bus Tracking Sheet and the COTRAMS database.
- Integrate the findings and data from the Transit ZEV Roadmap into the Group Transit Asset Management Plan update.
- Coordinate with transit agencies to better understand options and strategies for transitioning contractor owned facilities to support ZEVs.
- Track storage location of transit vehicles in COTRAMS to aid in ZEV replacement feasibility analysis and transition planning.



Information Sharing & Research Strategies

Near-Term (2021 - 2024)



Information Sharing & Research

- Education & Training
- Information Sharing & Research
- Funding
- Policy
- Planning & Technical Support

Strategies that span multiple goal areas are indicated with multicolored bullets.

- Create an informal transit-focused virtual peer exchange network (e.g., Slack channel, Listserv, etc.) to ask questions, share information and/or lessons learned, and facilitate ongoing conversations among transit agencies.
- Engage existing Colorado research groups and programs (e.g., NREL, ASPIRE⁵³, CU, CSU, etc.) to support and develop opportunities for transit agencies to test/evaluate ZEVs and research transit ZEV-related technologies such as battery recycling second use cases, transit and utility business models, smart vehicle charging solutions, etc.
- Convene a rural transit working group, including electric co-ops, to define barriers and potential solutions for rural transit agencies.
- Convene interested transit agency and hydrogen fuel providers to identify pilot project opportunities and discuss potential barriers to widespread fleet adoption in Colorado.
- Collaborate with the CEO and CDPHE to assess potential benefits, costs, and timing for adoption of the California Innovative Clean Transit Rule (ICTR) in Colorado.
- Integrate Transit ZEV Roadmap data and recommendations into the Clean Transit Enterprise's 10-Year Plan.
- Track real-world transit vehicle purchase and infrastructure upgrade costs to refine assumptions and inputs to the Transit ZEV Roadmap transition financial model and conduct future scenario analyses.
- Monitor and document real-world ZEV operational costs in Colorado to inform future planning efforts.



Funding Strategies

Near-Term (2021 - 2024)



Funding

- Evaluate strategies for vehicle leasing options, third-party financing, battery leases, utility on-bill financing, and other funding mechanisms and opportunities to use SB 21-260 Clean Transit Enterprise funds.
- Establish a permanent Statewide Local Match Fund to buy down the transit agency local match for the purchase of transit ZEVs to be equal to that of the comparable internal combustion engine vehicle option. Evaluate the potential to use the Clean Transit Enterprise to fund the Local Match Fund, as well as potential match funding strategies (e.g., incentivizing transit agencies to pursue federal funding sources by providing a higher percentage of matching funds for federal grants than state/local grants).
- Establish and maintain a state-approved master purchasing agreement for zero emission vans, cutaways, and buses to streamline transit agency procurement of transit ZEVs.
- Develop flexible funding programs to support ongoing maintenance and operations costs and long-term operations of transit ZEVs.
- Incentivize and promote private sector support for ZEV transit transition, including demonstration projects, vehicle testing and/or short-term proof of concept lease options, etc. to ensure vehicle types and technologies meet Colorado transit agency needs and to support the advancement of the larger transit ZEV market.
- Assess opportunities to support the replacement of vehicles with ZEVs prior to the end of their useful life to expedite ZEV transition.
- Consider establishing a more flexible vehicle replacement policy for zero-emission buses for so long as available vehicle technologies (i.e., battery range and low-temperature performance) do not align with the typical 1-to-1 replacement ratio.

- Education & Training
- Information Sharing & Research
- Funding
- Policy
- Planning & Technical Support

Strategies that span multiple goal areas are indicated with multicolored bullets.



Education & Training Strategies

Near-Term (2021 - 2024)



Education & Training

- Education & Training
- Information Sharing & Research
- Funding
- Policy
- Planning & Technical Support

Strategies that span multiple goal areas are indicated with multicolored bullets.

- Develop Colorado-specific informational materials about transit ZEV challenges, opportunities, and benefits in coordination with existing transit and ZEV organizations (e.g., Colorado Association of Transit Agencies [CASTA]) to educate transit agency staff and key decision-makers.
- Partner with CASTA to provide OEM neutral training and/or educational sessions for transit operators and maintenance staff early in the ZEV transition process.
- Collaborate with CASTA to offer training on use of the Transit ZEV Roadmap financial modeling tool to transit agencies so that they can run their own fleet-specific analyses and effectively communicate the results to decision-makers and the public.



