

# Fort Collins City Council Agenda

Regular Meeting

6:00 p.m., Tuesday, August 20, 2024

City Council Chambers at City Hall, 300 Laporte Avenue, Fort Collins, CO 80521

Zoom Webinar link: <https://zoom.us/j/98241416497>

## NOTICE:

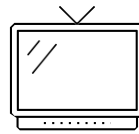
Regular meetings of the City Council are held on the 1st and 3rd Tuesdays of each month in the City Council Chambers. Meetings are conducted in a hybrid format, with a Zoom webinar in addition to the in person meeting in Council Chambers.

City Council members may participate in this meeting via electronic means pursuant to their adopted policies and protocol.

## How to view this Meeting:



Meetings are open to the public and can be attended in person by anyone.



Meetings are televised live on Channels 14 & 881 on cable television.



Meetings are available through the Zoom platform, electronically or by phone.



Meetings are livestreamed on the City's website, [fcgov.com/fctv](https://fcgov.com/fctv)

*Upon request, the City of Fort Collins will provide language access services for individuals who have limited English proficiency, or auxiliary aids and services for individuals with disabilities, to access City services, programs and activities. Contact 970.221.6515 (V/TDD: Dial 711 for Relay Colorado) for assistance. Please provide advance notice. Requests for interpretation at a meeting should be made by noon the day before.*

*A solicitud, la Ciudad de Fort Collins proporcionará servicios de acceso a idiomas para personas que no dominan el idioma inglés, o ayudas y servicios auxiliares para personas con discapacidad, para que puedan acceder a los servicios, programas y actividades de la Ciudad. Para asistencia, llame al 970.221.6515 (V/TDD: Marque 711 para Relay Colorado). Por favor proporcione aviso previo. Las solicitudes de interpretación en una reunión deben realizarse antes del mediodía del día anterior.*



## There are in person and remote options for members of the public who would like to participate in Council meetings:

### Comment in real time:

*During the public comment portion of the meeting and discussion items:*



In person attendees can address the Council in the Chambers. The public can join the Zoom webinar and comment from the remote meeting, joining online or via phone.



All speakers are required to sign up to speak using the online sign up system available at [www.fcgov.com/agendas](http://www.fcgov.com/agendas). Staff is also available outside of Chambers prior to meetings to assist with the sign up process for in person attendees.

Full instructions for online participation are available at [fcgov.com/councilcomments](http://fcgov.com/councilcomments).

Join the online meeting using the link in this agenda to log in on an internet-enabled smartphone, laptop or computer with a speaker and microphone. Using earphones with a microphone will greatly improve audio experience.

To be recognized to speak during public participation portions of the meeting, click the 'Raise Hand' button.

Participate via phone using this call in number and meeting ID:

Call in number: 720 928 9299

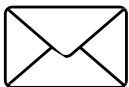
Meeting ID: 982 4141 6497

During public participation opportunities in the meeting, press \*9 to indicate a desire to speak.

### Submit written comments:



Email comments about any item on the agenda to [cityleaders@fcgov.com](mailto:cityleaders@fcgov.com)



Written comments can be mailed or dropped off at the City Manager's Office at City Hall, at 300 Laporte Ave, Fort Collins, CO 80521

***Documents to Share during public participation:*** Persons wishing to display presentation materials using the City's display equipment under the Public Participation portion of a meeting or during discussion of any Council item must provide any such materials to the City Clerk in a form or format readily usable on the City's display technology no later than two (2) hours prior to the beginning of the meeting at which the materials are to be presented.

***NOTE:*** All presentation materials for appeals, addition of permitted use applications or protests related to election matters must be provided to the City Clerk no later than noon on the day of the meeting at which the item will be considered. See Council Rules of Conduct in Meetings for details.



# City Council Regular Meeting Agenda

August 20, 2024 at 6:00 PM

Jeni Arndt, Mayor  
Emily Francis, District 6, Mayor Pro Tem  
Susan Gutowsky, District 1  
Julie Pignataro, District 2  
Tricia Canonico, District 3  
Melanie Potyondy, District 4  
Kelly Ohlson, District 5

City Council Chambers  
300 Laporte Avenue, Fort Collins  
& via Zoom at  
<https://zoom.us/j/98241416497>  
Cablecast on FCTV  
Channel 14 on Connexion  
Channel 14 and 881 on Xfinity

Carrie Daggett  
City Attorney

Kelly DiMartino  
City Manager

Delynn Coldiron  
City Clerk

## PROCLAMATIONS & PRESENTATIONS 5:00 PM

### A) PROCLAMATIONS AND PRESENTATIONS

- [PP 1.](#) Declaring August 26, 2024 as Women's Equality Day.
- [PP 2.](#) Declaring August 17, 2024 International Homeless Animals Day.

## REGULAR MEETING 6:00 PM

### B) CALL MEETING TO ORDER

### C) PLEDGE OF ALLEGIANCE

### D) ROLL CALL

### E) CITY MANAGER'S AGENDA REVIEW

- City Manager Review of Agenda
- Consent Calendar Review, including removal of items from Consent Calendar for individual discussion.

### F) COMMUNITY REPORTS - None

### G) PUBLIC COMMENT ON ANY TOPICS OR ITEMS OR COMMUNITY EVENTS (Including requests for removal of items from Consent Calendar for individual discussion.)

*Individuals may comment regarding any topics of concern, whether or not included on this agenda. Comments regarding land use projects for which a development application has been filed should be submitted in the development review process\*\* and not to Council.*

- *Those who wish to speak are required to sign up using the online sign-up system available at [www.fcgov.com/council-meeting-participation-signup/](http://www.fcgov.com/council-meeting-participation-signup/)*

- *Each speaker will be allowed to speak one time during public comment. If a speaker comments on a particular agenda item during general public comment, that speaker will not also be entitled to speak during discussion on the same agenda item.*
- *All speakers will be called to speak by the presiding officer from the list of those signed up. After everyone signed up is called on, the presiding officer may ask others wishing to speak to identify themselves by raising their hand (in person or using the Raise Hand option on Zoom), and if in person then will be asked to move to one of the two lines of speakers (or to a seat nearby, for those who are not able to stand while waiting).*
- *The presiding officer will determine and announce the length of time allowed for each speaker.*
- *Each speaker will be asked to state their name and general address for the record, and, if their comments relate to a particular agenda item, to identify the agenda item number. Any written comments or materials intended for the Council should be provided to the City Clerk.*
- *A timer will beep one time and turn yellow to indicate that 30 seconds of speaking time remain and will beep again and turn red when a speaker's time has ended.*

*[\*\*For questions about the development review process or the status of any particular development, consult the City's Development Review Center page at <https://www.fcgov.com/developmentreview>, or contact the Development Review Center at 970.221.6760.]*

## **H) PUBLIC COMMENT FOLLOW-UP**

## **I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION**

### **CONSENT CALENDAR**

*The Consent Calendar is intended to allow Council to spend its time and energy on the important items on a lengthy agenda. Staff recommends approval of the Consent Calendar. Agenda items pulled from the Consent Calendar by either Council or the City Manager will be considered separately under their own Section, titled "Consideration of Items Removed from Consent Calendar for Individual Discussion." Items remaining on the Consent Calendar will be approved by Council with one vote. The Consent Calendar consists of:*

- *Ordinances on First Reading that are routine;*
- *Ordinances on Second Reading that are routine;*
- *Those of no perceived controversy;*
- *Routine administrative actions.*

#### **1. Consideration and Approval of the Minutes of the July 2, 2024, and the July 16, 2024, Regular Meetings.**

The purpose of this item is to approve the minutes of the July 2, 2024, and the July 16, 2024, regular meetings.

#### **2. Items Relating to Golf Enterprise Expenses.**

A. Second Reading of Ordinance No. 100, 2024, Appropriating Prior Year Reserves for the Golf Enterprise.

B. Second Reading of Ordinance No. 101, 2024, Appropriating Prior Year Reserves in the Golf Fund for the Replacement of Necessary Systems at the Southridge and Collindale Golf Courses.

These Ordinances, unanimously adopted on First Reading on July 16, 2024, appropriate the amount of \$730,930 from Golf Fund Reserves for necessary system replacement and an appropriation of \$350,000 from unanticipated excess revenue to the 2024 budget to address the additional costs in Golf primarily related to higher revenues.

**3. Second Reading of Ordinance No. 102, 2024, Appropriating Prior Year Reserves in the Conservation Trust Fund for Park Planning and Development Funding Community Bike Park Feasibility and Community Engagement.**

This Ordinance, unanimously adopted on First Reading on July 16, 2024, appropriates \$70,000 to Park Planning and Development to conduct a community-scale bike park feasibility study as directed by Council at the June 11 Work Session. The feasibility study will include an evaluation of potential bike park locations, associated capital and on-going costs, identification of park amenities and features, and a community engagement process. This item is in response to public input from the 2021 Parks and Recreation Plan: Recreate, and recent significant community input.

**4. Second Reading of Ordinance No. 103, 2024, Appropriating Philanthropic Revenue Received by City Give for the Renovation of the Historic Carnegie Library as Designated by the Donor.**

This Ordinance, unanimously adopted on First Reading on July 16, 2024, appropriates \$100,000 in philanthropic revenue received by City Give for The Community Center for Creativity as designated by the donor.

In 2019, City Give, a formalized enterprise-wide initiative was launched to create a transparent, non-partisan governance structure for the acceptance and appropriations of charitable gifts.

**5. Second Reading of Ordinance No. 104, 2024, Appropriating Unanticipated Revenue in the Cultural Services and Facilities Fund for Artist and Musicians' Fees for Shows at the Lincoln Center.**

This Ordinance, unanimously adopted on First Reading on July 16, 2024, appropriates the amount of \$644,000 in unanticipated revenue in 2024 for expenses related to Artists and Musicians Fees for LC Live shows at the Lincoln Center.

**6. Second Reading of Ordinance No. 105, 2024, Making a Supplemental Appropriation of Funds from the Colorado Department of Public Health and Environment, Environmental Justice Grant for the Cultivating Community-Led Resilient Homes Project and Approving a Related Intergovernmental Agreement.**

This Ordinance, unanimously adopted on First Reading on July 16, 2024, supports the City's commitment to advancing equity and environmental justice for all Fort Collins community members by appropriating \$168,874 of unanticipated grant revenue awarded by the Colorado Department of Public Health and Environment (CDPHE) for the Cultivating Community-Led Resilient Homes project.

**7. First Reading of Ordinance No. 107, 2024, Appropriating Unanticipated Philanthropic Revenue Received by City Give for Various Programs and Services as Designated by the Donors.**

The purpose of this item is to request an appropriation of \$58,120 in philanthropic revenue received through City Give. These miscellaneous gifts to various City departments support a variety of programs and services and are aligned with both the City's strategic priorities and the respective donors' designation.

In 2019, City Give, a formalized enterprise-wide initiative was launched to create a transparent, non-partisan governance structure for the acceptance and appropriations of charitable gifts.

**8. First Reading of Ordinance No. 108, 2024, Authorizing Transfer of Appropriations for the Affordable Housing and Planning and Development Process Improvement Project.**

The purpose of this item is to transfer matching funds in the amount of \$55,000 from the Licensing, Permitting, and Code Enforcement operating business unit to the non-lapsing grant business unit for the Affordable Housing Development Review Process grant. On May 21, 2024, City Council adopted Ordinance No. 059, 2024, appropriating the \$200,000 awarded to the City by the State Department of Local Affairs (DOLA).

**9. First Reading of Ordinance No. 109, 2024, Making Supplemental Appropriations of New Revenue in the 2050 Tax Park Rec Transit OCF Fund for Consulting Work Contributing to the Transfort Optimization Study.**

The purpose of this item is to appropriate 2050 Transit Tax Reserves for additional consulting work for the Transfort Optimization Study.

**10. First Reading of Ordinance No. 110, 2024, Making Supplemental Appropriations of Unanticipated Grant Revenue in the Transit Services Fund and New Revenue From the 2050 Tax Parks Rec Transit OCF Fund for Transfort Consulting Work Related to the West Elizabeth Corridor.**

The purpose of this item is to appropriate unanticipated grant funding and 2050 Transit Tax Reserves for additional consulting work for West Elizabeth design work.

**11. First Reading of Ordinance No. 111, 2024, Appropriating Prior Year Reserves in the Parking Services Fund for Parking Structure Maintenance, Parking Planning, and Safety.**

The purpose of this item is to enable the City to appropriate Civic Center Parking Structure (CCPS) reserve funds and Parking Services reserve funds. The funds will be used for the completion of maintenance projects and for increased security costs. If approved, this item will: 1) appropriate \$1,200,000 in CCPS Reserve funds and 2) appropriate \$395,000 from Parking Services reserves.

**12. First Reading of Ordinance No. 112, 2024, Making a Supplemental Appropriation from the U.S. Department of Energy's Energy Efficiency and Conservation Block Grant in support of the Edora Pool and Ice Center Lighting System Replacement Project**

The City received \$206,680 in formula funds under the U.S. Department of Energy's Energy Efficiency and Conservation Block Grant ("EECBG") program. The City was required to apply under the EECBG's voucher program, specifically to demonstrate the beneficial use of funds in replacing the fluorescent lighting system in both ice rinks at Edora Pool and Ice Center ("EPIC") with an energy efficient LED lighting system. Based on the City's successful application, this item is to support the project by appropriating \$206,680 of unanticipated revenue from the DOE.

**13. First Reading of Ordinance No. 113, 2024, Making Supplemental Appropriations from Prior Year Reserves and Developer Contributions and Authorizing Transfers of Appropriations for the College Avenue-Trilby Road Intersection Improvements Project and Related Art in Public Places.**

The purpose of this item is to provide supplemental appropriations for the College Avenue-Trilby Road Intersection Improvements Project (Project). The funds will be used for construction of

improvements at the intersection of South College Avenue and Trilby Road. If approved this item will appropriate the following ultimate amounts as designated: 1) \$11,781 from a payment-in-lieu (PIL) to the City from a development contribution to construction; 2) \$900,000 from Transportation Capital Expansion Fee (TCEF) reserves; 3) \$600,000 from Community Capital Improvement Program (CCIP) Arterial Intersection Improvements reserves; 4) \$119 (1% of PIL) from a PIL to the City from a development contribution to construction to the Art in Public Places (APP) program; 5) \$8,820 (0.8% of TCEF Project contribution) from TCEF reserves to the APP program; and 6) \$180 (0.2% of TCEF Project contribution) for maintenance of art from the Transportation Services fund reserves to the APP program.

**14. First Reading of Ordinance No. 114, 2024, Authorizing Transfer of Appropriations from the South Timberline Mail Creek Trail Underpass Project to the South Timberline Corridor Project.**

The purpose of this item is to reappropriate funding from the South Timberline Mail Creek Trail Underpass project (“Underpass”) to the South Timberline Corridor project (“Corridor”). No new funding will be appropriated.

**15. First Reading of Ordinance No. 115, 2024, Making Supplemental Appropriations of Prior Year Reserves from Developer Contributions and Authorizing Transfers for the Future Vine and Timberline Overpass Project and Related Art in Public Places.**

The purpose of this item is to enable the City to appropriate development payment-in-lieu (PIL) funds for the Vine and Timberline Overpass Project (Project). The funds will be used for design services and grant application support services. If approved, this item will: 1) appropriate \$273,361 received in 2016 as a development contribution to construction by an adjacent development; and 2) appropriate \$3,318 (1% of PIL) from a PIL to the City from a development contribution to construction to the Art in Public Places (APP) program.

**16. First Reading of Ordinance No. 116, 2024, Making Supplemental Appropriations of Revenue from Developer Contributions and Authorizing Transfers for the Cordova Road Right-of-Way Acquisition.**

The purpose of this item is to appropriate developer contribution funds for the City to acquire right-of-way for Cordova Road as provided in the development agreement for The Landing at Lemay. If approved, this item will appropriate \$500,000 received in July as a development contribution for Cordova Road Right-of-Way Acquisition.

**17. First Reading of Ordinance No. 117, 2024, Amending Chapters 12 and 19 of the Code of the City of Fort Collins Regarding the Requirements for the Building Energy and Water Scoring Program.**

The purpose of this item is to amend City Code Chapters 12 and 19 relating to the Building Energy and Water Scoring (BEWS) program. This amendment would modify service requirements for municipal court citations issued under City Code Section 12-207. This item does not add any new requirements for building owners.

**18. Items Relating to the Laporte Avenue Multimodal Improvement Project.**

A. Resolution 2024-097 Authorizing the Execution of an Amendment to An Existing Intergovernmental Agreement between the City of Fort Collins, Colorado, and the Colorado Department of Transportation for the Laporte Avenue Multimodal Improvement Project.

B. First Reading of Ordinance No. 118, 2024, Making Supplemental Appropriations from Grant Revenue and Prior Year Reserves and Authorizing Transfers of Appropriations for the Laporte Avenue Multimodal Improvement Project and Related Art in Public Places.

The purpose of this item is to reappropriate funding from the Laporte Bridges project (“Bridges”) to the Laporte Avenue Multimodal Improvements Project (the “Project”), receive and appropriate Colorado Department of Transportation (“CDOT”) funds, and provide supplemental appropriations to the Project. The CDOT funds will be used for the construction of a Rectangular Rapid Flashing Beacon (“RRFB”) signal at Laporte Avenue and Impala Drive. If approved this item will: 1) authorize the Mayor to execute an amendment to the Intergovernmental Agreement (the “IGA”) for the Project with CDOT; 2) appropriate \$49,500 of Highway Safety Improvement Program (“HSIP”) grant funds to the Project; 3) appropriate \$330,500 from Transportation Capital Expansion Fee (“TCEF”) reserves to the Project; 4) appropriate \$175,000 from Transportation Services Fund reserves to the Project; 5) reappropriate \$517,000 from Bridges to the Project; 6) appropriate \$4,044 (0.8% of TCEF and Transportation Services Project contribution) from TCEF reserves to the Art in Public Places (“APP”) program; 5) appropriate \$1,011 (0.2% of TCEF and Transportation Services Project contribution) for maintenance of art from the Transportation Services Fund Reserves to the APP program.

**19. First Reading of Ordinance No. 119, 2024, Making Supplemental Appropriations from Colorado Department of Transportation Revenue for the Intersection Improvements on US-287 (College Avenue) Project.**

The purpose of this item is to appropriate Colorado Department of Transportation (CDOT) revenue dedicated to infrastructure improvements complying with the Americans with Disabilities Act (ADA).

**20. Items Relating to the Rocky Ridge Conservation Project.**

A. Resolution 2024-098 Authorizing the Mayor to Execute an Intergovernmental Agreement with Larimer County to Partner on the Purchase of a 484-acre Property in the Wellington Community Separator.

B. First Reading of Ordinance No. 120, 2024, Authorizing the Conveyance to Larimer County of a Conservation Easement and a Right of First Refusal on the Rocky Ridge Property.

The purpose of this item is to authorize an Intergovernmental Agreement (IGA) with Larimer County for the Rocky Ridge Conservation Project. The Project will conserve 484-acres in fee within in the Wellington Community Separator. The Ordinance will authorize the conveyance of a conservation easement and right of first refusal on the property.



**21. Items Relating to the Poudre Water Supply Infrastructure Wildfire Ready Action Plan.**

A. Resolution No. 2024-099 Authorizing the City Manager to Enter into a Grant Agreement with the State of Colorado Regarding the Poudre Water Supply Infrastructure Wildfire Ready Action Plan.

B. First Reading of Ordinance No. 121, 2024, Making Supplemental Appropriations of Unanticipated Grant Revenue, Prior Year Reserves, and Authorizing Transfers for the Poudre Water Supply Infrastructure Wildfire Ready Action Plan.

The purpose of this item is to support Fort Collins Utilities (Utilities) in developing a Wildfire Ready Action Plan (WRAP) in collaboration with the City of Greeley (Greeley) and the Water Supply and Storage Company (WSSC). The WRAP will help Utilities and its partners mitigate the vulnerability of water supplies and water supply infrastructure in the upper Poudre and Michigan River watersheds to the threat of wildfire. Accordingly, pursuant to Resolution No. 2024-066, the City, Greeley, and WSSC entered into an agreement, dated May 21, 2024, to coordinate their joint efforts related to funding and developing the WRAP. In addition, the City has recently been awarded grant funding from the Colorado Water Conservation Board (CWCB) through the Wildfire Ready Watershed Grant Program to assist in the development of a WRAP. Once adopted, this resolution will authorize Utilities to enter into the Intergovernmental Grant Agreement (IGGA) with the State of Colorado to receive funding to support the development of the WRAP. The Ordinance will: 1) appropriate the grant revenue from the State of Colorado; 2) appropriate monetary contributions from Greeley and WSSC; and 3) appropriate and authorize transfers of Utilities grant match commitments.

**22. First Reading of Ordinance No. 122, 2024, Designating the Chavez/Ambriz/Gonzales Property, 724 Martinez Street, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Fort Collins City Code Chapter 14.**

The purpose of this item is to request City landmark designation for the Chavez/Ambriz/Gonzales Property at 724 Martinez Street. In cooperation with the property owners, City staff and the Historic Preservation Commission (Commission) have determined the property to be eligible for designation. The property is significant under City Code 14-22(a) Standard 1, Events/Trends, for association with the early sugar beet industry in Fort Collins, its social history, and its Hispanic history, as well as under Standard 3, Design/Construction, as a rare example of adobe construction in Fort Collins and including a Community Development Block Grant (CDBG)-funded addition. The owners are requesting designation, which will provide protection of the property's exterior and access to financial incentives for owners to use for historic properties.

**23. Resolution 2024-096 Approving Participation in the Settlement with An Additional Opioid Defendant, Kroger, and a Related Waiver of Claims.**

The purpose of this item is to consider a resolution to allow the City to participate in the Colorado Opioids Settlement with Kroger by granting approval to sign an additional participation agreement and waiver of claims for opioid-related damages. This is in follow-up to prior approvals of settlements with multiple other opioid defendants, negotiated through national settlement efforts coordinated through the State of Colorado.

**24. Resolution 2024-100 Authorizing a Second Amendment to the Intergovernmental Agreement Between the Poudre River Public Library District, the City of Fort Collins, and Larimer County.**

The purpose of this item is to amend the Intergovernmental Agreement (IGA) between the Poudre River Public Library District, the City and Larimer County to change the selection process when there are vacancies on the District board. This amendment would allow the District Trustees to interview applicants and recommend appointments for ratification by Council and the County Board of Commissioners.

**25. Items Relating to FLEX Route Regional Transit Services Intergovernmental Agreements.**

A. Resolution 2024-101 Authorizing the Execution of an Intergovernmental Agreement between the City of Fort Collins, Colorado and the City of Loveland for FLEX Route Regional Transit Services.

B. Resolution 2024-102 Authorizing the Execution of an Intergovernmental Agreement between the City of Fort Collins, Colorado and the Town of Berthoud for FLEX Route Regional Transit Services.

C. Resolution 2024-103 Authorizing the Execution of an Intergovernmental Agreement between the City of Fort Collins, Colorado and the County of Boulder for FLEX Route Regional Transit Services.

D. Resolution 2024-104 Authorizing the Execution of an Intergovernmental Agreement between the City of Fort Collins, Colorado and the City of Boulder for FLEX Route Regional Transit Services.

E. Resolution 2024-105 Authorizing the Execution of an Intergovernmental Agreement between the City of Fort Collins, Colorado and the City of Longmont for FLEX Route Regional Transit Services.

The purpose of these items is to authorize the City Manager to sign separate Intergovernmental Agreements (“IGAs”) with the City of Loveland, the Town of Berthoud, the City of Boulder, the County of Boulder, and the City of Longmont (collectively, the “FLEX Partners”) by which the FLEX Partners will contribute funds toward the operating cost of the FLEX Route Regional Transit Service bus route to further the goals of regional connectivity through transit.

**26. Resolution 2024-106 Approving Fort Fund Special Events Grant Disbursements.**

The purpose of this item is to approve Fort Fund grants from the Cultural Development and Programming Account and the Tourism Programming Account for the selected community events in the Special Event Grant – July Deadline category, based upon the recommendations of the Cultural Resources Board.

**END OF CONSENT CALENDAR**

**J) ADOPTION OF CONSENT CALENDAR**

**K) CONSENT CALENDAR FOLLOW-UP** *(This is an opportunity for Councilmembers to comment on items adopted or approved on the Consent Calendar.)*

**L) STAFF REPORTS - None**

**M) COUNCILMEMBER REPORTS**

**N) CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR FOR INDIVIDUAL DISCUSSION**

**O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION**

*The method of debate for discussion items is as follows:*

- Mayor introduced the item number and subject; asks if formal presentation will be made by staff
- Staff presentation (optional)
- Mayor requests public comment on the item (three minute limit for each person)
- Council questions of staff on the item
- Council motion on the item
- Council discussion
- Final Council comments
- Council vote on the item

*Note: Time limits for individual agenda items may be revised, at the discretion of the Mayor, to ensure all have an opportunity to speak. The timer will buzz when there are 30 seconds left and the light will turn yellow. It will buzz again at the end of the speaker's time.*

**27. Second Reading of Ordinance No. 106, 2024, Appropriating Prior Year Reserves in the General Fund for a Civic Assembly Process in Relation to the Hughes Stadium Site.**

This Ordinance, adopted on First Reading by a vote of 4-2 (Nays: Ohlson, Gutowsky; Absent: Pignataro) appropriates one-time dollars in the amount of \$150,000 to be used for a Civic Assembly engagement process in relation to the Hughes Site Plan work. Staff is also requesting that City Council approve a sole source exception for Healthy Democracy Fund to provide services related to the design, coordination and implementation of a civic assembly should grant revenue bring the project above \$200,000.

**28. First Reading of Ordinance No. 123, 2024, Amending Chapter 4 of the Code of the City of Fort Collins to Ban the Retail Sale of Dogs and Cats.**

The purpose of this item is to ban the retail sale of dogs and cats from stores within Fort Collins city limits.

**29. Resolution 2024-107 Making an Appointment to the Affordable Housing Board.**

The purpose of this item is to fill an existing vacancy on the Affordable Housing Board.

Pursuant to Council policy, the recommended appointee has completed or will complete the required acknowledgement and acceptance of the Code of Conduct and the applicable laws and policies that govern service on City of Fort Collins boards and commissions.

**P) RESUMED PUBLIC COMMENT (if necessary)**

## **Q) OTHER BUSINESS**

### **OB 1. Possible consideration of the initiation of new ordinances and/or resolutions by Councilmembers.**

*(Three or more individual Councilmembers may direct the City Manager and City Attorney to initiate and move forward with development and preparation of resolutions and ordinances not originating from the Council's Policy Agenda or initiated by staff.)*

## **R) ADJOURNMENT**

*Every regular Council meeting will end no later than midnight, except that: (1) any item of business commenced before midnight may be concluded before the meeting is adjourned and (2) the Council may, at any time prior to adjournment, by majority vote, extend a meeting beyond midnight for the purpose of considering additional items of business. Any matter that has been commenced and is still pending at the conclusion of the Council meeting, and all matters for consideration at the meeting that have not yet been considered by the Council, will be deemed continued to the next regular Council meeting, unless Council determines otherwise.*

*Upon request, the City of Fort Collins will provide language access services for individuals who have limited English proficiency, or auxiliary aids and services for individuals with disabilities, to access City services, programs and activities. Contact 970.221.6515 (V/TDD: Dial 711 for Relay Colorado) for assistance. Please provide advance notice. Requests for interpretation at a meeting should be made by noon the day before.*

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**File Attachments for Item:**

**PP 1. Declaring August 26, 2024 as Women's Equality Day.**



## PROCLAMATION

**WHEREAS**, equality under the law is a fundamental value of Americans; and

**WHEREAS**, women of the United States have worked to gain full rights and privileges - public and private, legal or institutional - as citizens of the United States; and

**WHEREAS**, the fight for Women's right to vote began as early as the 1840's; involved a long struggle that spanned generations of suffragists; and the amendment, first proposed and rejected in 1878, was reintroduced every year for the next 41 years; and

**WHEREAS**, women in every state and every cultural and religious group worked to secure women's right to vote through the 19th Amendment to the Constitution, which states that "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex."; and

**WHEREAS**, Congress designated August 26, the date the Nineteenth Amendment was certified, as Women's Equality Day; and

**WHEREAS**, this year's theme for Women' Equality Day is Inspire Inclusion and prioritizes equity, access, and opportunity of women's work for democracy.

**NOW, THEREFORE, I**, Emily Francis, Mayor Pro Tem of the City of Fort Collins, do hereby proclaim August 26, 2024, as

### WOMEN'S EQUALITY DAY

on August 26, as a national day celebrating the importance of the women's suffrage movement and work to secure and expand equal rights today.

**IN WITNESS WHEREOF**, I have hereunto set my hand and the seal of the City of Fort Collins this 20th day of August 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

**File Attachments for Item:**

**PP 2. Declaring August 17, 2024 International Homeless Animals Day.**



## PROCLAMATION

**WHEREAS**, The histories of animal rights and shelters have long been intertwined. It was in the 1870s that animal protectionists began to see the lives of children and animals as similarly vulnerable and in need of protection, and SPCAs and anti-cruelty laws began to be established. Though animals were defined as property, cruelty was still an offense; and

**WHEREAS**, The 20th century saw increased protection given to house pets such as dogs and cats, while animals that were slaughtered or working animals still received little to no protection. Dogs and cats received even more attention from the social justice movements of the 1960s and 1970s when animal welfare groups like the ASPCA focused heavily on adoption, fostering, and prevention of animal suffering; and

**WHEREAS**, Though there is no governmental organization in the United States to oversee animal shelter regulation nationally, there are approximately 5,000 independently operated animal shelters in the nation. Most of these shelters changed their focus in the 1990s, shifting from being temporary animal repositories to proactively helping control the homeless pet population and promoting pet adoption; and

**WHEREAS**, In 1992, the International Society for Animal Rights conceived International Homeless Animals Day (IHAD), which has only grown in popularity by year. ISAR offers events from dog walks to adopt-a-thons to animal blessings on IHAD, and many volunteers participate. Today, and every day, we can all be a voice for homeless animals, and help mitigate their suffering; and

**WHEREAS**, In the City of Fort Collins, many unhoused pet owners struggle to find housing and transportation yet show an unshakable commitment to their pets. The Street Dog Coalition, in collaboration with the City of Fort Collins, Homeward Alliance and other local agencies have been able to provide support and veterinary care to these pets and their owners.

**NOW, THEREFORE**, I, Emily Francis, Mayor Pro Tem of the City of Fort Collins, do hereby retroactively proclaim August 27th, as

### INTERNATIONAL HOMELESS ANIMALS’ DAY

**IN WITNESS WHEREOF**, I have hereunto set my hand and the seal of the City of Fort Collins this 20th day of August, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk



**File Attachments for Item:**

**1. Consideration and Approval of the Minutes of the July 2, 2024, and the July 16, 2024, Regular Meetings.**

The purpose of this item is to approve the minutes of the July 2, 2024, and the July 16, 2024, regular meetings.

August 20, 2024



# AGENDA ITEM SUMMARY

City Council

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## STAFF

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Delynn Coldiron, City Clerk

## SUBJECT

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**Consideration and Approval of the Minutes of the July 2, 2024, and the July 16, 2024, Regular Meetings.**

## EXECUTIVE SUMMARY

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The purpose of this item is to approve the minutes of the July 2, 2024, and the July 16, 2024, regular meetings.

## STAFF RECOMMENDATION

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Staff recommends approval of the minutes.

## ATTACHMENTS

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1. Draft Minutes, July 2, 2024
2. Draft Minutes, July 16, 2024

**COUNCIL OF THE CITY OF FORT COLLINS, COLORADO**

**Council-Manager Form of Government**

**Regular Meeting – 6:00 PM**

**PROCLAMATIONS & PRESENTATIONS**

**5:00 PM**

**A) PROCLAMATIONS AND PRESENTATIONS**

PP 1. **Declaring the Month of July 2024 as Park and Recreation Month.**

Mayor Arndt presented the above proclamation at 5:00 p.m.

**REGULAR MEETING**

**6:00 PM**

**B) CALL MEETING TO ORDER**

Mayor Arndt called the meeting to order at 6:00 p.m. in the City Council Chambers at 300 Laporte Avenue, Fort Collins, Colorado, with hybrid participation available via the City’s Zoom platform.

**C) PLEDGE OF ALLEGIANCE**

Mayor Arndt led the Pledge of Allegiance to the American flag.

**D) ROLL CALL**

**PRESENT**

- Mayor Arndt
- Mayor Pro Tem Emily Francis
- Councilmember Susan Gutowsky
- Councilmember Julie Pignataro
- Councilmember Tricia Canonico
- Councilmember Melanie Potyondy
- Councilmember Kelly Ohlson

**STAFF PRESENT**

- City Manager Kelly DiMartino
- City Attorney Carrie Daggett
- City Clerk Delynn Coldiron

**E) CITY MANAGER'S AGENDA REVIEW**

City Manager DiMartino provided an overview of the agenda, including:

- Change to order of slides for the Charter Amendment presentation.
- Protests filed related to Charter Amendments for Item Nos. #13 and #14; therefore, Council will be conducting protest hearings for each of those items.
- All items on the consent agenda were recommended for approval with no changes.

- The item on the discussion agenda was reviewed.
- An executive session will not be considered.

## F) COMMUNITY REPORTS

None.

## G) PUBLIC COMMENT ON ANY TOPICS OR ITEMS OR COMMUNITY EVENTS (Including requests for removal of items from Consent Calendar for individual discussion.)

Samantha Six commented on an altercation with another individual at Planned Parenthood which resulted in a harassment charge for Six, despite video footage. Six stated protestors at the clinic brag about owning Council, the Police, and judges and stated what is being allowed to occur at Planned Parenthood is reprehensible.

Doreen Martinez, growth management area resident, urged Council to engage in a resolution to stop the proposed concrete batch plant that is seeking to be located at 516 North Highway 287. Martinez commented on the artificial boundary that exists between the City limits and growth management area in terms of air pollution, negative health impacts, and noise. Martinez provided a map indicating that area ranks 94 out of 100 in terms of negative environmental issues such as ozone and diesel particulates. Martinez also provided a demographic map indicating the prevalence of historically marginalized groups in the area.

Tiffin Vaughn submitted a map of the proposed concrete batch plant location noting Terry Lake is immediately adjacent to the site. Vaughn discussed concerns about environmental pollutants, wildlife impacts, particularly for nesting eagles, and noise pollution. Vaughn stated it is a reasonable conclusion that this is not the proper location for the facility.

Galen Trine-McMahan discussed work with families after gun violence and human trafficking and commented on ways crime can be decreased at multi-family developments, specifically citing a recent murder at Northfield Commons. Trine-McMahan suggested the City provide an invitation for developers to be consulted on security and crime prevention.

Jerry White discussed the intergovernmental agreement the City has with Larimer County regarding land use within the growth management area. White discussed the various land use applications that have been sought for the Aragon property since 2020, including a rezone request, application for a concrete batch plant, a second rezoning request to eliminate a number of conditions that were placed on the first application that would allow for a 60-foot concrete silo instead of a 40-foot silo. White stated the dirt on the site is already polluted due to the previous salvage yard and the project will include a 26-foot-tall concrete barrier along Terry Lake. White commended the work of Fort Collins staff which have stated that the proposed development does not align with adopted policies and City plans, including Our Climate Future and the Air Quality Plan.

Cherie Trine discussed Council's efforts to punish free speech in the City and commented on the court hearing for peaceful protestors at a City Council meeting. Trine stated protest needs to happen when government is at fault in immoral wars and stated Police officers do not understand peaceful protest.

Tasha Carr spoke about the proposal for a small cell facility near her property, which she stated is unsuitable due to the extremely small lot size and proximity of her home to the right-of-way. Additionally, Carr noted a new utility structure will need to be installed and stated her home's living room windows and patio are located only fifteen feet from the planned facility which will greatly impede future landscaping and parking plans. Carr stated the guidance is to maximize the use of existing utility structures and to locate the facilities along main corridors and arterials, not on narrow residential streets. Carr requested her property no longer be considered for the proposed facility location.

Kevin Cross, Fort Collins Sustainability Group, thanked Council for removing the methane franchise fee increase from its long-term planning calendar and instead urged Council to consider implementing a large methane user fee, which would not impact residential natural gas consumers. Cross commented on the benefits of such a fee.

Rorey (no last name given) noted the proposed concrete batch plant would be located directly across from Terry Lake Mobile Home Park and very close to five other mobile home parks in the area. Rorey stated the EPA has found the amount of particulate matter dust emitted by concrete batch plants is such that negative health impacts and premature deaths that would, in this case, disproportionately impact low-income residents and residents of color. Rorey urged Council to adopt a resolution opposed to the proposed concrete batch plant.

Jerry Gavaldon discussed the proposed public input process changes and opposed placing public participation at the end of meetings. Gavaldon commended the Police Chief and officers.

Fred Kirsch, Community for Sustainable Energy, thanked City staff for evaluating climate spending priorities prior to asking for additional resources. Kirsch encouraged staff to prioritize projects on a cost-effectiveness basis with a social lens.

Elizabeth Mahon spoke in favor of greater automated traffic enforcement in general and in support of Ordinance No. 083, 2024, Appropriating Prior Year Reserves in the Redlight Camera Fund Within the General Fund for Additional Staffing for Municipal Court and City Attorney's Office to Support the Increased Police Enforcement Cases, specifically.

Emma Freeman discussed her job speaking with Fort Collins residents and read an email from a Peace Corps volunteer who lives in district 6 which expressed concern about the strategy behind imposing a fee on natural gas. The letter expressed concern the fee would unfairly affect individuals who have no control over the type of energy being used in their households and stated the measure does little to encourage homeowners or businesses to switch to alternative energy sources. Additionally, the letter encouraged Council to ensure climate funds are allocated to projects that are strictly most climatologically urgent.

August-Carter Nelson discussed recent actions by the national Republican party and stated Council listening to members of its constituency is a smokescreen for refusing to do more. Nelson commented on the large number of people who support Council adopting a Gaza ceasefire resolution and stated small, incremental changes are not enough.

Julie Rowan-Zoch commended the decision to remove the methane fee from consideration and supported a fee for large methane users. Additionally, Rowan-Zoch requested Council adopt a Gaza ceasefire resolution.

Kimberly Conner requested Council adopt a Gaza ceasefire resolution and highlighted an Israeli human rights organization that is also calling for a ceasefire.

Public comment ended at 6:45 p.m.

## H) PUBLIC COMMENT FOLLOW-UP

Councilmember Canonico requested follow-up on the concrete batch plant and asked what steps are being taken. City Manager DiMartino replied the City provides comments regarding alignment with City standards for any development proposed for the growth management area that could at some point be annexed into the city limits. Staff has reviewed this proposal and submitted written comments identifying a number of ways in which the development does not align with City standards. City Manager DiMartino stated staff does not typically engage further; however, there have been some instances in the past wherein Council has adopted a resolution taking a position on a project.

Councilmember Canonico stated she would bring forward a formal request under Other Business.

Councilmember Pignataro asked about the date for the concrete plant land use hearing. City Manager DiMartino replied the item has yet to be scheduled. Deputy City Manager Marr replied staff anticipates having enough lead time on the scheduling of the hearing for Council to potentially consider a resolution and noted County staff is still compiling comments.

Councilmember Pignataro thanked the speakers and commended Trine-McMahan's recommendation, and suggested Chamber representatives could possibly pass the idea along to developers.

Councilmember Pignataro requested staff follow-up regarding Carr's concerns about the cell facility.

Councilmember Potyondy requested additional information regarding management of the situation at Planned Parenthood and expressed concern the situation is consistently brought up. She also requested staff provide some information regarding the history of the large methane user fee.

Councilmember Ohlson supported fellow Councilmembers on their various topics and requests and also requested follow-up on where the discussion of the large methane user fee may fit now that the dedicated climate tax is in place. Additionally, he reiterated the request for follow-up on the Planned Parenthood situation and requested information on the Police Services training. He thanked staff for providing a memo on Council's options regarding the concrete batch plant and stated he supports all three options.

**I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION**

None.

**J) CONSENT CALENDAR**

**1. Consideration and Approval of the Minutes of the June 18, 2024 Regular Meeting.**

*The purpose of this item is to approve the minutes of the June 18, 2024 regular meeting.*

**Approved.**

**2. Second Reading of Ordinance No. 080, 2024, Amending Ordinance No. 107, 2023, and Appropriating Prior Year Reserves Designated for Fire Services in the Fire Protection Capital Expansion Fund for Payment to the Poudre Fire Authority to be Used to Pay for a New Headquarters Building.**

*This Ordinance, unanimously adopted on First Reading on June 18, 2024, appropriates and reappropriates funds from the Fire Protection Capital Expansion Fund and transfer funds to Poudre Fire Authority (PFA) for purchase of a new Headquarters Building.*

**Adopted on Second Reading.**

**3. First Reading of Ordinance No. 083, 2024, Appropriating Prior Year Reserves in the Redlight Camera Fund Within the General Fund for Additional Staffing for Municipal Court and City Attorney's Office to Support the Increased Police Enforcement Cases.**

*The purpose of this item is to appropriate \$179,122 from the Redlight Camera Fund to add additional staffing for Municipal Court (1 full time equivalent [FTE]) and the City Attorney's Office Prosecution Team (2 FTE's) to support the Traffic Safety initiative and the increased number of enforcement cases that are already occurring. This new staffing will handle increases in police*

enforcement cases and is in addition to the request for the Automated Vehicle Identification Systems (AVIS) and speed corridors item also being presented to Council on July 2, 2024.