Clean Transit Enterprise 10-Year Plan

Requirements

(10)(a) TO ENSURE TRANSPARENCY AND ACCOUNTABILITY, THE ENTERPRISE SHALL:

(I) NO LATER THAN JUNE 1, 2022, PUBLISH AND POST ON ITS WEBSITE A TEN-YEAR PLAN THAT DETAILS HOW THE ENTERPRISE WILL EXECUTE ITS BUSINESS PURPOSE DURING STATE FISCAL YEARS 2022-23 THROUGH 2031-32 AND ESTIMATES THE AMOUNT OF FUNDING NEEDED TO IMPLEMENT THE PLAN. NO LATER THAN JANUARY 1, 2032, THE ENTERPRISE SHALL PUBLISH AND POST ON ITS WEBSITE A NEW TEN-YEAR PLAN FOR STATE FISCAL YEARS 2032-33 THROUGH 2041-42;

(II) CREATE, MAINTAIN, AND REGULARLY UPDATE ON ITS WEBSITE A PUBLIC ACCOUNTABILITY DASHBOARD THAT PROVIDES, AT A MINIMUM, ACCESSIBLE AND TRANSPARENT SUMMARY INFORMATION REGARDING THE IMPLEMENTATION OF ITS TEN-YEAR PLAN, THE FUNDING STATUS AND PROGRESS TOWARD COMPLETION OF EACH PROJECT THAT IT WHOLLY OR PARTLY FUNDS, AND ITS PER PROJECT AND TOTAL FUNDING AND EXPENDITURES;

(III) ENGAGE REGULARLY REGARDING ITS PROJECTS AND ACTIVITIES WITH THE PUBLIC, SPECIFICALLY REACHING OUT TO AND SEEKING INPUT FROM COMMUNITIES, INCLUDING BUT NOT LIMITED TO DISPROPORTIONATELY IMPACTED COMMUNITIES, AND INTEREST GROUPS THAT ARE LIKELY TO BE INTERESTED IN THE PROJECTS AND ACTIVITIES; AND

(IV) PREPARE AN ANNUAL REPORT REGARDING ITS ACTIVITIES AND FUNDING AND PRESENT THE REPORT TO THE TRANSPORTATION COMMISSION CREATED IN SECTION 42-1-106 (1) AND TO THE TRANSPORTATION AND LOCAL GOVERNMENT AND ENERGY AND ENVIRONMENT COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE TRANSPORTATION AND ENERGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES. THE ENTERPRISE SHALL ALSO POST THE ANNUAL REPORT ON ITS WEBSITE. NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT TO SUBMIT THE REPORT REQUIRED IN THIS SUBSECTION (10)(a)(IV) TO THE SPECIFIED LEGISLATIVE COMMITTEES CONTINUES INDEFINITELY.



Clean Transit Enterprise 10-Year Plan

Draft Outline

1. Introduction
 - a. SB21-260 Language
 - b. State of Colorado ZEV Goals
2. Anticipated Fee Revenues for FY23-FY32
 - a. Fee Levels
 - b. Anticipated Revenues by Year
 - c. Potential Matching Funds
3. Transit Electrification Barriers & Opportunities
 - a. Current State Transit Fleet Inventory
 - b. Technology Availability
 - c. Barriers to Implementation
 - d. Anticipated Costs & Timelines
 - e. Supporting Policies & Actions
4. Clean Transit Enterprise Funding Strategy
 - a. Funding Mechanisms
 - b. Funding Category Prioritization
 - c. Project Prioritization
 - d. Match Levels
 - e. Scrapping Requirements
 - f. Replacement Ratios
 - g. Other Policy Decisions
5. Implementation & Tracking
6. Conclusions

Legislation and 2020 Colorado EV Plan

CDOT Division of Accounting & Finance (CDOT DAF) and Colorado Department of Revenue (DOR)

Colorado Transit Zero Emission Vehicle Roadmap

Potential Focus of Clean Transit Enterprise Board & Stakeholder Conversations



Statutory Authority for Rulemaking

Rules Carry the Force of Law and Must be Authorized in Statute

43-4-1203 (6)(g) “... 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...”