**Adopted on First Reading.**

4. **First Reading of Ordinance No. 084, 2024, Appropriating Philanthropic Revenue Received Through City Give for the Lincoln Center, Cultural Services.**

*The purpose of this item is to request and appropriation of \$12,500 in philanthropic revenue designated for the Lincoln Center, Cultural Services designated as a Sponsorship.*

**Adopted on First Reading.**

5. **First Reading of Ordinance No. 085, 2024, Appropriating Philanthropic Revenue Received Through City Give for the Community Development and Neighborhood Services 2024 AARP Community Challenge.**

*The purpose of this item is to request an appropriation of \$20,000 in philanthropic revenue received through City Give for Neighborhood Services, Community Development and Neighborhood Services, Planning, Development & Transportation to support healthy outcomes for residents' homes through three, one-day, homeowner workshops at Skyline, North College, and Harmony Village mobile home communities.*

**Adopted on First Reading.**

6. **First Reading of Ordinance No. 086, 2024, Appropriating Philanthropic Revenue Received Through City Give for NextGen, Volunteer Services.**

*The purpose of this item is to request an appropriation of \$20,000 in philanthropic revenue received through City Give for the designated support of NextGen, Volunteer Services.*

*In 2019, City Give, a formalized enterprise-wide initiative was launched to create a transparent, non-partisan governance structure for the acceptance and appropriations of charitable gifts.*

**Adopted on First Reading.**

7. **Items Relating to the Repeal and Reenactment of Certain Ordinances.**

*A. First Reading of Ordinance No. 087, 2024, Repealing Ordinance No. 074, 2024, and Making Supplemental Appropriations in the Community Development Block Grant Fund.*

*B. First Reading of Ordinance No. 088, 2024, Repealing Ordinance No. 075, 2024, and Making Supplemental Appropriations in the HOME Investments Partnerships Grant Fund.*

*C. First Reading of Ordinance No. 089, 2024, Repealing Ordinance No. 076, 2024, and Making Supplemental Appropriation for the Charter Review Council Priority from General Fund Reserves.*

*D. First Reading of Ordinance No. 090, 2024, Repealing Ordinance No. 077, 2024, and Appropriating Philanthropic Revenue Received Through City Give for the Cultural Community Program Through Cultural Services.*

*E. First Reading of Ordinance No. 091, 2024, Repealing Ordinance No. 078, 2024, and Appropriating Prior Year Philanthropic Revenue Reserves Received by City Give for the 9/11 Memorial at Spring Park.*

*F. First Reading of Ordinance No. 092, 2024, Repealing Ordinance No. 079, 2024, and Making a Supplemental Appropriation and Authorizing Transfer of Appropriations for The Gardens on Spring Creek Internship Program.*

*Due to a publication error, staff requests Council repeal each Ordinance as they were adopted on June 18, 2024. These Ordinances were unanimously adopted on First Reading on June 4, 2024.*

**Ordinances Adopted on First Reading.**

8. **First Reading of Ordinance No. 093, 2024, Calling a Special Election to be Held in Conjunction with the November 5, 2024, Larimer County General Election.**

*The purpose of this item is to call a Special Municipal Election to be held in conjunction with the November 5, 2024, Larimer County Coordinated Election, and to preserve the opportunity for Council to place initiated or referred issues on the November ballot.*

**Adopted on First Reading.**

9. **Resolution 2024-081 Approving the 2024 Certification to the Larimer County Assessor Pursuant to Colorado Revised Statutes Section 31-25-807(3)(a)(IV)(B) for the Downtown Development Authority Property Tax Increment.**

*The purpose of this item is to certify to the Larimer County Assessor the percentages of property tax distributions to be allocated for the Downtown Development Authority by the Assessor as tax increment from the 2024 property taxes payable in 2025 to the City and to all other affected taxing entities.*

**Adopted.**

10. **Items Relating to the Appointment and Reappointment of Assistant Municipal Court Judges.**

*A. Resolution 2024-082 Reappointing Brandi Nieto as an Assistant Municipal Judge of the Fort Collins Municipal Court and Authorizing the Execution of an Employment Agreement.*

*B. Resolution 2024-083 Reappointing Kristin Brown as an Assistant Municipal Judge of the Fort Collins Municipal Court and Authorizing the Execution of an Employment Agreement.*

*C. Resolution 2024-084 Reappointing Sarah Simchowicz as an Assistant Municipal Judge of the Fort Collins Municipal Court and Authorizing the Execution of an Employment Agreement.*

*D. Resolution 2024-085 Appointing John William Sierra as an Assistant Municipal Judge of the Fort Collins Municipal Court and Authorizing the Execution of an Employment Agreement.*

*E. Resolution 2024-086 Appointing Laura Hinojos as an Assistant Municipal Judge of the Fort Collins Municipal Court and Authorizing the Execution of an Employment Agreement.*

*F. Resolution 2024-087 Appointing Whitney Stark as an Assistant Municipal Judge of the Fort Collins Municipal Court and Authorizing the Execution of an Employment Agreement.*

*G. Resolution 2024-088 Appointing Linda Cooke as an Assistant Municipal Judge of the Fort Collins Municipal Court and Authorizing the Execution of an Employment Agreement.*

*H. Resolution 2024-089 Appointing Jana Kaspar as an Assistant Municipal Judge of the Fort Collins Municipal Court and Authorizing the Execution of an Employment Agreement.*

*The purpose of this item is to reappoint three Assistant Municipal Judges and to appoint five new Assistant Municipal Judges for the Fort Collins Municipal Court. The City Charter provides for the*



appointment of judges of the Municipal Court for two-year terms. Chief Judge Jill A. Hueber recommends that John William Sierra, Laura Hinojos, Whitney Stark, Linda Cooke, and Jana Kaspar be appointed as Assistant Municipal Judges, and that Brandi Nieto, Kristin Brown and Sarah Simchowicz be reappointed as Assistant Municipal Judges to serve in the absence of the Chief Judge.

### Resolutions Adopted.

### END OF CONSENT CALENDAR

Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to approve the recommended actions on items 1-10 on the consent calendar.

The motion carried 7-0.

**Ayes:** Mayor Arndt, Mayor Pro Tem Francis, and Councilmembers Canonico, Pignataro, Gutowsky, Ohlson, and Potyondy.

**Nays:** None.

**K) CONSENT CALENDAR FOLLOW-UP** (*This is an opportunity for Councilmembers to comment on items adopted or approved on the Consent Calendar.*)

Councilmember Gutowsky discussed Item No. 6, *First Reading of Ordinance No. 086, 2024, Appropriating Philanthropic Revenue Received Through City Give for NextGen, Volunteer Services, and the OtterCares program preparing teens for the workforce.*

Mayor Arndt welcomed the new and returning judges that were appointed per Item No. 10, *Items Relating to the Appointment and Reappointment of Assistant Municipal Court Judges.*

**L) STAFF REPORTS**

None.

**M) COUNCILMEMBER REPORTS**

Councilmember Canonico thanked those who made Bike to Work (or Wherever) Day a huge success. She also reported on attending the World Refugee Day celebration put on by Church World Service Fort Collins and noted she has been appointed to the Front Range Passenger Rail District which is attempting to bring passenger rail to Fort Collins soon.

Councilmember Gutowsky reported on attending the unveiling of the 9/11 memorial along Spring Creek.

Councilmember Potyondy also reported on attending the unveiling of the 9/11 memorial and thanked individuals from the Equity and Inclusion Department and others for work to make NoCo Pride a joyful celebration. Additionally, she reported on attending the recent Colorado Municipal League conference and invited all to participate in the Independence Day festivities.

Mayor Arndt encouraged everyone to enjoy Independence Day but to be safe.

**N) CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR FOR INDIVIDUAL DISCUSSION**

None.

**Clerk's Note:** Mayor Arndt called for a break at 7:03 p.m. The meeting resumed at 7:16 p.m.

## O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION

### 11. Items Relating to Residential Occupancy Ordinance.

A. *First Reading of Ordinance No. 081, 2024, Amending the Land Use Code of the City of Fort Collins to Remove Residential Occupancy Limitations.*

B. *First Reading of Ordinance No. 082, 2024, Amending the Code of the City of Fort Collins to Conform with the Removal of Residential Occupancy Limitations from the Land Use Code.*

*The purpose of this item is to consider adoption of changes to the City's Land Used Code and Municipal Code to comply with House Bill 24-1007, which prohibits residential occupancy limits based on familial relationship.*

#### PUBLIC COMMENT:

No public comment.

#### COUNCIL DISCUSSION:

Councilmember Ohlson stated the State legislature and Governor made a huge overreach on this and other land use issues during the last session. He stated the legislation should have occurred with more respect for home rule and local control and stated the legislation was poorly written and will likely be revisited in the next several years.

Councilmember Ohlson commented on the benefits of the occupancy ordinance in Fort Collins, including improved appearance and functionality of neighborhoods as well as increased affordability. He stated he has spent over twenty years lobbying for, passing, and defending the occupancy ordinance and is proud of that work.

Mayor Arndt expressed appreciation for Councilmember Ohlson's comments and commended the path Fort Collins was on working together as a community. She noted these changes exist to align with the actions of the State and stated everyone is committed to the quality of life in Fort Collins, noting the public nuisance ordinance remains in effect.

Councilmember Gutowsky stated she will vote differently than she did on the First Reading. She concurred with Councilmember Ohlson that the State legislation was an overreach and a cookie cutter solution for occupancy. Additionally, the legislation took away Council's opportunity to deal with Fort Collins issues in its way. She stated she will support the decision, but reiterated concerns about overreach.

Councilmember Pignataro thanked her fellow Councilmembers for their comments and stated this will hopefully put minds at ease for the 1,500 or so households in Fort Collins who have been breaking the occupancy ordinance simply because that is how they need to live in order to have a roof over their heads.

**Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt on Second Reading, Ordinance No. 081, 2024, Amending the Land Use Code of the City of Fort Collins to Remove Residential Occupancy Limitations.**

**The motion carried, 5-2.**

**Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Pignataro, Potyondy, and Canonico.**

**Nays: Councilmembers Gutowsky and Ohlson.**

**Mayor Pro Tem Francis moved, seconded by Councilmember Potyondy, to adopt on Second Reading, Ordinance No. 082, 2024, Amending the Code of the City of Fort Collins to Conform with the Removal of Residential Occupancy Limitations from the Land Use Code.**

**The motion carried, 5-2.**

**Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Pignataro, Potyondy, and Canonico.**

**Nays: Councilmembers Gutowsky and Ohlson.**

**12. Items Relating to a City Initiated Charter Amendment Relating to Elections.**

*A. Possible Public Hearing and Motion(s) Regarding Protest(s) of Ballot Language.*

*B. First Reading of Ordinance No. 094, 2024, Submitting to a Vote of the Registered Electors of the City of Fort Collins Proposed Amendments to Article VIII of the City Charter Relating to Elections.*

*The purpose of this item is to set ballot language regarding proposed amendments to Article VIII of the City Charter relating to election provisions.*

*Any protest of the proposed ballot language must be received no later than Monday, July 1, 2024, at noon. Protest(s) shall be heard, considered, and resolved by the Council prior to adoption of the related Ordinance. If protests are received, copies will be included in Council's "Read Before the Meeting" packet.*

**STAFF PRESENTATION:**

Rupa Venkatesh, Assistant City Manager, stated Mayor Arndt and Councilmembers Canonico and Pignataro were this year's appointments to the Election Code Committee (ECC) and this presentation reflects recommendations from the ECC and staff focusing on the following key themes: modernizing language, simplifying and clarifying process in the Code for both staff and the public, and removing ambiguities.

City Clerk Delynn Coldiron stated the proposed changes are meant to deal with Code inconsistencies, provide clarification, deal with process complexity, and bring the Code more in line with the Colorado Municipal Election Code.

City Clerk Coldiron outlined the proposed changes to Charter Articles VIII, IX, and X, which include adding gender-inclusive language, making language more active, changing references from 'mail' to 'send,' and making changes to time computation. She further detailed the proposed process and language changes to Article VIII, specifically noting no changes related to campaign contributions are being proposed. Additionally, City Clerk Coldiron presented the proposed ballot language.

**PUBLIC COMMENT:**

None.

**COUNCIL DISCUSSION:**

Mayor Arndt commended these items as a good start to the overall cleanup of the Charter and noted these changes are not substantive.

Councilmember Canonico noted these changes will bring Fort Collins more in alignment with the Colorado Municipal Election Code.

**Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to adopt on First Reading, Ordinance No. 094, 2024, submitting to a vote of the registered electors of the City of Fort Collins Proposed amendments to Article VIII of the City Charter relating to elections.**

**The motion carried, 7-0.**

**Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Ohlson, Potyondy, Canonico, Pignataro, and Gutowsky.**

**Nays: None.**

**13. Items Relating to a City Initiated Charter Amendment Relating to Recall.**

*A. Possible Public Hearing and Motion(s) Regarding Protest(s) of Ballot Language.*

*B. First Reading of Ordinance No. 095, 2024, Submitting to a Vote of the Registered Electors of the City of Fort Collins Repealing and Reenacting Article IX of the City Charter Relating to Recall.*

*The purpose of this item is to set ballot language regarding proposed amendments to Article IX of the City Charter relating to recall provisions.*

*Any protest of the proposed ballot language must be received no later than Monday, July 1, 2024, at noon. Protest(s) shall be heard, considered, and resolved by the Council prior to adoption of the related Ordinance. If protests are received, copies will be included in Council's "Read Before the Meeting" packet.*

**STAFF PRESENTATION:**

City Clerk Coldiron outlined the proposed changes to Article IX relating to recalls, including modernizing the language, changing the computation of time, and reorganizing the material, which is what requires the repeal and reenactment. She discussed the protest that was submitted regarding petition submittal and detailed the changes noting the timeframe has not been reduced.

Coldiron detailed the other proposed changes and protest related to adding a 90-120 day time period wherein an election would be scheduled. She noted the proposal is for scheduling an election on the earliest possible Tuesday that the City Clerk could legally and logistically make that happen. She cited the blackout periods for voter registration data that the Secretary of State puts in place around elections. Additionally, City Clerk Coldiron presented the proposed ballot language.

**PROTEST HEARING:**

Mayor Arndt noted the protestor is not present and no Councilmembers had any questions related to the protest.

**Mayor Pro Tem Francis moved, seconded by Councilmember Potyondy, that Council deny the protest based on the information presented.**

**The motion carried, 7-0.**

**Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Ohlson, Potyondy, Canonico, Pignataro, and Gutowsky.**

**Nays: None.**

## PUBLIC COMMENT:

None.

## COUNCIL DISCUSSION:

Councilmember Pignataro asked when ranked choice voting will be able to be conducted by the City as most elections are now coordinated with the County. City Clerk Coldiron replied ranked choice voting will be implemented through the County in 2025.

Councilmember Pignataro asked if the City would be running a recall election. City Clerk Coldiron replied experts who have ranked choice voting equipment in place would need to be sought if the recall election was not part of a regular November election.

Councilmember Ohlson noted no Councilmember has been recalled in the last 50 years. He thanked the ECC for its work on the issues and asked what is meant by the next available Tuesday for holding a recall election. City Clerk Coldiron replied a full calendar would be laid out and it would be months prior to that election actually occurring.

**Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to adopt on First Reading, Ordinance No. 095, 2024, submitting to a vote of the registered electors of the City of Fort Collins repealing and reenacting Article IX of the City Charter relating to recall.**

**The motion carried, 7-0.**

**Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Ohlson, Potyondy, Canonico, Pignataro, and Gutowsky.**

**Nays: None.**

**14. Items Relating to a City Initiated Charter Amendment Relating to Initiative and Referendum.**

- A. *Possible Public Hearing and Motion(s) Regarding Protest(s) of Ballot Language.*
- B. *First Reading of Ordinance No. 096, 2024, Submitting to a Vote of the Registered Electors of the City of Fort Collins Repealing and Reenacting Article X of the City Charter Relating to Initiative and Referendum.*

*The purpose of this item is to set ballot language regarding proposed amendments to Article X of the City Charter relating to initiative and referendum provisions.*

*Any protest of the proposed ballot language must be received no later than Monday, July 1, 2024, at noon. Protest(s) shall be heard, considered, and resolved by the Council prior to adoption of the related Ordinance. If protests are received, copies will be included in Council's "Read Before the Meeting" packet.*

## STAFF PRESENTATION:

City Clerk Coldiron outlined the proposed changes to Article X relating to initiatives and referendums, including modernizing the language, changing the computation of time, and reorganizing the material, which is what requires the repeal and reenactment. She detailed the proposed process updates, including the proposal allowing for the City Clerk to work with the City Attorney to summarize ordinance language for initiative and referendum petitions.

City Clerk Coldiron stated the proposal was to remove the cure period for simplification purposes, which was protested. The current process does allow for an additional 15 days to get more signatures if the petition is not sufficient, and that process has been used in the past. City Clerk Coldiron noted there is no cure period allowed by the Colorado Municipal Election Code. She outlined the possible options, including increasing the initial circulation time to 70 or 77 days and removing the cure period.

City Clerk Coldiron discussed another protest related to election timing noting the protest sought to keep the requirement for having an election within 120 days, though the proposal is to change that to the earliest workable November election. Additionally, City Clerk Coldiron presented the proposed ballot language.

PROTEST HEARING:

Mayor Arndt noted the protestor is not present.

Mayor Pro Tem Francis expressed support for increasing the total time for circulating initiative petitions to either 70 or 77 days. Mayor Arndt concurred.

**Mayor Pro Tem Francis moved, seconded by Councilmember Potyondy, in considering Ordinance No. 096, 2024, incorporate modifications to address the concerns raised in the protest about total time for circulating initiative petitions.**

**The motion carried, 7-0.**

**Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Ohlson, Potyondy, Canonico, Pignataro, and Gutowsky.**

**Nays: None.**

PUBLIC COMMENT:

None.

COUNCIL DISCUSSION:

Councilmember Ohlson noted many more signatures are required for an initiative than a referendum and expressed support for increasing the circulation time. He commented on his experience using the cure period for an initiative in 1992.

Councilmember Potyondy also expressed support for extending the initial circulation time and asked if petition circulators are encouraged to acquire a number of signatures over and above the required amount. City Clerk Coldiron replied in the affirmative and outlined a plan for proactive outreach.

City Attorney Daggett discussed the location of the number that would be modified should Council desire to increase the circulation period.

**Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to adopt on First Reading, Ordinance No. 096, 2024, submitting to a vote of the registered electors of the City of Fort Collins repealing and reenacting Article X of the City Charter relating to initiative and referendum, amending 2(e)(1) to change the circulation period to 77 days.**

**The motion carried, 7-0.**

**Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Ohlson, Potyondy, Canonico, Pignataro, and Gutowsky.**

**Nays: None.**

**Clerk's Note: Mayor Arndt called for a break at this point in the meeting. The meeting resumed at 8:19 p.m.**

**15. Items Relating to Traffic Safety Initiative – Automated Vehicle Identification System (AVIS) Corridors.**

- A. *First Reading of Ordinance No. 097, 2024, Amending the Fort Collins Traffic Code to Implement a New Automated Vehicle Identification System (AVIS) to Replace the Previously-Approved AVIS to Support the Traffic Safety Initiative.*
- B. *First Reading of Ordinance No. 098, 2024, Designating Speed Corridors Pursuant to Fort Collins Traffic Code Section 1106.*
- C. *First Reading of Ordinance No. 099, 2024, Making Supplemental Appropriations to Support Additional Staffing and Expenses for Implementation of the Automated Vehicle Identification System Traffic Safety Initiative.*

*The purpose of this item is to recommend a proposal from Police Services and Planning, Development and Transportation (PDT), supported by the City Attorney's Office (CAO), and Municipal Court. This proposal stems from recent changes to Colorado law related to the expanded use of unmanned speed enforcement with Automated Vehicle Identification Systems (AVIS), on sections of roadways designated by the Council as speed corridors. The initiative's primary goal is to promote traffic safety through speed enforcement and supports Vision Zero, the Council's goal of eliminating Fort Collins roadway fatalities and reducing injury crashes.*

**STAFF REPORT:**

Lieutenant Jerrod Kinsman stated the Traffic Safety Initiative piggybacks on Council's Vision Zero initiative which has the goal of reducing fatal and serious injury accidents to zero. Kinsman discussed the study results from the City's red-light cameras which are operating at six different locations and noted speeding tickets are issued in those locations for speeds exceeding the speed limit by 11 miles per hour or more.

Sergeant Mike Averick provided additional detail on the 11 miles per hour over speed limit number noting state statute requires additional processes, including a warning, for violations that are less than 10 miles per hour over the speed limit. The 11 miles per hour number eliminates that warning period which makes the program more efficient.

Kinsman went on to discuss the corridors recommended for speed corridor consideration in the ordinances that are part of this item. Additionally, Kinsman discussed the court process that occurs with red light camera violations.

**PUBLIC COMMENT:**

None.

**COUNCIL DISCUSSION:**

Councilmember Potyondy commended the presentation and stated she would support this item as road safety is a pressing issue.

Councilmember Pignataro asked if the fees that are gathered from the red-light tickets will go back into initiatives that make the community road safer. Kinsman replied in the affirmative and stated

the fees have been earmarked for traffic safety in all aspects of the City, which could include infrastructure improvements, programs, services, or employees related to traffic safety.

Councilmember Canonico commended the presentation and work on the item. She stated her research has shown other communities are using the AVIS infrastructure to detect noise violations and asked if this vendor has that capability. Kinsman replied he was unsure if this vendor has that capability; however, addressing noise issues in the community is on the slate for additional work.

Mayor Arndt commented on the numbers of people who speed in the community and thanked staff for providing the data and commended their work on the issue.

Councilmember Ohlson stated this item speaks to the values and priorities of this Council. He commended the data and graphics provided in the presentation and asked if the level of the regular Police officer traffic enforcement going to stay at least at its current level given the red-light tickets are no points and only \$40. Kinsman replied all current traffic enforcement will continue.

Councilmember Gutowsky commended the work session report and this presentation. She asked some questions from constituents citing speed concerns on South College near Dairy Queen and Whole Foods. Kinsman replied there will be many new areas with this tool that will become good 'catch' areas. He also clarified the state law does not support using AVIS for noise enforcement; therefore, traditional forms of noise enforcement will continue.

Councilmember Gutowsky asked about truck traffic in the downtown area, particularly around Mountain and College. Kinsman replied truck traffic that should not be going through there is addressed and they are fined significantly if they are utilizing the roadway to avoid the highway port.

Councilmember Gutowsky asked under what circumstances large trucks would be allowed in that area. Kinsman replied they would be allowed for local deliveries.

**Mayor Pro Tem Francis moved, seconded by Councilmember Gutowsky, to adopt on First Reading, Ordinance No. 097, 2024, Amending the Fort Collins Traffic Code to Implement a New Automated Vehicle Identification System (AVIS) to Replace the Previously-Approved AVIS to Support the Traffic Safety Initiative.**

The motion carried, 7-0.

**Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Ohlson, Potyondy, Canonico, Pignataro, and Gutowsky.**

**Nays: None.**

**Mayor Pro Tem Francis moved, seconded by Councilmember Gutowsky, to adopt on First Reading, Ordinance No. 098, 2024, Designating Speed Corridors Pursuant to Fort Collins Traffic Code Section 1106.**

The motion carried, 7-0.

**Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Ohlson, Potyondy, Canonico, Pignataro, and Gutowsky.**

**Nays: None.**

**Mayor Pro Tem Francis moved, seconded by Councilmember Potyondy, to adopt on First Reading, Ordinance No. 099, 2024, Making Supplemental Appropriations to Support Additional Staffing and Expenses for Implementation of the Automated Vehicle Identification System Traffic Safety Initiative.**



**The motion carried, 7-0.**

**Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Ohlson, Potyondy, Canonico, Pignataro, and Gutowsky.**

**Nays: None.**

City Manager DiMartino recognized Lieutenant Jerrod Kinsman who will retire on Friday after 25 years in law enforcement.

**16. Resolution 2024-090 Adopting Amended Rules of Procedure Governing the Conduct of City Council Meetings and Council Work Sessions.**

*The purpose of this item is to consider updates to the Council Meeting Rules of Procedure that ensure the public has the opportunity to speak on all agenda items, provide general public comment, and allow the Council to effectively execute the business of the City. The update to the Meeting Rules also includes alignment to Ordinance No. 39, 2024 and clarification as to the purposes of staff, community and Council reports.*

**STAFF PRESENTATION:**

Rupa Venkatesh, Assistant City Manager, stated this update will organize regular Council meetings to ensure people have the opportunity to speak on all agenda items, including general public comment, consent and discussion items, and to allow Council to effectively execute the business of the City, update the rules to align with recent Code changes, and clarify to the public the purpose of community, staff, and Council reports by adding definitions to each of these in the rules of procedure.

Venkatesh noted there have been 31 meetings since October of 2022 when public comment sign-up was first required that 40 or fewer people have signed up to speak; therefore, staff is suggesting that the first general comment period is allocated for 40 speakers, or perhaps more if time allows up to 90 minutes. Venkatesh presented the proposed meeting agenda which would include the aforementioned public comment section as well as a section allowing for public comment for consent items prior to Council consideration of the Consent Calendar. Additionally, public comment would remain for any discussion item and an agenda item would be added to resume general public comment prior to Other Business.

Ginny Sawyer, Senior Policy Manager, stated any individual within the first 40 to sign up would receive a message indicating their place in the queue and any individual beyond the first 40 would receive a message indicating the first public comment portion will conclude after 90 minutes; therefore, their place in the queue may fall later in the meeting. Additionally, Sawyer noted the Mayor may adjust the initial public comment period if desired.

Venkatesh noted individuals will see how many speakers have already signed up when they open the link to do so.

**PUBLIC COMMENT:**

None.

**COUNCIL DISCUSSION:**

Councilmember Potyondy expressed support for most of the proposed changes and supported limiting general public comment at the beginning of the meeting because on the occasions wherein many speakers speak during general public comment, an equity issue could arise in terms of people being actively engaged in agenda items at a reasonable time of the evening. She expressed some concern about the equity issues with the first come, first served nature of being

able to sign up on the website and suggested potentially randomizing those who have signed up during the open window.

Mayor Arndt stated that is a good point; however, she noted individuals can speak to any agenda item which does present some predictability.

Councilmember Potyondy expressed concern about losing the voices of those who may not have many organized speakers but may still want to discuss an emergent issue in their neighborhood or in the community.

Councilmember Canonico noted people will always have the opportunity to speak at one point or another and concurred with Mayor Arndt.

Councilmember Pignataro asked if there will be a specific time when public comment sign-up opens. Venkatesh replied that the sign-ups currently open when the agenda gets posted, which has been at random times on Thursdays; however, it has been discussed to post the agendas and open sign-ups at a specific time on Thursdays.

Councilmember Ohlson requested staff clarify some language in the resolution. City Attorney Daggett stated some punctuation items do need to be cleaned up prior to posting. She outlined the options for clarifying the provision in the rule as mentioned by Councilmember Ohlson, including striking the recital and renumbering the others.

Councilmember Ohlson asked about the use of the word 'misusing' stating it is quite broad. City Attorney Daggett replied it is intended to be broad as it is difficult to define what kinds of things someone could be doing in the building that staff does not intend for them to be doing.

Councilmember Ohlson requested a summary of the reason sign-ups are now required for public comment. Sawyer replied the sign-up helps to provide an understanding of how many constituents are speaking versus non-constituents. Additionally, it is helpful to know ahead of time a rough number of speakers and the sign-up helps to manage remote participation as well.

Councilmember Ohlson asked what occurs if a technically challenged person arrives at 5:30 and wants to sign up. Sawyer replied there is not a great deal of leeway; however, staff does try to help people sign up, though there will be times when people do not make the cut-off.

Councilmember Ohlson requested an explanation of the suggestion for the 40 speakers, 90 minutes. Sawyer replied Council has a variety of high-priority jobs, including listening to constituents and doing City business, and City business can only occur at meetings; however, listening to constituents can occur either at meetings, through email, or through listening sessions. Sawyer stated this piece is aimed at providing a balance.

Councilmember Ohlson stated he would support the item; however, it is a difficult decision as it is a large change, though Fort Collins remains one of the best municipalities in the region for in-meeting public participation.

**Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt Resolution 2024-090 Adopting Amended Rules of Procedure Governing the Conduct of City Council Meetings and Council Work Sessions, removing "E".**

Mayor Pro Tem Francis stated she will support the item as it provides additional predictability and transparency about business items at an appropriate hour.

Councilmember Pignataro thanked Sawyer for her synopsis and stated Council makes its best decisions when there is a predictable cadence of when the decisions are made. She commented

on changes that have been made to public comments to this point and noted they have been positive.

Councilmember Potyondy stated her biggest concern is ensuring people who have obstacles to engagement have an equal opportunity. She concurred with Sawyer's synopsis of the various ways in which individuals can connect with Councilmembers.

Councilmember Gutowsky thanked Sawyer for the reminder about why the sign-ups have been valuable and stated community comment is her favorite portion of meetings; however, she expressed support for the proposal and balance it provides.

Mayor Arndt thanked staff for the great work.

**The motion carried, 7-0.**

**Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Ohlson, Potyondy, Canonico, Pignataro, and Gutowsky.**

**Nays: None.**

## P) OTHER BUSINESS

### OB 1. **Possible consideration of the initiation of new ordinances and/or resolutions by Councilmembers.**

*(Three or more individual Councilmembers may direct the City Manager and City Attorney to initiate and move forward with development and preparation of resolutions and ordinances not originating from the Council's Policy Agenda or initiated by staff.)*

Mayor Pro Tem Francis requested and received Council support for having Council consider a resolution regarding the concrete batch plant at its next meeting.

Councilmember Ohlson clarified that there will be a new recreation center in southeast Fort Collins with two or three pools and stated his point of frustration was that the Parks and Recreation refresh tax money would be spent on parts of the complex other than the pools, which he thought would violate how the tax was described to the public.

Councilmember Canonico asked if staff is preparing the requested memo related to the details of what the ballot language stated. City Manager DiMartino replied that was not included in the work session follow-up memo and noted the topic will be addressed holistically in the fall with additional information as to the scope and cost of the project. However, she stated an additional memo could be provided if desired.

### OB 2. **Consideration of a motion to cancel the Tuesday, August 6, 2024, Regular Council meeting:**

**Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, pursuant to City Code Section 2-28(a), that Council cancel its regular meeting on Tuesday, August 6, 2024, due to Neighborhood Night Out.**

**The motion carried, 7-0.**

**Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Ohlson, Potyondy, Canonico, Pignataro, and Gutowsky.**

**Nays: None.**

**Q) ADJOURNMENT**

There being no further business before the Council, the meeting was adjourned at 9:26 p.m.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

DRAFT

July 16, 2024

**COUNCIL OF THE CITY OF FORT COLLINS, COLORADO**

**Council-Manager Form of Government**

**Regular Meeting – 6:00 PM**

**PROCLAMATIONS AND PRESENTATIONS  
5:00 PM**

**A) PROCLAMATIONS AND PRESENTATIONS**

None scheduled.

**REGULAR MEETING  
6:00 PM**

**B) CALL MEETING TO ORDER**

Mayor Jeni Arndt called the regular meeting to order at 6:00 p.m. in the City Council Chambers at 300 Laporte Avenue, Fort Collins, Colorado, with hybrid participation available via the City's Zoom platform.

**C) PLEDGE OF ALLEGIANCE**

Mayor Jeni Arndt led the Pledge of Allegiance to the American Flag.

**D) ROLL CALL**

**PRESENT**  
Mayor Jeni Arndt  
Mayor Pro Tem Emily Francis  
Councilmember Susan Gutowsky  
Councilmember Tricia Canonico  
Councilmember Melanie Potyondy  
Councilmember Kelly Ohlson

**ABSENT**  
Councilmember Julie Pignataro

**STAFF PRESENT**  
City Manager Kelly DiMartino  
Deputy City Attorney Jenny Lopez Filkins  
City Clerk Delynn Coldiron

**E) CITY MANAGER'S AGENDA REVIEW**

City Manager Kelly DiMartino provided an overview of the agenda, including:

- All items on the consent agenda were recommended for approval with no changes.
- The items on the discussion agenda were reviewed.

- Staff Report regarding the Police Explorers Program.

## F) COMMUNITY REPORTS

None.

## G) PUBLIC COMMENT ON ANY TOPICS OR ITEMS OR COMMUNITY EVENTS (Including requests for removal of items from Consent Calendar for individual discussion.)

Kimberly Conner discussed two Instagram accounts regarding Palestine and Gaza and requested Council adopt a ceasefire resolution.

Cherie Trine discussed the famine in Gaza and stated Israel is still using bombs from the United States. Trine discussed a peaceful protest at Prospect and I-25 during which a banner was torn down and stolen, and a protestor was struck by the individual's car. Trine discussed the lack of Police response to the issue.

Rachel Griffin spoke in opposition to the concrete batch plant proposed for the Aragon property. Griffin cited air pollution and the negative health impacts of such a plant.

Greg Owsley spoke in opposition to the concrete batch plant proposed for the Aragon property. Owsley discussed studies indicating batch plants near residential communities lead to health damage and premature deaths which far outweigh the economic development benefits. Additionally, Owsley discussed truck traffic and resulting air pollution. Owsley also noted the majority of the neighborhoods that will be disproportionately impacted are of lower income.

Susan Rychel spoke in opposition to the concrete batch plant proposed for the Aragon property. Rychel read a letter from Kent Rychel regarding the effects of the plant on a Blue Heron rookery in Terry Lake that is 200 yards from the proposed batch plant.

Andre Dunn discussed the illegal seizure of CSU land grant parcels from sovereign tribal nations, including the former Hughes Stadium site. Dunn encouraged Council to repatriate the land to the indigenous people enabling them to freely practice their spirituality and heal the land.

Tiffin Vaughn spoke in opposition to the concrete batch plant proposed for the Aragon property and discussed the memo from City Planner Puga outlining the reasons the plant does not fit City policies.

Claire Kopp discussed businesses in Colorado and Fort Collins that support the Israeli army and United States defense contractors. Kopp suggested these are the reasons Council will not support a ceasefire resolution.

Glenna Brissey spoke in opposition to the concrete batch plant proposed for the Aragon property stating it would be an eyesore for the area and is a heavily industrial and dangerous use. Brissey also discussed water, sewer, and air quality concerns and spoke of detrimental impacts to wildlife.

Greg Brissey spoke in opposition to the concrete batch plant proposed for the Aragon property stating the site is not zoned for such a use. Brissey discussed the impacts of increased truck traffic, toxic diesel fumes, and dust and noise issues.

Elizabeth Hudetz discussed PRPA's lack of investment in clean energy initiatives and continued investment in methane fuel generation. Hudetz announced a rally at the PRPA facility on July 17th.

Joe Rowan discussed the limits of governmental restraint and commented on a Supreme Court decision which scolded County Commissioners in California for foisting the cost of visionary plans upon

the future. Rowan discussed Council's decision in 2017 to essentially double the development imp fee through capital expansion fees.

Item 1.

Ann Hutchison, Fort Collins Area Chamber of Commerce, expressed support for the City's street maintenance program and expressed support for referring the extension of the tax measure to the ballot.

Amanda Finch spoke in support of Item No. 10, *Items Relating to Traffic Safety Initiative – Automated Vehicle Identification System (AVIS) Corridors*, and stated the key to a successful program is the signage implementation to make people aware of the zones. Finch stated the goal of the program should be to protect not to profit.

Jerry (no last name given) spoke in opposition to the concrete batch plant proposed for the Aragon property and discussed the several variances that have been requested for the project pertaining to onsite wastewater treatment, fire protection requirements, building height, and others. Additionally, Jerry discussed the large number of conditions for the proposal.

Public comment concluded at 6:48 p.m.

#### H) PUBLIC COMMENT FOLLOW-UP

None.

#### I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION

None.

#### J) CONSENT CALENDAR

1. **Second Reading of Ordinance No. 083, 2024, Appropriating Prior Year Reserves in the Redlight Camera Fund Within the General Fund for Additional Staffing for Municipal Court and City Attorney's Office to Support the Increased Police Enforcement Cases.**

*This Ordinance, unanimously adopted on First Reading on July 2, 2024, appropriates \$179,122 from the Redlight Camera Fund to add additional staffing for Municipal Court (1 full time equivalent [FTE]) and the City Attorney's Office Prosecution Team (2 FTE's) to support the Traffic Safety initiative and the increased number of enforcement cases that are already occurring. This new staffing will handle increases in police enforcement cases and is in addition to the request for the Automated Vehicle Identification Systems (AVIS) and speed corridors item also being presented to Council on July 2, 2024.*

**Adopted on Second Reading.**

2. **Second Reading of Ordinance No. 084, 2024, Appropriating Philanthropic Revenue Received Through City Give for the Lincoln Center, Cultural Services.**

*This Ordinance, unanimously adopted on First Reading on July 2, 2024, requests an appropriation of \$12,500 in philanthropic revenue designated for the Lincoln Center, Cultural Services designated as a Sponsorship.*

**Adopted on Second Reading.**

3. **Second Reading of Ordinance No. 085, 2024, Appropriating Philanthropic Revenue Received Through City Give for the Community Development and Neighborhood Services 2024 AARP Community Challenge.** Item 1.

*The Ordinance, unanimously adopted on First Reading on July 2, 2024, requests an appropriation of \$20,000 in philanthropic revenue received through City Give for Neighborhood Services, Community Development and Neighborhood Services, Planning, Development and Transportation to support healthy outcomes for residents' homes through three, one-day, homeowner workshops at Skyline, North College, and Harmony Village mobile home communities.*

**Adopted on Second Reading.**

4. **Second Reading of Ordinance No. 086, 2024, Appropriating Philanthropic Revenue Received Through City Give for NextGen, Volunteer Services.**

*This Ordinance, unanimously adopted on First Reading on July 2, 2024, is to request an appropriation of \$20,000 in philanthropic revenue received through City Give for the designated support of NextGen, Volunteer Services.*

*In 2019, City Give, a formalized enterprise-wide initiative was launched to create a transparent, non-partisan governance structure for the acceptance and appropriations of charitable gifts.*

**Adopted on Second Reading.**

5. **Items Relating to the Repeal and Reenactment of Certain Ordinances.**

*A. Second Reading of Ordinance No. 087, 2024, Repealing Ordinance No. 074, 2024, and Making Supplemental Appropriations in the Community Development Block Grant Fund.*

*B. Second Reading of Ordinance No. 088, 2024, Repealing Ordinance No. 075, 2024, and Making Supplemental Appropriations in the HOME Investments Partnerships Grant Fund.*

*C. Second Reading of Ordinance No. 089, 2024, Repealing Ordinance No. 076, 2024, and Making Supplemental Appropriation for the Charter Review Council Priority from General Fund Reserves.*

*D. Second Reading of Ordinance No. 090, 2024, Repealing Ordinance No. 077, 2024, and Appropriating Philanthropic Revenue Received Through City Give for the Cultural Community Program Through Cultural Services.*

*E. Second Reading of Ordinance No. 091, 2024, Repealing Ordinance No. 078, 2024, and Appropriating Prior Year Philanthropic Revenue Reserves Received by City Give for the 9/11 Memorial at Spring Park.*

*F. Second Reading of Ordinance No. 092, 2024, Repealing Ordinance No. 079, 2024, and Making a Supplemental Appropriation and Authorizing Transfer of Appropriations for The Gardens on Spring Creek Internship Program.*

*These Ordinances, unanimously adopted on First Reading on July 2, 2024, were requested by staff to repeal each Ordinance as they were adopted on June 18, 2024, due to a publication error. These Ordinances were unanimously adopted on First Reading on June 4, 2024.*

**All Items Adopted on Second Reading.**



6. **Second Reading of Ordinance No. 093, 2024, Calling a Special Election to be Held in Conjunction with the November 5, 2024, Larimer County General Election.** Item 1.

*This Ordinance, unanimously adopted on First Reading on July 2, 2024, calls a Special Municipal Election to be held in conjunction with the November 5, 2024, Larimer County Coordinated Election, and to preserve the opportunity for Council to place initiated or referred issues on the November ballot.*

**Adopted on Second Reading.**

7. **Second Reading of Ordinance No. 094, 2024, Submitting to a Vote of the Registered Electors of the City of Fort Collins Proposed Amendments to Article VIII of the City Charter Relating to Elections.**

*This Ordinance, unanimously adopted on First Reading on July 2, 2024, sets ballot language regarding proposed amendments to Article VIII of the City Charter relating to election provisions.*

**Adopted on Second Reading.**

8. **Second Reading of Ordinance No. 095, 2024, Submitting to a Vote of the Registered Electors of the City of Fort Collins Repealing and Reenacting Article IX of the City Charter Relating to Recall.**

*This Ordinance, unanimously adopted on First Reading on July 2, 2024, sets ballot language regarding proposed amendments to Article IX of the City Charter relating to recall provisions.*

**Adopted on Second Reading.**

9. **Second Reading of Ordinance No. 096, 2024, Submitting to a Vote of the Registered Electors of the City of Fort Collins Repealing and Reenacting Article X of the City Charter Relating to Initiative and Referendum.**

*This Ordinance, unanimously adopted on First Reading on July 2, 2024, sets ballot language regarding proposed amendments to Article X of the City Charter relating to initiative and referendum provisions.*

**Adopted on Second Reading.**

10. **Items Relating to Traffic Safety Initiative – Automated Vehicle Identification System (AVIS) Corridors.**

*A. Second Reading of Ordinance No. 097, 2024, Amending the Fort Collins Traffic Code to Implement a New Automated Vehicle Identification System (AVIS) to Replace the Previously-Approved AVIS to Support the Traffic Safety Initiative.*

*B. Second Reading of Ordinance No. 098, 2024, Designating Speed Corridors Pursuant to Fort Collins Traffic Code Section 1106.*

*C. Second Reading of Ordinance No. 099, 2024, Making Supplemental Appropriations to Support Additional Staffing and Expenses for Implementation of the Automated Vehicle Identification System Traffic Safety Initiative.*

*These Ordinances, unanimously adopted on First Reading on July 2, 2024, recommend a proposal from Police Services and Planning, Development and Transportation (PDT), supported by the City Attorney's Office (CAO), and Municipal Court. This proposal stems from recent changes to Colorado law related to the expanded use of unmanned speed enforcement with Automated Vehicle Identification Systems (AVIS), on sections of roadways designated by the Council as*

speed corridors. The initiative's primary goal is to promote traffic safety through speed enforcement and supports Vision Zero, the Council's goal of eliminating Fort Collins roadway fatalities and reducing injury crashes. Item 1.

**All Items Adopted on Second Reading.**

**11. Items Relating to Golf Enterprise Expenses.**

*A. First Reading of Ordinance No. 100, 2024, Appropriating Prior Year Reserves for the Golf Enterprise.*

*B. First Reading of Ordinance No. 101, 2024, Appropriating Prior Year Reserves in the Golf Fund for the Replacement of Necessary Systems at the Southridge and Collindale Golf Courses.*

*The purpose of these items is to consider an appropriation of \$730,930 from Golf Fund Reserves for necessary system replacement and an appropriation of \$350,000 from unanticipated excess revenue to the 2024 budget to address the additional costs in Golf primarily related to higher revenues.*

**All Items Adopted on First Reading.**

**12. First Reading of Ordinance No. 102, 2024, Appropriating Prior Year Reserves in the Conservation Trust Fund for Park Planning and Development Funding Community Bike Park Feasibility and Community Engagement.**

*The purpose of this item is to request an appropriation of \$70,000 to Park Planning and Development to conduct a community-scale bike park feasibility study as directed by Council at the June 11 Work Session. The feasibility study will include an evaluation of potential bike park locations, associated capital and on-going costs, identification of park amenities and features, and a community engagement process. This item is in response to public input from the 2021 Parks and Recreation Plan: Recreate, and recent significant community input.*

**Adopted on First Reading.**

**13. First Reading of Ordinance No. 103, 2024, Appropriating Philanthropic Revenue Received by City Give for the Renovation of the Historic Carnegie Library as Designated by the Donor.**

*The purpose of this item is to request appropriation of \$100,000 in philanthropic revenue received by City Give for The Community Center for Creativity as designated by the donor.*

*In 2019, City Give, a formalized enterprise-wide initiative was launched to create a transparent, non-partisan governance structure for the acceptance and appropriations of charitable gifts.*

**Adopted on First Reading.**

**14. First Reading of Ordinance No. 104, 2024, Appropriating Unanticipated Revenue in the Cultural Services and Facilities Fund for Artist and Musicians' Fees for Shows at the Lincoln Center.**

*The purpose of this item is to consider an appropriation of \$644,000 in unanticipated revenue in 2024 for expenses related to Artists and Musicians Fees for LC Live shows at the Lincoln Center.*

**Adopted on First Reading.**

15. **First Reading of Ordinance No. 105, 2024, Making a Supplemental Appropriation of Funds from the Colorado Department of Public Health and Environment, Environmental Justice Grant for the Cultivating Community-Led Resilient Homes Project and Approving a Related Intergovernmental Agreement.** Item 1.

*The purpose of this item is to support the City's commitment to advancing equity and environmental justice for all Fort Collins community members by appropriating \$168,874 of unanticipated grant revenue awarded by the Colorado Department of Public Health and Environment (CDPHE) for the Cultivating Community-Led Resilient Homes project.*

**Adopted on First Reading.**

16. **Resolution 2024-091 Approving the Acquisition and Installation of a Public Asphalt Art Mural on Canyon Avenue.**

*The purpose of this item is to approve the acquisition and installation of a work of art at the intersection of Canyon/Magnolia/Sherwood, which exceeds \$30,000 in cost. Council has previously appropriated \$25,000 (appropriated 5/7/24) from the Bloomberg Asphalt Art Innovations Grant which will be used to partially fund the installation. Additional funds to be used for this project will come from the Community Capital Improvement Program for Pedestrian Sidewalk/ADA compliance and Bicycle Infrastructure Improvements, which will support the traffic calming elements of the project. The total project cost of \$56,500 will cover artist honorarium, materials, traffic plans, barricades, installation, ADA materials, site preparation striping and community engagement supplies.*

**Adopted.**

#### **END OF CONSENT CALENDAR**

*The motion carried 6-0.*

**Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to approve the recommended actions on items 1-16 on the Consent Calendar.**

- K) CONSENT CALENDAR FOLLOW-UP** *(This is an opportunity for Councilmembers to comment on items adopted or approved on the Consent Calendar.)*

Councilmember Gutowsky commented on Item No. 16, *Resolution 2024-091 Approving the Acquisition and Installation of a Public Asphalt Art Mural on Canyon Avenue*, and discussed the traffic calming effects of such installations.

Councilmember Ohlson asked if the proposed schedule for Item No. 12, *First Reading of Ordinance No. 102, 2024, Appropriating Prior Year Reserves in the Conservation Trust Fund for Park Planning and Development Funding Community Bike Park Feasibility and Community Engagement*, will work in tandem with the process of outreach on the Hughes Stadium site. City Manager DiMartino replied this item is coming forward now to ensure coordination between the two projects. Ginny Sawyer, Senior Policy and Project Manager, stated the two project teams are working closely together.

Councilmember Gutowsky discussed the bicycle facility survey which showed a bike park to be of a lower priority than other infrastructure and requested clarification. Sawyer replied there was some question as to how people wanted to categorize their bike infrastructure priorities and there may have been some overlap in distinguishing between the two. Sawyer stated it will be further addressed with Parks.

## L) STAFF REPORTS

Item 1.

### A. Highlight the Explorer Program from Fort Collins Police Services.

*The purpose of this item is to highlight and recognize the Fort Collins Police Services' Explorer Program for the volunteer services the members provide to Fort Collins Police Services and the community and to recognize the Explorers who recently participated in a national Explorer competition.*

Frank Barrett, Assistant Police Chief, provided an overview of the Explorer Program, which is a volunteer program for youth ages 15-21 who are interested in the criminal justice field. Barrett commented on the leadership, communication, teamwork, and conflict resolution skills provided by the program. Barrett discussed the structure of the program and outlined the services provided by participants in the community. Barrett recognized the Police Officer advisors who work with the Explorers as mentors. Additionally, Barrett discussed a recent national Explorer competition in Topeka, Kansas during which the Fort Collins group placed second overall.

Sage Madden, Explorer Program Lieutenant, and Emily Barrett, Explorer Program Sergeant, discussed working with the Explorer program.

Mayor Arndt asked how long an Explorer can serve. Madden replied Explorers can serve from ages 15-21.

Councilmember Gutowsky commented on an individual who works with security operations within the City who graduated from the Explorer program.

Councilmember Ohlson asked if any graduates of the program have gone on to become Police Officers either in Fort Collins or elsewhere. Assistant Police Chief Barrett replied the program has been very successful in recruiting efforts with Explorers and there are at least four Police Services Officers who started out in the program, as well as one dispatcher and one professional staff member.

Councilmember Potyondy thanked the Explorers for their service to the community.

## M) COUNCILMEMBER REPORTS

Councilmember Susan Gutowsky

- Attended the event during which Transfort received a \$2.4 million grant from the Federal Transit Administration to fund its accessibility enhancement project which includes ten new ADA compliant bus stops to help accommodate future service expansion on North College Avenue.

Councilmember Melanie Potyondy

- Visit to the site for an upcoming solar project in Severance that will serve PRPA.

Councilmember Tricia Canonico

- Participated in a workshop in Washington, D.C. that was a collaboration between the National League of Cities and the National Urban Research and Extension Center at Washington State University.
- Reported on her neighbor, John Lambert, who was hit by a car on his bicycle at the end of June and succumbed to his injuries on July 3<sup>rd</sup>. She reminded everyone to be mindful of vulnerable road users.

(Clerk's Note: Mayor Arndt called for a brief recess at 7:14 p.m. The meeting resumed at 7 p.m.)

Item 1.

**N) CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR FOR INDIVIDUAL DISCUSSION**

None.

**O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION**

**17. Items Relating to the Civic Assembly Process.**

*A. First Reading of Ordinance No. 106, 2024, Appropriating Prior Year Reserves in the General Fund for a Civic Assembly Process in Relation to the Hughes Stadium Site.*

*B. Resolution 2024-092 Approving an Exception to the Competitive Purchasing Process to Procure Professional Services from Healthy Democracy Fund Related to a Civic Assembly Process for the Hughes Master Plan.*

*The purpose of this item is to appropriate one-time dollars in the amount of \$150,000 to be used for a Civic Assembly engagement process in relation to the Hughes Site Plan work. Staff is also requesting that City Council approve a sole source exception for Healthy Democracy Fund to provide services related to the design, coordination and implementation of a civic assembly should grant revenue bring the project above \$200,000.*

Rupa Venkatesh, Assistant City Manager, stated the Council Futures Committee learned about civic assemblies at a recent meeting and stated staff is proposing the idea of a civic assembly as one engagement tool in the Hughes Site Master Plan process.

Rahmin Sarabi, American Public Trust, detailed the civic assembly process and stated civic assemblies empower the wisdom of 'we the people' to solve tough public problems and bridge divides. Sarabi stated the Council ultimately has the final say and may choose to accept some of the assembly's recommendations and not accept others. Sarabi noted a civic assembly differs from typical public engagement in terms of who is in the room, what is happening in the room, and how recommendations are generated. Participants are selected through a civic lottery via invitations and recommendations are typically generated with super majority support.

Linn Davis, Health Democracies, further detailed the selection by civic lottery process, which includes sending invitations to random households allowing individuals to opt in to the lottery. Davis noted the key aspect of the lottery is that it creates a representative microcosm of the larger public. Davis discussed the standard compensation and benefits provided to members of the assembly to help decrease barriers to participation. Davis went on to detail the way assembly participation works to create supportive problem solving and discussed the super majority aspect of recommendation generation.

Sarabi stated his organization would assist in this process by helping work with national funders and to support City staff with any local or regional funders to match the City's funds to allow for a fuller, more robust assembly process.

**PUBLIC COMMENT:**

None.

**COUNCIL DISCUSSION:**

Mayor Arndt noted the time for the process was referenced as four to eight days and requested additional detail. Davis replied one of the things that makes these processes different is the

cohesion of the panel and building of camaraderie and stated panels are often done over a couple weekends. Davis stated it is not a preference to do evenings for more full-fledged processes.

Item 1.

Councilmember Canonico asked how this process would ensure minority groups are well-represented. Sarabi replied this should not replace any existing engagement spaces the City has created to welcome the minority voice. Additionally, the lottery process is meant to be as inclusive as possible across demographics and key stakeholder groups would provide testimony to assembly members. Davis reiterated the assembly process does not replace any of the other public input processes that make democracy function and stated it is beneficial to have assemblies work in concert with other processes. Venkatesh noted the Equity and Inclusion Office has been doing ongoing work with the indigenous community and that work will continue in conjunction with this process.

Councilmember Gutowsky asked how it will be ensured that all minority groups are represented in the assembly. Ginny Sawyer, Senior Policy and Project Manager, replied there will be check-in points with Council to ensure needs are being met as the process is designed.

Councilmember Potyondy noted the lottery process does involve some stratification and is not a pure lottery process. Additionally, she noted the civic assembly does not take away the opportunity for engagement by all.

Councilmember Gutowsky asked about the overall timeframe for the process. Sawyer replied staff has discussed running the assembly process in the first quarter of next year.

Mayor Pro Tem Francis expressed support for the item stating it is a creative approach to getting a more representative and diverse set of inputs.

Mayor Arndt also expressed support for the item and applauded staff for bringing forth a new idea, particularly citing the fact that the Hughes Stadium site was taken to the ballot.

Councilmember Gutowsky stated she would not support the item and expressed concern about spending the money on a process that is superfluous. She stated voters directed Council to use tax dollars to purchase the property for the purpose stated in the initiative, specifically low-impact activities. She stated she does not believe a civic assembly process is necessary to answer a question that has already been answered.

Councilmember Potyondy stated the decision about the use of the property has yet to be made due to the broad ballot language. She supported the civic assembly process to determine the vision of taxpayers and noted Council will be the ultimate decision maker.

Councilmember Canonico also expressed support for the item stating it will be an opportunity for the community try a new process to provide input as to what exactly should be done with the property.

**Mayor Pro Tem Francis moved, seconded by Councilmember Potyondy, to adopt on First Reading Ordinance No. 106, 2024, Appropriating Prior Year Reserves in the General Fund for a Civic Assembly Process in relation to the Hughes Stadium site.**

**The motion carried 4-2.**

**Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Canonico and Potyondy.**

**Nays: Councilmembers Gutowsky and Ohlson.**

**Mayor Pro Tem Francis moved, seconded by Councilmember Potyondy, to adopt Resolution 2024-092, Approving an Exception to the Competitive Purchasing Process to Procure Professional Services from Healthy Democracy Fund Related to a Civic Assembly Process for the Hughes Master Plan.**

**The motion carried 4-2.**

**Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Canonico and Potyondy.**

**Nays: Councilmembers Gutowsky and Ohlson.**

Item 1.

**18. Items Relating to the Submission to the Voters of a Ballot Question Extending the Quarter-Cent Sales and Use Tax for the Street Maintenance Program.**

*The purpose of this item is to set the ballot language and refer the Street Maintenance Program tax renewal to the November 5, 2024, election.*

*A. Possible Public Hearing and Motion(s) Regarding Protest(s) of Ballot Language.*

*B. Resolution 2024-093 Submitting to the Registered Electors of the City at the November 5, 2024, Regular City Election the Question of the Extension of the Expiring Quarter-Cent Sales and Use Tax Used to Fund the City's Street Maintenance Program.*

*Any protest of the proposed ballot language must be received no later than Monday, July 17, 2024, at noon. Protest(s) shall be heard, considered, and resolved by the Council prior to adoption of the related Ordinance. If protests are received, copies will be included in Council's "Read Before the Meeting" packet.*

Ginny Sawyer, Senior Policy and Project Manager, stated this item would refer a ballot question for the City's street maintenance program. Sawyer outlined the history of the tax, noting this is a renewal, not an increase, and stated staff is recommending a 20-year term on the renewal as opposed to a 10-year term. Sawyer discussed what is funded by the street maintenance tax dollars, provided a history of the city's dedicated taxes, and provided the proposed ballot language.

**PUBLIC COMMENT:**

None.

**COUNCIL DISCUSSION:**

Councilmember Ohlson asked why the  $\frac{1}{4}$  cent tax, which would ultimately raise \$10-11 million annually, is listed as \$8.7 million per year. Travis Storin, Chief Financial Officer, replied the portion of the tax that is going directly to the street maintenance program is \$8.7 million, and the remainder is used for traffic signals and other assets.

Councilmember Ohlson questioned why the entire amount is not committed to street maintenance specifically to make things more transparent. Storin replied the language change is to clarify a practice that has been an eligible use for the life of the tax, noting some of those types of assets have been previously funded by the tax.

Councilmember Ohlson expressed concern about the concrete replacement program which has flaws and lacks oversight and expressed concern about the ballot language, particularly the wording 'but not limited to.'

Mayor Pro Tem Francis requested clarification as to whether this is clarifying the ballot language to be more transparent. Storin replied no eligible uses for the tax dollars are being added; however, more specific definitions are being added to historic uses.

Councilmember Canonico noted a significant number of street miles have been added to the network over the past ten years and asked how many more are anticipated over the next twenty years as the city is nearing build out. Storin replied that will largely be driven by the growth management area and annexations rather than construction of new lane miles. He stated specific numbers could be provided in writing.

Mayor Arndt expressed support for the item and the specifics provided in the ballot language.

Item 1.

**Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to adopt Resolution 2024-093 Submitting to the Registered Electors of the City at the November 5, 2024, Regular City Election the Question of the Extension of the Expiring Quarter-Cent Sales and Use Tax Used to Fund the City's Street Maintenance Program.**

**The motion carried 5-1.**

**Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Gutowsky, Potyondy, and Canonico.**

**Nays: Councilmember Ohlson.**

**19. Resolution 2024-094 Regarding the City's Position on the Northern Integrated Supply Project.**

*The purpose of this item is to update and clarify the City's position on the Northern Integrated Supply Project (NISP) in light of current project status and the potential that Northern Water may seek a 1041 permit from the City.*

Deputy City Manager Tyler Marr noted NISP has been ongoing for decades and stated the City has taken positions on the project since 2008. Marr noted two major things have happened since Council last took a position in 2020: Northern Water was awarded a 404 permit from the Corps of Engineers, which signals the completion of the federal permitting process, and, in May of 2023, Council adopted 1041 regulations which is a set of regulations pertaining to environmental considerations for large infrastructure projects. Marr noted Northern Water may seek a 1041 permit from the City which would require a quasi-judicial process predicated on the notion of a fair and non-prejudicial hearing; therefore, staff is recommending Council rescind its previous positions on NISP.

**PUBLIC COMMENT:**

None.

**COUNCIL DISCUSSION:**

Councilmember Potyondy asked if Council's previous statements could be used as reason to say it is not going into the process in a non-biased manner. Marr replied staff believes rescinding the previous positions recognizes the new stage of the project.

**Mayor Pro Tem Francis moved, seconded by Councilmember Potyondy, to adopt Resolution 2024-094 Regarding the City's Position on the Northern Integrated Supply Project.**

**The motion carried 5-1.**

**Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Potyondy, Canonico, and Gutowsky.**

**Nays: Councilmember Ohlson.**

**20. Resolution 2024-095 Expressing Opposition to a Concrete Batch Plant Proposed within the City's Growth Management Area.**

*Larimer County is processing a development application for a proposed concrete batch plant near the intersection of Highway 287 and Terry Lake Road. Planning staff sent comments to County Planning staff on January 29, 2024. Planning staff commented that the development proposal does not align with the vision and plans for Fort Collins in this area. As such, Planning staff do not support the development proposal.*



On July 2, 2024, City Council discussed the development proposal during Other Business and requested a resolution to formally express their opposition to the development project.

Item 1.

#### PUBLIC COMMENT:

Doreen Martinez commented on the importance of keeping up with the science in terms of environmental issues, particularly environmental justice, and noted the populations that are directly adjacent to the proposed concrete plant are primarily lower-income and Spanish speaking. Additionally, Martinez commented on the number of variances and conditions being sought by the proposal.

#### COUNCIL DISCUSSION:

Mayor Arndt expressed support for the resolution and thanked those who spoke on the topic.

Councilmember Gutowsky asked about the zoning of the property. Clay Frickey, Planning Manager, replied the property is currently zoned in the County, but if it were to be annexed into the City, it would likely be zoned as a commercial property which would not permit heavy industrial uses.

Councilmember Gutowsky asked what impact this resolution would have on the situation. Frickey replied the passage of the resolution would give Council the ability to speak to the County Commissioners when there is a hearing for the project and would also require staff to keep Council updated as to the progress of the project as it goes through the County's development review process. Additionally, Frickey noted the County Land Use Code requires the County to ask the City to provide comments as to whether the plan is in concurrence with the future vision for the City if the property were to be annexed and whether it is eligible for annexation. Frickey noted City planning staff provided information to County planning staff regarding the fact that this project is not in concurrence with the City's vision for the future of the corridor and that the property is not eligible for annexation as it is not contiguous with City limits.

Deputy City Manager Tyler Marr noted adoption of this resolution ups what would normally be done for any standard review and would allow staff to represent Council at any County hearing.

Councilmember Canonico expressed support for the resolution and thanked staff for working quickly to bring it forth.

Councilmember Ohlson expressed support for the resolution but noted it took public comment for Council to be made aware of the issue. He asked what can be done in the future when a County project is opposed by City staff. City Manager DiMartino replied this issue has started to spur some internal dialogue around the threshold for these matters. She noted the process has historically been for the City to provide written comments and only to engage at more of an advocacy level if so directed by Council.

Mayor Pro Tem Francis noted this issue was brought up by staff at Leadership Planning Team.

**Mayor Pro Tem Francis moved, seconded by Councilmember Gutowsky, to adopt Resolution 2024-095 Expressing Opposition to a Concrete Batch Plant Proposed within the City's Growth Management Area.**

**The motion carried 6-0.**

**P) OTHER BUSINESS**

Item 1.

**OB 1. Possible consideration of the initiation of new ordinances and/or resolutions by Councilmembers.**

*(Three or more individual Councilmembers may direct the City Manager and City Attorney to initiate and move forward with development and preparation of resolutions and ordinances not originating from the Council's Policy Agenda or initiated by staff.)*

None.

**OB 2. Consideration of a Motion to go into Executive Session.**

**Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, that the City Council go into executive session pursuant to:**

- **City Charter Article Roman Numeral Two, Section 11(2),**
- **City Code Section 2-31(a)(2), and**
- **Colorado Revised Statutes Section 24-6-402 subsection (4)(b)**

**for the purpose of discussing with the City's attorneys and appropriate management staff the following:**

- 1. specific legal questions related to oil and gas regulatory compliance and enforcement actions pending for the Fort Collins field; and**
- 2. the manner in which the particular policies, practices or regulations of the City and existing or proposed provisions of federal, state or local law may affect oil and gas regulatory compliance and enforcement for the Fort Collins field.**
- 3. specific legal questions related to collective bargaining with the Fraternal Order of Police and the manner in which particular policies, practices or regulations of the City related to collective bargaining and employment may be affected by existing or proposed provisions of federal, state or local law.**

**And pursuant to:**

- **City Charter Article Roman Numeral Two, Section 11(1),**
- **City Code Section 2-31(a)(1)(d), and**
- **Colorado Revised Statutes Section 24-6-402 subsection (4)(f)(I),**

**for the purpose of discussing with the City's attorneys and appropriate management staff personnel and strategy matters relating to negotiations with the Fraternal Order of Police.**

**The motion carried 6-0.**

The Council met in executive session beginning at 8:54 p.m. with a recording made. Present were:

- Mayor Jeni Arndt
- Mayor Pro Tem Emily Francis
- Councilmember Susan Gutowsky

- Councilmember Tricia Canonico
- Councilmember Melanie Potyondy
- Councilmember Kelly Ohlson
- City Manager Kelly DiMartino
- Deputy City Attorney Jenny Lopez Filkins
- Chief Sustainability Officer Jacob Castillo
- Special Counsel Matt Saura
- Assistant City Attorney Ted Hewitt
- City Clerk Delynn Coldiron
- Deputy City Manager Tyler Marr

All the same attendees were present at the conclusion of the first portion of this the executive session at 9:22 p.m.

The Council met in a second discussion executive session beginning at 9:26 p.m. with a recording made. Present were:

- Mayor Jeni Arndt
- Mayor Pro Tem Emily Francis
- Councilmember Susan Gutowsky
- Councilmember Tricia Canonico
- Councilmember Melanie Potyondy
- Councilmember Kelly Ohlson
- City Manager Kelly DiMartino
- Deputy City Attorney Jenny Lopez Filkins
- City Clerk Delynn Coldiron
- Deputy City Manager Tyler Marr
- Police Deputy Chief Greg Yeager
- Human Resources Executive Teresa Rosche

All the same attendees were present at the conclusion of the executive session at 10:14 p.m.

**Q) ADJOURNMENT**

There being no further business before the Council, the meeting was adjourned at 10:16 p.m.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**File Attachments for Item:**

**2. Items Relating to Golf Enterprise Expenses.**

A. Second Reading of Ordinance No. 100, 2024, Appropriating Prior Year Reserves for the Golf Enterprise.

B. Second Reading of Ordinance No. 101, 2024, Appropriating Prior Year Reserves in the Golf Fund for the Replacement of Necessary Systems at the Southridge and Collindale Golf Courses.

These Ordinances, unanimously adopted on First Reading on July 16, 2024, appropriate the amount of \$730,930 from Golf Fund Reserves for necessary system replacement and an appropriation of \$350,000 from unanticipated excess revenue to the 2024 budget to address the additional costs in Golf primarily related to higher revenues.

August 20, 2024

# AGENDA ITEM SUMMARY

City Council




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## STAFF

Victoria Shaw, Senior Manager, FP&A, Community Services  
 Scott Phelps, Senior Manager Parks/Golf  
 Dean Klingner, Community Services Director

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## SUBJECT

**Items Relating to Golf Enterprise Expenses.**

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## EXECUTIVE SUMMARY

A. Second Reading of Ordinance No. 100, 2024, Appropriating Prior Year Reserves for the Golf Enterprise.

B. Second Reading of Ordinance No. 101, 2024, Appropriating Prior Year Reserves in the Golf Fund for the Replacement of Necessary Systems at the Southridge and Collindale Golf Courses.

These Ordinances, unanimously adopted on First Reading on July 16, 2024, appropriate the amount of \$730,930 from Golf Fund Reserves for necessary system replacement and an appropriation of \$350,000 from unanticipated excess revenue to the 2024 budget to address the additional costs in Golf primarily related to higher revenues.

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## STAFF RECOMMENDATION

Staff recommends adoption of both Ordinances on Second Reading.

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## BACKGROUND / DISCUSSION

Since 2019, Golf revenues have been growing at an average compound growth rate of 9% per year, excluding transfers and proceeds from Certificates of Participation (COPs). The heightened revenue is driven by increased patronage and participation in golf-related activities, demonstrating a positive trend in community engagement. The Golf Division acts as an enterprise and does not receive any ongoing subsidy from other City Funds, including the General Fund.

With the rise in revenue, the Golf division is experiencing heightened expenses which are directly linked to the revenue growth rate exceeding standard ongoing budget increases and utility cost increases:

- These increased expenses include expenses for banking services, which are driven by credit card processing fees associated with higher revenues.
- Increased expenses for contractual labor are the reimbursements to the contracted golf professionals who operate the pro shops at each course for their share of the revenue.

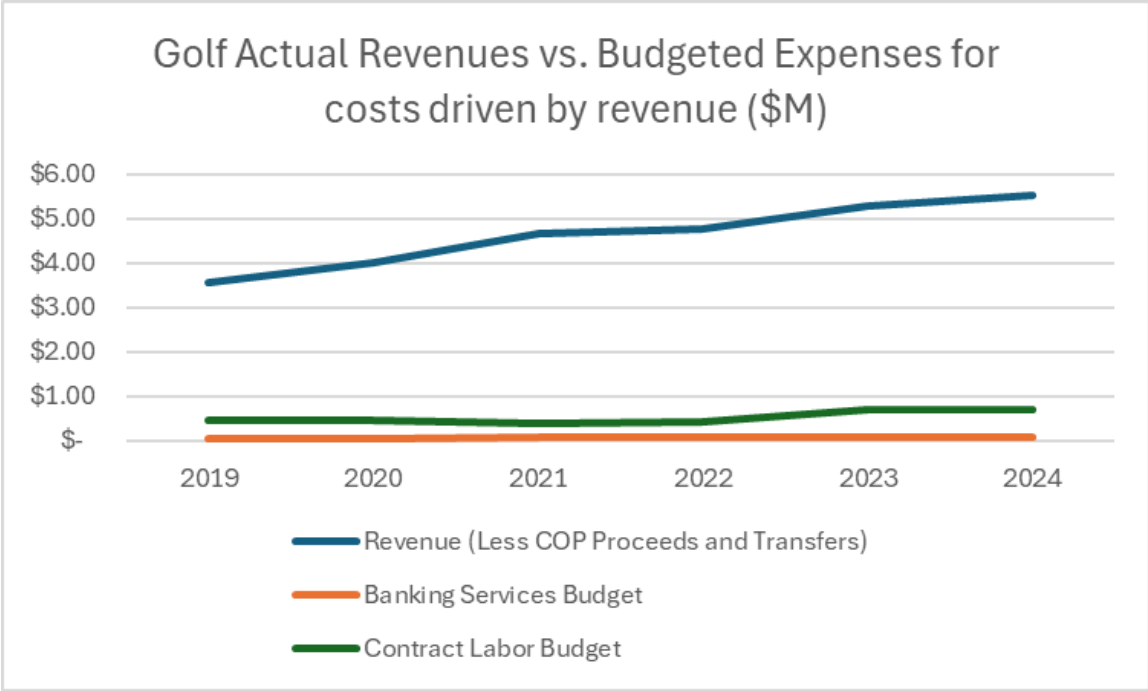
- Increased utility expenses are driven by higher rates, with rates increasing faster than budgeted increases, and some additional electric consumption due to transition to electric carts.
- These activities are expected to incur a \$350,000 shortfall in budget vs. expenses for 2024 without additional appropriation.
- Since these are ongoing expenses associated with higher revenue, staff is requesting the appropriation for these expenses be made from unanticipated excess revenues.

Golf has also been investing in deferred maintenance and asset replacement, prioritizing projects with environmental or safety outcomes, resulting in a request to use Golf Enterprise reserves to fund projects:

- The irrigation system at Southridge is undergoing a full replacement, with water savings estimated to exceed 20%. In 2022, two appropriations for funding were approved to address construction and material costs associated with installing a new irrigation system and pond dredging at SouthRidge Golf Course. These ordinances were Nos. 001, 2022 and 072, 2022. Those appropriations covered the majority of work associated with the project. Now that work is substantively complete, staff is requesting the appropriation for the remaining amount to close the project. Staff is requesting the \$563,000 remaining cost to be appropriated from reserves where the bond proceeds for the project was allocated.
- In 2023, Poudre Fire Authority notified the golf division that the current HVAC and hydrogen alarm system located in the clubhouse basement at Collindale did not meet current fire codes and needed to be upgraded as soon as possible to remain in operation. Current cost estimates for a compliant system are \$167,930. Staff is requesting the funds be appropriated from Golf Reserves.

Exhibit A shows the 5-year trend of Golf division revenue (excluding proceeds from COPs) alongside the 5-year trend in budget appropriated for revenue linked expenses. Approving this appropriation ordinance will correct the budget shortfall for 2024, and staff has included this trend in the 2025/2026 Ongoing Budgeting for Outcomes (BFO) offer.

Exhibit A:



**CITY FINANCIAL IMPACTS**

If adopted, these Ordinances will appropriate \$730,930 from Golf Fund Reserves and \$350,000 from unanticipated excess revenue for use within the Golf enterprise. Golf receives no ongoing subsidy from the General Fund.

**BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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None.

**PUBLIC OUTREACH**

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None.

**ATTACHMENTS**

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First Reading attachments not included.

- 1. Ordinance A for Consideration
- 2. Ordinance B for Consideration

ORDINANCE NO. 100, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROPRIATING PRIOR YEAR RESERVES FOR THE GOLF  
ENTERPRISE

A. The City created a fund to account for Golf activities under Section 8-79 of the City Code (“Golf Fund”).

B. On November 21, 2023, the City Council adopted Ordinance No. 145, 2023, which set the budget for the Golf Fund for the fiscal year beginning January 1, 2024, and ending December 31, 2024. Golf receives no ongoing subsidy from the General Fund.

C. The Golf Fund is expected to incur a \$350,000 shortfall for the current fiscal year due to increased expenses related to increased patronage and increased expenses for utilities and financial services and contractual labor.

D. To maintain the current golf services available to the public at City golf courses, City staff recommends using \$350,000 from unanticipated excess revenue to fund the shortfall.

E. This appropriation benefits public health, safety, and welfare of the citizens of Fort Collins and serves the public purpose of maintaining all current golf services to the public.

F. Article V, Section 9 of the City Charter permits the City Council, upon the recommendation of the City Manager, to make supplemental appropriations by ordinance at any time during the fiscal year from such revenues and funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated.

G. The City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the Golf Fund and will not cause the total amount appropriated in the Golf Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that there is hereby appropriated from unanticipated revenue in the Golf Fund the sum of THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000) to be expended in the Golf Fund for the Golf Enterprise.



Introduced, considered favorably on first reading on July 16, 2024, and approved on second reading for final passage on August 20, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: August 30, 2024  
Approving Attorney: Sara Arfmann

ORDINANCE NO. 101, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROPRIATING PRIOR YEAR RESERVES IN THE GOLF  
FUND FOR THE REPLACEMENT OF NECESSARY SYSTEMS AT  
THE SOUTHRIDGE AND COLLINDALE GOLF COURSES

A. The City created a fund to account for Golf activities under Section 8-79 of the City Code (“Golf Fund”).

B. On November 21, 2023, the City Council adopted Ordinance No. 145, 2023, which set the budget for the Golf Fund for the fiscal year beginning January 1, 2024, and ending December 31, 2024. Golf receives no ongoing subsidy from the General Fund.

C. Staff requests funding for the replacement of two necessary systems, the final costs for replacing the irrigation system at Southridge Golf Course and the replacement of the HVAC and hydrogen alarm system at Collindale Golf Course.

D. In 2022, the City began the capital project of installing a new irrigation system at the City’s Southridge Golf Course.

E. Council adopted Ordinance Nos. 01, 2022, and 072, 2022, to fund this capital project. Staff requests an additional appropriation of \$563,000 for the remaining costs of this project.

F. In 2023, Poudre Fire Authority notified staff that the current HVAC and hydrogen alarm system located at the Collindale clubhouse required an upgrade as soon as possible. The estimated cost for a compliant system is \$167,930.

G. To maintain the current golf services available to the public at City golf courses, City staff recommends using \$730,930 from Golf Fund Reserves to fund the replacement of these two necessary systems.

H. These appropriations benefit public health, safety, and welfare of the citizens of Fort Collins and serve the public purpose of maintaining all current golf services to the public.

I. Article V, Section 9 of the City Charter permits the City Council, upon the recommendation of the City Manager, to make supplemental appropriations by ordinance at any time during the fiscal year from such revenues and funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated.

J. The City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the Golf Fund and will not cause the total amount appropriated in the Golf Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year.

K. Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a capital project, that such appropriation shall not lapse at the end of the fiscal year in which the appropriation is made, but continue until the completion of the capital project.

L. The City Council wishes to designate the appropriation herein for the irrigation system replacement at Southridge Golf Course in the amount of \$563,000 as an appropriation that shall not lapse until the completion of the project.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. There is hereby appropriated from Prior Year Reserves in the Golf Fund the sum of SEVEN HUNDRED THIRTY THOUSAND NINE HUNDRED THIRTY DOLLARS (\$730,930) to be expended in the Golf Fund for the Golf Enterprise.

Section 2. The appropriation herein for irrigation system replacement at Southridge Golf Course is hereby designated, as authorized in Article V, Section 11 of the City Charter, as an appropriation that shall not lapse at the end of this fiscal year but continue until the completion of the project.

Introduced, considered favorably on first reading on July 16, 2024, and approved on second reading for final passage on August 20, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: August 30, 2024  
Approving Attorney: Sara Arfmann

**File Attachments for Item:**

**3. Second Reading of Ordinance No. 102, 2024, Appropriating Prior Year Reserves in the Conservation Trust Fund for Park Planning and Development Funding Community Bike Park Feasibility and Community Engagement.**

This Ordinance, unanimously adopted on First Reading on July 16, 2024, appropriates \$70,000 to Park Planning and Development to conduct a community-scale bike park feasibility study as directed by Council at the June 11 Work Session. The feasibility study will include an evaluation of potential bike park locations, associated capital and on-going costs, identification of park amenities and features, and a community engagement process. This item is in response to public input from the 2021 Parks and Recreation Plan: Recreate, and recent significant community input.

August 20, 2024

# AGENDA ITEM SUMMARY

City Council



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## STAFF

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Dean Klingner, Community Services Director  
Mike Calhoon, Parks Director  
Jill Wuertz, Senior Manager Park Planning and Development, Parks  
Dave "DK" Kemp, Senior Trails Planner, Parks

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## SUBJECT

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**Second Reading of Ordinance No. 102, 2024, Appropriating Prior Year Reserves in the Conservation Trust Fund for Park Planning and Development Funding Community Bike Park Feasibility and Community Engagement.**

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## EXECUTIVE SUMMARY

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This Ordinance, unanimously adopted on First Reading on July 16, 2024, appropriates \$70,000 to Park Planning and Development to conduct a community-scale bike park feasibility study as directed by Council at the June 11 Work Session. The feasibility study will include an evaluation of potential bike park locations, associated capital and on-going costs, identification of park amenities and features, and a community engagement process. This item is in response to public input from the 2021 Parks and Recreation Plan: Recreate, and recent significant community input.

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## STAFF RECOMMENDATION

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Staff recommends adoption of the Ordinance on Second Reading.

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## BACKGROUND / DISCUSSION

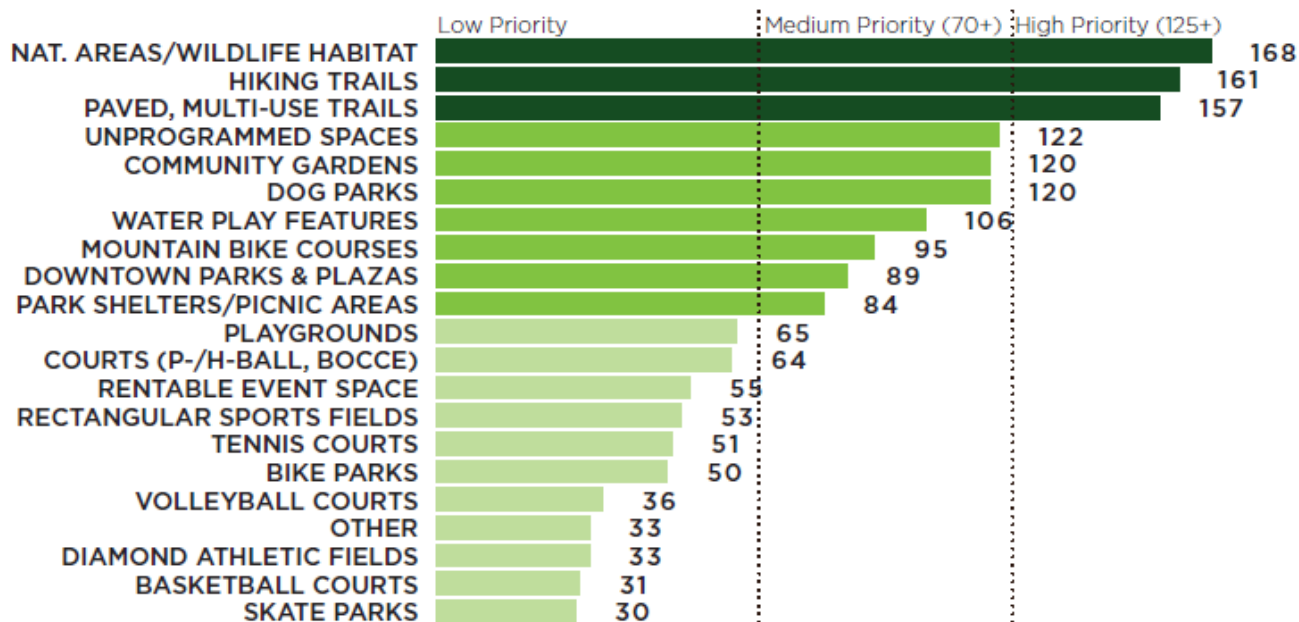
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The Fort Collins 2021 Park and Recreation Plan, ReCreate, examines park and recreation needs in the context of the City's system of public spaces and articulates a vision for parks and recreation in the future.

To implement this vision, the plan weaves together strategies, guidelines, and decision-making tools that the City can use as map to shape the system. The process of developing this plan included many opportunities for residents, advocates, and elected leaders to weigh in and provide input.

In-person and online engagement and a statistically valid survey were conducted in the winter of 2019 by mail, phone, and web to measure residents' needs across Fort Collins. The demographic makeup of the survey sample reflects the demographic makeup of the City as a whole. Results of the survey show mountain bike courses as a priority investment rating and are eighth on the outdoor facility prioritized list.

### Priority Investment Rating: Outdoor Facilities



In addition, information gathered for the report [“Community Engagement Findings for the Former Hughes Site to the City of Fort Collins City Council”](#) prepared by Kearns & West for the City of Fort Collins and conducted between October 2022 and February 2023 details additional feedback for a community bike park.

The intent of the community bike park feasibility study is to determine whether a new, community-scale bike park facility is feasible, and if so, the appropriate size, location, amenities and cost.

Other small bike park locations currently exist in Fort Collins including a 2.0 acre BMX course at Twin Silo Park, a small 0.27 acre pump track at Traverse Park, a small 0.53 acre pump track at Soft Gold and a 0.7 acre mountain bike skills course at Spring Canyon Park. Fort Collins is also recognized as a Platinum Bicycle Friendly City by the League of American Bicyclists.

The general scope of the requested feasibility study should include, but not limited to the following aspects:

- **Siting and land evaluation:** Evaluate potential locations throughout the City of Fort Collins, including the former Hughes stadium site, to determine if applicable sites exist; and to rank sites on evaluation criteria, for example:
  - Connectivity to the trail system, low traffic streets, and other existing smaller bike parks,
  - Land cost
  - Wildlife habitat considerations
  - Expandability
  - Equity and accessibility
  - Partnership opportunities

Background information on properties will include land ownership, zoning, floodplain designation, current property value and assessment information, location description, and neighborhood characteristics.

- **Regional bike park analysis:** Provide an inventory and analysis of similar sized facilities within the Northern Colorado region and identify unique considerations
- **Features:** Review current bike park standards, best practices, and precedents to evaluate types of bike park features desired at a community-scale bike park, e.g. Slopestyle, Single track loops of varying sizes, gravity-fed dirt jumps, pump track variations, including size, user level, adaptive capability, and surface type (dirt/asphalt).
- **Accessory Elements:** Identify and understand key siting and costs of accessory elements such as shade shelters/pavilions, restroom, gathering area, parking, overflow parking, water resources, and maintenance equipment storage.
- **Capital and on-going costs:** Understand cost scenarios associated with initial construction and ongoing maintenance of bike parks relative to size and types of features.
- **Potential funding strategies:** Compile information on multi-year phased funding approaches, grants, and/or other local resources

**Project schedule:** Approximately 6-9 months.

## **CITY FINANCIAL IMPACTS**

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Upon adoption, this Ordinance will appropriate \$70,000 for Park Planning and Development from the Conservation Trust Fund reserves for this project. Any unused funds will return to the parent account for Conservation Trust Fund revenue. The City Manager has determined that these appropriations are available and previously unappropriated.