43-4-1203 (7)(b) “For retail deliveries of tangible personal property purchased during the state fiscal year 2022-2023, the enterprise shall impose the clean transit retail delivery fee in a maximum amount of three cents.”



1.0 Statement of Basis and Purpose and Statutory Authority

- States the reason for the rule and where the authority lies in statute for the Enterprise to promulgate rules.

2.0 Definitions

- Duplicates many statutory definitions, and defines terms that are used in the Rule.

3.0 Fees

- Sets the initial fees effective July 1, 2022.
- Assumes the adjustment for inflation and working with DOR to determine the new rate.
- Reiterates statute that the Enterprise must notify DOR of changes in the fee by each March 15.



4.0 Process for Awarding and Overseeing Grants, Loans, and Rebates

- Selection of grants will be done on a competitive basis.
- Process will be part of the broader annual call for transit projects (currently referred to as the CDOT DTR Consolidated Call for Capital Projects).
- Criteria for awards will be established by the Enterprise and published no fewer than 60 days before any grant deadlines.
- Applications will be assessed and scored based on their support for the business purpose of the Enterprise.
 - Replacement of gasoline and diesel vehicles
 - Provide charging infrastructure
 - Support facility modifications
 - Fund planning studies
- The Enterprise will approve the grants.
- CDOT DTR staff will oversee the grant process and day-to-day management of grants.

5.0 Declaratory Orders

- Every rule, by statute, must provide for the entertaining of, and prompt disposition of petitions for declaratory orders to terminate controversies or remove uncertainties surrounding the Rule.



Rulemaking for Enterprise Fee Setting

Process and Timeline

- Open Rule: Enterprise Opens Rule **February 22**, authorizes CDOT Hearing Officer to conduct Public Hearing.
- File Rule: CDOT staff “files the rule” with the Secretary of State.
- Public Hearing: On April 4, CDOT staff will conduct the public hearing per the Administrative Procedures Act.
- Adopt Rule: Enterprise Board adopts Rule on **April 12**
- Effective Date: As early as May 31.



Board Member Participation and Proposed Motion

Board Member Participation in the Rulemaking

- All board members will be invited to attend the rulemaking hearing, but are not required to attend.
- It would be appropriate but optional to “assign” a board member to offer introductory comments at the rulemaking hearing and “represent” the Board at the hearing.

Elements of an Appropriate Motion to Open the Rules

- Move to authorize CDOT staff to open the Clean Transit Enterprise Rules;
- Authorize the appointment of a member of CDOT staff to serve as the Hearing Officer to preside over the Rulemaking Hearing and process.



Upcoming Dates:

- Tuesday, March 15th - CTE Board Confirmation Hearings
- Tuesday, March 29th - CTE Board Meeting
- Monday, April 4th - CTE Rulemaking Hearing
- Tuesday, April 12th - CTE Board Meeting
- Wednesday, May 25th - CTE Board Meeting
- Wednesday, June 1st - Deadline to Publish/Post 10-year Plan

Upcoming Meeting Topics:

- 10-year Plan Process and Engagement



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Clean Transit Enterprise

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



Contact Us

cdot_cleantransitenterprise@state.co.us

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Upcoming Meetings

January 31, 2022 2:30 - 4:30 pm

[Link to YouTube Live Stream](#)

DEPARTMENT OF TRANSPORTATION

Clean Transit Enterprise

RULES GOVERNING CLEAN TRANSIT ENTERPRISE PROCESSES AND FEES

2 CCR 607-1

1.00 Statement of Basis and Purpose and Authority

The Clean Transit Enterprise is authorized by C.R.S. §43-4-1203(6)(g) to promulgate rules setting the amounts of the Clean Transit Retail Delivery Fee at or below maximum levels contained in C.R.S. §43-4-1203(7) and to govern the process by which the Enterprise accepts applications for, awards, and oversees grants, loans, and rebates pursuant to C.R.S. §43-4-1203(8).