The Colorado Department of Local Affairs distributes the Conservation Trust Fund (CTF) dollars quarterly, on a per capita basis, to over 470 eligible local governments: counties, cities, towns, and Title 32 special districts that provide park and recreation services in their service plans. Funding can be used for the acquisition, development, and maintenance of new conservation sites or for capital improvements or maintenance for recreational purposes on any public site. On July 3, 2024, staff received confirmation from staff at the Department of Local Affairs that the cost of the bike feasibility study is an eligible use of the CTF.

## **BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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None.

## **PUBLIC OUTREACH**

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*Refer to "Background" section.*

## **ATTACHMENTS**

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First Reading attachments not included.

1. Ordinance for Consideration

ORDINANCE NO. 102, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROPRIATING PRIOR YEAR RESERVES IN THE  
CONSERVATION TRUST FUND FOR PARK PLANNING AND  
DEVELOPMENT FUNDING COMMUNITY BIKE PARK  
FEASIBILITY AND COMMUNITY ENGAGEMENT

A. The Fort Collins 2021 Park and Recreation Plan, ReCreate, examined park and recreation needs in the context of the City's system of public spaces and articulates a vision for parks and recreation in the future.

B. Engagement performed in preparing this plan demonstrated that the community has a heightened interest in mountain bike courses.

C. An additional study conducted between October 2022-February 2023 details additional community feedback for a community bike park.

D. Staff wish to engage in a community bike park feasibility study to determine whether construction of such a facility is feasible, along with examining the appropriate size, location, amenities, and cost.

E. The City possess Conservation Trust Funds received from the Colorado State Lottery, which per C.R.S. 29-21-101(4) "shall be expended only for the acquisition, development, and maintenance of new conservation sites or for capital improvements or maintenance for recreational purposes on any public site."

F. On July 3, 2024, staff confirmed with the Department of Local Affairs that the bike feasibility study is an eligible expense for Conservation Trust Funds.

G. This appropriation benefits public health, safety and welfare of the citizens of Fort Collins and serves the public purpose of evaluating whether the construction of a community-scale bike park facility is feasible for the City.

H. Article V, Section 9 of the City Charter permits the City Council, upon the recommendation of the City Manager, to make supplemental appropriations by ordinance at any time during the fiscal year from such revenues and funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated.

I. The City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the Conservation Trust Fund and will not cause the total amount appropriated in the Conservation Trust Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year.



In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that there is hereby appropriated from Prior Year Reserves in the Conservation Trust Fund the sum of SEVENTY THOUSAND DOLLARS (\$70,000) to be expended in the Conservation Trust Fund for the Community Bike Park Feasibility and Community Engagement.

Introduced, considered favorably on first reading on July 16, 2024, and approved on second reading for final passage on August 20, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: August 30, 2024  
Approving Attorney: Sara Arfmann

**File Attachments for Item:**

**4. Second Reading of Ordinance No. 103, 2024, Appropriating Philanthropic Revenue Received by City Give for the Renovation of the Historic Carnegie Library as Designated by the Donor.**

This Ordinance, unanimously adopted on First Reading on July 16, 2024, appropriates \$100,000 in philanthropic revenue received by City Give for The Community Center for Creativity as designated by the donor.

In 2019, City Give, a formalized enterprise-wide initiative was launched to create a transparent, non-partisan governance structure for the acceptance and appropriations of charitable gifts.

August 20, 2024



## AGENDA ITEM SUMMARY

City Council

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### STAFF

Nina Bodenhamer, Director, City Give

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### SUBJECT

**Second Reading of Ordinance No. 103, 2024, Appropriating Philanthropic Revenue Received by City Give for the Renovation of the Historic Carnegie Library as Designated by the Donor.**

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### EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on July 16, 2024, appropriates \$100,000 in philanthropic revenue received by City Give for The Community Center for Creativity as designated by the donor.

In 2019, City Give, a formalized enterprise-wide initiative was launched to create a transparent, non-partisan governance structure for the acceptance and appropriations of charitable gifts.

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### STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

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### BACKGROUND / DISCUSSION

The historic 1904 Carnegie building is one of the oldest, continuously operating public buildings in Fort Collins. Carnegie libraries were often the first public libraries in communities across the country. Operated by the City of Fort Collins and designated a local Historic Landmark in 1978, the building is now the Community Center for Creativity (CCC) dedicated to providing affordable, community-focused cultural space.

The ambitious renovation focuses on both historic restoration and infrastructure investments to ensure the CCC continues to serve Fort Collins as an affordable, community-focused space for gallery exhibitions, performance, classes, and special events.

The current project estimate for the renovation is \$6,200,000, with \$2,200,000 provided through the generosity of local voters via a 2015 Community Capital Improvement Program ballot measure. A Community Revitalization Grant from the State's Colorado Creative Industries providing \$2,400,000 in funding. The City of Fort Collins General Fund invested \$900,000 in Americans with Disabilities Act (ADA) and structural upgrades as Phase 1 of this project.

Private funding provides the final funding needed to bring this valuable community amenity to fruition, including the appropriation of this charitable gift of \$100,000 awarded to the City from local resident Jackie Erickson, designated toward renovating the historic Carnegie Library and future Center for Creativity programming and operations.

## **CITY FINANCIAL IMPACTS**

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This Ordinance will appropriate \$100,000 in philanthropic revenue received by City Give for the Community Center for Creativity, Cultural Services. The funds have been received and accepted per the City Give Administrative and Financial Policy.

The City Manager has also determined that these appropriations are available and previously unappropriated from the designated funds and will not cause the total amount appropriated in these funds to exceed the current estimate of actual and anticipated revenues and all other funds to be received in these funds during fiscal year 2024.

## **BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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None.

## **PUBLIC OUTREACH**

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None.

## **ATTACHMENTS**

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First Reading attachments not included.

1. Ordinance for Consideration

ORDINANCE NO. 103, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROPRIATING PHILANTHROPIC REVENUE RECEIVED BY  
CITY GIVE FOR THE RENOVATION OF THE HISTORIC  
CARNEGIE LIBRARY AS DESIGNATED BY THE DONOR

A. Local resident Jackie Erickson has generously donated \$100,000 toward the renovation and operations of the City's Community Center for Creativity. The current project estimate for the renovation is \$6,200,000, with public funding providing about \$5,500,000 toward the project and private funding providing the remainder of the funding. The Community Center for Creativity will provide affordable, community-focused space for gallery exhibitions, performances, classes, and special events.

B. This appropriation benefits the public health, safety and welfare of the residents of Fort Collins and serves the public purpose of supporting the renovation and operations of a City venue for the arts.

C. Article V, Section 9 of the City Charter permits the City Council, upon the recommendation of the City Manager, to make supplemental appropriations by ordinance at any time during the fiscal year from such revenues and funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated.

D. The City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the Cultural Services and Facilities Fund and will not cause the total amount appropriated in the Cultural Services and Facilities Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that there is hereby appropriated from new philanthropic revenue in the Cultural Services and Facilities Fund the sum of ONE HUNDRED THOUSAND DOLLARS (\$100,000) to be expended in the Cultural Services and Facilities Fund for the Historic Carnegie Library.

Introduced, considered favorably on first reading on July 16, 2024, and approved on second reading for final passage on August 20, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: August 30, 2024  
Approving Attorney: Ted Hewitt

**File Attachments for Item:**

**5. Second Reading of Ordinance No. 104, 2024, Appropriating Unanticipated Revenue in the Cultural Services and Facilities Fund for Artist and Musicians' Fees for Shows at the Lincoln Center.**

This Ordinance, unanimously adopted on First Reading on July 16, 2024, appropriates the amount of \$644,000 in unanticipated revenue in 2024 for expenses related to Artists and Musicians Fees for LC Live shows at the Lincoln Center.

August 20, 2024

# AGENDA ITEM SUMMARY

City Council



## STAFF

Jack Rogers, Lincoln Center Director  
Eileen May, Director, Cultural Services

## SUBJECT

**Second Reading of Ordinance No. 104, 2024, Appropriating Unanticipated Revenue in the Cultural Services and Facilities Fund for Artist and Musicians' Fees for Shows at the Lincoln Center.**

## EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on July 16, 2024, appropriates the amount of \$644,000 in unanticipated revenue in 2024 for expenses related to Artists and Musicians Fees for LC Live shows at the Lincoln Center.

## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

## BACKGROUND / DISCUSSION

The Lincoln Center expense budget for Artists, Musicians and Speakers needs to be increased by \$644,000 in 2024 to address the higher costs due to additional LC Live performances and the Lincoln Center bringing national show tour companies to Fort Collins.

The Lincoln Center (LC) is the largest presenter of performing arts in the Mountain West outside of metro Denver and the home to over 35 local creative businesses. In 2023, over 192,000 visitors participated in over 1,000 events at LC. The 2023-2024 LC LIVE season (events presented or produced by The Lincoln Center/City of Fort Collins) sold nearly 42,000 tickets and generated over \$2.0 million in ticket sales. LC LIVE is The Lincoln Center's single greatest marketing tool to attract new audiences. Audience surveys show that first-time attendees driven to LC by the National and International artists on the LC LIVE series go on to support local businesses like the Fort Collins Symphony, or to rent the facility for their own events.

We are requesting additional budget for the expenses related to LC live show promoters and artists. In 2024, the Lincoln Center brought major touring shows to Fort Collins, including Book of Mormon, Come From Away, and Annie. In addition, since the adoption of the 2024 budget, we added the Live at The Gardens concert series that the LC manages. The budget for Artist Fees paid for shows is not sufficient to cover the expenses related to the shows in 2024. All the expense activity is created by the initial investment into the Artists, Musicians, and Speakers, a line item that historically generates a 165% Return on Investment (ROI) through ticket sales. In addition to the LC Live Series paying for itself, it generates an average overall profit margin of 12%.



The budget for this expense has been insufficient for the last several years (2020 and 2021 not included due to COVID impact).

	2019	2023	2024 (through 6/24/2024)
Actual	1,112,248	1,167,794	1,070,016
Budget	953,025	884,704	906,821
Variance	(159,223)	(283,090)	(163,195)

To address this issue going forward, the Lincoln Center has submitted an Enhancement Offer as part of 2025-2026 Budgeting for Outcomes (BFO) to increase the budget baseline for this expense. To continue to attract the National and International touring artists of the caliber the community has grown to expect, this expense item needs to increase and ultimately become part of the baseline budget for the Lincoln Center. If the offer is not funded staff will need to go to Council annually for mid-cycle additional appropriations.

**CITY FINANCIAL IMPACTS**

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If adopted, this Ordinance will appropriate \$644,000 in unanticipated revenue generated by shows at the Lincoln Center for a net zero impact to the Cultural Services financials. This requires no subsidy from the General Fund.

**BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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None.

**PUBLIC OUTREACH**

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None.

**ATTACHMENTS**

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First Reading attachments not included.

- 1. Ordinance for Consideration

ORDINANCE NO. 104, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROPRIATING UNANTICIPATED REVENUE IN THE  
CULTURAL SERVICES AND FACILITIES FUND FOR ARTIST  
AND MUSICIANS' FEES FOR SHOWS AT THE LINCOLN  
CENTER

A. City staff recommends that the budget for the Lincoln Center be increased by \$644,000 to accommodate higher-than-expected revenues and expenditures for additional productions and national and international tour shows presented or produced by the City. As the Lincoln Center is self-funded, this appropriation has no net impact on the Cultural Services and Facilities Fund and requires no subsidy from the General Fund.

B. This appropriation benefits the public health, safety, and welfare of the residents of Fort Collins and serves the public purpose of supporting a City performing arts venue.

C. Article V, Section 9 of the City Charter permits the City Council, upon the recommendation of the City Manager, to make supplemental appropriations by ordinance at any time during the fiscal year from such revenues and funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated.

D. The City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the Cultural Services and Facilities Fund and will not cause the total amount appropriated in the Cultural Services and Facilities Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that there is hereby appropriated from unanticipated revenue in the Cultural Services and Facilities Fund the sum of SIX HUNDRED FORTY-FOUR THOUSAND DOLLARS (\$644,000) to be expended in the Cultural Services and Facilities Fund for artist and musicians' fees for shows at the Lincoln Center.

Introduced, considered favorably on first reading on July 16, 2024, and approved on second reading for final passage on August 20, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: August 30, 2024  
Approving Attorney: Ted Hewitt

**File Attachments for Item:**

**6. Second Reading of Ordinance No. 105, 2024, Making a Supplemental Appropriation of Funds from the Colorado Department of Public Health and Environment, Environmental Justice Grant for the Cultivating Community-Led Resilient Homes Project and Approving a Related Intergovernmental Agreement.**

This Ordinance, unanimously adopted on First Reading on July 16, 2024, supports the City's commitment to advancing equity and environmental justice for all Fort Collins community members by appropriating \$168,874 of unanticipated grant revenue awarded by the Colorado Department of Public Health and Environment (CDPHE) for the Cultivating Community-Led Resilient Homes project.

August 20, 2024

# AGENDA ITEM SUMMARY

City Council



## STAFF

Selina Lujan Albers, Environmental Sustainability  
 Kerri Ishmael, Grants Administration

## SUBJECT

**Second Reading of Ordinance No. 105, 2024, Making a Supplemental Appropriation of Funds from the Colorado Department of Public Health and Environment, Environmental Justice Grant for the Cultivating Community-Led Resilient Homes Project and Approving a Related Intergovernmental Agreement.**

## EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on July 16, 2024, supports the City's commitment to advancing equity and environmental justice for all Fort Collins community members by appropriating \$168,874 of unanticipated grant revenue awarded by the Colorado Department of Public Health and Environment (CDPHE) for the Cultivating Community-Led Resilient Homes project.

## STAFF RECOMMENDATION

Staff recommend adoption of the Ordinance on Second Reading.

## BACKGROUND / DISCUSSION

In spring 2024 the CDPHE awarded the City of Fort Collins (City) \$168,874 under the CDPHE's Environmental Justice (EJ) grant program (Exhibit A to the Ordinance). The award funds support the Healthy Homes program's Cultivating Community-Led Resilient Homes (CCLRH) project to improve indoor air quality and energy efficiency for low-income residents of Fort Collins and the Growth Management Area.

As demonstrated from the Budget incorporated into the grant, the grant requires no match by the City. The \$168,874 in grant funds will be used for direct costs in meeting the goal of the CCLRH project to create equitable access to healthy, energy efficient and resilient housing for 75 homes on a first-come-first-serve basis of low-income residents of designated neighborhoods. Residents from the remaining neighborhoods in the City will be eligible for the program using other funds.

The \$168,874 are state funds, with this being the second funding cycle under the CDPHE's EJ grant program initiated in 2023.

## **CITY FINANCIAL IMPACTS**

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This item appropriates \$168,874 in unanticipated revenue from the CDPHE under the EJ grant program in support of Environmental Sustainability's CCLRH project.

The EJ grant is a reimbursement type grant, meaning General Fund expenses will be reimbursed up to \$168,874.

## **BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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Indoor air quality is a priority identified by the Air Quality Advisory Board, but no formal recommendation was sought for appropriation of the grant funds to augment existing program efforts.

## **PUBLIC OUTREACH**

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None.

## **ATTACHMENTS**

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First Reading attachments not included.

1. Ordinance for Consideration
2. Exhibit A to Ordinance

ORDINANCE NO. 105, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
MAKING A SUPPLEMENTAL APPROPRIATION OF FUNDS  
FROM THE COLORADO DEPARTMENT OF PUBLIC HEALTH  
AND ENVIRONMENT, ENVIRONMENTAL JUSTICE GRANT FOR  
THE CULTIVATING COMMUNITY-LED RESILIENT HOMES  
PROJECT AND APPROVING A RELATED  
INTERGOVERNMENTAL AGREEMENT

A. In spring 2024, the Colorado Department of Public Health and Environment (“CDPHE”) awarded the City \$168,874 under the CDPHE’s Environmental Justice (EJ) grant program (the “Grant”). The award funds support the Healthy Homes program’s Cultivating Community-Led Resilient Homes (CCLRH) project to improve indoor air quality and energy efficiency for low-income residents of Fort Collins and the Growth Management Area. No City match of funds is required under the Grant.

B. The City and CDPHE have negotiated the terms and conditions of the Grant Agreement, which is attached hereto as Exhibit “A”.

C. This appropriation benefits the public health, safety and welfare of the residents of Fort Collins and serves the public purpose of supporting improved indoor air quality and energy efficiency for low-income residents of Fort Collins and the Growth Management Area.

D. Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, to make a supplemental appropriation by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriation, in combination with all previous appropriations for that fiscal year, do not exceed the current estimate of actual and anticipated revenues and all other funds to be received during the fiscal year.

E. The City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the General Fund and will not cause the total amount appropriated in the General Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year.

F. Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a federal, state or private grant or donation, that such appropriation shall not lapse at the end of the fiscal year in which the appropriation is made, but continue until the earlier of the expiration of the federal, state or private grant or the City’s expenditure of all funds received from such grant.

G. The City Council wishes to designate the appropriation herein for the Colorado Department of Public Health and Environment, Environmental Justice Grant as

an appropriation that shall not lapse until the earlier of the expiration of the grant or the City's expenditure of all funds received from such grant.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. There is hereby appropriated from new revenue or other funds in the General Fund the sum of ONE HUNDRED SIXTY-EIGHT THOUSAND EIGHT HUNDRED SEVENTY-FOUR DOLLARS (\$168,874) to be expended in the General Fund for the Cultivating Community-Led Resilient Homes Project.

Section 2. The appropriation herein for the Colorado Department of Public Health and Environment, Environmental Justice Grant is hereby designated, as authorized in Article V, Section 11 of the City Charter, as an appropriation that shall not lapse at the end of this fiscal year but continue until the earlier of the expiration of the grant or the City's expenditure of all funds received from such grant.

Section 3. The City Council authorizes the City Manager or their designee to accept the grant and obligate the City to comply with the terms of the Grant Agreement.

Introduced, considered favorably on first reading on the July 16, 2024, and approved on second reading for final passage on the August 20, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: August 30, 2024  
Approving Attorney: Ted Hewitt





# STATE OF COLORADO

## Department of Public Health & Environment

<b>ORDER</b>		<b>*****IMPORTANT*****</b>				
<b>Number:</b>	PO,FAAA,202500000822	The order number and line number must appear on all invoices, packing slips, cartons, and correspondence.				
<b>Date:</b>	6/5/24					
<b>Description:</b>		<b>BILL TO</b>				
Ft Collins 9310 FY25 EJ grant program RFA #42184		DIVISION OF ADMINISTRATION C-1 4300 CHERRY CREEK DRIVE SOUTH DENVER, CO 80246-1530				
<b>Effective Date:</b>	07/01/24	<b>SHIP TO</b>				
<b>Expiration Date:</b>	06/30/25					
<b>BUYER</b>		DIVISION OF ADMINISTRATION C-1 4300 CHERRY CREEK DRIVE SOUTH DENVER, CO 80246-1530				
<b>Buyer:</b>						
<b>VENDOR</b>		<b>SHIPPING INSTRUCTIONS</b>				
CITY OF FORT COLLINS Finance Department PO BOX 580 FORT COLLINS, CO 80522-0580		<b>Delivery/Install Date:</b> 06/30/25 <b>FOB:</b> FOB Dest, Freight Prepaid				
<b>Contact:</b>						
<b>VENDOR INSTRUCTIONS</b>						
<b>EXTENDED DESCRIPTION</b>						
Ft Collins 9310 FY25 EJ grant program RFA #42184. The budget shall not exceed \$168,874.00.						
The State of Colorado Terms and Conditions govern and control this purchase order.						
Exhibit A, Additional Provisions, is incorporated and made part of this purchase order by reference.						
<b>Line Item</b>	<b>Commodity/Item Code</b>	<b>UOM</b>	<b>QTY</b>	<b>Unit Cost</b>	<b>Total Cost</b>	<b>MSDS Req.</b>
1			0	0.00	\$168,874.00	<input type="checkbox"/>
Description: Ft Collins 9310 FY25 EJ grant program RFA #42184						
Ft Collins 9310 FY25 EJ grant program RFA #42184						
Service From: 07/01/24			Service To: 06/30/25			
<b>TERMS AND CONDITIONS</b>						
https://www.colorado.gov/osc/purchase-order-terms-conditions						
<b>DOCUMENT TOTAL = \$168,874.00</b>						

## STATEMENT OF WORK

I. **Entity Name:** The City of Fort Collins

II. **Project Description:**

This project serves to fund grant projects that avoid, minimize, measure, and mitigate impacts to public health and the environment in disproportionately impacted (DI) communities, or that promote equitable participation in rulemaking and permitting proceedings that may affect DI communities. The Environmental Justice Act prioritizes reducing environmental health disparities in DI communities and declares environmental justice a Colorado state policy. This grant program aligns with the Colorado Department of Public Health (CDPHE) strategic plan to further environmental justice and will help CDPHE strengthen trust and communication between DI communities and the environmental divisions. This project will be achieved by contracting with nonprofits and local governments within Colorado through June 30, 2025. Colorado communities of color and low-income communities have historically carried and continue to bear a disproportionate burden of environmental health risks. The Environmental Justice (EJ) Grant Program will support DI communities by providing funding to conduct interventions, and participate in agency processes to advocate for policy changes to avoid (prevent), minimize (reduce, lessen, remediate), measure (monitor), and mitigate (offset, compensate for) impacts to public health and environmental health risks, and advance a healthy and sustainable Colorado where everyone has equitable protection from environmental and health hazards.

This project benefits disproportionately impacted communities in Fort Collins by improving indoor air quality (IAQ), energy efficiency, and preparing homes for climate-related events (i.e., wildfires, extreme temperatures). Through this project, the City of Fort Collins shall advance environmental justice with free home visits which include an IAQ assessment, portable air cleaners, smoke/fire and carbon monoxide alarms, furnace servicing, low-level weatherization, air conditioners, and other related resources.

III. **Definitions:**

- A. **Authentic Community Engagement**: The goal of authentic community engagement is to work with communities, not for or on behalf of them, or to do things to communities.
- B. **Carbon Monoxide (CO)**: a colorless, odorless, toxic gas created through the incomplete combustion of carbon.
- C. **Colorado Affordable Residential Energy (CARE) Program**: A program of Energy Outreach Colorado that provides income-qualified Coloradans in participating counties with free home energy efficiency upgrades.
- D. **Cultivating Community-Led Resilient Homes (CCLRH)**: The funded project to be completed by the City of Fort Collins with the goal of improving IAQ, energy efficiency, and home resilience to climate-related events.
- E. **Disproportionately impacted communities as defined in C.R.S. § 24-4-109(2)(b)(II) (2023)**:
  - a. A community that is in a census block group, as determined in accordance with the most recent United States census, where:
    - i. the proportion of households that are low income is greater than forty percent,
    - ii. the proportion of households that identify as minority is greater than forty percent,
 or

- iii. the proportion of households that are housing cost-burdened is greater than fifty percent;
  - iv. the proportion of households that are linguistically isolated is greater than twenty percent, meaning that all adults in a household speak a language other than English and speak English less than very well; or
  - v. multiple factors, including socioeconomic stressors, disproportionate environmental burdens, vulnerability to environmental degradation, and lack of public participation, may act cumulatively to affect health and the environment and contribute to persistent disparities, as identified by a Colorado EnviroScreen score above the 80th percentile; or
- b. Any other community:
- i. where there is a history of environmental racism perpetuated through redlining, anti-Indigenous, anti-immigrant, anti-Hispanic, or anti-Black laws, policies, or practices; or
  - ii. under the jurisdiction of the Ute Mountain Ute (UMU) or Southern Ute Indian Tribe (SUIT); or
  - iii. that is a mobile home park.
- F. Healthy Homes Educators (HHE): Volunteers for the City of Fort Collins Healthy Homes program that are trained in the 8 Principles of a healthy home. These volunteers conduct in-home assessments for community members, identifying sources of indoor air pollution and providing solutions.
- G. Indoor Air Quality (IAQ): refers to the air quality within and around buildings and structures, especially as it relates to the health and comfort of building occupants.
- H. Low-Income Energy Assistance Program (LEAP): A federally-funded, state of Colorado assistance program that offers credit to pay heating bills. The program provides assistance with heating costs, equipment repair, and/or replacement of inoperable heating tools.
- I. Neighborhood Connectors (NC): Volunteers for the City of Fort Collins Healthy Homes program that help to promote the program and recruit participants through face-to-face interactions in DI communities. NCs also provide consistent feedback on the program based on community member needs.
- J. Special or Emergency Projects Fund: In the event of a health/safety concern or issues that prevent a home from participating in other programs, special project funds within City of Fort Collins will be used to support a solution. This may include but is not limited to furnace replacements, plumbing repairs, range hood or bathroom fan installation, and roof repairs.

IV. **Work Plan:**

<b>Goal #1:</b> To advance environmental justice in disproportionately impacted (DI) communities in Colorado.	
<b>Objective #1:</b> No later than the Contract’s expiration date, advance environmental justice by creating equitable access to healthy, energy efficient, and resilient housing within Fort Collins’ DI communities identified through Colorado EnviroScreen.	
<b>Primary Activity #1</b>	1. The Contractor shall provide resources to program participants to improve the homes' health and safety.
<b>Sub-Activities #1</b>	1. The Contractor shall conduct a minimum of 45 home visits that include: <ul style="list-style-type: none"> <li>a. An IAQ assessment with behavior-based recommendations and</li> <li>b. Actions households can take to improve IAQ.</li> </ul>

	<ol style="list-style-type: none"> <li>2. The Contractor shall provide participants with the following services through contracted providers:                         <ol style="list-style-type: none"> <li>a. Furnace safety checks</li> <li>b. Furnace cleanings</li> <li>c. Low-level weatherization services.</li> </ol> </li> <li>3. The Contractor shall recommend eligible participants to additional organizations, including:                         <ol style="list-style-type: none"> <li>a. CARE or</li> <li>b. LEAP.</li> </ol> </li> <li>4. The Contractor shall provide home repairs for participants by utilizing the special project funds when challenging issues impacting the following arise:                         <ol style="list-style-type: none"> <li>a) IAQ,</li> <li>b) Energy efficiency,</li> <li>c) Health and safety.</li> </ol> </li> </ol>
<b>Primary Activity #2</b>	<ol style="list-style-type: none"> <li>1. The Contractor shall train the following:                         <ol style="list-style-type: none"> <li>a) A team of volunteers for Healthy Homes Educators and</li> <li>b) Neighborhood Connectors.</li> </ol> </li> </ol>
<b>Sub-Activities #2</b>	<ol style="list-style-type: none"> <li>1. The Contractor shall create and distribute marketing materials to aid in the identification of new volunteers.</li> <li>2. The Contractor shall identify focus communities with staff and current volunteers.</li> <li>3. The Contractor shall identify new volunteers through 1:1 connections with a goal of at least 10 new volunteers.</li> <li>4. The Contractor shall provide a 20-hour volunteer training over the course of 4 sessions and practice IAQ assessments completed in Q1 and Q2.</li> <li>5. The Contractor shall hire translation and interpretation specialists for trainings.</li> <li>6. The Contractor shall implement a volunteer engagement strategy that includes:                         <ol style="list-style-type: none"> <li>a. Continuing education</li> <li>b. Gratitude pay in the form of gift cards</li> <li>c. Acts of appreciation such as thank-you gifts and get-togethers.</li> </ol> </li> </ol>
<b>Primary Activity #3</b>	<ol style="list-style-type: none"> <li>1. The Contractor shall conduct authentic community engagement to promote the Healthy Homes program.</li> </ol>
<b>Sub-Activities #3</b>	<ol style="list-style-type: none"> <li>1. The Contractor shall organize 5 neighborhood events.</li> <li>2. The Contractor shall attend the neighborhood events in the identified focus communities with staff and current volunteers.</li> <li>3. The Contractor shall use Neighborhood Connectors to engage communities to connect with individual residents and promote the program.</li> <li>4. The Contractor shall hire translation and interpretation specialists for the events.</li> </ol>
<b>Primary Activity #4</b>	<ol style="list-style-type: none"> <li>1. The Contractor shall hire a 9-month, full-time contract position to support grant operations and reporting requirements.</li> </ol>
<b>Sub-Activities #4</b>	<ol style="list-style-type: none"> <li>1. The Contractor shall create a staff training plan.</li> </ol>
<b>Primary Activity #5</b>	<ol style="list-style-type: none"> <li>1. The Contractor shall create the following reports:                         <ol style="list-style-type: none"> <li>a. Quarterly progress reports</li> <li>b. A 6-month Progress Report</li> <li>c. A Final Report.</li> </ol> </li> </ol>
<b>Primary Activity #6</b>	<ol style="list-style-type: none"> <li>1. The Contractor shall attend two (2) check-in meetings.</li> </ol>

<p><b>Standards and Requirements</b></p>	<ol style="list-style-type: none"> <li>1. CDPHE will closely monitor project activities to ensure that pursuant to the Colorado Constitution and Colorado Fair Campaign Practices Act, grant funds are not used for prohibited expenses including lobbying, campaign activities, and political activities such as meeting with or encouraging a state or local elected official to support a bill, ordinance, or other policy proposal.</li> <li>2. The Contractor shall provide the following resources based on the identified through the home visit’s outcomes as needed:             <ol style="list-style-type: none"> <li>a. Radon test kits</li> <li>b. Natural cleaner</li> <li>c. Sustainable cleaning cloths</li> <li>d. Smoke alarms</li> <li>e. CO alarms</li> <li>f. Commercial-grade doormats</li> <li>g. Fire extinguishers</li> <li>h. Portable air cleaners</li> <li>i. Air conditioners.</li> </ol> </li> <li>3. The Contractor shall provide the resources mentioned in the Work Plan, Sub-Activities 1.2, 1.4, and Standards &amp; Requirements 2 only to households within the following neighborhoods on a first-come-first-serve basis, provided that the household receiving the resource has income below two hundred percent of the federal poverty level:             <ol style="list-style-type: none"> <li>a) Hickory,</li> <li>b) North College,</li> <li>c) Stonecrest, Montclair,</li> <li>d) Andersonville/San Cristo,</li> <li>e) Buckingham,</li> <li>f) Alta Vista,</li> <li>g) Dry Creek,</li> <li>h) Buffalo Run,</li> <li>i) Old Town Neighbors,</li> <li>j) Collins Aire,</li> <li>k) Timber Ridge,</li> <li>l) Harmony Park,</li> <li>m) Highlander Heights,</li> <li>n) Skyline,</li> <li>o) Poudre Valley Mobile Home Park, and</li> <li>p) Nueva Vida.</li> </ol> </li> <li>4. The Contractor shall include a written description of the progress made for each primary and sub-activity in each Quarterly Progress Report, beginning with Q1 (July-September 2024) through Q4 (April-June 2025).             <ol style="list-style-type: none"> <li>a. Quarterly Report Guidance Document</li> </ol> </li> <li>5. The Contractor shall include the following information in the 6-month Progress Report.             <ol style="list-style-type: none"> <li>a. Successes to date,</li> <li>b. Challenges and barriers encountered to date, and</li> <li>c. Anticipated challenges by the end of the Contract.</li> </ol> </li> <li>6. The Contractor shall produce a Final Report summarizing the Project achievements that includes responses to the following questions:             <ol style="list-style-type: none"> <li>a. What disproportionately impacted (DI) community did your project serve?</li> <li>b. What was the relationship between the project and the community it served?                 <ol style="list-style-type: none"> <li>i. How did your project engage members of a DI Community?</li> <li>ii. How did the community react to the project?</li> </ol> </li> </ol> </li> </ol>
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	<ul style="list-style-type: none"> <li>c. What is the final status of the project?                             <ul style="list-style-type: none"> <li>i. Did the project complete all of the activities set in the SOW?</li> </ul> </li> <li>d. What was the biggest success of the project including unanticipated successes?                             <ul style="list-style-type: none"> <li>i. How do you measure the success of your project?</li> </ul> </li> <li>e. What was the greatest challenge and what did you learn from it?</li> <li>f. Would you apply for the grant again?</li> <li>g. Any suggestions for the grant program in the future?</li> </ul> <p>7. CDPHE will provide the Contractor with the following information, at least seven business days before each check-in meeting:</p> <ul style="list-style-type: none"> <li>a. the date of the check-in meeting,</li> <li>b. the meeting link, for virtual meeting,</li> <li>c. the meeting venue, for in-person meeting,</li> <li>d. meeting agenda,</li> <li>e. meeting duration, and</li> <li>f. meeting participants.</li> </ul> <p>8. Meeting minutes will be recorded by the EJ Grants Specialist and saved in the grantee’s folder.</p> <p>9. CDPHE will schedule the check-in meetings as follows:</p> <ul style="list-style-type: none"> <li>a. First check-in meeting sixty (60) business days after the Contract execution date,</li> <li>b. Second check-in meeting nine (9) months into the Contract.</li> </ul> <p>10. The Contractor shall communicate to CDPHE, via email, all requests of additional resources needed for the successful completion of the project.</p> <p>11. CDPHE will respond to the Contractor, via email, no later than fifteen (15) business days after the receipt of the Contractor’s request for additional resources.</p> <p>12. The Contractor shall use the approved CDPHE Progress Report Templates.</p> <ul style="list-style-type: none"> <li>a. Quarterly Report</li> <li>b. 6-Month Progress Report</li> <li>c. Final Report</li> </ul> <p>13. CDPHE will provide, via email, the approved Progress Report Templates, no later than thirty (30) business days after the Contract’s execution date.</p> <p>14. The Contractor shall submit the Final Report as a non-reimbursable deliverable no later than fifteen (15) days after the expiration of the Contract.</p>	
<b>Expected Results of Activity(s)</b>	<ul style="list-style-type: none"> <li>1. Increased quality of life of community members.</li> <li>2. Expanded access to resources and programs for community members.</li> <li>3. Increased knowledge and tools for community members to protect themselves from extreme temperatures and poor outdoor air quality.</li> </ul>	
<b>Measurement of Expected Results</b>	<ul style="list-style-type: none"> <li>1. Number of households reached.</li> <li>2. Number of volunteer HHE who are trained and committed to the program.</li> <li>3. Number of new HHE and/or NC who are recruited.</li> <li>4. Number of continued education opportunities for HHE.</li> </ul>	
<b>Deliverables</b>	<ul style="list-style-type: none"> <li>1. The Contractor shall submit electronically to the EJ Grants Specialist Quarterly Progress Reports.</li> </ul>	<b>Completion Date</b> No later than 15 days following the end of Q1, Q2, Q3, Q4
	<ul style="list-style-type: none"> <li>2. The Contractor shall submit electronically to the EJ Grants Specialist a 6-Month Progress Report.</li> </ul>	No later than January 15, 2025

	3. The Contractor shall submit electronically to the EJ Grants Specialist examples of materials used in the following: a) trainings, marketing, and b) outreach events.	No later than 15 days following the end of Q1, Q2, Q3, Q4
	4. The Contractor shall submit electronically to the EJ Grants Specialist a document outlining: a) the number of households reached and b) resources provided.	No later than 15 days following the end of Q1, Q2, Q3, Q4
	5. The Contractor shall submit electronically to the EJ Grants Specialist a Final Report.	No later than July 15, 2025

**6. Monitoring:**

CDPHE’s monitoring of this contract for compliance with performance requirements will be conducted throughout the contract period by the EJ Grants Specialist. Methods used will include a review of documentation determined by CDPHE to be reflective of performance to include progress reports. The Contractor’s performance will be evaluated at set intervals and communicated to the contractor. A Final Contractor Performance Evaluation will be conducted at the end of the life of the contract.

**7. Resolution of Non-Compliance:**

The Contractor will be notified in writing within **10** calendar days of discovery of a compliance issue. Within **30** calendar days of discovery, the Contractor and the State will collaborate, when appropriate, to determine the action(s) necessary to rectify the compliance issue and determine when the action(s) must be completed. The action(s) and timeline for completion will be documented in writing and agreed to by both parties. If extenuating circumstances arise that require an extension to the timeline, the Contractor must email a request to the EJ Grants Specialist and receive approval for a new due date. The State will oversee the completion/implementation of the action(s) to ensure timelines are met and the issue(s) is resolved. If the Contractor demonstrates inaction or disregard for the agreed-upon compliance resolution plan, the State may exercise its rights under the provisions of this contract.



**EXHIBIT A TO ORDINANCE NO. 105, 2024**

**EJ GRANT PROGRAM - 12 MONTH BUDGET WITH JUSTIFICATION FORM**

\*Please do not adjust the formulas within this spreadsheet\*

Item 6.

Organization Name	City of Fort Collins Environmental Services	Program Contact Name, Title, Phone and Email	Selina Lujan, Interim Manager, Environmental Services; slujan@fcgov.com, 970-224-6129
Budget Period	July 1, 2024 to June 30, 2025	Fiscal Contact Name, Title, Phone and Email	Kerri Ishmael, Senior Analyst, Grants Administration, kishmael@fcgov.com, 970-416-4222
Project Name	Cultivating Community-Led Resilient Homes		

Expenditure Categories							
Personnel Costs (Personal Services)							
Salaried Employees							
Employee Name/Position Title	Description of Work	Corresponding Goal, Objective, and Primary Activity in Project Design	Gross or Annual Salary	Fringe	Percent of Time on Project	Total Amount Requested from CDPHE	Amount (\$) of Total Requested as Advanced Payment (if any) (Only nonprofit organizations are eligible for Advanced Payment of up to 25% of the total award.)
Project Coordinator	Full-time (40 hours/week) contracted employee for 9 months. Project Coordinator will manage all aspects of project over public outreach/community engagement, project implementation, and reporting (reporting includes internal and external reporting, with incorporation of data and metrics to measure expected outcomes). Hourly rate of \$28.40 at 1560 hours	All	\$ 44,304.00	\$ 11,946.00	100%	\$ 56,250.00	\$0.00
Description of fringe benefits	Benefits Note: Contractual Salary Employees (EEs) receive benefits per City of Fort Collins personnel and payroll policies and procedures. Fringe benefits for contractual EEs include (workers comp insurance, unemployment insurance, employer portion of FICA, health and dental insurance). Average = 27% of salaries.					\$ -	
Personnel Costs (Personal Services)							
Hourly Employees							
Employee Name/Position Title	Description of Work	Corresponding Goal, Objective, and Activity in Project Design	Hourly Wage	Hourly Fringe	Total # of Hours on Project	Total Amount Requested from CDPHE	Amount (\$) of Total Requested as Advanced Payment (if any) (Only nonprofit organizations are eligible for Advanced Payment of up to 25% of the total award.)
N/A	N/A	N/A				\$ -	\$ -
<b>Total Personnel Costs (Personal Services) (including fringe benefits)</b>						<b>\$ 56,250.00</b>	
Supplies, Equipment, & Operating Expenses							
Item	Description of Item	Corresponding Goal, Objective, and Activity in Project Design	Rate	Quantity	Total Amount Requested from CDPHE	Amount (\$) of Total Requested as Advanced Payment (if any) (Only nonprofit organizations are eligible for Advanced Payment of up to 25% of the total award.)	
Healthy Homes Volunteers (Educators and Neighborhood Connectors)	Gratitude pay for 15 Volunteers to support in capacity as Healthy Home Educators and Neighborhood Connectors. \$600 per year x 1 year x 15 volunteers	Equitable access to healthy, energy efficient, and resilient housing, Recruitment of Healthy Home Educators (HHE) and/or Neighborhood Connectors (NC), HHE and NC Training	\$ 600.00	15	\$ 9,000	\$ -	
Venue rental	Venue space for informational sessions and volunteer training (hourly rate). Five proposed engagements from July 2024 through June 2025.	Equitable access to healthy, energy efficient, and resilient housing, HHE and NC Training, Authentic Community Engagement	\$ 75.00	5	\$ 375	\$ -	
Child care/Transportation services	Services for child care and transportation for participants to attend volunteer training and educational workshops. Proposed engagements and estimated attendees: 4 new volunteer training sessions with 15 attendees 1 continuing education training for 15 returning volunteers Estimate an average cost of \$40/participant to cover child care and transportation needs.	Equitable access to healthy, energy efficient, and resilient housing, HHE and NC Training, Authentic Community Engagement	\$ 40.00	75	\$ 3,000	\$ -	
Food/catering	Catering for 4 new volunteer training sessions and 1 continuing education training for volunteers. Estimate based on # of participants, 15 people x 5 trainings x \$15/person = \$1,125	Equitable access to healthy, energy efficient, and resilient housing, HHE and NC Training, Authentic Community Engagement	\$ 15.00	75	\$ 1,125	\$ -	
Home Intervention Supplies	Home intervention supplies needed based on home assessment. Cost per home is estimated at \$718, which includes: \$100 portable air cleaner \$500 portable air conditioner \$27 air filter \$17 smoke/fire alarm \$20 carbon monoxide alarm \$24 fire extinguisher \$25 commercial doormat \$5 cloth and cleaner	Equitable access to healthy, energy efficient, and resilient housing, Home-Visits, Additional Resources	\$ 718.00	45	\$ 32,310	\$ -	
<b>Total Supplies &amp; Operating Expenses</b>						<b>\$45,810</b>	
Travel							
Item	Description of Item	Corresponding Goal, Objective, and Activity in Project Design	Rate	Quantity	Total Amount Requested from CDPHE	Amount (\$) of Total Requested as Advanced Payment (if any) (Only nonprofit organizations are eligible for Advanced Payment of up to 25% of the total award.)	
N/A	N/A	N/A			\$ -	\$ -	
<b>Total Travel</b>						<b>\$ -</b>	
Contractual							
Subcontractor Name	Description of Item	Corresponding Goal, Objective, and Activity in Project Design	Rate	Quantity	Total Amount Requested from CDPHE	Amount (\$) of Total Requested as Advanced Payment (if any) (Only nonprofit organizations are eligible for Advanced Payment of up to 25% of the total award.)	
Weatherization Services	Weatherization services include air sealing, door sweeps, caulking around windows and plumbing, and outlet insulation. \$580 per home x 45 homes	Equitable access to healthy, energy efficient, and resilient housing, Home-Visits, Additional Resources	\$ 580.00	45.0	\$ 26,100		
Furnace Services	Furnaces will be inspected and cleaned for each participating household. \$190 x 45 homes	Equitable access to healthy, energy efficient, and resilient housing, Home-Visits, Additional Resources	\$ 190.00	45.0	\$ 8,550		
Special or Emergency Projects Fund	May include the following, depending on participant needs: •Furnace replacements- \$6,000 (average cost) •Plumbing fixes (cost may vary) •Range hood- \$1,500 (average cost) •Bathroom fan installation- \$400 (average cost) •Roof repair- \$10,000 (average cost)	Equitable access to healthy, energy efficient, and resilient housing, Home-Visits, Additional Resources	\$ 27,000	1.0	\$ 27,000		
Language Justice for Engagement Events & Trainings	Language Justice interpreters and translations to be part of trainings and events estimated at 5 offerings from 7/1/2024 through 6/30/2025. Rate Estimates: Translation of printed materials- \$.50/word x estimated 13,000 words = \$6,500 Interpretation Services- \$108/hr x 2 hrs per event x 5 events = \$1,728 Average per event = 1,032.80	Equitable access to healthy, energy efficient, and resilient housing, HHE and NC Training, Authentic Community Engagement	\$ 1,032.80	5.0	\$ 5,164.00		
<b>Total Contractual</b>						<b>\$ 66,814.00</b>	
<b>SUB-TOTAL OF DIRECT COSTS</b>						<b>\$ 168,874.00</b>	
Indirect							
<b>TOTAL</b>						<b>\$ 168,874.00</b>	



**ADDITIONAL PROVISIONS**

**These provisions are to be read and interpreted in conjunction with the provisions of the Contract specified above.**

1. To receive compensation under the Contract, the Contractor shall submit a signed monthly CDPHE Reimbursement Invoice Form. This form is accessible from the CDPHE internet website <https://www.colorado.gov/pacific/cdphe/standardized-invoice-form-and-links> and is incorporated and made part of this Contract by reference. CDPHE will provide the form, including budget line items, to the Contractor. CDPHE will provide technical assistance in accessing and completing the form. The CDPHE Reimbursement Invoice Form and Expenditure Details page must be submitted no later than **forty-five (45)** calendar days after the end of the billing period for which services were rendered. Expenditures shall be in accordance with this Statement of Work and Budget

Scan the completed and signed CDPHE Reimbursement Invoice Form into an electronic document. Email the scanned invoice and Expenditure Details page to: Gabriella Boehm, EJ Grants Specialist, [gabriella.boehm@state.co.us](mailto:gabriella.boehm@state.co.us)

Final billings under the Contract must be received by the State within a reasonable time after the expiration or termination of the Contract; but in any event no later than **forty-five (45)** calendar days from the effective expiration or termination date of the Contract.

Unless otherwise provided for in the Contract, "Local Match", if any, shall be included on all invoices as required by funding source.

The Contractor shall not use federal funds to satisfy federal cost sharing and matching requirements unless approved in writing by the appropriate federal agency.

The Contractor shall submit all invoices for expenses incurred in the course of the project within 45 days of the end of the month when the expenses were incurred.

2. Time Limit For Acceptance Of Deliverables.
  - a. Evaluation Period. The State shall have fifteen (15) calendar days from the date a deliverable is delivered to the State by the Contractor to evaluate that deliverable, except for those deliverables that have a different time negotiated by the State and the Contractor.
  - b. Notice of Defect. If the State believes in good faith that a deliverable fails to meet the design specifications for that particular deliverable, or is otherwise deficient, then the State shall notify the Contractor of the failure or deficiencies, in writing, within fifteen (15) calendar days of: 1) the date the deliverable is delivered to the State by the Contractor if the State is aware of the failure or deficiency at the time of delivery; or 2) the date the State becomes aware of the failure or deficiency. The above time frame shall apply to all deliverables except for those deliverables that have a different time negotiated by the State and the Contractor in writing pursuant to the State's fiscal rules.
  - c. Time to Correct Defect. Upon receipt of timely written notice of an objection to a completed deliverable, the Contractor shall have a reasonable period of time, not to exceed twelve (12) calendar days, to correct the noted deficiencies.
3. Health Insurance Portability and Accountability Act (HIPAA) Business Associate Determination. The State has determined that this Contract does not constitute a Business Associate relationship under HIPAA.
4. This award does not include funds for Research and Development.

5. All data collected, used or acquired shall be used solely for the purposes of this Contract. The Contractor and its subcontractors agree not to release, divulge, publish, transfer, sell, or otherwise make known any such data to unauthorized persons without the express prior written consent of the State or as otherwise required by law. This includes a prior written request by the Contractor to the State for submission of abstracts or reports to conferences, which utilize data collected under this Contract. Notwithstanding the foregoing, the Contractor shall be entitled to retain a set of any such data collected or work papers necessary to perform its duties under this Contract and in accordance with professional standards.
6. Contractor shall request prior approval in writing from the State for all modifications in the Statement of Work/Work Plan or for any modification in excess of twenty-five percent (25%) of the total budget shall be submitted to CDPHE at least 90 days prior to the end of the Contract period and may require an amendment in accordance with *General Provisions*, Section 17, *Contract Modifications*, of this Contract.
7. Contractor shall not use funds provided under this Contract for the purpose of lobbying as defined in Colorado Revised Statutes (C.R.S.) 24-6-301(3.5)(a).
8. Funds provided under this Contract may not be used to: supplant funding for any existing programs/models; develop new cessation programs/models; develop curricula for youth or adults not reviewed and approved by the State; pay for individual cessation aids or nicotine replacement therapy; fund capital improvements; or fund costs of enforcement of state or local laws and ordinances unless approved by CDPHE.
9. The Contractor shall provide CDPHE, upon request, written procedures related to gift card purchase and handling. At a minimum, the procedures must include the following:
  - a. How the gift card inventory is tracked and maintained;
  - b. Gift Card storage and safeguards against theft;
  - c. The primary person responsible for securing and distributing gift cards;
  - d. A gift card distribution log that records each gift card number, dollar amount and with the personal information of the gift card recipient redacted.

**State of Colorado Purchase Order Terms and Conditions**

- 1. Offer/Acceptance.** This Purchase Order, together with these terms and conditions (including, if applicable, Addendum 1: Additional Terms and Conditions for Information Technology, and Addendum 2: Additional Terms and Conditions for Federal Provisions, below), and any other attachments, exhibits, specifications, or appendices, whether attached or incorporated by reference (collectively the “PO”) shall represent the entire and exclusive agreement between the State and the Vendor. If this PO refers to Vendor’s bid or proposal, this PO is an ACCEPTANCE of Vendor’s OFFER TO SELL in accordance with the terms and conditions of this PO. If a bid or proposal is not referenced, this PO is an OFFER TO BUY, subject to Vendor’s acceptance, demonstrated by Vendor’s performance or written acceptance of this PO. Any COUNTER-OFFER TO SELL automatically CANCELS this PO, unless a change order accepting the counter-offer is issued in accordance with §4 accepting a counter-offer. The State shall not be responsible or liable for goods or services delivered or performed prior to issuance of this PO.
- 2. Order of Precedence.** In the event of a conflict or inconsistency within this PO, such conflict or inconsistency shall be resolved by giving preference to the documents in the following order of priority: **(a)** If applicable, Addendum 2: Additional Terms and Conditions for Federal Provisions, below; **(b)** the Purchase Order document; **(c)** these Terms and Conditions (including, if applicable, Addendum 1: Additional Terms and Conditions for Information Technology below); and **(d)** any attachments, exhibits, specifications, or appendices, whether attached or incorporated by reference. Any terms and conditions included on Vendor’s forms or invoices not included in this PO are void.
- 3. Safety Information.** All chemicals, equipment, and materials proposed or used in the performance of this PO shall conform to the requirements of the Occupational Safety and Health Act of 1970. Vendor shall furnish all Material Safety Data Sheets (MSDS) for any regulated chemicals, equipment, or hazardous materials at the time of delivery.
- 4. Changes.** Vendor shall furnish goods or services in strict accordance with the specifications and price set forth for each item. This PO shall not be modified, superseded or otherwise altered, except in writing signed by the State and accepted by Vendor. If this PO is for goods only and Vendor has not delivered the goods prior to the expiration of this PO, but Vendor delivers all of the goods to the State only after expiration of this PO, then the State, in its sole discretion, may accept the goods under this PO by extending this PO and delivering the modification to Vendor; however, regardless of anything to the contrary, if the State does not extend this PO for any reason then the goods delivered after expiration of this PO shall be deemed rejected, Vendor shall arrange the return of all delivered goods at Vendor’s sole expense, and the State shall have no liability for any such goods.
- 5. Delivery.** Unless otherwise specified in this PO, delivery shall be FOB destination, freight prepaid and allowed. The State is relying on the promised delivery date and any installation or service performance set forth in this PO as material and basic to the State’s acceptance. If Vendor fails to deliver or perform as and when promised, the State, in its sole discretion, may cancel its order, or any part thereof, without prejudice to its other rights, return all or part of any shipment so made, and charge Vendor with any loss or expense sustained as a result of such failure to deliver or perform as promised. Time is of the essence.
- 6. Rights to Materials.** *[Not Applicable to POs issued either in whole or in part for Information Technology, as defined in CRS § 24-37.5-102(2); which shall be governed by Addendum 1 §B.]* Unless specifically stated otherwise in this PO, all materials, including without limitation supplies, equipment, documents, content, information, or other material of any type, whether tangible or intangible (collectively “Materials”), furnished by the State to Vendor or delivered by Vendor to the State in performance of its obligations under this PO shall be the exclusive property of the State. Vendor shall return or deliver all Materials to the State upon completion or termination of this PO.

**7. Reporting.** If Vendor is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this PO or may affect Vendor's ability to perform its obligations under this PO, Vendor shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State. Vendor shall disclose, in a timely manner, in writing to the State all violations of federal or state criminal law involving fraud, bribery, or gratuity violations potentially affecting this PO. The State may impose any remedies available, which may include, without limitation, suspension or debarment.

**8. Conflicts of Interest.** Vendor acknowledges that with respect to this PO, even the appearance of a conflict of interest is harmful to the State's interests. Absent the State's prior written approval, Vendor shall refrain from any practices, activities, or relationships that reasonably may appear to be in conflict with the full performance of Vendor's obligations to the State hereunder. If a conflict or appearance of a conflict of interest exists, or if Vendor is uncertain as to such, Vendor shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction with respect to the actual or apparent conflict constitutes a breach of this PO. Vendor acknowledges that all State employees are subject to the ethical principles described in §24-18-105, C.R.S. Vendor further acknowledges that State employees may be subject to the requirements of §24-18-105, C.R.S. with regard to this PO.

**9. Warranties.** All provisions and remedies of the Colorado Uniform Commercial Code, CRS, Title 4 ("UCC"), relating to implied or express warranties for goods are incorporated herein, in addition to any warranties contained in this PO.

**10. Inspection and Acceptance.** The State's final acceptance of goods or services is contingent upon completion of all applicable inspection procedures. All goods delivered shall be newly manufactured and the current model, unless otherwise specified. The State shall have the right to inspect goods or services provided under this PO at all reasonable times and places. The State shall be the sole judge in determining "equals" with regard to conformance with the specifications outlined in this PO for quality, price, and performance. If any of the goods or services do not conform to this PO, the State, at its sole discretion, may require Vendor to either **(a)** replace the goods specified by the State or **(b)** perform the services again, without additional payment from the State. When defects in the quality or quantity of goods or services cannot be corrected by replacement or re-performance, the State may **(c)** require Vendor to take necessary action to ensure that future performance conforms to this PO and **(d)** equitably reduce the payment due Vendor to reflect the reduced value of the goods or services performed. These remedies do not limit the remedies otherwise available in this PO, at law, or in equity.

**11. Taxes.** The State is exempt from federal excise taxes and from State and local sales and use taxes.

**12. Payment.** The State shall not pay Vendor any amount for performance under this PO in excess of the Document Total set forth on the Purchase Order document. The State shall pay Vendor for all amounts due within 45 days after the State's receipt of goods or services and acceptance of a correct invoice of amount due. Amounts not paid by the State within 45 days of the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th day at the rate set forth in CRS §24-30-202(24) until paid in full. Interest shall not accrue if a good faith dispute exists as to the State's obligation to pay all or a portion of the amount due. Vendor shall invoice the State separately for interest on delinquent amounts due, referencing the delinquent payment, number of day's interest to be paid, and applicable interest rate. The State may benefit from any early payment discount offered by Vendor by making payment within the timeframes required by Vendor to be eligible for such discount. If Vendor offers an early payment discount, then the discount shall be shown on Vendor's invoices to the State, and if the State makes payment on the invoice within the time frame for the discount, Vendor shall either **(a)** accept the payment amount less the appropriate

discount or **(b)** refund the discount back to the State. Except as specifically agreed in this PO, Vendor shall be solely responsible for all costs, expenses, and other charges it incurs in connection with its performance under this PO.

**13. Assignment.** Vendor's rights and obligations under this PO shall not be transferred or assigned without the prior, written consent of the State and execution of a new PO. Any attempt at assignment or transfer without such consent and new PO shall be void. Any new PO approved by the State shall be subject to the same terms and conditions as those set forth in this PO.

**14. Subcontracts.** Unless otherwise specified in this PO, Vendor shall not enter into any subcontract in connection with its obligations under this PO without the prior, written approval of the State. Vendor shall submit to the State a copy of each such subcontract upon request by the State. All subcontracts entered into by Vendor in connection with this PO shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this PO.

**15. Severability.** The invalidity or unenforceability of any provision of this PO shall not affect the validity or enforceability of any other provision of this PO, which shall remain in full force and effect, provided, that the parties can continue to perform their obligations in accordance with the intent of this PO.

**16. Survival of Certain PO Terms.** Any provision of this PO that imposes an obligation on a party after termination or expiration of this PO shall survive the termination or expiration of this PO and shall be enforceable by the other party.

**17. Third Party Beneficiaries.** Except for the parties' respective successors and assigns, this PO does not and is not intended to confer any rights or remedies upon any person or entity other than the parties. Enforcement of this PO and all rights and obligations hereunder is reserved solely to the parties. Any services or benefits which third parties receive as a result of this PO are incidental to this PO, and do not create any rights for such third parties.

**18. Waiver.** A party's failure or delay in exercising any right, power, or privilege under this PO, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

**19. Indemnification. [Not Applicable to Inter-governmental POs]** Vendor shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by Vendor, or its employees, agents, subcontractors, or assignees in connection with this PO. This shall include, without limitation, any and all costs, expenses, claims, damages, liabilities, court awards and other amounts incurred by the Indemnified Parties in relation to any claim that any work infringes a patent, copyright, trademark, trade secret, or any other intellectual property right or any claim for loss or improper disclosure of any confidential information or personally identifiable information.

**20. Notice.** All notices given under this PO shall be in writing, and shall be delivered to the contacts for each party listed on the Purchase Order document. Either party may change its contact or contact information by notice submitted in writing to the other party without a formal modification to this PO.

**21. Insurance.** Except as otherwise specifically stated in this PO, Vendor shall obtain and maintain insurance as specified in this section at all times during the term of this PO: **(a)** workers' compensation insurance as required by state statute, and employers' liability insurance covering all Vendor employees acting within the course and scope of their employment; **(b)** Commercial general liability insurance written on an Insurance Services Office occurrence form, covering premises operations, fire damage, independent contractors, products and completed operations, blanket

contractual liability, personal injury, and advertising liability with minimum limits as follows: \$1,000 each occurrence; \$1,000,000 general aggregate; \$1,000,000 products and completed operations aggregate; and \$50,000 any one fire; and (c) Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit. If Vendor will or may have access to any protected information, then Vendor shall also obtain and maintain insurance covering loss and disclosure of protected information and claims based on alleged violations of privacy right through improper use and disclosure of protected information with limits of \$1,000,000 each occurrence and \$1,000,000 general aggregate at all times during the term of this PO. Additional insurance may be required as provided elsewhere in this PO. All insurance policies required by this PO shall be issued by insurance companies with an AM Best rating of A-VIII or better. This insurance requirement shall not apply if this PO is solely for goods, as determined by the State, unless specifically stated otherwise in this PO or any attachment or exhibit to this PO. If Vendor is a public agency within the meaning of the Colorado Governmental Immunity Act, then this section shall not apply and Vendor shall instead comply with the Colorado Governmental Immunity Act. The State shall be named as additional insured on all commercial general liability policies required of Vendor. All insurance policies secured or maintained by Vendor in relation to this Purchase Order shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Vendor or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

**22. Termination Prior to Vendor Acceptance.** If Vendor has not begun performance under this PO, the State may cancel this PO by providing written notice to the Vendor.

**23. Termination for Cause.** (a) If Vendor refuses or fails to timely and properly perform any of its obligations under this PO with such diligence as will ensure its completion within the time specified in this PO, the State may notify Vendor in writing of non-performance and, if not corrected by Vendor within the time specified in the notice, terminate Vendor's right to proceed with this PO or such part thereof as to which there has been delay or a failure. Vendor shall continue performance of this PO to the extent not terminated. (b) Vendor shall be liable for excess costs incurred by the State in procuring similar goods or services and the State may withhold such amounts as the State deems necessary. (c) If after rejection, revocation, or other termination of Vendor's right to proceed under the UCC or this clause, the State determines for any reason that Vendor was not in default or the delay was excusable, the rights and obligations of the State and Vendor shall be the same as if the notice of termination had been issued pursuant to termination under §24.

**24. Termination in Public Interest.** The State is entering into this PO for the purpose of carrying out the public interest of the State, as determined by its Governor, General Assembly, or Courts. If this PO ceases to further the public interest of the State as determined by its Governor, General Assembly, or Courts, the State, in its sole discretion, may terminate this PO in whole or in part and such termination shall not be deemed to be a breach of the State's obligations hereunder. This section shall not apply to a termination for cause, which shall be governed by §23. A determination that this PO should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. The State shall give written notice of termination to Vendor specifying the part of this PO terminated and when termination becomes effective. Upon receipt of notice of termination, Vendor shall not incur further obligations except as necessary to mitigate costs of performance. For services or specially manufactured goods, the State shall pay (a) reasonable settlement expenses, (b) this PO price or rate for supplies and services delivered and accepted, (c) reasonable costs of performance on unaccepted supplies and services, and (d) a reasonable profit for the unaccepted work. For existing goods, the State shall pay (e) reasonable settlement expenses, (f) the PO price for goods delivered and accepted, (g) reasonable costs incurred in preparation for delivery of the undelivered goods, and (h) a reasonable profit for the preparatory work. The State's termination liability under this section shall not exceed the total PO price. As a condition for payment

under this section, Vendor shall submit a termination proposal and reasonable support documentation, and cost and pricing data as requested by the State.

**25. Funds Availability.** Financial obligations of the State payable after the State's current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. If this PO is funded in whole or in part with federal funds, this PO is subject to and contingent upon the continuing availability of federal funds for the purposes hereof. The State represents that it has set aside sufficient funds to make payment for goods delivered in a single installment, in accordance with the terms of this PO.

**26. Governmental Immunity.** Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, CRS §24-10-101, *et seq.*, the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, CRS §§24-30-1501, *et seq.* No term or condition of this PO shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

**27. Independent Contractor.** Vendor shall perform its duties under this PO as an independent contractor and not as an employee. Neither Vendor nor any agent or employee of Vendor shall be deemed to be an agent or employee of the State. Vendor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Vendor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Vendor or any of its agents or employees. Vendor shall pay when due all applicable employment taxes, income taxes and local head taxes incurred pursuant to this PO. Vendor shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.**

**28. Compliance with Law.** Vendor shall comply with all applicable federal and state laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

**29. Choice of Law, Jurisdiction and Venue. [Not Applicable to Inter-governmental POs]** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this PO. The UCC shall govern this PO in the case of goods unless otherwise agreed in this PO. Any provision included or incorporated herein by reference, which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this PO shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver. Any provision incorporated herein by reference which purports to negate this or any other provision in this PO in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Vendor shall exhaust administrative remedies in CRS §24-109-106, prior to commencing any judicial action against the State.

**30. Prohibited Terms.** Nothing in this PO shall be construed as a waiver of any provision of CRS §24-106-109. Any term included in this PO that requires the State to indemnify or hold Vendor harmless; requires the State to agree to binding arbitration; limits Vendor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with that statute in any way shall be void ab initio.

**31. Vendor Offset and Erroneous Payments. [Not Applicable to Inter-governmental POs or to POs issued solely for goods]** The State Controller may withhold payment under the State's Vendor offset intercept system for debts owed to State agencies for: **(a) unpaid child support debts or**

child support arrearages; **(b)** unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, *et seq.*; **(c)** unpaid loans due to the Student Loan Division of the Department of Higher Education; **(d)** amounts required to be paid to the Unemployment Compensation Fund; and **(e)** other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to Vendor in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Vendor by deduction from subsequent payments under this PO, deduction from any payment due under any other contracts, grants or agreements between the State and Vendor, or by any other appropriate method for collecting debts owed to the State.



**ADDENDUM 1:****Additional Terms & Conditions for Information Technology**

IF ANY PART OF THE SUBJECT MATTER OF THIS PO IS INFORMATION TECHNOLOGY, AS DEFINED IN CRS § 24-37.5-102 (2), THE FOLLOWING PROVISIONS ALSO APPLY TO THIS PO.

**A. Definitions.** The following terms shall be construed and interpreted as follows: **(a) “Business Day”** means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in CRS §24-11-101(1); **(b) “CJI”** means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended, and all Criminal Justice Records as defined under CRS §24-72-302; **(c) “HIPAA”** means the federal Health Information Portability and Accountability Act; **(d) “Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, pursuant to CRS §§24-37.5-401 *et seq.*; **(e) “PCI”** means payment card information including any data related to credit card holders’ names, credit card numbers, or the other credit card information as may be protected by state or federal law; **(f) “PHI”** means any protected health information, including, without limitation any information whether oral or recorded in any form or medium that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual including, without limitation, any information defined as Individually Identifiable Health Information by HIPAA; **(g) “PII”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records, including, without limitation, all information defined as personally identifiable information in CRS §24-72-501. “PII” shall also mean “personal identifying information” as set forth at § 24-74-102, *et. seq.*, C.R.S. ; **(h) “State Confidential Information”** means any and all State Records not subject to disclosure under the Colorado Open Records Act, CRS §§24-72-200.1, *et seq.* (“CORA”), and includes, without limitation, PII, PHI, PCI, Tax Information, CJI, and State personnel records not subject to disclosure under CORA; **(i) “State Records”** means any and all State data, information, and records, regardless of physical form; **(j) “Tax Information”** means federal and State of Colorado tax information including, without limitation, federal and State tax returns, return information, and such other tax-related information as may be protected by federal and State law and regulation, including, without limitation all information defined as federal tax information in Internal Revenue Service Publication 1075; and **(k) “Work Product”** means the tangible and intangible results of the delivery of goods and performance of services, whether finished or unfinished, including drafts.

**B. Intellectual Property.** Except to the extent specifically provided elsewhere in this PO, any State information, including without limitation pre-existing State software, research, reports, studies, data, photographs, negatives or other documents, drawings, models, materials; or Work Product prepared by Vendor in the performance of its obligations under this PO shall be the exclusive property of the State (collectively, “State Materials”). Vendor shall deliver all State Materials to the State upon completion or termination of this PO. The State’s exclusive rights in any Work Product prepared by Vendor shall include, but not be limited to, the right to copy, publish, display, transfer, and prepare derivative works. Vendor shall not use, willingly allow, cause or permit any State Materials to be used for any purpose other than the performance of Vendor’s

obligations hereunder without the prior written consent of the State. The State shall maintain complete and accurate records relating to (a) its use of all Vendor and third party software licenses and rights to use any Vendor or third party software granted under this PO and its attachments to which the State is a party and (b) all amounts payable to Vendor pursuant to this PO and its attachments and the State's obligations under this PO or to any amounts payable to Vendor in relation to this PO, which records shall contain sufficient information to permit Vendor to confirm the State's compliance with the use restrictions and payment obligations under this PO or to any third-party use restrictions to which the State is a party. Vendor retains the exclusive rights, title and ownership to any and all pre-existing materials owned by or licensed to Vendor including, but not limited to all pre-existing software, licensed products, associated source code, machine code, text images, audio, video, and third-party materials, delivered by Vendor under this PO, whether incorporated in a deliverable or necessary to use a deliverable (collectively, "Vendor Property"). Vendor Property shall be licensed to the State as set forth in a State-approved license agreement: (c) entered into as exhibits or attachments to this PO, (d) obtained by the State from the applicable third-party Vendor, or (e) in the case of open source software, the license terms set forth in the applicable open source license agreement. Notwithstanding anything to the contrary herein, the State shall not be subject to any provision incorporated in any exhibit or attachment attached hereto, any provision incorporated in any terms and conditions appearing on any website, any provision incorporated into any click through or online agreements, or any provision incorporated into any other document or agreement between the parties that (i) requires the State to indemnify Vendor or any other party, (ii) is in violation of State laws, regulations, rules, fiscal rules, policies, or other State requirements as deemed solely by the State, or (iii) is contrary to this PO.

**C. License or Use Audit Rights.** If this PO includes any license or other right to use Vendor's intellectual property, Vendor shall have the right, at any time during and throughout the term of this PO, but not more than once during any State fiscal year, to request via written notice in accordance with the notice provisions of this PO that the State audit its use of Vendor's intellectual property and certify as to its compliance with any applicable license or use restrictions and limitations contained in this PO (an "Audit Request"). The Audit Request shall specify the time period to be covered by the audit, which shall not include any time periods covered by a previous audit. The State shall complete the audit and provide certification of its compliance to Vendor ("Audit Certification") within 120 days following the State's receipt of the Audit Request. If upon receipt of the State's Audit Certification, the parties reasonably determine that: (a) the State's use of licenses, use of software, use of programs, or any other use of intellectual property during the audit period exceeded the use restrictions and limitations contained in this PO ("Overuse") and (b) the State would have been or is then required to purchase additional rights to use Vendor's intellectual property ("Additional Rights"), Vendor shall provide written notice to the State in accordance with the notice provisions of this PO identifying any Overuse or required Additional Rights and request that the State bring its use into compliance with such use restrictions and limitations. Notwithstanding anything to the contrary in this PO, or incorporated as a part of Vendor's or any subcontractor's website, click-through or online agreements, third-party agreements, or any other documents or agreements between the parties, the State shall not be liable for the costs associated with any Overuse or Additional Rights, during the audit period regardless of whether the State may have been notified in advance of such costs.

**D. Vendor Records.** Vendor shall maintain a file of all documents, records, communications, notes, and other materials relating to the work (the "Vendor Records"). Vendor Records shall include all documents, records, communications, notes and other materials maintained by Vendor that relate to any work performed by Subcontractors, and Vendor shall maintain all records related to the work performed by Subcontractors required to ensure proper performance of that work. Unless a longer period is required in this PO or any attachment or exhibit to this PO, Vendor shall maintain Vendor Records until the last to occur of: (a) the date 3 years after the date this

Purchase Order expires or is terminated, **(b)** final payment under this Purchase Order is made, **(c)** if the resolution of any pending Purchase Order matters, or **(d)** if an audit is occurring, or Vendor has received notice that an audit is pending, the date such audit is completed and its findings have been resolved (the "Record Retention Period"). Vendor shall permit the State, the federal government, and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy, and transcribe Vendor Records during the Record Retention Period. Vendor shall make Vendor Records available during normal business hours at Vendor's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than 2 Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State. The State, in its discretion, may monitor Vendor's performance of its obligations under this Purchase Order using procedures as determined by the State. The State shall monitor Vendor's performance in a manner that does not unduly interfere with Vendor's performance of the work. Vendor shall promptly submit to the State a copy of any final audit report of an audit performed on Vendor's records that relates to or affects this Purchase Order or the work, whether the audit is conducted by Vendor or a third party.

**E. Information Confidentiality.** Vendor shall keep confidential, and cause all subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Vendor shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this PO, permitted by law, or approved in writing by the State. Vendor shall provide for the security of all State Confidential Information in accordance with all applicable laws, rules, policies, publications, and guidelines. If Vendor or any of its subcontractors will or may have access to any State Confidential Information or any other protected information, Vendor shall comply with all Colorado Office of Information Security (OIS) policies and procedures which OIS has issued pursuant to CRS §§24-37.5-401 through 406, and 8 CCR §1501-5 and posted at <https://oit.colorado.gov/standards-policies-guides/technical-standards-policies>, all information security and privacy obligations imposed by any federal, state, or local statute or regulation, or by any industry standards or guidelines, as applicable based on the classification of the data relevant to Vendor's performance under this PO. Such obligations may arise from HIPAA; IRS Publication 1075; Payment Card Industry Data Security Standard (PCI-DSS); Federal Bureau of Investigation Criminal Justice Information Service Security Addendum; Centers for Medicare & Medicaid Services (CMS) Minimum Acceptable Risk Standards for Exchanges; and Electronic Information Exchange Security Requirements and Procedures for State and Local Agencies Exchanging Electronic Information With The Social Security Administration. Vendor shall immediately forward any request or demand for State Records to the State's purchasing agent.

**F. Other Entity Access and Nondisclosure Agreements.** Vendor may provide State Records to its agents, employees, assigns and subcontractors as necessary to perform the work, but shall restrict access to State Confidential Information to those agents, employees, assigns, and subcontractors who require access to perform their obligations under this PO. Vendor shall ensure all such agents, employees, assigns, and subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this PO, and that the nondisclosure provisions are in force at all times the agent, employee, assign or subcontractor has access to any State Confidential Information. Vendor shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions if requested by the State.

**G. Use, Security, and Retention.** Vendor shall use, hold, and maintain State Confidential Information in compliance with all applicable laws and regulations only in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information. Vendor shall provide the State with access, subject to Vendor's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or

termination of this PO, Vendor shall return State Records provided to Vendor or destroy State Records and certify to the State that it has done so, as directed by the State. If Vendor is prevented by law or regulation from returning or destroying State Confidential Information, Vendor warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

**H. Incident Notice and Remediation.** If Vendor becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Vendor can establish none of Vendor or any of its agents, employees, assigns, or subcontractors are the cause or source of the Incident, Vendor shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Vendor shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State. The State may adjust or direct modifications to this plan, in its sole discretion and Vendor shall make all modifications as directed by the State. If Vendor cannot produce its analysis and plan within the allotted time, the State, in its sole discretion, may perform such analysis and produce a remediation plan, and Vendor shall reimburse the State for the reasonable actual costs thereof.

**I. Data Protection and Handling.** Vendor shall ensure that all State Records and Work Product in the possession of Vendor or any subcontractors are protected and handled in accordance with the requirements of this PO at all times. Upon request by the State made any time prior to 60 days following the termination of this PO for any reason, whether or not this PO is expiring or terminating, Vendor shall make available to the State a complete and secure download file of all data that is encrypted and appropriately authenticated. This download file shall be made available to the State within 10 Business Days following the State's request, and shall contain, without limitation, all State Records, Work Product, and system schema and transformation definitions, or delimited text files with documents, detailed schema definitions, and attachments in its native format. Upon the termination of Vendor's services under this PO, Vendor shall, as directed by the State, return all State Records provided by the State to Vendor, and the copies thereof, to the State or destroy all such State Records and certify to the State that it has done so. If legal obligations imposed upon Vendor prevent Vendor from returning or destroying all or part of the State Records provided by the State, Vendor shall guarantee the confidentiality of all State Records in Vendor's possession and will not actively process such data. The State retains the right to use the established operational services to access and retrieve State Records stored on Vendor's infrastructure at its sole discretion and at any time.

**J. Compliance with OIS Policies and Procedure.** Vendor shall review, on a semi-annual basis, all Colorado Office of Information Security ("OIS") policies and procedures which OIS has promulgated pursuant to CRS §§ 24-37.5-401 through 406 and 8 CCR § 1501-5 and posted at <https://oit.colorado.gov/standards-policies-guides/technical-standards-policies>, to ensure compliance with the standards and guidelines published therein. Vendor shall cooperate, and shall cause its subcontractors to cooperate, with the performance of security audit and penetration tests by OIS or its designee.

**K. Safeguarding PII.** If Vendor or any of its subcontractors will or may receive PII under this PO, Vendor shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, all State requirements relating to non-disclosure, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Vendor shall be a "Third-Party Service Provider" as defined in CRS §24-73-103(1)(i) and shall maintain security procedures and practices consistent with CRS §§24-73-101. In addition, as set forth in § 24-74-102, et. seq., C.R.S., Contractor, including, but not limited to, Contractor's employees,

agents and Subcontractors, agrees not to share any PII with any third parties for the purpose of investigating for, participating in, cooperating with, or assisting with Federal immigration enforcement. If Contractor is given direct access to any State databases containing PII, Contractor shall execute, on behalf of itself and its employees, the certification [PII Individual Certification Form](#) or [PII Entity Certification Form](#) [Download form from Hyperlink] on an annual basis and Contractor's duty and obligation to certify shall continue as long as Contractor has direct access to any State databases containing PII. If Contractor uses any Subcontractors to perform services requiring direct access to State databases containing PII, the Contractor shall require such Subcontractors to execute and deliver the certification to the State on an annual basis, so long as the Subcontractor has access to State databases containing PII.

**L. Software Piracy Prohibition.** State or other public funds payable under this PO shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Vendor hereby certifies and warrants that, during the term of this PO and any extensions, Vendor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Vendor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this PO, including, without limitation, immediate termination of this PO and any remedy consistent with federal copyright laws or applicable licensing restrictions.

**M. Information Technology.** To the extent that Vendor provides physical or logical storage of State Records; Vendor creates, uses, processes, discloses, transmits, or disposes of State Records; or Vendor is otherwise given physical or logical access to State Records in order to perform Vendor's obligations under this PO, Vendor shall, and shall cause its subcontractors, to: **(a)** provide physical and logical protection for all hardware, software, applications, and data that meets or exceeds industry standards and the requirements of this PO; **(b)** maintain network, system, and application security, which includes, but is not limited to, network firewalls, intrusion detection (host and network), annual security testing, and improvements or enhancements consistent with evolving industry standards; **(c)** comply with State and federal rules and regulations related to overall security, privacy, confidentiality, integrity, availability, and auditing; **(d)** provide that security is not compromised by unauthorized access to workspaces, computers, networks, software, databases, or other physical or electronic environments; **(e)** promptly report all Incidents, including Incidents that do not result in unauthorized disclosure or loss of data integrity, to a designated representative of the OIS; and **(f)** comply with all rules, policies, procedures, and standards issued by the Governor's Office of Information Technology (OIT), including project lifecycle methodology and governance, technical standards, documentation, and other requirements posted at <https://oit.colorado.gov/standards-policies-guides/technical-standards-policies>. Vendor shall not allow remote access to State Records from outside the United States, including access by Vendor's employees or agents, without the prior express written consent of OIS. Vendor shall communicate any request regarding non-U.S. access to State Records to the State. The State, acting by and through OIS, shall have sole discretion to grant or deny any such request.

**N. Accessibility.** Vendor shall comply with and the Work Product provided under this PO shall be in compliance with all applicable provisions of §§24-85-101, *et seq.*, C.R.S., and the *Accessibility Standards for Individuals with a Disability*, as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S. Vendor shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards. Vendor shall indemnify, save, and hold harmless the Indemnified Parties against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to Vendor's failure to comply with §§24-85-101, *et seq.*, C.R.S., or the *Accessibility Standards for Individuals*

*with a Disability* as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S. The may require Vendor's compliance to the State's Accessibility Standards to be determined by a third party selected by the State to attest to Vendor's Work Product and software is in compliance with §§24-85-101, *et seq.*, C.R.S., and the *Accessibility Standards for Individuals with a Disability* as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S.

**ADDENDUM 2:****Additional Terms & Conditions for Federal Provisions**

IF ANY PART OF THIS PO HAS BEEN FUNDED, IN WHOLE OR IN PART, WITH FEDERAL FUNDS, THE FOLLOWING PROVISIONS SHALL ALSO APPLY TO THIS PO.

**1. APPLICABILITY OF PROVISIONS.**

1.1. The Contract or Purchase Order to which these Federal Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Federal Provisions, the Special Provisions, the body of the Contract or Purchase Order, or any attachments or exhibits incorporated into and made a part of the Contract or Purchase Order, the provisions of these Federal Provisions shall control.

**2. COMPLIANCE.**

2.1. Contractor shall comply with all applicable provisions of the Transparency Act, all applicable provisions of the Uniform Guidance, and the regulations issued pursuant thereto, including but not limited to these federal Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.

**3. SYSTEM FOR AWARD MANAGEMENT (SAM) AND UNIQUE ENTITY ID REQUIREMENTS.**

3.1. SAM. Contractor shall maintain the currency of its information in SAM until the Contractor submits the final financial report required under the Award or receives final payment, whichever is later. Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.

3.2. Unique Entity ID. Contractor shall provide its Unique Entity ID to its Recipient, and shall update Contractor's information at <http://www.sam.gov> at least annually after the initial registration, and more frequently if required by changes in Contractor's information.

**4. CONTRACT PROVISIONS REQUIRED BY UNIFORM GUIDANCE APPENDIX II TO PART 200.**

- 4.1. **Contracts for more than the simplified acquisitions threshold**, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. The simplified acquisitions threshold is \$250,000
- 4.2. **All contracts in excess of \$10,000 must address termination for cause and for convenience** by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
- 4.3. **Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR Part 60, “Office of federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”



4.4. **Davis-Bacon Act**, as amended (40 U.S.C. 3141-3

When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- 4.5. **Contract Work Hours and Safety Standards Act** (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- 4.6. **Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- 4.7. **Clean Air Act (42 U.S.C. 7401-7671q.) and the federal Water Pollution Control Act (33 U.S.C. 1251-1387),** as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

**4.8. Debarment and Suspension** (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

**4.9. Byrd Anti-Lobbying Amendment** (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

**4.10. Prohibition on certain telecommunications and video surveillance services or equipment §2 CFR 200.216**

4.10.1. Recipients and sub recipients are prohibited from obligating or expending loan or grant funds to:

4.10.1.1. Procure or obtain;

4.10.1.2. Extend or renew a contract to procure or obtain; or

4.10.1.3. Enter into a contract (or extend a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

**4.11. Contracts with small and minority businesses, women's business enterprises, and labor surplus area firms. (2 CFR §200.321).** The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

**4.12. Domestic preferences for procurements. (2 CFR §200.322)** As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent

practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

**4.13. Procurement of recovered materials. (2 CFR §200.323)**

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**5. TERMINATION FOR CONVENIENCE OF THE GOVERNMENT**

5.1. Pursuant to §4.2 of these Federal Provisions, the State of Colorado may terminate this contract, in whole or in part, when it is in the Government's interest. Solicitations and contracts shall include clauses as required by FAR 49.502 (2023). Termination for convenience of the government shall comply with the following provisions of the Federal Acquisition Regulations:

5.1.1. For Fixed Price Contracts: FAR 52.249-2 (2023)

5.1.2. For Contracts for Personal Services: FAR 52.249-12 (2023)

5.1.3. For Construction Contracts for Dismantling, Demolition, or Removal of Improvements: FAR 52.249-3 (2023)

5.1.4. For Educational and Other Nonprofit Institutions: FAR 52.249-5 (2023)

**6. EVENT OF DEFAULT.**

6.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Contract and the State of Colorado may terminate the Contract upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Contract, at law or in equity.



**File Attachments for Item:**

**7. First Reading of Ordinance No. 107, 2024, Appropriating Unanticipated Philanthropic Revenue Received by City Give for Various Programs and Services as Designated by the Donors.**

The purpose of this item is to request an appropriation of \$58,120 in philanthropic revenue received through City Give. These miscellaneous gifts to various City departments support a variety of programs and services and are aligned with both the City's strategic priorities and the respective donors' designation.

In 2019, City Give, a formalized enterprise-wide initiative was launched to create a transparent, non-partisan governance structure for the acceptance and appropriations of charitable gifts.

August 20, 2024

# AGENDA ITEM SUMMARY

City Council



## STAFF

Nina Bodenhamer, City Give Director

## SUBJECT

**First Reading of Ordinance No. 107, 2024, Appropriating Unanticipated Philanthropic Revenue Received by City Give for Various Programs and Services as Designated by the Donors.**

## EXECUTIVE SUMMARY

The purpose of this item is to request an appropriation of \$58,120 in philanthropic revenue received through City Give. These miscellaneous gifts to various City departments support a variety of programs and services and are aligned with both the City's strategic priorities and the respective donors' designation.

In 2019, City Give, a formalized enterprise-wide initiative was launched to create a transparent, non-partisan governance structure for the acceptance and appropriations of charitable gifts.

## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

## BACKGROUND / DISCUSSION

The City has long been the beneficiary of local generosity and has a valuable role in our community's philanthropic landscape. Generosity is demonstrated in both large and modest gifts, each appreciated for its investment in the mission and the range of services the City strives to deliver.

The City received several individual philanthropic donations supporting various departments totaling \$58,120 and these funds are currently unappropriated. As acknowledged by Section 2.5 of the City's Fiscal Management Policy 2-Revenue approved by City Council, the City Manager has adopted the Philanthropic Governance Policy to provide for the responsible and efficient management of charitable donations to the City.

This item requests appropriation of \$58,120 in philanthropic revenue received by City Give as follows:

FC Moves received Sponsorships for Open Streets and Bike to Work Day totaling \$11,500 and charitable gifts of \$5,000 received from FoCo Fondo in support of Safe Routes to School and \$120 for Mediation and Restorative Justice.