SB21-260 Sustainability of the Transportation System created new sources of dedicated funding and new state enterprises intended to preserve, improve, and expand existing transportation infrastructure, develop the modernized infrastructure needed to support the widespread adoption of Electric Motor Vehicles, and mitigate environmental and health impacts of transportation system use. To accomplish these goals, the legislation established a Clean Transit Enterprise (CTE), an enterprise and government owned business within the Colorado Department of Transportation (CDOT) for the purpose of collecting fee revenue to reduce or mitigate the adverse impacts of air pollution and greenhouse gas emissions produced by gas and diesel-powered motor vehicles used for Retail Deliveries. CTE will support the adoption of Electric Motor Vehicles for Transit. The Enterprise is a Type 1 transfer agency and as such the Legislature specifically vested the Enterprise with the authority to promulgate rules to set the amount of the required Clean Transit Retail Delivery Fee and to govern the process by which the Enterprise accepts applications for, awards, and oversees grants, loans, and rebates. Per statute, the Enterprise can set a maximum fee of \$0.03 per Retail Delivery. The fees delineated in the rule mirror the fee amounts set in C.R.S. §43-4-1203.

The Enterprise shall notify the Department of Revenue (DOR) of the amount of the Clean Transit Retail Delivery Fee to be collected for Retail Deliveries of Tangible Personal Property purchased during each state fiscal year no later than March 15 of the calendar year in which the state fiscal year begins. CDOT will work with DOR to determine the maximum fee amounts that may be imposed, which shall be the maximum amounts for the prior state fiscal year adjusted for inflation.

2.00 Definitions

- 2.1 “Colorado Department of Transportation Division of Transit and Rail” or “CDOT Division of Transit and Rail” means the division within the Colorado Department of Transportation responsible for planning, developing, operating, and integrating Transit and rail into the statewide transportation system.
- 2.2 “Compressed Natural Gas Motor Vehicle” means a vehicle that is powered by an engine fueled by methane that has been compressed and stored onboard at a pressure up to 3,000 pounds per square inch, also known as compressed natural gas.
- 2.3 “Disproportionately Impacted Community” means a community that is in a census block group, as determined in accordance with the most recent United States decennial census, where the proportion of households that are low income is greater than forty percent, or the proportion of households that are housing cost-burdened is greater than forty percent, as defined in C.R.S. § 43-4-1202(5).

- 2.4 “Electric Motor Vehicle” means a vehicle that uses a battery to store energy that powers the motor, including:
- 2.4.1 A Battery Electric Motor Vehicle powered exclusively by a rechargeable battery pack that can be recharged by being plugged into an external source of electricity and that has no secondary source of propulsion.
 - 2.4.2 A Hydrogen Fuel Cell Motor Vehicle powered by electricity produced from a fuel cell that uses hydrogen gas as fuel.
 - 2.4.3 A Plug-in Hybrid Electric Motor Vehicle powered by both a rechargeable battery pack that can be charged by being plugged into an external source of electricity and a secondary source of propulsion such as an internal combustion engine.
- 2.5 “Recovered Methane” means any of the following if the Air Pollution Control Division determines them to provide a net reduction in greenhouse gas emissions:
- 2.5.1 Biomethane;
 - 2.5.2 Methane derived from municipal solid waste, biomass pyrolysis or enzymatic biomass, or wastewater treatment; and
 - 2.5.3 Coal mine methane, as defined in C.R.S. § 40-2-124(1)(a)(II).
- 2.6 “Retail Delivery” means a retail sale of Tangible Personal Property by a retailer for delivery by a motor vehicle owned or operated by the retailer or any other person to the purchaser at a location in the state, which sale includes at least one item of Tangible Personal Property that is subject to taxation under Article 26 of Title 39. Each such retail sale is a single Retail Delivery regardless of the number of shipments necessary to deliver the items of Tangible Personal Property purchased.
- 2.7 “Tangible Personal Property” means all goods, wares, merchandise, products and commodities, and all tangible or corporeal things and substances which are dealt in, capable of being possessed and exchanged, except newspapers excluded by law. Tangible property does not include:
- 2.7.1 Real property, such as land or buildings, nor Tangible Personal Property that loses its identity when it becomes an integral and inseparable part of the realty, and is removable only with substantial damage to the premises. Property severed from real estate becomes Tangible Personal Property.
 - 2.7.2 Intangible personal property constituting mere rights of action and having no intrinsic value, such as contracts, deeds, mortgages, stocks, bonds, certificates of deposit or memberships, or uncanceled United States postage or revenue stamps sold for postage or revenue purposes.
 - 2.7.3 Water in pipes, conduits, ditches or reservoirs, but does include water in bottles, wagons, tanks or other containers.
 - 2.7.4 Computer software that does not meet the criteria enumerated in C.R.S. §39-26-102(15)(c).
 - 2.7.5 An advertising supplement included in a newspaper.