Police Services received charitable gifts totaling \$11,500 designated by the donors in support of K9 Unit and Santa Cops, and \$5,000 awarded from Target for the 2024 Police Leaders Summit.

The Senior Center received a gift of \$25,000 from the estate of Donald Park in support of Senior Center programming designated by the donor.

These generous donations have been directed by the respective donors to be used by the City for designated uses within and for the benefit of City service areas and programs.

**CITY FINANCIAL IMPACTS**

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This Ordinance will appropriate \$58,120 in new philanthropic revenue received in 2024 through City Give for gifts to various City departments support a variety of programs and services.

The donations shall be expended from the designated fund solely for the donors’ directed intent. New Unanticipated Philanthropic Revenue is as follows:

Open Streets/BTWD Sponsorship	\$11,500	Transportation Fund
Safe Routes to School	\$5,000	Transportation Fund
Police Services Charitable Gifts	\$16,500	General Fund
Mediation & Restorative Justice Charitable Gifts	\$120	General Fund
Senior Center Charitable Gifts	\$25,000	Recreation Fund

The funds have been received and accepted per City Give Administrative and Financial Policy.

The City Manager has also determined that these appropriations, are available and previously unappropriated from their designated City Fund and will not cause the total amount appropriated in those Funds to exceed the current estimate of actual and anticipated revenues.

**BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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None.

**PUBLIC OUTREACH**

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None.

**ATTACHMENTS**

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1. Ordinance for Consideration



ORDINANCE NO. 107, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROPRIATING UNANTICIPATED PHILANTHROPIC  
REVENUE RECEIVED BY CITY GIVE FOR VARIOUS  
PROGRAMS AND SERVICES AS DESIGNATED BY THE  
DONORS

A. The City of Fort Collins has long been the beneficiary of local philanthropy. Generosity is demonstrated in both large and modest gifts, each appreciated for its investment in the mission and the range of services the City strives to deliver.

B. The City has received \$58,120 in philanthropic gifts that require appropriation by City Council. These gifts are: \$11,500 received by FC Moves for Open Streets and Bike to Work Day; \$5,000 from FoCo Fondo to support Safe Routes to School; \$120 for Mediation and Restorative Justice; \$11,500 for Police Services' K9 Unit and Santa Cops; \$5,000 from Target Corporation for the 2024 Police Leaders Summit; and \$25,000 from Donald Park to support Senior Center programming.

C. This appropriation benefits the public health, safety and welfare of the residents of Fort Collins and serves the public purpose of supporting a variety of City programs and services as described herein.

D. Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, to make a supplemental appropriation by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriation, in combination with all previous appropriations for that fiscal year, do not exceed the current estimate of actual and anticipated revenues and all other funds to be received during the fiscal year.

E. The City Manager has recommended the appropriations described in this Ordinance and determined that the amount of each of these appropriations is available and previously unappropriated from the funds named in this Ordinance and will not cause the total amount appropriated in each such fund to exceed the current estimate of actual and anticipated revenues to be received in those funds during this fiscal year.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that there is hereby appropriated in the following funds these amounts of philanthropic revenue received in 2024 to be expended as designated by the donors in support of the various City programs and services as described in this Ordinance.

Transportation Services Fund	\$16,500
General Fund	\$16,620
Recreation Fund	\$ 25,000

Introduced, considered favorably on first reading on August 20, 2024, and approved on second reading for final passage on September 3, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: September 13, 2024  
Approving Attorney: Ted Hewitt

**File Attachments for Item:**

**8. First Reading of Ordinance No. 108, 2024, Authorizing Transfer of Appropriations for the Affordable Housing and Planning and Development Process Improvement Project.**

The purpose of this item is to transfer matching funds in the amount of \$55,000 from the Licensing, Permitting, and Code Enforcement operating business unit to the non-lapsing grant business unit for the Affordable Housing Development Review Process grant. On May 21, 2024, City Council adopted Ordinance No. 059, 2024, appropriating the \$200,000 awarded to the City by the State Department of Local Affairs (DOLA).

August 20, 2024

# AGENDA ITEM SUMMARY

City Council



## STAFF

Clay Frickey, Planning Manager

## SUBJECT

**First Reading of Ordinance No. 108, 2024, Authorizing Transfer of Appropriations for the Affordable Housing and Planning and Development Process Improvement Project.**

## EXECUTIVE SUMMARY

The purpose of this item is to transfer matching funds in the amount of \$55,000 from the Licensing, Permitting, and Code Enforcement operating business unit to the non-lapsing grant business unit for the Affordable Housing Development Review Process grant. On May 21, 2024, City Council adopted Ordinance No. 059, 2024, appropriating the \$200,000 awarded to the City by the State Department of Local Affairs (DOLA).

## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

## BACKGROUND / DISCUSSION

In February 2024, City staff applied for a \$200,000 grant from the Local Planning Capacity (LPC) grant program administered by the Department of Local Affairs (DOLA). In March 2024, staff received notification that the City's grant application had been awarded full funding. On May 21, 2024, City Council adopted Ordinance No. 059, 2024, appropriating the \$200,000 awarded to the City by DOLA. Staff had identified \$55,000 in matching funds to support the project. The matching funds are in a lapsing business unit supporting the Licensing, Permitting, and Code Enforcement project. Grant funds are appropriated into a non-lapsing business unit and matching funds must be in the same type of business unit. Moving funds from one business unit type to another requires Council action per Municipal Code.

This Ordinance will transfer the \$55,000 match from the Licensing, Permitting, and Code Enforcement operating business unit to a non-lapsing business unit and will allow staff to begin work on the grant.

## CITY FINANCIAL IMPACTS

This grant requires a 21% local match, which has already been integrated into the project scope and budget for software expenses as part of the development review and permitting digital transformation project.

The grant is reimbursement-based.

There is no ongoing financial impact to the City.

**BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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None.

**PUBLIC OUTREACH**

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None.

**ATTACHMENTS**

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1. Ordinance for Consideration
2. Ordinance No. 059, 2024

ORDINANCE NO. 108, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING TRANSFER OF APPROPRIATIONS FOR THE  
AFFORDABLE HOUSING AND PLANNING DEVELOPMENT  
PROCESS IMPROVEMENT PROJECT

A. In 2024, the City applied for and received a \$200,000 grant from the Local Planning Capacity grant program administered by the Colorado Department of Local Affairs to be used to review and implement changes to expedite the City's affordable housing development review process.

B. Ordinance No. 059, 2024, appropriated the \$200,000 grant award into a non-lapsing business unit.

C. The City is required to provide \$55,000 in matching funds as a condition of the grant, and the matching funds need to be placed into a non-lapsing business unit.

D. This appropriation benefits the public health, safety, and welfare of the residents of Fort Collins and serves the public purpose of improving the efficiency of the City's administrative processes relating to affordable housing development.

E. Article V, Section 10 of the City Charter authorizes the City Council, upon recommendation by the City Manager, to transfer by ordinance any unexpended and unencumbered appropriated amount or portion thereof from one fund or capital project to another fund or capital project, provided that the purpose for which the transferred funds are to be expended remains unchanged, the purpose for which the funds were initially appropriated no longer exists, or the proposed transfer is from a fund or capital project in which the amount appropriated exceeds the amount needed to accomplish the purpose specified in the appropriation ordinance.

F. The City Manager has recommended the transfer of \$55,000 from the Licensing, Permitting, and Code Enforcement operating business unit in the General Fund to the Local Planning Capacity Grant in the General Fund and determined that the purpose for which the transferred funds are to be expended remains unchanged.

G. Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a federal, state or private grant or donation, that such appropriation shall not lapse at the end of the fiscal year in which the appropriation is made, but continue until the earlier of the expiration of the federal, state or private grant or the City's expenditure of all funds received from such grant.

H. The City Council wishes to designate the appropriation herein for the matching funds for the Local Planning Capacity Grant as an appropriation that shall not lapse until the earlier of the expiration of the grant or the City's expenditure of all funds received from such grant.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The unexpended and unencumbered appropriated amount of FIFTY-FIVE THOUSAND DOLLARS (\$55,000) is authorized for transfer from the Licensing, Permitting, and Code Enforcement operating business unit in the General Fund to the Local Planning Capacity Grant in the General Fund and appropriated therein to be expended for the matching amount towards the Local Planning Capacity Grant.

Section 2. The appropriation herein for the matching funds for the Local Planning Capacity Grant is hereby designated, as authorized in Article V, Section 11 of the City Charter, as an appropriation that shall not lapse at the end of this fiscal year but continue until the earlier of the expiration of the grant or the City's expenditure of all funds received from such grant.

Introduced, considered favorably on first reading on the August 20, 2024, and approved on second reading for final passage on the September 3, 2024.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: September 13, 2024  
Approving Attorney: Brad Yatabe

ORDINANCE NO. 059, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
MAKING A SUPPLEMENTAL APPROPRIATION FROM THE LOCAL  
PLANNING CAPACITY GRANT FOR THE AFFORDABLE HOUSING  
AND PLANNING DEVELOPMENT PROCESS IMPROVEMENT  
PROJECT AND APPROVING A RELATED GRANT AGREEMENT

A. In February 2024, the City applied for a \$200,000 grant from the Local Planning Capacity ("LPC") grant program administered by the Department of Local Affairs ("DOLA"). The LPC grant program was established by Proposition 123, the State Affordable Housing Fund and supports local governments' efforts to implement systems that expedite the development review process for affordable housing.

B. In March 2024, staff received notification that the City's grant application had been awarded full reimbursement funding, subject to a 21% match requirement. DOLA has provided the City with a draft grant agreement ("Agreement") to govern the grant funding, which is attached hereto as Exhibit "A".

C. This Grant will be used to help reduce approval timelines for affordable housing by approximately 50% compared to Fort Collins's baseline approval averages from 2019-2023 ("Project"). Staff plans to achieve this goal through both land use code changes and a formal process improvement project utilizing LEAN principles. Grant funding will support consultant expertise in LEAN principles and project management, which are critical for a project that seeks to implement process improvement among the more than fifteen departments involved in development review. Upon completion, Fort Collins will be poised to consistently achieve the 90-day Fast Track requirements under Proposition 123.

D. The state of Colorado issued the Agreement, which grants an award of \$200,000 to the City for the Project. The Agreement includes a 21% City match requirement of the total Project cost and such funds were previously appropriated.

E. This appropriation benefits public health, safety and welfare of the citizens of Fort Collins and serves the public purpose of improving the efficiency of the City's administrative processes relating to affordable housing development.

F. Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, to make a supplemental appropriation by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriation, in combination with all previous appropriations for that fiscal year, do not exceed the current estimate of actual and anticipated revenues and all other funds to be received during the fiscal year.

G. The City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the General Fund and will not cause the total amount appropriated in the General Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year.



H. Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a federal, state or private grant or donation, that such appropriation shall not lapse at the end of the fiscal year in which the appropriation is made, but continue until the earlier of the expiration of the federal, state or private grant or the City's expenditure of all funds received from such grant.

I. The City Council wishes to designate the appropriation herein for the Local Planning Capacity Grant as an appropriation that shall not lapse until the earlier of the expiration of the grant or the City's expenditure of all funds received from such grant.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. There is hereby appropriated from new revenue or other funds in the General Fund the sum of TWO HUNDRED THOUSAND DOLLARS (\$200,000) to be expended in the General Fund for the Affordable Housing and Planning Development Process Improvement Project.

Section 2. The appropriation herein for the Local Planning Capacity Grant is hereby designated, as authorized in Article V, Section 11 of the City Charter, as an appropriation that shall not lapse at the end of this fiscal year but continue until the earlier of the expiration of the grant or the City's expenditure of all funds received from such grant.

Section 3. The City Council authorizes the City Manager or their designee to accept the grant and obligate the City to comply with the terms of the grant of the award and Agreement.

Introduced, considered favorably on first reading on May 7, 2024, and approved on second reading for final passage on May 21, 2024.

*Jeri Amey*  
\_\_\_\_\_  
Mayor



ATTEST:

*Heath L. Walls*  
\_\_\_\_\_  
Interim City Clerk

Effective Date: May 31, 2024  
Approving Attorney: Ted Hewitt

**State of Colorado Intergovernmental Grant Agreement  
SUMMARY OF TERMS AND CONDITIONS**

<b>State Agency</b> Department of Local Affairs (DOLA)	<b>DLG Portal Number</b> LPC-24-010	<b>CMS Number</b> 190603
<b>Grantee</b> City of Fort Collins	<b>Grant Award Amount</b> \$200,000.00	<b>Retainage Amount</b> \$10,000.00
<b>Project Number and Name</b> LPC-24-010 Fort Collins - Fast Track LEAN Process Improvements	<b>Performance Start Date</b> The later of the Effective Date or April 22, 2024	<b>Grant Expiration Date</b> December 31, 2025
<b>Project Description</b> The Project consists of upgrading development review software and hiring consultants to support Lean process improvements across City departments in order to implement a system to expedite the development review process for affordable housing projects and generally advance affordable housing goals in Fort Collins, Colorado.	<b>Program Name</b> Local Planning Capacity Grant Program (Acctg Dropdwn LPC)	
	<b>Funding Source</b> STATE FUNDS	
	<b>Catalog of Federal Domestic Assistance (CFDA) Number</b> N/A	
<b>DOLA Program Manager</b> Robyn DiFalco, (720) 682-5202, (robyn.difalco@state.co.us)	<b>Funding Account Codes</b> Acctg enters CTGG1 #	
<b>DOLA Program Assistant</b> Jessica Rupe, (720) 557-4902, (jessica.rupe@state.co.us)	<b>VCUST#</b> 14149	<b>Address Code</b> AD004 EFT

**THE SIGNATORIES LISTED BELOW AUTHORIZE THIS GRANT**

<p><b>DEPARTMENT OF LOCAL AFFAIRS</b> PROGRAM REVIEWER</p>  <p>By: Robyn DiFalco, LPC Program Manager</p> <p>Date: _____</p>	<p><b>STATE OF COLORADO</b> Jared S. Polis, Governor <b>DEPARTMENT OF LOCAL AFFAIRS</b> Maria De Cambra, Executive Director</p>  <p>By: Maria De Cambra, Executive Director</p> <p>Date: _____</p>
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In accordance with §24-30-202 C.R.S., this Grant is not valid until signed and dated below by the State Controller or an authorized delegate (the "Effective Date").

<p><b><u>STATE CONTROLLER</u></b> <b><u>Robert Jaros, CPA, MBA, JD</u></b></p>  <p>By: Beulah Messick, Controller Delegate Department of Local Affairs</p> <p><b>Effective Date:</b> _____</p>
--

**TERMS AND CONDITIONS**

**1. GRANT**

As of the Performance Start Date, the State Agency shown on the Summary of Terms and Conditions page of this Intergovernmental Grant Agreement (the “State”) hereby obligates and awards to Grantee shown on the Summary of Terms and Conditions page of this Intergovernmental Grant Agreement (the “Grantee”) an award of Grant Funds in the amount shown on the Summary of Terms and Conditions page of this Intergovernmental Grant Agreement. By accepting the Grant Funds provided under this Intergovernmental Grant Agreement, Grantee agrees to comply with the terms and conditions of this Intergovernmental Grant Agreement and requirements and provisions of all Exhibits to this Intergovernmental Grant Agreement.

**2. TERM**

**A. Initial Grant Term and Extension**

The Parties’ respective performances under this Intergovernmental Grant Agreement shall commence on the Performance Start Date and shall terminate on the Grant Expiration Date unless sooner terminated or further extended in accordance with the terms of this Intergovernmental Grant Agreement. Upon request of Grantee, the State may, in its sole discretion, extend the term of this Intergovernmental Grant Agreement by providing Grantee with an updated Intergovernmental Grant Agreement or an executed Option Letter showing the new Grant Expiration Date.

**B. Early Termination in the Public Interest**

The State is entering into this Intergovernmental Grant Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Intergovernmental Grant Agreement ceases to further the public interest of the State or if State, Federal or other funds used for this Intergovernmental Grant Agreement are not appropriated, or otherwise become unavailable to fund this Intergovernmental Grant Agreement, the State, in its discretion, may terminate this Intergovernmental Grant Agreement in whole or in part by providing written notice to Grantee. If the State terminates this Intergovernmental Grant Agreement in the public interest, the State shall pay Grantee an amount equal to the percentage of the total reimbursement payable under this Intergovernmental Grant Agreement that corresponds to the percentage of Work satisfactorily completed, as determined by the State, less payments previously made. Additionally, the State, in its discretion, may reimburse Grantee for a portion of actual, out-of-pocket expenses not otherwise reimbursed under this Intergovernmental Grant Agreement that are incurred by Grantee and are directly attributable to the uncompleted portion of Grantee’s obligations, provided that the sum of any and all reimbursements shall not exceed the maximum amount payable to Grantee hereunder. This subsection shall not apply to a termination of this Intergovernmental Grant Agreement by the State for breach by Grantee.

**C. Reserved.**

**3. AUTHORITY**

Authority to enter into this Intergovernmental Grant Agreement exists in the law as follows:

**A. Reserved.**

**B. State Authority**

Authority to enter into this Grant exists in C.R.S. 24-32-106 and 29-3.5-101 and funds have been budgeted, appropriated and otherwise made available pursuant to C.R.S. Section 29-32-103(1) *et. seq.* (Affordable Housing Support Fund) and a sufficient unencumbered balance hereof remains available for payment. Required approvals, clearance and coordination have been accomplished from and with appropriate agencies. This Intergovernmental Grant Agreement is funded, in whole or in part, with State funds.

**4. DEFINITIONS**

The following terms shall be construed and interpreted as follows:

- A. “Budget”** means the budget for the Work described in **Exhibit B**.
- B. “Business Day”** means any day on which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1) C.R.S.
- C. Reserved.**
- D. “CORA”** means the Colorado Open Records Act, §§24-72-200.1 *et seq.*, C.R.S.
- E. “Grant”** or **“Intergovernmental Grant Agreement”** means this agreement which offers Grant Funds to Grantee, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future updates thereto.
- F. “Grant Funds”** or **“Grant Award Amount”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Intergovernmental Grant Agreement.
- G. “Grant Expiration Date”** means the Grant Expiration Date shown on the Summary of Terms and Conditions page of this Intergovernmental Grant Agreement. Work performed after the Grant Expiration Date is not eligible for reimbursement from Grant Funds.
- H. “Performance Start Date”** means the later of the Performance Start Date or the Effective Date shown on the Summary of Terms and Conditions page of this Intergovernmental Grant Agreement.
- I. “Exhibits”** means the following exhibits attached to this Intergovernmental Grant Agreement:
- i. Exhibit B**, Scope of Project
  - ii. Exhibit G**, Form of Option Letter
- J. “Extension Term”** means the period of time by which the Grant Expiration Date is extended by the State through delivery of an updated Intergovernmental Grant Agreement, an amendment, or an Option Letter.
- K. Reserved.**
- L. Reserved.**
- M. “Goods”** means any movable material acquired, produced, or delivered by Grantee as set forth in this Intergovernmental Grant Agreement and shall include any movable material acquired, produced, or delivered by Grantee in connection with the Services.

## LPC-24-010 Fort Collins - Fast Track LEAN Process Improvements

- N. **“Incident”** means any accidental or deliberate event that results in, or constitutes an imminent threat of, the unauthorized access or disclosure of State Confidential Information or of the unauthorized modification, disruption, or destruction of any State Records.
- O. **“Initial Term”** means the time period between the Performance Start Date and the initial Grant Expiration Date.
- P. **“Matching Funds”** or **“Other Funds”** means funds provided by the Grantee as a match required to receive the Grant Funds.
- Q. **“Party”** means the State or Grantee, and **“Parties”** means both the State and Grantee.
- R. *Reserved.*
- S. *Reserved.*
- T. *Reserved.*
- U. *Reserved.*
- V. **“Services”** means the services performed by Grantee as set forth in this Intergovernmental Grant Agreement, and shall include any services rendered by Grantee in connection with the Goods.
- W. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Grantee which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Grantee without restrictions at the time of its disclosure to Grantee; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Grantee to the State; (iv) is disclosed to Grantee, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.
- X. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a) C.R.S.
- Y. **“State Fiscal Year”** means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- Z. **“State Records”** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- AA. *Reserved.*
- BB. **“Subcontractor”** means third-parties, if any, engaged by Grantee to aid in performance of the Work. “Subcontractor” also includes sub-grantees.
- CC. *Reserved.*
- DD. *Reserved.*
- EE. *Reserved.*
- FF. **“Work”** means the delivery of the Goods and performance of the Services described in this Intergovernmental Grant Agreement.

**GG. “Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Performance Start Date that is used, without modification, in the performance of the Work.

Any other term used in this Intergovernmental Grant Agreement that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

**5. PURPOSE**

The purpose of the Local Planning Capacity Grant Program is to increase the capacity of local government planning departments responsible for processing land use, permitting, and zoning applications for affordable housing projects. The purpose of this Grant is described in **Exhibit B**.

**6. SCOPE OF PROJECT**

Grantee shall complete the Work as described in this Intergovernmental Grant Agreement and in accordance with the provisions of **Exhibit B**. The State shall have no liability to compensate or reimburse Grantee for the delivery of any goods or the performance of any services that are not specifically set forth in this Intergovernmental Grant Agreement.

**7. PAYMENTS TO GRANTEE**

**A. Maximum Amount**

Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Grantee any amount under this Grant that exceeds the Grant Award Amount shown on the Summary of Terms and Conditions page of this Intergovernmental Grant Agreement.

- i.** The State may increase or decrease the Grant Award Amount by providing Grantee with an updated Intergovernmental Grant Agreement or an executed Option Letter showing the new Grant Award Amount.
- ii.** The State shall not be liable to pay or reimburse Grantee for any Work performed or expense incurred before the Performance Start Date or after the Grant Expiration Date.
- iii.** Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

**B. Reserved.**

**C. Matching Funds.**

Grantee shall provide the Other Funds amount shown on the Project Budget in **Exhibit B** (the “Local Match Amount”). Grantee shall appropriate and allocate all Local Match Amounts to the purpose of this Intergovernmental Grant Agreement each fiscal year prior to accepting any Grant Funds for that fiscal year. Grantee does not by accepting this Intergovernmental Grant Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Intergovernmental Grant Agreement is not intended to create a multiple-fiscal year debt of Grantee. Grantee shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Grantee’s laws or policies.

**D. Reimbursement of Grantee Costs**

The State shall reimburse Grantee's allowable costs, not exceeding the maximum total amount described in this Intergovernmental Grant Agreement for all allowable costs described in this Intergovernmental Grant Agreement and shown in the Budget in **Exhibit B**. The State shall only reimburse allowable costs if those costs are: **(a)** reasonable and necessary to accomplish the Work and for the Goods and Services provided; and **(b)** equal to the actual net cost to Grantee (i.e. the price paid minus any items of value received by Grantee that reduce the cost actually incurred).

- i. Upon request of the Grantee, the State may, without changing the maximum total amount of Grant Funds, adjust or otherwise reallocate Grant Funds among or between each line of the Project Budget by providing Grantee with an executed Option Letter or formal amendment.

**E. Close-Out and De-obligation of Grant Funds**

Grantee shall close out this Grant no later than 90 days after the Grant Expiration Date. To complete close out, Grantee shall submit to the State all deliverables (including documentation) as defined in this Intergovernmental Grant Agreement and Grantee's final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete. Any Grant Funds remaining after submission and payment of Grantee's final reimbursement request are subject to de-obligation by the State.

**F. Erroneous Payments**

The State may recover, at the State's discretion, payments made to Grantee in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Grantee. The State may recover such payments by deduction from subsequent payments under this Intergovernmental Grant Agreement, deduction from any payment due under any other contracts, grants or agreements between the State and Grantee, or by any other appropriate method for collecting debts owed to the State.

**8. REPORTING – NOTIFICATION****A. Performance and Final Status**

Grantee shall submit all financial, performance and other reports to the State no later than the end of the close out period described in §7.E.

**B. Violations Reporting**

Grantee shall disclose, in a timely manner, in writing to the State, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting this Award.

**9. GRANTEE RECORDS****A. Maintenance and Inspection**

Grantee shall make, keep, and maintain, all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to this Grant for a period of three years following the completion of the close out of this Grant. Grantee shall permit the State to audit, inspect, examine, excerpt, copy and transcribe all such records during normal business hours at Grantee's office or place of business, unless

the State determines that an audit or inspection is required without notice at a different time to protect the interests of the State.

**B. Monitoring**

The State will monitor Grantee’s performance of its obligations under this Intergovernmental Grant Agreement using procedures as determined by the State. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Grantee’s performance in a manner that does not unduly interfere with Grantee’s performance of the Work.

**C. Audits**

Grantee shall comply with all State and federal audit requirements.

**10. CONFIDENTIAL INFORMATION-STATE RECORDS**

**A. Confidentiality**

Grantee shall hold and maintain, and cause all Subcontractors to hold and maintain, any and all State Records that the State provides or makes available to Grantee for the sole and exclusive benefit of the State, unless those State Records are otherwise publically available at the time of disclosure or are subject to disclosure by Grantee under CORA. Grantee shall not, without prior written approval of the State, use for Grantee’s own benefit, publish, copy, or otherwise disclose to any third party, or permit the use by any third party for its benefit or to the detriment of the State, any State Records, except as otherwise stated in this Intergovernmental Grant Agreement. Grantee shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. If Grantee or any of its Subcontractors will or may receive the following types of data, Grantee or its Subcontractors shall provide for the security of such data according to the following: (i) the most recently promulgated IRS Publication 1075 for all Tax Information and in accordance with the Safeguarding Requirements for Federal Tax Information attached to this Grant as an Exhibit, if applicable, (ii) the most recently updated PCI (payment card information) Data Security Standard from the PCI Security Standards Council for all PCI, (iii) the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information (CJI) Services Security Policy for all CJI, and (iv) the federal Health Insurance Portability and Accountability Act (HIPAA) for all protected health information (PHI) and the HIPAA Business Associate Agreement attached to this Grant, if applicable. Grantee shall immediately forward any request or demand for State Records to the State’s principal representative.

**B. Other Entity Access and Nondisclosure Agreements**

Grantee may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Intergovernmental Grant Agreement. Grantee shall ensure all such agents, employees, assigns, and Subcontractors sign nondisclosure agreements with provisions at least as protective as those in this Grant, and that the nondisclosure agreements are in force at all times the agent, employee, assign or Subcontractor has access to any State



Confidential Information. Grantee shall provide copies of those signed nondisclosure restrictions to the State upon request.

**C. Use, Security, and Retention**

Grantee shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Grantee shall provide the State with access, subject to Grantee's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Grant, Grantee shall return State Records provided to Grantee or destroy such State Records and certify to the State that it has done so, as directed by the State. If Grantee is prevented by law or regulation from returning or destroying State Confidential Information, Grantee warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

**D. Incident Notice and Remediation**

If Grantee becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. After an Incident, Grantee shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State.

**E. Safeguarding Personally Identifiable Information (PII)**

If Grantee or any of its Subcontractors will or may receive PII under this Agreement, Grantee shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Grantee shall be a "Third-Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 *et seq.*, C.R.S. In addition, as set forth in §24-74-102, *et seq.*, C.R.S., Grantee, including, but not limited to, Grantee's employees, agents and Subcontractors, agrees not to share any PII with any third parties for the purpose of investigating for, participating in, cooperating with, or assisting with Federal immigration enforcement. If Grantee is given direct access to any State databases containing PII, Grantee shall execute, on behalf of itself and its employees, the certification on an annual basis, attached as an exhibit, if applicable. Grantee's duty and obligation to certify as set forth in the exhibit shall continue as long as Grantee has direct access to any State databases containing PII. If Grantee uses any Subcontractors to perform services requiring direct access to State databases containing PII, the Grantee shall require such Subcontractors to execute and deliver the certification to the State on an annual basis, so long as the Subcontractor has access to State databases containing PII.

**11. CONFLICTS OF INTEREST**

Grantee shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Grantee under this Grant. Grantee acknowledges that, with respect to this Grant, even the appearance of a conflict of interest shall be harmful to the State's interests and absent the State's prior written approval, Grantee shall refrain

from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee’s obligations under this Grant. If a conflict or the appearance of a conflict arises, or if Grantee is uncertain whether a conflict or the appearance of a conflict has arisen, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State’s consideration. Grantee acknowledges that all State employees are subject to the ethical principles described in §24-18-105, C.R.S. Grantee further acknowledges that State employees may be subject to the requirements of §24-18-105, C.R.S. with regard to this Grant.

**12. INSURANCE**

Grantee shall maintain at all times during the term of this Grant such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the “GIA”). Grantee shall ensure that any Subcontractors maintain all insurance customary for the completion of the Work done by that Subcontractor and as required by the State or the GIA.

**13. REMEDIES**

In addition to any remedies available under any Exhibit to this Intergovernmental Grant Agreement, if Grantee fails to comply with any term or condition of this Grant, the State may terminate some or all of this Grant and require Grantee to repay any or all Grant Funds to the State in the State’s sole discretion. The State may also terminate this Intergovernmental Grant Agreement at any time if the State has determined, in its sole discretion, that Grantee has ceased performing the Work without intent to resume performance, prior to the completion of the Work.

**14. DISPUTE RESOLUTION**

Except as herein specifically provided otherwise, disputes concerning the performance of this Grant that cannot be resolved by the designated Party representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager or official designated by Grantee for resolution.

**15. NOTICES AND REPRESENTATIVES**

Each Party shall identify an individual to be the principal representative of the designating Party and shall provide this information to the other Party. All notices required or permitted to be given under this Intergovernmental Grant Agreement shall be in writing, and shall be delivered either in hard copy or by email to the representative of the other Party. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §15.

**16. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION**

Grantee hereby grants to the State a perpetual, irrevocable, non-exclusive, royalty free license, with the right to sublicense, to make, use, reproduce, distribute, perform, display, create derivatives of and otherwise exploit all intellectual property created by Grantee or any Subcontractors or Subgrantees and paid for with Grant Funds provided by the State pursuant to this Grant.

**17. GOVERNMENTAL IMMUNITY**

Liability for claims for injuries to persons or property arising from the negligence of the Parties, their departments, boards, commissions, committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State’s risk management statutes, §§24-30-1501, *et seq.* C.R.S. No term or

condition of this Intergovernmental Grant Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

**18. GENERAL PROVISIONS**

**A. Assignment**

Grantee’s rights and obligations under this Grant are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Grantee’s rights and obligations approved by the State shall be subject to the provisions of this Intergovernmental Grant Agreement.

**B. Captions and References**

The captions and headings in this Intergovernmental Grant Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Intergovernmental Grant Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

**C. Entire Understanding**

This Intergovernmental Grant Agreement represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Intergovernmental Grant Agreement.

**D. Modification**

The State may modify the terms and conditions of this Grant by issuance of an updated Intergovernmental Grant Agreement, which shall be effective if Grantee accepts Grant Funds following receipt of the updated letter. The Parties may also agree to modification of the terms and conditions of the Grant in either an option letter or a formal amendment to this Grant, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules.

**E. Statutes, Regulations, Fiscal Rules, and Other Authority**

Any reference in this Intergovernmental Grant Agreement to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Performance Start Date. Grantee shall strictly comply with all applicable Federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

**F. Digital Signatures**

If any signatory signs this agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Agreement by reference.

**G. Order of Precedence**

In the event of a conflict or inconsistency between this Intergovernmental Grant Agreement and any Exhibits or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

- i. Colorado Special Provisions in §19 of the main body of this Grant;
- ii. Any executed Option Letter and Amendment;
- iii. The provisions of this Intergovernmental Grant Agreement; and
- iv. The provisions of any exhibits to this Intergovernmental Grant Agreement.

**H. Severability**

The invalidity or unenforceability of any provision of this Intergovernmental Grant Agreement shall not affect the validity or enforceability of any other provision of this Intergovernmental Grant Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under the Grant in accordance with the intent of the Grant.

**I. Survival of Certain Intergovernmental Grant Agreement Terms**

Any provision of this Intergovernmental Grant Agreement that imposes an obligation on a Party after termination or expiration of the Grant shall survive the termination or expiration of the Grant and shall be enforceable by the other Party.

**J. Third Party Beneficiaries**

Except for the Parties' respective successors and assigns described above, this Intergovernmental Grant Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Any services or benefits which third parties receive as a result of this Grant are incidental to the Grant, and do not create any rights for such third parties.

**K. Waiver**

A Party's failure or delay in exercising any right, power, or privilege under this Intergovernmental Grant Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

**L. Accessibility**

- i. Grantee shall comply with and adhere to Section 508 of the U.S. Rehabilitation Act of 1973, as amended.
- ii. Grantee shall comply with and the Work Product provided under this Agreement shall be in compliance with all applicable provisions of §§24-85-101, *et seq.*, C.R.S., and the *Accessibility Standards for Individuals with a Disability*, as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S. Grantee shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.

- iii. The State may require Grantee’s compliance to the State’s Accessibility Standards to be determined by a third party selected by the State to attest to Grantee’s Work Product and software is in compliance with §§24-85-101, *et seq.*, C.R.S., and the *Accessibility Standards for Individuals with a Disability* as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S.

M. *Reserved.*

**19. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)**

**A. STATUTORY APPROVAL. §24-30-202(1) C.R.S.**

This Intergovernmental Grant Agreement shall not be valid until it has been approved by the Colorado State Controller or designee. If this Intergovernmental Grant Agreement is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this Intergovernmental Grant Agreement shall not be valid until it has been approved by the State’s Chief Information Officer or designee.

**B. FUND AVAILABILITY. §24-30-202(5.5) C.R.S.**

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

**C. GOVERNMENTAL IMMUNITY.**

Liability for claims for injuries to persons or property arising from the negligence of the Parties, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State’s risk management statutes, §§24-30-1501, *et seq.* C.R.S. No term or condition of this Intergovernmental Grant Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

**D. INDEPENDENT CONTRACTOR.**

Grantee shall perform its duties hereunder as an independent Grantee and not as an employee. Neither Grantee nor any agent or employee of Grantee shall be deemed to be an agent or employee of the State. Grantee shall not have authorization, express or implied, to bind the State to any agreement, liability, or understanding, except as expressly set forth herein. **Grantee and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Grantee or any of its agents or employees. Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Intergovernmental Grant Agreement. Grantee shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.**

**E. COMPLIANCE WITH LAW.**

Grantee shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

**F. CHOICE OF LAW, JURISDICTION, AND VENUE.**

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Intergovernmental Grant Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Intergovernmental Grant Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

**G. PROHIBITED TERMS.**

Any term included in this Intergovernmental Grant Agreement that requires the State to indemnify or hold Grantee harmless; requires the State to agree to binding arbitration; limits Grantee’s liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Intergovernmental Grant Agreement shall be construed as a waiver of any provision of §24-106-109 C.R.S.

**H. SOFTWARE PIRACY PROHIBITION.**

State or other public funds payable under this Intergovernmental Grant Agreement shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Grantee hereby certifies and warrants that, during the term of this Intergovernmental Grant Agreement and any extensions, Grantee has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Grantee is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Intergovernmental Grant Agreement, including, without limitation, immediate termination of this Intergovernmental Grant Agreement and any remedy consistent with federal copyright laws or applicable licensing restrictions.

**I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507 C.R.S.**

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Intergovernmental Grant Agreement. Grantee has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Grantee’s services and Grantee shall not employ any person having such known interests.

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**EXHIBIT B – SCOPE OF PROJECT (SOP)**

**1. PURPOSE**

**1.1. Local Planning Capacity.** The purpose of the Local Planning Capacity (LPC) grant program is to provide funding to local governments to increase the capacity of their planning departments responsible for processing land use, permitting, and zoning applications for housing projects. “Fast Track” or expedited review of affordable housing projects is a top priority to increase the number of units built. Grant Funds may be used support new staff wages, hiring consultants, implementing new systems and technologies, revising land use development codes, regional collaborations, and tracking and documentation of Prop 123 goals.

**2. DESCRIPTION OF THE PROJECT(S) AND WORK**

**2.1. Project Description.** The Project consists of upgrading development review software and hiring consultants to support Lean process improvements across City departments in order to implement a system to expedite the development review process for affordable housing projects and generally advance affordable housing goals in Fort Collins, Colorado.

**2.2. Work Description.** The City of Fort Collins (Grantee) will hire qualified consultants, with expertise in Lean principles and project management, to explore process improvements across City departments in order to implement an expedited review process for affordable housing. Work includes auditing existing conditions, presenting findings, making recommendations, staff training, and implementation of process improvements. Additional Work includes upgrades to development review software as part of the City’s development review digital transformation project. Grantee may also conduct targeted stakeholder engagement activities related to some of the Project elements, where applicable. The Grantee will complete quarterly performance metric reporting in a form provided by DOLA. Additionally, at Project Closeout, a Final Informal Memo will be submitted that identifies the following: 1) description of the Grantee’s approach to expedited review of affordable housing; 2) the outcome of that effort, including whether new policies were formally adopted and an assessment how effectively this approach has been at reducing the amount of time required for review; 3) any other project outcomes that impacted the Grantee’s Prop 123-related goals; 4) description of community engagement efforts; 5) the number of affordable housing units that were either permitted or preserved during the grant period; 6) the degree to which this grant has had a transformative impact on Grantee’s affordable housing efforts; and 7) any lessons learned. Grantee will own all resulting documents.

**2.2.1.** A contract for consultant services shall be awarded by Grantee to a qualified firm through a formal Request For Proposals or competitive selection process.

**2.2.2.** A contract for the purchase or acquisition of materials or equipment shall be awarded by Grantee to a qualified vendor or firm through a competitive selection process with the Grantee being obligated to award the contract to the lowest responsive, responsible bidder meeting the Grantee's specifications.

**2.2.3.** During a period of ten (10) years following the date of closeout of the Project by the State, the Grantee may **not change the ownership of the equipment**. If the Grantee decides to change the ownership of the equipment to an entity which the State determines does not qualify in meeting the original intent of the Project, the Grantee must reimburse to the State an amount equal to the current fair market value of the equipment, less any portion of the value attributable to expenditures of non-LPC grant funds for acquisition of and improvements to, the equipment. At the end of the ten (10) year period following the date of completion and thereafter, no State restrictions on ownership of the equipment shall be in effect.

**2.3. Responsibilities.** Grantee shall be responsible for the completion of the Work and to provide required documentation to DOLA as specified herein.

**2.3.1.** Grantee shall notify DOLA at least 30 days in advance of Project Completion.

**2.4. Recapture of Advanced Funds.** To maximize the use of Grant Funds, the State shall evaluate Grantee's expenditure of the Grant Funds for timeliness and compliance with the terms of this Grant.

DOLA reserves the right to recapture advanced Grant Funds when Grantee has not or is not complying with the terms of this Grant.

**2.5. Eligible Expenses.** Eligible expenses shall include: consultant fees, RFP/bid advertisements, equipment and software acquisition costs, freight costs, hardware, software and training costs, installation costs, and attorney’s fees.

**2.5.1.** Direct costs are those that are identified as program-specific allowable costs of implementing the grant program objective.

**2.5.2.** Ineligible Expenses. Ineligible expenses shall include, but are not limited to,: job posting or recruitment costs, indirect overhead or general operating costs, housing construction, pre-development costs, lobbying, food, drink, or entertainment costs. Grant Funds may not be used to cover legal costs to defend.

**3. DEFINITIONS**

**3.1. Project Budget Lines.**

**3.1.1.** “Consultant Services” means consultant fees, RFP/bid advertisements, and attorney’s fees.

**3.1.2.** “Equipment, Software Acquisition” means freight costs, RFP/Bid advertisement costs, hardware, software and training costs, installation costs, and attorney’s fees.

**3.2.** “Substantial Completion” means the Work is sufficiently complete in accordance with the Grant so it can be utilized for its intended purpose without undue interference.

**4. DELIVERABLES**

**4.1. Outcome.** The final outcome of this Grant is completion of the development review software upgrade, documentation/reports associated with the process improvement efforts, implementation of a system to expedite the development review process for affordable housing projects and / or achieve Proposition 123 requirements in Fort Collins, Colorado, and a completed Final Informal Memo, submitted to DOLA.

**4.2. Service Area.** The performance of the Work described within this Grant shall be located in Fort Collins, Colorado.

**4.3. Performance Measures.** Grantee shall comply with the following performance measures:

<b><u>Milestone/Performance Measure/Grantee will:</u></b>	<b><u>By:</u></b>
Provide DOLA with baseline data on estimated review time for affordable housing projects. DOLA will provide the template.	Within 30 days after the Effective Date of this Intergovernmental Grant Agreement.
Begin procurement process or Contractor mobilization.	Within 90 days after the Effective Date of this Intergovernmental Grant Agreement.
Provide DOLA with a copy of Grantee’s Consultant Agreement or its Scope of Work.	Within 14 days after the Effective Date of the subcontract(s).
Documentation of efforts to explore, adopt, and/or implement policies to expedite review of affordable housing.	Within 30 days after the Policy adoption.
Submit draft deliverables (land use/zoning code or policy updates, reports/analysis/studies) to DOLA for review prior to adoption.	Within 7 days prior to a scheduled public hearing.
Submit Quarterly Pay Requests	<b>See §4.5.2 below</b>
Submit Quarterly Status Reports	<b>See §4.5.2 below</b>



Submit Project Final Report	March 31, 2026
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**4.4. Budget Line Adjustments.**

- 4.4.1. Grant Funds.** Grantee may request in writing that DOLA move Grant Funds between and among budget lines, so long as the total amount of Grant Funds remains unchanged. To make such budget line changes, DOLA will use an Option Letter (**Exhibit G**).
- 4.4.2. Other Funds.** Grantee may increase or decrease the amount of Other Funds in any one or any combination of budget lines as described in §6.2, or move Other Funds between and among budget lines, so long as the total amount of such “Other Funds” is not less than the amount set forth in §6.2 below. Grantee may increase the Total Project Cost with “Other Funds” and such change does not require an amendment or option letter. DOLA will verify the Grantee’s contribution of “Other Funds” and compliance with this section at Project Closeout.

**4.5. Quarterly Pay Request and Status Reports.** Beginning 30 days after the end of the first quarter following execution of this Grant and for each quarter thereafter until termination of this Grant, Grantee shall submit Pay Requests and Status Reports using a form provided by the State. The State shall pay the Grantee for actual expenditures made in the performance of this Grant based on the submission of statements in the format prescribed by the State. The Grantee shall submit Pay Requests setting forth a detailed description and provide documentation of the amounts and types of reimbursable expenses. Pay Requests and Status Reports are due within 30 days of the end of the quarter but may be submitted more frequently at the discretion of the Grantee.

**4.5.1.** For quarters in which there are no expenditures to reimburse, Grantee shall indicate zero (0) requested in the Pay Request and describe the status of the Work in the Status Report. The report will contain an update of expenditure of funds by budget line as per §6.2 of this **Exhibit B** Scope of Project as well as a projection of all Work expected to be accomplished in the following quarter, including an estimate of Grant Funds to be expended.

**4.5.2.** Specific submittal dates.

Quarter	Year	Due Date	Pay Request Due	Status Report Due
2 <sup>nd</sup> (Apr-Jun)	2024	JULY 15, 2024*	Yes	Yes
3 <sup>rd</sup> (Jul-Sep)	2024	October 30, 2024	Yes	Yes
4 <sup>th</sup> (Oct-Dec)	2024	January 30, 2025	Yes	Yes
1 <sup>st</sup> (Jan-Mar)	2025	April 30, 2025	Yes	Yes
2 <sup>nd</sup> (Apr-Jun)	2025	JULY 15, 2025*	Yes	Yes
3 <sup>rd</sup> (Jul-Sep)	2025	October 30, 2025	Yes	Yes
4 <sup>th</sup> (Oct-Dec)	2025	January 30, 2026	Yes	Yes

**\*State fiscal year runs July 1 – June 30 annually. Grantee must request reimbursement for all eligible costs incurred during a State fiscal year by July 15 annually.**

**4.6. DOLA Acknowledgment.** The Grantee agrees to acknowledge the Colorado Department of Local Affairs in any and all materials or events designed to promote or educate the public about the Work and the Project, including but not limited to: press releases, newspaper articles, op-ed pieces, press conferences, presentations and brochures/pamphlets.

**5. PERSONNEL**

**5.1. Responsible Administrator.** Grantee’s performance hereunder shall be under the direct supervision of **Clay Frickey, Planning Manager, (cfrickey@fcgov.com)**, who is an employee or agent of Grantee, and is hereby designated as the responsible administrator of this Project and a key person under this §5. Such administrator shall be updated through the process in §5.3. If this person is an agent of the

Grantee, such person must have signature authority to bind the Grantee and must provide evidence of such authority.

5.2. **Other Key Personnel.** Meaghan Overton, Housing Manager, (moverton@fcgov.com). Such key personnel shall be updated through the process in §5.3.

5.3. **Replacement.** Grantee shall immediately notify the State if any key personnel specified in §5 of this Exhibit B cease to serve. All notices sent under this subsection shall be sent in accordance with §15 of the Grant.

5.4. **DLG Program Manager:** Robyn DiFalco, (720) 682-5202, (robyn.difalco@state.co.us).

5.5. **DLG Program Assistant:** Jessica Rupe, (720) 557-4902, (jessica.rupe@state.co.us).

6. FUNDING

The State provided funds shall be limited to the amount specified under the “Grant Funds” column of §6.2, Budget, below.

6.1. **Matching/Other Funds.** Grantee shall provide at least 21% of the Total Project Cost as documented by Grantee and verified by DOLA at Project Closeout. Initial estimates of Grantee’s contribution are noted in the “Other Funds” column of §6.2 below. Increases to Grantee’s contribution to Total Project Cost do not require modification of this Intergovernmental Grant Agreement and/or Exhibit B.

6.2. Budget

Budget Line(s)		Total Project Cost	Grant Funds	Other Funds	Other Funds Source
Line #	Cost Category				
1	Consultant Services	\$200,000	\$200,000	\$0	Grantee
2	Equipment, Software Acquisition	\$55,000	\$0	\$55,000	Grantee
<b>Total</b>		<b>\$255,000</b>	<b>\$200,000</b>	<b>\$55,000</b>	

7. PAYMENT

Payments shall be made in accordance with this section and the provisions set forth in §7 of the Grant.

7.1. **Payment Schedule.** If Work is subcontracted or subgranted and such Subcontractors and/or Subgrantees are not previously paid, Grantee shall disburse Grant Funds received from the State to such Subcontractor or Subgrantee within fifteen days of receipt. Excess funds shall be returned to DOLA.

Payment	Amount	
Interim Payment(s)	\$190,000	Paid upon receipt of actual expense documentation and written Pay Requests from the Grantee for reimbursement of eligible approved expenses.
Final Payment	\$10,000	Paid upon Substantial Completion of the Project (as determined by the State in its sole discretion), provided that the Grantee has submitted, and DOLA has accepted, all required reports.
<b>Total</b>	<b>\$200,000</b>	

7.2. **Interest.** Grantee or Subgrantee may keep interest earned from Grant Funds up to \$100 per year for administrative expenses.

8. ADMINISTRATIVE REQUIREMENTS

8.1. **Reporting.** Grantee shall submit the following reports to DOLA using the State-provided forms. DOLA may withhold payment(s) if such reports are not submitted timely.

**8.1.1. Quarterly Pay Request and Status Reports.** Quarterly Pay Requests shall be submitted to DOLA in accordance with §4.5 of this Exhibit B.

**8.1.2. Final Reports.** Within 90 days after the completion of the Project, Grantee shall submit the final Pay Request and Status Report to DOLA.

**8.2. Monitoring.** DOLA shall monitor this Work on an as-needed basis. DOLA may choose to audit the records for activities performed under this Grant. Grantee shall maintain a complete file of all records, documents, communications, notes and other written materials or electronic media, files or communications, which pertain in any manner to the operation of activities undertaken pursuant to an executed Grant. Such books and records shall contain documentation of the Grantee’s pertinent activity under this Grant in accordance with Generally Accepted Accounting Principles.

**8.2.1. Subgrantee/Subcontractor.** Grantee shall monitor its Subgrantees and/or Subcontractors, if any, during the term of this Grant. Results of such monitoring shall be documented by Grantee and maintained on file.

**8.3. Bonds.** If Project includes construction or facility improvements, Grantee and/or its contractor (or subcontractors) performing such work shall secure the bonds hereunder from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR Part 223 and are authorized to do business in Colorado.

**8.3.1. Bid Bond.** A bid guarantee from each bidder equivalent to 5 percent of the bid price. The “bid guarantee” shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

**8.3.2. Performance Bond.** A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

**8.3.3. Payment Bond.** A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.

**8.3.4. Substitution.** The bonding requirements in this §8.3 may be waived in lieu of an irrevocable letter of credit if the price is less than \$50,000.

**9. CONSTRUCTION/RENOVATION.** The following subsections shall apply to construction and/or renovation related projects/activities:

**9.1. Plans & Specifications.** Construction plans and specifications shall be drawn up by a qualified engineer or architect licensed in the State of Colorado, or pre-engineered in accordance with Colorado law, and hired by the Grantee through a competitive selection process.

**9.2. Procurement.** A construction contract shall be awarded to a qualified construction firm through a formal selection process with the Grantee being obligated to award the construction contract to the lowest responsive, responsible bidder meeting the Grantee's specifications.

**9.3. Subcontracts.** Copies of any and all contracts entered into by the Grantee in order to accomplish this Project shall be submitted to DOLA upon request, and any and all contracts entered into by the Grantee or any of its Subcontractors shall comply with all applicable federal and state laws and shall be governed by the laws of the State of Colorado.

**9.4. Standards.** Grantee, Subgrantees and Subcontractors shall comply with all applicable statutory design and construction standards and procedures that may be required, including the standards required by Colorado Department of Public Health and Environment, and shall provide the State with documentation of such compliance.

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**File Attachments for Item:**

**9. First Reading of Ordinance No. 109, 2024, Making Supplemental Appropriations of New Revenue in the 2050 Tax Park Rec Transit OCF Fund for Consulting Work Contributing to the Transfort Optimization Study.**

The purpose of this item is to appropriate 2050 Transit Tax Reserves for additional consulting work for the Transfort Optimization Study.

August 20, 2024

# AGENDA ITEM SUMMARY

City Council




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## STAFF

Annabelle Phillips, Transfort Assistant Director  
Monica Martinez, FP&A Manager

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## SUBJECT

**First Reading of Ordinance No. 109, 2024, Making Supplemental Appropriations of New Revenue in the 2050 Tax Park Rec Transit OCF Fund for Consulting Work Contributing to the Transfort Optimization Study.**

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## EXECUTIVE SUMMARY

The purpose of this item is to appropriate 2050 Transit Tax Reserves for additional consulting work for the Transfort Optimization Study.

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## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

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## BACKGROUND / DISCUSSION

Transfort is launching an Optimization Study in fall 2024 and is requesting an additional appropriation of \$50,000 to support this work. The planning effort will be two-fold: 1) analyze and propose a new on-demand micro-transit system for Transfort, and 2) evaluate and acknowledge Transfort's existing resources and compare to national best practices to develop a five-to-10-year strategic plan to optimize existing resources to implement priorities (including micro-transit) outlined in the Transit Master Plan (TMP) and confirmed in this plan. This study is estimated at \$310,000. Currently Transfort and FCMoves have identified approximately \$260,000 in funding and need to appropriate an additional \$50,000 to complete the full scope of work.

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## CITY FINANCIAL IMPACTS

The additional Optimization Study consultant work will be funded using 2050 Transit Tax Reserves.

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## BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

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## PUBLIC OUTREACH

None.

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## ATTACHMENTS

1. Ordinance for Consideration.

ORDINANCE NO. 109, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
MAKING SUPPLEMENTAL APPROPRIATIONS OF NEW  
REVENUE IN THE 2050 TAX PARKS REC TRANSIT OCF FUND  
FOR CONSULTING WORK CONTRIBUTING TO THE  
TRANSFORD OPTIMIZATION STUDY

A. Transfort is launching an Optimization Study in Fall 2024. The Study will in part be used to develop a five-to-ten-year strategic plan for optimizing Transfort's existing resources to implement priorities outlined in the Transit Master Plan by evaluating and comparing Transfort's existing resources against national best practices.

B. The total cost of the Study is estimated at \$310,000. Transfort and FCMoves have identified \$260,000 in existing funding to be applied toward the total cost.

C. This Ordinance appropriates the remaining \$50,000 needed to support the cost of consultant work for the Study, from the 2050 Tax Parks Rec Transit OCF Fund.

D. This appropriation benefits the public health, safety, and welfare of the residents of Fort Collins and serves the public purpose of optimizing the efficient use of transportation resources for the city.

E. Article V, Section 9 of the City Charter permits the City Council, upon the recommendation of the City Manager, to make supplemental appropriations by ordinance at any time during the fiscal year from such revenues and funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated.

F. The City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the 2050 Tax Parks Rec Transit OCF Fund and will not cause the total amount appropriated in 2050 Tax Parks Rec Transit OCF Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that there is hereby appropriated from new revenue or other funds in the 2050 Tax Parks Rec Transit OCF Fund the sum of FIFTY THOUSAND DOLLARS (\$50,000) to be expended in the 2050 Tax Parks Rec Transit OCF Fund for the Transfort Optimization Study.

Introduced, considered favorably on first reading on August 20, 2024, and approved on second reading for final passage on September 3, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: September 13, 2024  
Approving Attorney: Madelene Shehan

**File Attachments for Item:**

**10. First Reading of Ordinance No. 110, 2024, Making Supplemental Appropriations of Unanticipated Grant Revenue in the Transit Services Fund and New Revenue From the 2050 Tax Parks Rec Transit OCF Fund for Transfort Consulting Work Related to the West Elizabeth Corridor.**

The purpose of this item is to appropriate unanticipated grant funding and 2050 Transit Tax Reserves for additional consulting work for West Elizabeth design work.



August 20, 2024

# AGENDA ITEM SUMMARY

City Council



## STAFF

Annabelle Phillips, Transfort Assistant Director  
Monica Martinez, FP&A Manager

## SUBJECT

**First Reading of Ordinance No. 110, 2024, Making Supplemental Appropriations of Unanticipated Grant Revenue in the Transit Services Fund and New Revenue From the 2050 Tax Parks Rec Transit OCF Fund for Transfort Consulting Work Related to the West Elizabeth Corridor.**

## EXECUTIVE SUMMARY

The purpose of this item is to appropriate unanticipated grant funding and 2050 Transit Tax Reserves for additional consulting work for West Elizabeth design work.

## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

## BACKGROUND / DISCUSSION

The City has been analyzing the West Elizabeth corridor as a future Enhanced Travel Corridor (ETC) for the past 10 years; the West Elizabeth ETC Plan, adopted by Fort Collins City Council in 2016, established the vision for Bus Rapid Transit service and other multimodal improvements along the corridor. Transfort is seeking Federal Transit Administration (FTA) Capital Investment Grant (CIG) Small Starts Program funding to support the construction of the West Elizabeth Corridor and entered the Project Development phase of the Program in June 2021. Prior to approval for the larger CIG grant award, FTA awarded Transfort, as the Project Sponsor, approximately \$8,100,000 in fiscal year 2022 CIG funding to be used toward planning and design work for the project. Additional consulting work is needed to perform public outreach and to support Transfort's larger CIG grant application. The cost of this additional work is estimated at \$300,000. To cover this cost, Transfort wishes to appropriate \$240,000 of the fiscal year 2022 CIG planning funds, which requires \$60,000 in local match.

The total estimated cost for this project exceeds \$250,000 and, as such, is eligible for the Art in Public Places ("APP") program. The CIG funds are restricted from use for APP. Eligible funds are the local match. As such, 1% or \$600 will be transferred to APP.

## CITY FINANCIAL IMPACTS

The additional consulting work for West Elizabeth will be funded from unanticipated grant funds with local match requirements that can be met using 2050 Transit Tax Reserves.

	<b>CIG Funding</b>	<b>New Revenue 2050 Tax Parks Rec Transit OCF</b>	<b>Total Project Cost</b>
West Elizabeth Project Support	\$240,000	\$60,000	\$300,000

**BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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None.

**PUBLIC OUTREACH**

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None.

**ATTACHMENTS**

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1. Ordinance for Consideration

ORDINANCE NO. 110, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
MAKING SUPPLEMENTAL APPROPRIATIONS OF  
UNANTICIPATED GRANT REVENUE IN THE TRANSIT  
SERVICES FUND AND NEW REVENUE FROM THE 2050 TAX  
PARKS REC TRANSIT OCF FUND FOR TRANSFORT  
CONSULTING WORK RELATED TO THE WEST ELIZABETH  
CORRIDOR

A. On October 18, 2016, the City Council adopted the West Elizabeth Enhanced Travel Corridor Plan, which established the vision for Bus Rapid Transit service and other multimodal improvements along the West Elizabeth Corridor.

B. In fiscal year 2022, the Federal Transit Administration (“FTA”) awarded Transfort, as the Project Sponsor, approximately \$8,100,000 in Capital Investment Grant (“CIG”) funding to be used toward planning and design work for the West Elizabeth Corridor.

C. Transfort now seeks to obtain funding under the FTA’s CIG Small Starts Program to support the construction of the West Elizabeth Corridor. Additional consultant work is needed to provide public outreach and support Transfort’s application for this funding. The cost of this additional work is estimated at \$300,000.

D. This Ordinance appropriates \$240,000 of the fiscal year 2022 CIG planning funds for this additional work.

E. Appropriating these funds requires a local match of \$60,000, which this Ordinance appropriates for that purpose from the 2050 Transit Tax Reserves.

F. This appropriation benefits the public health, safety, and welfare of the citizens of Fort Collins and serves the public purpose of enhancing the transportation safety and accessibility of the West Elizabeth Corridor for all residents.

G. Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, to make a supplemental appropriation by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriation, in combination with all previous appropriations for that fiscal year, do not exceed the current estimate of actual and anticipated revenues and all other funds to be received during the fiscal year.

H. The City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the Transit Fund and will not cause the total amount appropriated in the Transit Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year.

I. Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a federal, state or private grant or donation, that such appropriation shall not lapse at the end of the fiscal year in which the appropriation is made, but continue until the earlier of the expiration of the federal, state or private grant or the City's expenditure of all funds received from such grant.

J. The City Council wishes to designate the appropriation herein from the Federal Transit Administration Capital Investment Grant as an appropriation that shall not lapse until the expiration of the grants or the City's expenditure of all funds received from such grants.

K. This Project involves construction estimated to cost more than \$250,000 and, as such, City Code Section 23-304 requires one percent of these appropriations to be transferred to the Cultural Services and Facilities Fund for a contribution to the Art in public Places program ("APP Program").

L. City Code Section 23-304(a) provides, "If any construction project is partially funded from any other source which precludes a work of art as an object of expenditure of such funds, the appropriation for works of art shall be equal to one (1) percent of the portion of the estimated project cost that will be funded from the project funding sources that are not so restricted."

M. A portion of the funds appropriated in this Ordinance for the Project are ineligible for use in the APP Program due to restrictions placed on them by the Federal Transit Administration, the source of these funds. Therefore, the local match of \$60,000 has been used to calculate the contribution to the APP Program.

N. The amount to be contributed in this Ordinance will be \$600.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. There is hereby appropriated from new revenue or other funds in the Transit Services Fund the sum of TWO HUNDRED FORTY THOUSAND DOLLARS (\$240,000) to be expended in the Transit Services Fund for Transfort Consulting Work.

Section 2. There is hereby appropriated from new revenue or other funds in the 2050 Tax Parks Rec Transit OCF Fund the sum of SIXTY THOUSAND DOLLARS (\$60,000) to be expended in the 2050 Tax Parks Rec Transit OCF Fund for Transfort Consulting Work.

Section 3. The appropriation herein for the Federal Transit Administration Capital Investment Grant Program are hereby designated, as authorized in Article V, Section 11 of the City Charter, as appropriations that shall not lapse at the end of this fiscal year but continue until the earlier of the expiration of the grants or the City's expenditure of all funds received from such grants.

Section 4. The unexpended and unencumbered appropriated amount of FOUR HUNDRED SIXTY-EIGHT DOLLARS (\$468) in the 2050 Tax Parks Rec Transit OCF Fund is hereby authorized for transfer to the Cultural Services and Facilities Fund and appropriated and expended therein to fund art projects under the APP Program.

Section 5. The unexpended and unencumbered appropriated amount of ONE HUNDRED TWENTY DOLLARS (\$120) in the 2050 Tax Parks Rec Transit OCF Fund is hereby authorized for transfer to the Cultural Services and Facilities Fund and appropriated and expended therein for the operation costs of the APP Program.

Section 6. The unexpended and unencumbered appropriated amount of TWELVE DOLLARS (\$12) in the 2050 Tax Parks Rec Transit OCF Fund is hereby authorized for transfer to the Cultural Services and Facilities Fund and appropriated and expended therein for the maintenance costs of the APP Program.

Introduced, considered favorably on first reading on August 20, 2024, and approved on second reading for final passage on September 3, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: September 13, 2024  
Approving Attorney: Madelene Shehan

**File Attachments for Item:**

**11. First Reading of Ordinance No. 111, 2024, Appropriating Prior Year Reserves in the Parking Services Fund for Parking Structure Maintenance, Parking Planning, and Safety.**

The purpose of this item is to enable the City to appropriate Civic Center Parking Structure (CCPS) reserve funds and Parking Services reserve funds. The funds will be used for the completion of maintenance projects and for increased security costs. If approved, this item will: 1) appropriate \$1,200,000 in CCPS Reserve funds and 2) appropriate \$395,000 from Parking Services reserves.

August 20, 2024

# AGENDA ITEM SUMMARY

City Council




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## STAFF

Eric Keselburg, Sr Manager, Parking Services  
Monica Martinez, FP&A Manager

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## SUBJECT

**First Reading of Ordinance No. 111, 2024, Appropriating Prior Year Reserves in the Parking Services Fund for Parking Structure Maintenance, Parking Planning, and Safety.**

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## EXECUTIVE SUMMARY

The purpose of this item is to enable the City to appropriate Civic Center Parking Structure (CCPS) reserve funds and Parking Services reserve funds. The funds will be used for the completion of maintenance projects and for increased security costs. If approved, this item will: 1) appropriate \$1,200,000 in CCPS Reserve funds and 2) appropriate \$395,000 from Parking Services reserves.

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## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

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## BACKGROUND / DISCUSSION

There are a few requests being compiled together to fund City-managed parking structure necessities.

The first maintenance item intended to be completed with this appropriation is the CCPS stairwell, which following the 2019 condition assessment was found to have repair needs. Due to the pandemic and associated financial constraints imposed on Parking Services, the maintenance schedule was paused (approved by the contracted structural engineering firm). Once American Rescue Plan Act (ARPA) funding was provided (BFO cycle 2022/2023), Parking Services resumed maintenance repairs. However, the subsequent and necessary condition assessment performed found that the southeast stairwell had further degraded, requiring it to be closed (June 2022) for public use. Several design options were discussed and presented, a viable design submitted, and a path forward was determined. To complete this project a supplemental appropriation of \$1,200,000 is being requested. These funds will be appropriated from the CCPS reserves.

The second request is to use prior funding set-aside in 2023 for necessary parking structure deck sealant maintenance work in the Firehouse Alley Parking Structure (FAPS). This project was planned to bridge funding availability from both 2023 and 2024; however, due to timing delays, the available 2023 funding was not used and subsequently lapsed into the Parking Services reserves. To complete this project a supplemental appropriation of \$110,000 is requested. These funds will be appropriated from Parking Services reserves.

The third request revolves around performing a parking study and plan, as Parking Services presented to City Council at the October 24, 2023, work session. Specifically, staff intended efficiency improvements to the current state of the Parking Services operation and the need to support continuing efforts to develop a new financial and strategic model and related implementation plan for downtown parking. The identified problem statement showcased that the current parking system model does not provide the parking choices needed for those who visit the downtown area. In addition, it is incapable of addressing the demand distribution challenges, which frustrates users, because of the reliance on an enforcement methodology and the use of low dollar paid parking in undesirable facilities. Parking Services has determined it is unable to fulfill its required goals to fund its maintenance needs because it cannot achieve cost neutrality in its current financial and strategic model. To address these challenges, staff is preparing a Request for Proposal (RFP) in collaboration with the Downtown Development Authority (DDA), who agreed to contribute financially to a downtown parking study. To complete this project, a supplemental appropriation of \$185,000 is requested to fund this work. The DDA has agreed to reimburse the City for the cost in the amount of \$65,000 or up to 50% of total cost.

The final piece of the current funding request is related to the increased cost of third-party security services provided in the three (3) City-managed parking structures. Parking Services contracts armed security to ensure the evening and late-night users of the parking facilities have adequate protection, with armed security at each facility, with added security staffing during the weekend. The cost of the contract for armed security has increased yearly including an increase of 4.5% in 2024. Parking has managed past yearly increases within its budget, but cost increases have now accumulated resulting in a need for additional funding. To complete this project, a supplemental appropriation of \$50,000 is requested from Parking Services reserves.

In addition, since review of this supplemental funding plan by the Council Finance Committee on August 1, 2024, Parking Services has also identified the need for an additional \$50,000 in supplemental appropriation from Parking Services reserves to be used for maintenance work and to correct a cost calculation error. Maintenance costs are not increasing beyond what is outlined above.

The available Parking Services reserve balance is sufficient to cover the presented requests and will help to minimize execution, and advance efforts made to date. The requested contract funding increase will provide uninterrupted security coverage for downtown customers.

### **CITY FINANCIAL IMPACTS**

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All funds for these appropriations are requested from CCPS Reserves or from Parking Services reserves.

### **BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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The requests in this Ordinance were presented at the August 1, 2024, Council Finance Committee and were recommended for approval.

### **PUBLIC OUTREACH**

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None.

### **ATTACHMENTS**

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1. Ordinance for Consideration



ORDINANCE NO. 111, 2024  
 OF THE COUNCIL OF THE CITY OF FORT COLLINS  
 APPROPRIATING PRIOR YEAR RESERVES IN THE PARKING  
 SERVICES FUND FOR PARKING STRUCTURE MAINTENANCE,  
 PARKING PLANNING, AND SAFETY

A. The City's Parking Services is responsible for reviewing and planning for parking needs within the City and overseeing the three City-managed parking structures: Civic Center Parking Structure (CCPS), Firehouse Alley Parking Structure (FAPS), and Old Town Parking Structure (OTPS).

B. This Ordinance appropriates ONE MILLION FIVE HUNDRED AND NINETY-FIVE DOLLARS (\$1,595,000) for the following purposes:

1. Parking Services staff has identified needed maintenance projects at the CCPS to complete stairwell repairs, and the FAPS to seal the parking deck structure. This Ordinance appropriates \$1,200,000 for the CCPS stairwell and \$110,000 for the FAPS deck sealing.
2. To cover the increased cost of providing third-party security services to the three City-managed parking structures, this Ordinance appropriates \$50,000.
3. To conduct a parking study and plan as discussed with Council during the October 24, 2023, Council work session, this Ordinance appropriates \$185,000, a portion of which will be reimbursed by the Downtown Development Authority.
4. Finally, for additional maintenance and to correct a cost calculation error, this Ordinance appropriates an additional \$50,000.

C. Article V, Section 9 of the City Charter permits the City Council, upon the recommendation of the City Manager, to make supplemental appropriations by ordinance at any time during the fiscal year from such revenues and funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated.

D. The City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the Parking Services Fund and will not cause the total amount appropriated in the Parking Services Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that there is hereby appropriated from Prior Year Reserves in the Parking Services Fund the sum of ONE MILLION FIVE HUNDRED NINETY-FIVE

THOUSAND DOLLARS (\$1,595,000) to be expended in the Parking Services Fund(s) for the parking structure maintenance, parking planning, and safety.

Introduced, considered favorably on first reading on August 20, 2024, and approved on second reading for final passage on September 3, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: September 13, 2024  
Approving Attorney: Brad Yatabe

**File Attachments for Item:**

**12. First Reading of Ordinance No. 112, 2024, Making a Supplemental Appropriation from the U.S. Department of Energy's Energy Efficiency and Conservation Block Grant in support of the Edora Pool and Ice Center Lighting System Replacement Project**

The City received \$206,680 in formula funds under the U.S. Department of Energy's Energy Efficiency and Conservation Block Grant ("EECBG") program. The City was required to apply under the EECBG's voucher program, specifically to demonstrate the beneficial use of funds in replacing the fluorescent lighting system in both ice rinks at Edora Pool and Ice Center ("EPIC") with an energy efficient LED lighting system. Based on the City's successful application, this item is to support the project by appropriating \$206,680 of unanticipated revenue from the DOE.

August 20, 2024



## AGENDA ITEM SUMMARY

City Council

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### STAFF

Tracy Ochsner, Director, Operation Services  
 Dave Wolfe, Senior Financial Analyst, Operation Services  
 Kerri Ishmael, Senior Analyst, Grants Administration

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### SUBJECT

**First Reading of Ordinance No. 112, 2024, Making a Supplemental Appropriation from the U.S. Department of Energy's Energy Efficiency and Conservation Block Grant in support of the Edora Pool and Ice Center Lighting System Replacement Project**

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### EXECUTIVE SUMMARY

The City received \$206,680 in formula funds under the U.S. Department of Energy's Energy Efficiency and Conservation Block Grant ("EECBG") program. The City was required to apply under the EECBG's voucher program, specifically to demonstrate the beneficial use of funds in replacing the fluorescent lighting system in both ice rinks at Edora Pool and Ice Center ("EPIC") with an energy efficient LED lighting system. Based on the City's successful application, this item is to support the project by appropriating \$206,680 of unanticipated revenue from the DOE.

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### STAFF RECOMMENDATION

Staff recommends adoption of Ordinance on First Reading.

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### BACKGROUND / DISCUSSION

The replacement of the 20-year-old fluorescent lighting system at EPIC supports optimizing energy consumption through a LED lighting system designed to current energy efficiency standards and provides lighting levels that support the multitude of programs and activities for which these heavily scheduled ice rinks are used. Also, by eliminating the fluorescent technology, the City saves the cost and environmental impacts of recycling these hazardous waste materials. By reducing energy consumption there will be less greenhouse gas emissions. This energy efficiency retrofit project aligns with the City's strategy for increased energy efficiency and conservation, specifically to have (1) 80% greenhouse gas reduction from 2005 levels by 2030 and (2) Energy Use Intensity of 114.5 by 2029 for alignment with State of Colorado Building Benchmarking and Building Performance Standards.

The project will include purchase of equipment and installation services from a third-party provider. Initial estimated costs were proposed to be more than the \$206,680 awarded by DOE, with City's Operation Services covering the remaining costs. The City will be issuing a formal DOE approved bid process to request quotes for the installation services. Final estimates for installation services will be obtained by late fall 2024, with Operation Services covering the additional costs for installation from 2024 funds appropriated in the General Fund in Operation Services' operating budget.

## **CITY FINANCIAL IMPACTS**

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This item appropriates \$206,680 in the General Fund for project costs for replacement of the outdated fluorescent lighting system at EPIC with an energy efficient LED system.

Funds awarded through the DOE's EECBG program work on a reimbursement basis, meaning General Fund expenses will be reimbursed up to \$206,680.

Based on initial estimates for the project, which includes equipment and installation services, Operation Services will be funding the additional project costs through existing 2024 appropriated funds in the General Fund from its operating budget. Because there is no match requirement per the DOE award, costs incurred by Operation Services support completion of replacing the fluorescent lighting system at both ice rinks at EPIC.

## **BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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None.

## **PUBLIC OUTREACH**

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None.

## **ATTACHMENTS**

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1. Ordinance for Consideration
2. Voucher Program Application

ORDINANCE NO. 112, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
MAKING A SUPPLEMENTAL APPROPRIATION FROM THE U.S.  
DEPARTMENT OF ENERGY'S ENERGY EFFICIENCY AND  
CONSERVATION BLOCK GRANT IN SUPPORT OF THE EDORA  
POOL AND ICE CENTER LIGHTING SYSTEM REPLACEMENT  
PROJECT

A. The City applied for funds from the U.S. Department of Energy's (DOE) Energy Efficiency and Conservation Block Grant and was awarded \$206,680 (the "Grant") to help cover the cost of replacing fluorescent lighting at the Edora Pool and Ice Center (EPIC) with energy efficient LED lighting (the "Project").

B. DOE will pay the Grant funds to the City on a reimbursement basis. On July 12, 2024, the City Manager signed a DOE Special Terms and Conditions form acknowledging the City's obligations to DOE for receipt of the Grant funds.

C. Although the Grant does not require the City to provide any matching funds, the total cost of the Project will likely exceed the amount of the Grant. The City will use a formal DOE-approved bid process to request quotes for the installation services, and Operation Services will cover the additional costs for installation from 2024 funds appropriated in the Operation Services operating budget in the General Fund.

D. This appropriation of the Grant funds for the Project benefits the public health, safety, and welfare of the residents of Fort Collins and serves the public purpose of reducing energy consumption and greenhouse gas emissions, as well as the future costs and environmental impacts of recycling fluorescent lighting.

E. Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, to make a supplemental appropriation by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriation, in combination with all previous appropriations for that fiscal year, do not exceed the current estimate of actual and anticipated revenues and all other funds to be received during the fiscal year.

F. The City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the General Fund and will not cause the total amount appropriated in the General Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year.

G. Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a federal, state or private grant or donation, that such appropriation shall not lapse at the end of the fiscal year in which the appropriation is made, but continue until the earlier of the expiration of the federal, state or private grant or the City's expenditure of all funds received from such grant.

H. The City Council wishes to designate the appropriation herein for the U.S. Department of Energy’s Energy Efficiency and Conservation Block Grant as an appropriation that shall not lapse until the earlier of the expiration of the Grant or the City’s expenditure of all funds received from the Grant.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. There is hereby appropriated from new revenue or other funds in the General Fund the sum of TWO HUNDRED SIX THOUSAND SIX HUNDRED EIGHTY DOLLARS (\$206,680) to be expended in the General Fund for the Edora Pool and Ice Center Lighting System Replacement project.

Section 2. The appropriation herein for the U.S. Department of Energy’s Energy Efficiency and Conservation Block Grant is hereby designated, as authorized in Article V, Section 11 of the City Charter, as an appropriation that shall not lapse at the end of this fiscal year but continue until the earlier of the expiration of the grant or the City’s expenditure of all funds received from such grant.

Introduced, considered favorably on first reading on the August 20, 2024, and approved on second reading for final passage on the September 3, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: September 13, 2024  
Approving Attorney: Ingrid Decker



[vouchers/s/about-the-program](#))

[Submit Application](#)

[My Applications \(/eecbgvouchers/s/my-application](#)

Item 12.

Individual Application

Applied Date	Account	Application Status	Funding Opportunity	RecordType Name
4/23/2024, 8:...	<a href="#">Fort Collin...</a>	Pending Terms and Conditions ...	<a href="#">EECBG Equipment Rebates Applicati...</a>	Equipment Rebates Application

[Record Detail \(?Tabset-3a4af=1\)](#) [Related List \(?Tabset-3a4af=2\)](#) [Post-Installation \(?Tabset-3a4af=3\)](#) [Performance Report \(?Tabset-3a4af=A8814\)](#)

Individual Application

Application ID  
IA-0000000726

---

Account  
[Fort Collins \(/eecbgvouchers/s/detail/001Hs000030dn76IAA\)](#)

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Contact  
[Kerri Ishmael \(/eecbgvouchers/s/detail/003Hs00004kYLRpIAO\)](#)

---

Application Number  
EECEQ-00726

---

Planning to team with other entities?  
No

Application Status  
Pending Terms and Conditions Signature

---

Funding Opportunity  
[EECBG Equipment Rebates Application \(/eecbgvouchers/s/detail/119Hs000000sZUhiAM\)](#)

---

Category  
Rebates

---

Total Line Items  
1

Project Information

Sectors served  
Local Government;Low/Limited Income

---

Other Project Sector

---

Eligible Activities  
Energy Efficiency and Conservation Programs for Building and Facilities

---

Serves disadvantaged communities (DACs)?  
Yes

How the project serves DACs  
The subject Community Center a/k/a EPIC is centrally located within city limits, serving as the only public community ice center within city limits. In addition, the center serves as a premier public aquatics facility that offers swimming programs for all ages and abilities, as well as serves the swimming program for the city's public school district.

The Community Center being centrally located provides multimodal transportation options by paved trail and City's fare free transit system, supporting community members reliant on active modes of transportation or free public transportation services to access the Community Center. The Community Center provides year-round access, serving communities defined as DAC's by the Climate and Economic Justice Screening Tool, including Tract No. 08069001304 within Fort Collins city limits, Larimer County, population 2,846, as noted <https://screeningtool.geoplatform.gov/en/#12.84/40.6103/-105.0861> (<https://screeningtool.geoplatform.gov/en/#12.84/40.6103/-105.0861>). In addition to serving DACs, the Community Center, being centrally located serves many communities, including those within Persistent Poverty Census Tracts (2020 Census), defined by the Department of Transportation via the Grant Project Location Verification tool <https://maps.dot.gov/BTS/GrantProjectLocationVerification/> (<https://maps.dot.gov/BTS/GrantProjectLocationVerification/>), including over seventeen Persistent Poverty Census Tracts.

One to Two Sentence Summary  
The proposed project is to purchase equipment and professional services to replace the fluorescent lighting system at the City's Edora Pool Ice Center (EPIC), a City of Fort Collins' owned and operated Community Center for ice skating and aquatics programs that serves communities within Fort Collins city limits, extending to other communities within Northern Colorado.

Budget Information

EECBG Program Formula Allocation Amount  
\$206,680.00

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Using multiple EECBG recipients formula?

Total Voucher Estimate  
\$206,680.00



Program Metrics and Compliance Requirements

Program Metrics

Retrofits;Equipment Purchased

Other Program Metric

Applicable NEPA SOW

NEPA SOW 2

Davis-Bacon Assurance Letter Signed by

Travis Storin, Chief Financial Officer, City of Fort Collins

Davis-Bacon Assurance Letter Signed Date

4/23/2024

Terms and Conditions

Terms And Conditions Signed By

Terms And Conditions Signed Date

4/23/2024

Application Milestones

Applied Date

4/23/2024, 8:48 AM

Approved Date



Website and program administered by ICF Incorporated under DOE BPA Award 89303023ASE000001.

Instances of potential fraud, waste, and abuse should be referred to the DOE IG Hotline (<https://www.energy.gov/ig/ig-hotline>), phone: 1-800-541-1625 or email: [ighotline@hq.doe.gov](mailto:ighotline@hq.doe.gov)

- [Close Window](#) Item 12.
- [Print This Page](#)
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# EECBG Vouchers Portal

## IAL-01086

Individual Application IA-0000000726  
 Application Number EECEQ-00726

### Proposed Equipment Details

Ref EECBG Equipment Category Retrofit Technologies  
 Ref EECBG Equipment Type Efficient light sources - LED lighting  
 Ref EECBG EqtypeOther Explanation

### Physical Address of Equipment

Address of Equipment Installation 1801 Riverside Avenue  
 Fort Collins, Colorado 80525-1332  
 United States

### Equipment Specifications

Estimated Installation Completed Date 12/31/2024  
 Quantity 188  
 Equipment Rebate covers install cost? Yes  
 Ref EECBG Other type Explanation  
 in-house staff to conduct installation? No  
 Detailed equipment information See quote for equipment and materials totaling \$134,819.42. See Budget detail for additional costs in installation costs, which will be funded in part with City of Fort Collins committed funds, which is based on TOTAL project costs (equipment) plus installation costs exceeded City of Fort Collins EECBG formula funds totaling \$206,680  
 Fuel source of the existing equipment? Electric  
 Fuel source of the new equipment? Electric  
 Fuel Source Existing Equipment Other  
 Fuel Source New Equipment Other

### Optional Addresses

EECBG Optional Address1  
 EECBG Optional Address2  
 EECBG Optional Address3

EECBG Optional  
Address4

EECBG Optional  
Address5

EECBG Optional  
Address6

EECBG Optional  
Address7

EECBG Optional  
Address8

EECBG Optional  
Address9

EECBG Optional  
Address10

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**Optional Zip Code**

EECBG Optional  
GPS1

EECBG Optional  
GPS2

EECBG Optional  
GPS3

EECBG Optional  
GPS4

EECBG Optional  
GPS5

EECBG Optional  
GPS6

EECBG Optional  
GPS7

EECBG Optional  
GPS8

EECBG Optional  
GPS9

EECBG Optional  
GPS10

**Files**

**Crescent EPIC Ice Rink Ltg Retrofit Quote 9-14-2022**

Last Modified **4/23/2024, 8:48 AM**

Created By **Kerri Ishmael**

## Equipment Rebate Voucher Applicants

### 2-Statement of Work for Non-tribal Energy Efficiency and Conservation Block Grant (EECBG) Equipment Rebate Voucher Applicants with a Historic Preservation Programmatic Agreement<sup>1</sup> (PA) Requesting Expedited Reviews for Projects with No Ground Disturbing Activities

Check applicable boxes. Note-All boxes must be checked to use this statement of work.

<input type="checkbox"/>	I represent a <u>non-tribal</u> organization.
<input type="checkbox"/>	If my organization funds any activities on tribal lands or tribal properties, I understand those activities would be restricted to homes/buildings less than forty-five (45) years old and without ground disturbance. My organization would contact the DOE Project Officer for a <i>Historic Preservation Worksheet</i> to request a review of activities that are listed below on tribal homes/buildings forty-five (45) years and older and/or ground disturbing activities. I understand the DOE NEPA team must review the <i>Historic Preservation Worksheet</i> and notify my DOE Project Officer before I may begin initiating activities reviewed on the <i>Historic Preservation Worksheet</i> .
<input checked="" type="checkbox"/>	My organization is proposing <u>no ground disturbing activities</u> .
<input checked="" type="checkbox"/>	My organization and proposed activities are located in AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MP, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY, or VI.
<input checked="" type="checkbox"/>	I understand I am required to review the NEPA and Historic Preservation training website: <a href="http://www.energy.gov/node/4816816">www.energy.gov/node/4816816</a> and contact my DOE Project Officer with any questions before initiating project activities.
<input checked="" type="checkbox"/>	I understand I am required to review my <i>NEPA determination</i> (the DOE form that documents DOE's environmental review of project activities) once I have an approved award from the DOE Contracting Officer. I will contact my DOE Project Officer with questions on my award documents.
<input checked="" type="checkbox"/>	I understand I am required to review and comply with the requirements and restrictions of my <i>Historic Preservation Programmatic Agreement</i> found at: <a href="https://www.energy.gov/node/812599">https://www.energy.gov/node/812599</a> once I have an approved award from the DOE Contracting Officer. I will contact my DOE Project Officer with questions on my award documents.
<input checked="" type="checkbox"/>	I understand I am required to submit an annual <i>Historic Preservation Report</i> at <a href="https://forms.office.com/g/kAFs0N7CZH">https://forms.office.com/g/kAFs0N7CZH</a> .
<input checked="" type="checkbox"/>	I understand if I propose activities not listed below, I must contact my DOE Project Officer who will review the proposal for program eligibility. Additional NEPA review will be required including the possible submission of an <i>Environmental Questionnaire 1</i> form (EQ1). I will not initiate any activities without approval from the DOE Contracting Officer.

<sup>1</sup> Determine if your project is located in a jurisdiction with a *Historic Preservation Programmatic Agreement* by checking this website: <https://www.energy.gov/node/812599>.