2.7.6 The method of delivery does not impact the definition of Tangible Personal Property as defined in C.R.S. §39-26-102(15).

2.8 “Transit” means a coordinated system of Transit modes providing transportation use by the general public, as defined in C.R.S. §43-1-102(4).

2.9 “Transit Agency” means an organization that provides Transit services to the general public or a segment of the public defined by age, disability, or low income.

3.00 Fees

3.1 Effective July 1, 2022, the Enterprise shall impose a Clean Transit Retail Delivery Fee of three cents per Retail Delivery of Tangible Personal Property.

3.2 Starting in 2023, CDOT will work with the Department of Revenue (DOR) to determine the maximum fee amount that may be imposed, which shall be the maximum amount for the prior state fiscal year adjusted for inflation.

3.3 Starting in 2023, the enterprise shall notify DOR of the amount of the Clean Transit Retail Delivery Fee to be collected for Retail Deliveries of Tangible Personal Property purchased during each state fiscal year no later than March 15 of the calendar year in which the state fiscal year begins.

4.00 Process for Awarding and Overseeing Enterprise Grants, Loans, and Rebates

4.1 The selection of grant, loan, and rebate recipients will be on a competitive basis as a part of the annual call for Transit grant applications and will be based on criteria established by the Enterprise and posted on its website no fewer than 60 days in advance of any deadlines for the submission of applications for grants, loans, and rebates.

4.1.1 CDOT Division of Transit and Rail (DTR) staff will consult with the Clean Transit Enterprise Board to determine the overall available funding amount, project selection criteria, required match levels, and other programmatic details in advance of any notice of funding availability.

4.1.2 A notice of funding availability for grants, loans, and rebates will be posted no fewer than 60 days prior to the application deadline.

4.1.3 Eligible applicants will be any organization considered to be a Transit Agency as defined in these Rules.

4.1.4 Applications will be assessed for eligibility and scored based on their support for the business purpose of the Clean Transit Enterprise by a review panel. Additional consideration will be given in the evaluation process to those Transit Agencies located within or providing service to Disproportionately Impacted Communities.

4.1.5 The applicant must include evidence that the proposed project(s) will support the business purpose of the Clean Transit Enterprise and will be used for one or more of the following purposes by:

4.1.5.1 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. If Electric Motor Vehicles are not practically available, they may be replaced by Compressed Natural Gas Motor Vehicles, if at least ninety

percent of the fuel for the Compressed Natural Gas Motor Vehicles will be Recovered Methane;

4.1.5.2 Providing the associated charging infrastructure for Electric Motor Vehicles in the Transit fleet;

4.1.5.3 Supporting facility modifications that allow for the safe operation and maintenance of Electric Motor Vehicles; or

4.1.5.4 Funding planning studies that enable Transit Agencies to plan for Transit vehicle electrification.

4.2 CDOT staff will present a list of applications recommended for funding to the Clean Transit Enterprise Board for final approval.

4.3 Applicants will be notified of the results of their project proposal(s) within 90 days of the application deadline.

4.4 The CDOT Division of Transit & Rail Transit Programming Unit will be the responsible entity for overseeing any grants, loans, and rebates provided by the Enterprise.

5.00 Declaratory Orders

The Enterprise board may, at its discretion, entertain petitions for declaratory orders pursuant to C.R.S. § 24-4-105(11).