By signing below, City of Fort Collins (enter Applicant organization) provides assurance that it shall only fund projects (including subgrants) that fall within the Blueprints and Additional Activities listed below and will follow all restrictions defined below.

### **Blueprints and Additional Activities:**

All proposed project activities and equipment funded from *Administrative and Legal Requirements Documents* (ALRD), and all proposed project activities and equipment funded under *Financial Incentive Programs*, must be listed below. Activities and equipment not listed below would require submission of an *Environmental Questionnaire 1* form (EQ1).

This Statement of Work is organized around [EECBG Program Blueprints](#). Applicants that plan to use a Blueprint should identify their selected Blueprint number and ensure that their proposed activities align with this Statement of Work. Applicants that do not plan to use a Blueprint may find that their proposed activities are covered under one of the Blueprint headers or the “Additional Activities” section. Please review each item carefully to determine if proposed activities are included in this Statement of Work.

### **Blueprints:**

1. **Blueprint #2A:** Funding commercially available, energy efficient, grid-interactivity, electrification and renewable energy upgrades; provided that projects adhere to the requirements of the respective applicant’s DOE executed *Historic Preservation Programmatic Agreement* (PA), are installed in or on existing buildings, do not require ground disturbance, tree removal or tree trimming, do not require structural reinforcement, and are limited to:
  - a. Installation of insulation.
  - b. Installation of energy efficient lighting.
  - c. HVAC upgrades to existing systems.
  - d. Weather sealing and duct sealing.
  - e. Purchase and installation of energy/water-efficient residential and commercial appliances and equipment (including, but not limited to, grid-interactive building technologies, energy or water monitoring and control systems, thermostats, heat pumps, air conditioners, and related software).
  - f. Retrofit of energy efficient pumps and motors (for such uses as, but not limited to, wastewater treatment plants) where it would not alter the capacity, use, mission, or operation of an existing facility.
  - g. Retrofit and replacement of windows and doors.
  - h. Installation of electric appliances (including replacement of appliances that utilize fossil fuels with electric appliances) such as heat pumps for water heating, air heating/cooling, electric dryers, and stoves.
  - i. Retrofit and installation of energy-efficient commercial kitchen equipment, such as efficient refrigerators, freezers, dishwashers.
  - j. Electrical system upgrades limited to electric panel upgrades, updated wiring and conduit, grounding, and arc-fault circuit interrupter (AFCI) and ground-fault circuit interrupter (GFCI) breakers.
  
2. **Blueprint #2B:** Energy Savings Performance Contracts for Efficiency and Electrification in Buildings, activities limited to:

- a. Funding commercially available energy efficiency or renewable energy upgrades; provided that projects adhere to the requirements of the respective applicant's DOE executed *Historic Preservation Programmatic Agreement (PA)*, are installed in or on existing buildings, do not require ground disturbance, tree removal or tree trimming, do not require structural reinforcement, and are limited to:
    - i. Installation of insulation.
    - ii. Installation of energy efficient lighting.
    - iii. HVAC upgrades (to existing systems).
    - iv. Weather sealing and duct sealing.
    - v. Purchase and installation of energy/water-efficient residential and commercial appliances and equipment (including, but not limited to, grid-interactive building technologies, energy or water monitoring and control systems, thermostats, heat pumps, air conditioners, and related software).
    - vi. Retrofit of energy efficient pumps and motors (for such uses as, but not limited to, wastewater treatment plants) where it would not alter the capacity, use, mission, or operation of an existing facility.
    - vii. Retrofit and replacement of windows and doors.
    - viii. Installation of electric appliances (including replacement of appliances that utilize fossil fuels with electric appliances) such as heat pumps for water heating, air heating/cooling, electric dryers, and stoves.
    - ix. Retrofit and installation of energy-efficient commercial kitchen equipment, such as efficient refrigerators, freezers, dishwashers.
    - x. Electrical system upgrades limited to electric panel upgrades, updated wiring and conduit, grounding, and arc-fault circuit interrupter (AFCI) and ground-fault circuit interrupter (GFCI) breakers.
  - b. Post-implementation measurement & verification limited to data analysis (e.g.: metering/usage/temperature), which may include monitoring devices installed on equipment, but not on buildings.
3. **Blueprint #2C: Building Efficiency & Electrification Campaign**, activities limited to:
- a. Building Energy Efficiency: Funding commercially available energy efficiency or renewable energy upgrades; provided that projects adhere to the requirements of the respective applicant's DOE executed *Historic Preservation Programmatic Agreement (PA)*, are installed in or on existing buildings, do not require ground disturbance, tree removal or tree trimming, do not require structural reinforcement, and are limited to:
    - i. Installation of insulation.
    - ii. Installation of energy efficient lighting.
    - iii. HVAC upgrades to existing systems.
    - iv. Weather sealing and duct sealing.
    - v. Purchase and installation of energy/water-efficient residential and commercial appliances and equipment (including, but not limited to, grid-interactive building technologies, energy or water monitoring and control systems, thermostats, heat pumps, air conditioners, and related software).
    - vi. Retrofit of energy efficient pumps and motors (for such uses as, but not limited to, wastewater treatment plants) where it would not alter the capacity, use, mission, or operation of an existing facility.
    - vii. Retrofit and replacement of windows and doors.

- viii. Installation of electric appliances (including replacement of appliances that utilize fossil fuels with electric appliances) such as heat pumps for water heating, air heating/cooling, electric dryers, and stoves.
  - ix. Retrofit and installation of energy-efficient commercial kitchen equipment, such as efficient refrigerators, freezers, dishwashers.
  - x. Electrical system upgrades limited to electric panel upgrades, updated wiring and conduit, grounding, and arc-fault circuit interrupter (AFCI) and ground-fault circuit interrupter (GFCI) breakers.
4. **Blueprint #3A:** Solar and Battery Storage - Power Purchase Agreements and Direct Ownership, activities limited to:
- a. Installation of solar electricity/photovoltaic (PV) systems, provided that projects adhere to the requirements of the respective applicant's DOE executed *Historic Preservation Programmatic Agreement (PA)*, are installed in or on existing buildings, do not require ground disturbance, tree removal or tree trimming, do not require structural reinforcement, and are not to exceed 60 kW DC.
  - b. Installation of energy storage systems, including electrochemical and thermal storage systems, provided that projects adhere to the requirements of the respective applicant's DOE executed *Historic Preservation Programmatic Agreement (PA)*, are installed in or on existing buildings, do not require ground disturbance, tree removal or tree trimming, do not require structural reinforcement, and are appropriately sized not to exceed 1,000 kWh.
5. **Blueprint #3B:** Community Solar, activities limited to:
- a. Installation of solar electricity/photovoltaic (PV) systems, provided that projects adhere to the requirements of the respective applicant's DOE executed *Historic Preservation Programmatic Agreement (PA)*, are installed in or on existing buildings, do not require ground disturbance, tree removal or tree trimming, do not require structural reinforcement, and are not to exceed 60 kW DC.
  - b. Installation of energy storage systems, including electrochemical and thermal storage systems, provided that projects adhere to the requirements of the respective applicant's DOE executed *Historic Preservation Programmatic Agreement (PA)*, are installed in or on existing buildings, do not require ground disturbance, tree removal or tree trimming, do not require structural reinforcement, and are appropriately sized not to exceed 1,000 kWh.
6. **Blueprint #3C:** Solarize Campaign, activities limited to:
- a. Installation of solar electricity/photovoltaic (PV) systems, provided that projects adhere to the requirements of the respective applicant's DOE executed *Historic Preservation Programmatic Agreement (PA)*, are installed in or on existing buildings, do not require ground disturbance, tree removal or tree trimming, do not require structural reinforcement, and are not to exceed 60 kW DC.
  - b. Installation of energy storage systems, including electrochemical and thermal storage systems, provided that projects adhere to the requirements of the respective applicant's DOE executed *Historic Preservation Programmatic Agreement (PA)*, are installed in or on existing buildings, do not require ground disturbance, tree removal or tree trimming,

do not require structural reinforcement, and are appropriately sized not to exceed 1,000 kWh.

7. **Blueprint #3D:** Renewable Resource Planning, activities limited to:
  - a. Installation of solar electricity/photovoltaic (PV) systems, provided that projects adhere to the requirements of the respective applicant's DOE executed *Historic Preservation Programmatic Agreement (PA)*, are installed in or on existing buildings, do not require ground disturbance, tree removal or tree trimming, do not require structural reinforcement, and are not to exceed 60 kW DC.
  - b. Installation of energy storage systems, including electrochemical and thermal storage systems, provided that projects adhere to the requirements of the respective applicant's DOE executed *Historic Preservation Programmatic Agreement (PA)*, are installed in or on existing buildings, do not require ground disturbance, tree removal or tree trimming, do not require structural reinforcement, and are appropriately sized not to exceed 1,000 kWh.
  
8. **Blueprint #4A:** Electric Vehicles for Fleets and Fleet Electrification, activities limited to:
  - a. Purchase of alternative fuel vehicles, including electric vehicles and plug-in hybrid vehicles.
  - b. Installation of electric vehicle supply equipment (EVSE), including testing measurements to assess the safety and functionality of the EVSE (restricted to existing footprints within an existing parking facility, defined as any building, structure, land, right-of-way, facility, or area used for parking of motor vehicles which would not require any ground disturbance). All activities must use reversible, non-permanent techniques for installation, and where appropriate, use the lowest profile EVSE reasonably available that provides the necessary charging capacity. EVSE shall be placed in minimally visibly intrusive area; use colors complementary to surrounding environment, where possible, and be limited to the current electrical capacity. This applies to Level 1, Level 2, and Level 3 (also known as Direct Current (DC) Fast Charging) EVSE for community and municipal fleets.
  
9. **Blueprint #4B:** Electric Vehicle Charging Infrastructure, activities limited to:
  - a. Installation of electric vehicle supply equipment (EVSE), including testing measurements to assess the safety and functionality of the EVSE (restricted to existing footprints within an existing parking facility, defined as any building, structure, land, right-of-way, facility, or area used for parking of motor vehicles which would not require any ground disturbance). All activities must use reversible, non-permanent techniques for installation, and where appropriate, use the lowest profile EVSE reasonably available that provides the necessary charging capacity. EVSE shall be placed in minimally visibly intrusive area; use colors complementary to surrounding environment, where possible, and be limited to the current electrical capacity. This applies to Level 1, Level 2, and Level 3 (also known as Direct Current (DC) Fast Charging) EVSE for community and municipal fleets.

**Additional Activities:**

10. Building Energy Efficiency: Funding commercially available energy efficiency or renewable energy upgrades, provided that projects adhere to the requirements of the respective



- applicant's DOE executed *Historic Preservation Programmatic Agreement (PA)*, are installed in or on existing buildings, do not require ground disturbance, tree removal or tree trimming, do not require structural reinforcement, are appropriately sized, and are limited to:
- a. Installation of insulation.
  - b. Installation of energy efficient lighting.
  - c. HVAC upgrades to existing systems.
  - d. Weather sealing and duct sealing.
  - e. Purchase and installation of energy/water-efficient residential and commercial appliances and equipment (including, but not limited to, grid-interactive building technologies, energy or water monitoring and control systems, thermostats, heat pumps, air conditioners, and related software).
  - f. Retrofit of energy efficient pumps and motors (for such uses as, but not limited to, wastewater treatment plants) where it would not alter the capacity, use, mission, or operation of an existing facility.
  - g. Retrofit and replacement of windows and doors.
  - h. Installation of electric appliances (including replacement of appliances that utilize fossil fuels with electric appliances) such as heat pumps for water heating, air heating/cooling, electric dryers, and stoves.
  - i. Retrofit and installation of energy-efficient commercial kitchen equipment, such as efficient refrigerators, freezers, dishwashers.
  - j. Electrical system upgrades required to enable energy efficient/clean energy. Measures limited to electric panel upgrades, updated wiring and conduit, grounding, and arc-fault circuit interrupter (AFCI) and ground-fault circuit interrupter (GFCI) breakers.
11. Installation of renewable energy technology, provided that projects adhere to the requirements of the respective applicant's DOE executed *Historic Preservation Programmatic Agreement (PA)*, are installed in or on existing buildings, do not require ground disturbance, tree removal or tree trimming, do not require structural reinforcement, are appropriately sized, and are limited to:
- a. Solar Electricity/Photovoltaic—appropriately sized systems not to exceed 60kW (including community solar projects)
  - b. Wind Turbines 20 kW or smaller
  - c. Solar thermal systems (including solar thermal hot water) limited to 200,000 BTU per hour or smaller.
12. Biomass thermal systems, provided that projects adhere to the requirements of the respective applicant's DOE executed *Historic Preservation Programmatic Agreement (PA)*, are installed in existing buildings, do not require structural reinforcement, do not require ground disturbance, are appropriately sized, and limited to 3 MMBTUs per hour or smaller, with appropriate regulatory permits obtained and Best Available Control Technologies (BACT) installed and operated.
13. Purchase of alternative fuel vehicles, hybrids, and electric vehicles.
14. Installation of fueling pumps and systems for fuels such as compressed natural gas, hydrogen, ethanol, and other commercially available biofuels, (but not storage tanks) provided that projects adhere to the requirements of the respective applicant's DOE executed *Historic*

*Preservation Programmatic Agreement (PA)*, are installed on a current fueling station site, do not require ground disturbance, tree removal or tree trimming, are appropriately sized, and obtain the appropriate permits, and comply with regulatory requirements.

- 15. Installation of energy storage systems, including electrochemical and thermal storage systems, provided that projects adhere to the requirements of the respective applicant’s DOE executed *Historic Preservation Programmatic Agreement (PA)*, are installed in or on existing buildings, do not require ground disturbance, tree removal or tree trimming, do not require structural reinforcement, are appropriately sized not to exceed 1,000 kWh, obtain the appropriate permits, and comply with regulatory requirements.

The Applicant is responsible for informing DOE of any extraordinary circumstances, cumulative impacts, or connected actions that may lead to significant impacts on the environment or any inconsistency with the “integral elements” from a particular project. See 10 C.F.R. Part 1021 Appendix B, and the DOE’s online NEPA and historic preservation training at [www.energy.gov/node/4816816](http://www.energy.gov/node/4816816) to reviews these concepts.

Expedited NEPA review based on this NEPA Statement of Work and supporting documents does not preclude DOE from conducting stewardship activities, including audits, and site visits, or from exercising any other rights under the EECBG program.

By signing below, the Applicant, agrees to follow all the statements and restrictions in this document; review and comply with the *NEPA Determination* (included in their Applicant award documents); review the DOE’s NEPA and Historic Preservation training website. DOE has developed a NEPA and Historic Preservation training website which contains PowerPoint presentations, sample template documents (including a project *scope of work* and a project *layout*), a Word template of the *Environmental Questionnaire1 (EQ1)*, and an *EQ1 Submission Guide* at [www.energy.gov/node/4816816](http://www.energy.gov/node/4816816). Applicants are responsible for reviewing these trainings and reviewing the sample documents prior to initiating projects. Recipients must contact their DOE Project Officer with any questions. Subgrantees should also review the NEPA and Historic Preservation training website prior to initiating projects.

DocuSigned by:  
  
 DD954C835E4F4A3...  
 Authorized Signature \_\_\_\_\_ Date 4/22/2024

Name (Printed or typed): Tracy Ochsner

Title (Printed or typed): Director, Operation Services

Organization (Printed or typed): City of Fort Collins

- [Close](#) Item 12.
- [Print This Page](#)

# EECBG Vouchers Portal

## Budget-000740

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<b>Budget Summary Name</b>	Budget-000740		
<b>Budget Category</b>	Third-Party Contractor (E.G. HVAC Technician or Lighting Installer)		
<b>EECBG-BIL</b>	\$71,860.58		
<b>Individual Application</b>	IA-0000000726		
<b>If Other Direct Costs, please specify</b>			
<b>Created By</b>	Kerri Ishmael, 4/23/2024, 8:48 AM	<b>Last Modified By</b>	Kerri Ishmael, 4/23/2024, 8:48 AM

- [Close](#) Item 12.
- [Print This Page](#)

# EECBG Vouchers Portal

## Budget-000739

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<b>Budget Summary Name</b>	Budget-000739		
<b>Budget Category</b>	Equipment (\$5,000 or more value)		
<b>EECBG-BIL</b>	\$134,819.42		
<b>Individual Application</b>	IA-0000000726		
<b>If Other Direct Costs, please specify</b>			
<b>Created By</b>	Kerri Ishmael, 4/23/2024, 8:48 AM	<b>Last Modified By</b>	Kerri Ishmael, 4/23/2024, 8:48 AM

**Expiration Date: 10/14/22**

## Quotation

**TO:**  
 CITYOF-FOR CITY OF FORT COLLINS  
 ACCOUNTS PAYABLE  
 PO BOX 580  
 FORT COLLINS, CO 80522-0580

**Project Info:**  
 Project: EDORA POOL & ICE CENTER -LI  
 Job #: 255286  
 Bid Date: 09/14/22  
 Bid Time: 02:00 PM CDT  
 Quoter: SHELLY MCGILL

Type	Quantity	Vendor	Description	Unit or Lot#	Unit Price	Ext Price
<p>Crescent Electric and its Subsidiaries are not liable for failure to perform, or for delay in performance, resulting from fire or other casualty loss, war, riot, act of terrorism or revolutions, pandemic, labor difficulties, embargo, transportation problems, accidents, breakdown of machinery, interruptions or delays in the usual source of supply, governmental action or regulation, or any other cause, contingency or circumstance, within or without the United States, not subject to Crescent's control which shall make the fulfillment of the agreement impracticable; any of which shall, without liability, excuse Crescent from the performance of the agreement under Force Majeure. Prices are subject to change. Crescent does not guarantee the length of term that a manufacturer will hold pricing. All shipments are FOB shipping point, with a full reservation of all bond and lien rights. Buyer has sole responsibility for filing claims with the manufacturer or carrier.</p>						

	0		EPIC 1987	Unit	0.000/EA	0.00
<b>A</b>	50		ABV4 0 90 49 N1 NA 41 A Q WHITE CONTROLS OPTION	Unit	862.906/EA	43,145.30
<b>A</b>	50		ABV4 0 90 49 N1 QV 41 A Q WHITE	Unit	845.882/EA	42,294.10
<b>A</b>	1		E20 EM ADDER UNIT PRICED	Unit	188.235/EA	188.24
	1		DCS-NEW CUSTOMER ACTIVATION	DAI	6,636.471	6,636.47

**From:**  
 CRESCENT FORT COLLINS, CO  
 MAIN 970-484-4333  
 1404 E MAGNOLIA ST  
 FORT COLLINS, CO 80524-4717  
 Printed By: SHELLY MCGILL

**Notes**



Project: EDORA POOL & ICE CENTER  
**Expiration 10/14/22**

Item 12.

### Quotation

Type	Quantity	Vendor	Description	LOT #	Unit Price	Ext Price
	52		SOFTHOSTSUP - 2 YEAR	DAI		
	1		WAC60-DCS-SMALL	DAI		
	1		WWD2-2 BUTTON SWITCH	DAI		
	1		WWD2-4 BUTTON SCENE CONTROLLER	DAI		
	1		CONTROL DRAWINGS	DAI		
	53		REMOTE COMMISSIONING-TRAINING-SUPPORT	DAI		
	1		FREIGHT WILL BE ADDED TO THE INVOICE	DAI		

**Base Bid Total 92,264.11**

### EPIC 2007

<b>G8</b>	44		ABV4 0 30 49 N1 NA 41 A Q WHITE CONTROLS OPTION	Unit	422.647/EA	18,596.47
<b>G8</b>	44		ABV4 0 30 49 N1 QV 41 A Q WHITE	Unit	394.118/EA	17,341.19
<b>G8</b>	1		E20 EM ADDER UNIT PRICED	Unit	188.235/EA	188.24
	1		DCS-NEW CUSTOMER ACTIVATION	FLC	6,429.412	6,429.41
	46		SOFTHOSTSUP - 2 YEAR	FLC		
	1		WAC60-DCS-SMALL	FLC		
	1		WWD2-2 BUTTON SWITCH	FLC		
	1		WWD2-4 BUTTON SCENE CONTROLLER	FLC		
	1		CONTROL DRAWINGS	FLC		
	47		REMOTE COMMISSIONING-TRAINING-SUPPORT	FLC		
	1		FREIGHT WILL BE ADDED TO THE INVOICE TOTAL	FLC		

**Subtotal of EPIC 2007 42,555.24**

**Quotation**

Type	Quantity	Vendor	Description	LOT #	Unit Price	Ext Price
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CRESCENT ELECTRIC SUPPLY COMPANY AND SUBSIDIARIES TERMS AND CONDITIONS OF QUOTATION

1) Buyer understands and agrees that all quotations and accepted orders by Crescent Electric Supply Company and Subsidiaries (Seller) are expressly conditioned upon these terms and conditions (Terms and Conditions of Quotation). Furthermore, your acceptance of this quotation indicates that you have also read, and agree, to the Crescent Electric Supply Company and Subsidiaries Terms and Conditions of Sale (Terms and Conditions of Sale) which are deemed automatically incorporated into any and all purchase orders.

2) Prices are firm for 10 days unless otherwise noted. As to all other terms, until signed and returned, the quotation is merely a quotation of sales prices. The quotation and tender will be deemed accepted only if signed and returned within ten days after receipt; otherwise, it shall have no effect.

3) Seller is not required to accept Buyer's orders. Any purchase order pursuant to Seller's quotation shall not result in a contract until it is accepted by Seller and acknowledged by it or its authorized representative.

4) This quotation is contingent upon Buyer meeting the financial qualifications established by Seller. Buyer shall supply Seller with such credit information as Seller may reasonably request in order to qualify Buyer for the rights under any Purchase Order Agreement.

5) If the manufacturer requires a deposit or full payment to be made to them at the time of order placement or release, those same requirements will be passed on to the Buyer, which Buyer accepts.

6) The quotation does not include accessory equipment, stems, mounting bars, mounting hardware, spares or plaster frames or any fitting-up charges which cover the manufacture or operating cost of the necessary tools and fixtures required to fill the order unless such items are listed or published as standard components in the manufacturer's specifications.

7) The quotation is made for the listed types and quantities only and all descriptions, items, totals and quantities are listed for your convenience only. Seller is not bound by any specifications, drawings, notes, instructions, engineering notices, technical data or any other document referred to in a Purchase Order by Buyer, and shall not be deemed to be incorporated by reference in any document or order by Buyer, unless a full copy is provided to Seller and such terms are approved and accepted in writing by Seller. Take-offs are not guaranteed. All items, including equals, are subject to approval by the Specifier.

8) Special orders may not be subject to return for credit. Return privileges, if available, on special order material will involve restocking charges.

9) Prices do not include taxes for sales, use, property, excise, freight or other tax charges, which are Buyer's responsibility.

10) If the quotation is accepted and Buyer's order form is used for the purpose, it is expressly understood and agreed that these terms and conditions, including the Terms and Conditions of Sale, shall prevail if they conflict in any way with the terms and conditions set forth in such order form, and the issuance of such order by Buyer shall be deemed to note Buyer's assent to this condition.

11) BUYER AGREES TO AND ACKNOWLEDGES RECEIPT OF THESE TERMS CONDITIONS WHETHER IN



Project: EDORA POOL & ICE CENTER

Expiration

10/14/22

### Quotation

Type	Quantity	Vendor	Description	LOT #	Unit Price	Ext Price
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HAND DELIVERED OR THROUGH VIEWING ONLINE AT [www.cesco.com](http://www.cesco.com), where copies of the Terms and Conditions of Quotation, Terms and Conditions of Sale and Application for Open Account Privilege are available. Buyer may also request additional copies by contacting the Corporate Finance Manager of Seller directly at (815) 747-3145.

Revision: Approved February 7, 2014

**From:**

CRESCENT FORT COLLINS, CO  
 MAIN 970-484-4333  
 1404 E MAGNOLIA ST  
 FORT COLLINS, CO 80524-4717  
 Printed By: SHELLY MCGILL

**Notes**



**File Attachments for Item:**

**13. First Reading of Ordinance No. 113, 2024, Making Supplemental Appropriations from Prior Year Reserves and Developer Contributions and Authorizing Transfers of Appropriations for the College Avenue-Trilby Road Intersection Improvements Project and Related Art in Public Places.**

The purpose of this item is to provide supplemental appropriations for the College Avenue-Trilby Road Intersection Improvements Project (Project). The funds will be used for construction of improvements at the intersection of South College Avenue and Trilby Road. If approved this item will appropriate the following ultimate amounts as designated: 1) \$11,781 from a payment-in-lieu (PIL) to the City from a development contribution to construction; 2) \$900,000 from Transportation Capital Expansion Fee (TCEF) reserves; 3) \$600,000 from Community Capital Improvement Program (CCIP) Arterial Intersection Improvements reserves; 4) \$119 (1% of PIL) from a PIL to the City from a development contribution to construction to the Art in Public Places (APP) program; 5) \$8,820 (0.8% of TCEF Project contribution) from TCEF reserves to the APP program; and 6) \$180 (0.2% of TCEF Project contribution) for maintenance of art from the Transportation Services fund reserves to the APP program.

August 20, 2024

# AGENDA ITEM SUMMARY

City Council




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## STAFF

Tracy Dyer, Project Manager  
Dana Hornkohl, Capital Projects Manager

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## SUBJECT

**First Reading of Ordinance No. 113, 2024, Making Supplemental Appropriations from Prior Year Reserves and Developer Contributions and Authorizing Transfers of Appropriations for the College Avenue-Trilby Road Intersection Improvements Project and Related Art in Public Places.**

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## EXECUTIVE SUMMARY

The purpose of this item is to provide supplemental appropriations for the College Avenue-Trilby Road Intersection Improvements Project (Project). The funds will be used for construction of improvements at the intersection of South College Avenue and Trilby Road. If approved this item will appropriate the following ultimate amounts as designated: 1) \$11,781 from a payment-in-lieu (PIL) to the City from a development contribution to construction; 2) \$900,000 from Transportation Capital Expansion Fee (TCEF) reserves; 3) \$600,000 from Community Capital Improvement Program (CCIP) Arterial Intersection Improvements reserves; 4) \$119 (1% of PIL) from a PIL to the City from a development contribution to construction to the Art in Public Places (APP) program; 5) \$8,820 (0.8% of TCEF Project contribution) from TCEF reserves to the APP program; and 6) \$180 (0.2% of TCEF Project contribution) for maintenance of art from the Transportation Services fund reserves to the APP program.

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## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

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## BACKGROUND / DISCUSSION

In 2020, the City's Arterial Intersection Prioritization Study identified the intersection of Trilby Road and South College Avenue (also known as State Highway 287) as a high priority due to traffic safety and congestion issues, as well as a lack of active modes infrastructure. The Colorado Department of Transportation (CDOT) has also identified this intersection as a high priority to address serious injury crashes.

Engineering, Traffic Operations and FC Moves staff identified the following safety and operational concerns with the current intersection: 1) high frequencies of approach turn crashes and rear-end crashes; 2) a lack of bicycle and pedestrian accessibility and infrastructure; 3) high volumes of motorists on the north-south legs of South College Avenue; and 4) increasing volumes on the east-west approach legs of Trilby Road. The Project design effort began in 2020.

The reconstructed intersection will improve safety for current and future traffic levels as growth continues in the region and will create a safer intersection for all users. The new intersection will feature dual left turn lanes from South College Avenue to Trilby Road, right turn lanes for each direction of travel, and a widened Trilby Road approach to South College Avenue. Pedestrians and bicycles will benefit from shared use paths on South College Avenue (10-foot wide detached) and Trilby Road (8-foot wide attached). Transit users will benefit from new bus stops on the south side of the intersection on South College Avenue.

The real property acquisition phase (right-of-way, permanent utility easements, and temporary construction easements) began in 2022 after CDOT approval and has involved over 24 different land parcels. The Project has included more real property acquisition than the City has seen in recent intersection projects like the College/Prospect and College/Horsetooth intersections. The amount of redevelopment around those intersections meant that a large amount of the right-of-way had been dedicated prior to those projects. The College/Trilby area has not experienced as much redevelopment in advance of this Project and as a result, there is significantly more acquisition needed to complete the Project. Local funding is used for acquisition costs directly related to real property, relocation costs, and property transfer fees. Acquisition costs to develop right-of-way plans, real estate consulting services, and outside legal representation are eligible grant expenses. This is standard practice on CDOT local agency projects.

Acquisition has taken longer than anticipated and has been significantly more expensive (~\$4.5M) than originally estimated (~\$3.0M). The additional cost of this phase has been attributed to 1) significant escalation in property values during the process, 2) increased use of settlements to minimize delays in some acquisitions, 3) increased consulting needs (land appraisal and real estate services) resulting from updated CDOT right-of-way processes, and 4) the need to use eminent domain proceedings to acquire needed right-of-way.

The City engaged a regional Construction Manager/General Contractor (CM/GC), with CDOT approval, in early 2023 to assist in the final design to improve efficiency in constructability and identify potential construction cost savings. Due to the lengthy acquisition phase, the construction phase was divided into packages to commence early work in areas where right-of-way had been secured while remaining right-of-way was secured. Construction package one (earthwork and walls) is currently underway and nearing completion. The City is currently negotiating construction packages two and three with the CM/GC. Staff anticipates starting package two later this month. The overall Project is anticipated to be completed in 2025.

Funds that were appropriated to the Project before this action were used primarily for design, acquisition, and construction package one. Additional appropriations totaling \$1,520,900 are sought to cover the unanticipated additional package cost of real property acquisition. A PIL to the City (\$11,900) from a development contribution to construction is included in this appropriation. The PIL was required by redevelopment occurring on a small parcel with frontage included in the Project area limits. The other amounts included in this appropriation are identified under "Funds to be Appropriated per this Action" section of the table below.

### **CITY FINANCIAL IMPACTS**

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The following is a summary of the funding anticipated for design, right-of-way acquisition, and construction for the College Avenue-Trilby Road Intersection Improvements Project.

<b>Prior Appropriated Funds</b>	
Surface Transportation Block Grant (STBG) Program Funds	\$ 5,272,260
Highway Safety Improvement Program (HSIP) Grant Funds	\$ 2,250,000
Funding Advancements for Surface Transportation and Economic Recovery (FASTER) Act Grant Funds	\$ 2,000,000
Highway Improvement Program (HIP) Grant Funds	\$ 1,870,000
Congestion Mitigation and Air Quality (CMAQ) Improvement Program Grant Funds	\$ 748,732
Funding Advancements for Surface Transportation and Economic Recovery (FASTER) Act Grant Funds	\$ 1,500,000
Transportation Capital Expansion Fee (TCEF) Funds	\$ 599,980
Transportation Services Fund Reserves	\$ 20,570
Development Contributions to Construction	
Contribution in Aid of Construction	\$ 38,163
Community Capital Improvement Program (CCIP) Arterial Intersection Improvements (2021 BFO Offer)	\$ 400,000
Community Capital Improvement Program (CCIP) Arterial Intersection Improvements (2023-2024 BFO Offer)	\$ 1,800,000
Development Contributions to Construction	
Payment in Lieu	\$ 14,800
<b>Total Prior Appropriation</b>	<b>\$ 16,514,505</b>

<b>Funds to be Appropriated per this Action</b>	
Development Contributions to Construction	
Payment in Lieu	\$ 11,900
Transportation Capital Expansion Fee (TCEF) Funds	\$ 908,820
Transportation Services Fund Reserves	\$ 180
Community Capital Improvement Program (CCIP) Arterial Intersection Improvements (2023-2024 BFO Offer)	\$ 600,000
<b>Total Funds to be Appropriated per this Action</b>	<b>\$ 1,520,900</b>
<b>Transfer to Art in Public Places</b>	<b>\$ 9,119</b>
<b>Total Project Funds</b>	<b>\$ 18,035,405</b>

The total fund amount projected for this Project is \$18,035,405 composed of funds appropriated with prior actions and with this action.

### **BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

The Project has received full environmental and historical clearances through CDOT during the design, acquisition, and construction phases. The proposed appropriation was brought before the Council Finance Committee at their August 1, 2024, meeting. The committee supported an off-cycle supplemental appropriation and was in favor of forwarding the appropriation request to City Council. At the time this Agenda Item Summary was prepared, meeting minutes had not been drafted or approved.

## **PUBLIC OUTREACH**

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Staff has developed and continues to implement a comprehensive Public Engagement Plan for the Project.

As part of the design and acquisition process, staff has discussed the Project with the adjacent property owners, current business owners, and prospective developers immediately abutting the Project improvements. In addition, staff and an outside acquisition consultant have met or conversed individually with property owners on multiple occasions regarding design and construction details.

Staff has discussed and presented conceptual level drawings at several public outreach events including a virtual neighborhood public meeting on March 3, 2022, and an open house held on November 13, 2023. Project information was shown at the Transportation Projects Fairs in February 2023 and February 2024. A Project website is regularly updated with Project information and upcoming milestones.

City staff continues to engage with local businesses and property owners impacted by ongoing work and traffic patterns that are affected by construction traffic control needs and requirements.

## **ATTACHMENTS**

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1. Ordinance for Consideration
2. College Trilby Vicinity Map
3. College Trilby Design Exhibit

ORDINANCE NO. 113, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
MAKING SUPPLEMENTAL APPROPRIATIONS FROM PRIOR  
YEAR RESERVES AND DEVELOPER CONTRIBUTIONS AND  
AUTHORIZING TRANSFERS OF APPROPRIATIONS FOR THE  
COLLEGE AVENUE-TRILBY ROAD INTERSECTION  
IMPROVEMENTS PROJECT AND RELATED ART IN PUBLIC  
PLACES

A. This Ordinance appropriates supplemental funding for the College Avenue-Trilby Road Intersection Improvements Project (the “Project”).

B. In 2020, the City’s Arterial Intersection Prioritization Study identified improvement of the intersection of Trilby Road and South College Avenue (also known as State Highway 287) as a high priority due to traffic safety and congestion issues, and due to a lack of active modes infrastructure. The Colorado Department of Transportation (CDOT) has also identified improvement of this intersection as a high priority to address serious injury crashes.

C. Engineering, Traffic Operations and FC Moves staff further identified safety and operational concerns with the current intersection, including high frequencies of approach turn crashes and rear-end crashes; a lack of bicycle and pedestrian accessibility and infrastructure; high volumes of motorists on the north-south legs of South College Avenue; and increasing volumes of traffic on the east-west approach legs of Trilby Road.

D. In 2020, design of the Project began, aimed at addressing the issues identified, reconstructing the intersection, improving safety for current and future traffic levels as growth continues in the region, and creating a safer intersection for all users. The new intersection will feature dual left turn lanes from South College Avenue to Trilby Road, right turn lanes for each direction of travel, and a widened Trilby Road approach to South College Avenue. Pedestrians and bicycles will benefit from shared use paths on South College Avenue (ten-foot wide detached) and Trilby Road (eight-foot wide attached). Transit users will benefit from new bus stops on the south side of the intersection on South College Avenue.

E. In 2022 after CDOT approval, the real property acquisition phase began (right-of-way, permanent utility easements, and temporary construction easements) and has involved over twenty-four different land parcels. Local funding is used for acquisition costs directly related to real property, relocation costs, and property transfer fees. Acquisition costs to develop right-of-way plans, real estate consulting services, and outside legal representation are eligible grant expenses. This is standard practice on CDOT local agency projects.

F. Acquisition has taken longer than anticipated and has been significantly more expensive (approximately \$4.5M) than originally estimated (approximately \$3.0M),

because of significant escalation in property values during the process, increased use of settlements to minimize delays in some acquisitions, increased consulting needs (land appraisal and real estate services) resulting from updated CDOT right-of-way processes, and increased costs due to the need for eminent domain proceedings.

G. In early 2023, the City engaged a regional Construction Manager/General Contractor (CM/GC) to assist in the final design to improve efficiency in constructability and identify potential construction cost savings. Due to the lengthy acquisition phase, the construction phase was divided into packages to commence early work in areas where right-of-way had been secured while remaining right-of-way was obtained.

H. Construction package one (earthwork and walls) is currently underway and nearing completion. The City is currently negotiating construction packages two and three with the CM/GC. Staff anticipates starting package two later in August 2024. The overall Project is anticipated to be completed in 2025.

I. Funds that were appropriated to the Project before this action were used primarily for design, acquisition, and construction package one. Additional appropriations totaling \$1,520,900 are sought to cover the unanticipated additional cost of real property acquisition. A development payment-in-lieu (PIL) contribution toward constructing the local street portion to the City (\$11,900) is included in this appropriation. The PIL was required by redevelopment occurring on a small parcel with frontage included in the Project area limits. The other appropriation amounts included in this Ordinance include Transportation Capital Expansion Fee funds, Transportation Services fund reserves, and Community Capital Improvement Program Arterial Intersection Improvements funds.

J. Article V, Section 9 of the City Charter permits the City Council, upon the recommendation of the City Manager, to make supplemental appropriations by ordinance at any time during the fiscal year from such revenues and funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated.

K. The City Manager has recommended the appropriations described herein and determined that these appropriations are available and previously unappropriated from the Transportation Improvement fund, Transportation Capital Expansion Fee fund, the Transportation Services fund, as applicable, and will not cause the total amount appropriated in the Transportation Improvement fund, Transportation Capital Expansion Fee fund, the Transportation Services fund, as applicable, to exceed the current estimate of actual and anticipated revenues and all other funds to be received in these funds during this fiscal year.

L. Article V, Section 10 of the City Charter authorizes the City Council, upon recommendation by the City Manager, to transfer by ordinance any unexpended and unencumbered appropriated amount or portion thereof from one fund or capital project to another fund or capital project, provided that the purpose for which the transferred funds are to be expended remains unchanged, the purpose for which the funds were initially

appropriated no longer exists, or the proposed transfer is from a fund or capital project in which the amount appropriated exceeds the amount needed to accomplish the purpose specified in the appropriation ordinance.

M. The City Manager has recommended the transfer of \$600,000 from the Community Capital Improvement Project fund to the College Avenue-Trilby Road Intersection Improvements Project in the Capital Projects fund and determined that the purpose for which the transferred funds are to be expended remains unchanged.

N. Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a capital project or for a federal, state or private grant or contribution, that such appropriation shall not lapse at the end of the fiscal year in which the appropriation is made, but continue until the completion of the capital project or until the earlier of the expiration of the federal, state or private grant or contribution or the City's expenditure of all funds received from such contribution.

O. The City Council wishes to designate the appropriation herein for the College Avenue-Trilby Road Intersection Improvements Project as an appropriation that shall not lapse until the completion of the project.

P. This Project involves construction estimated to cost more than \$250,000 and, under City Code Section 23-304 is required to transfer one percent of these appropriations to the Cultural Services and Facilities fund for a contribution to the Art in Public Places ("APP") program.

Q. A portion of the funds appropriated in this Ordinance for the Project are ineligible for use in the APP program due to being applied to the Community Capital Improvement Program Arterial Intersections Improvements Budget in 2023-2024 Budgeting for Outcomes as previously appropriated with APP the source of these funds.

R. The project cost of \$911,900 has been used to calculate the contribution to the APP program.

S. The amount to be contributed in this Ordinance will be \$9,119.

T. The appropriations in this Ordinance benefit public health, safety and welfare of the residents of Fort Collins and serve the public purpose of improving transportation infrastructure within the City.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. There is hereby appropriated from prior year reserves in the Transportation Improvement fund the sum of ELEVEN THOUSAND NINE HUNDRED DOLLARS (\$11,900) to be expended in the Transportation Improvement fund for transfer



to the Capital Projects fund and appropriated therein for the College Avenue-Trilby Road Intersection Improvements Project.

Section 2. There is hereby appropriated from prior year reserves in the Transportation Capital Expansion Fee fund the sum of NINE HUNDRED EIGHT THOUSAND EIGHT HUNDRED TWENTY DOLLARS (\$908,820) to be expended in the Transportation Capital Expansion Fee fund for transfer to the Capital Projects fund and appropriated therein for the College Avenue-Trilby Road Intersection Improvements Project.

Section 3. There is hereby appropriated from prior year reserves in the Transportation Services fund the sum of ONE HUNDRED EIGHTY DOLLARS (\$180) to be expended in the Transportation Services fund for transfer to the Capital Projects fund and appropriated therein for the College Avenue-Trilby Road Intersection Improvements Project.

Section 4. The unexpended and unencumbered appropriated amount of SIX HUNDRED THOUSAND DOLLARS (\$600,000) in Community Capital Improvement Project Arterial Intersection Improvement budget in the Capital Project fund to the College Avenue-Trilby Road Intersection Improvements Project in the Capital Projects fund and appropriated and expended therein for the College Avenue-Trilby Road Intersection Improvements Project.

Section 5. The unexpended and unencumbered appropriated amount of SEVEN THOUSAND ONE HUNDRED THIRTEEN DOLLARS (\$7,113) in the Capital Projects fund is hereby authorized for transfer to the Cultural Services and Facilities fund and appropriated and expended therein to fund art projects under the APP program.

Section 6. The unexpended and unencumbered appropriated amount of ONE THOUSAND EIGHT HUNDRED TWENTY-FOUR DOLLARS (\$1,824) in the Capital Projects fund is hereby authorized for transfer to the Cultural Services and Facilities fund and appropriated and expended therein for the operation costs of the APP program.

Section 7. The unexpended and unencumbered appropriated amount of ONE HUNDRED EIGHTY-TWO DOLLARS (\$182) in the Capital Projects fund is hereby authorized for transfer to the Cultural Services and Facilities fund and appropriated and expended therein for the maintenance costs of the APP program.

Section 8. The appropriations herein for the College Avenue-Trilby Road Intersection Improvements Project are designated as appropriations that shall not lapse until the completion of the Project.

Introduced, considered favorably on first reading on August 20, 2024, and approved on second reading for final passage on September 3, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: September 13, 2024  
Approving Attorney: Heather N. Jarvis

# COLLEGE AND TRILBY IMPROVEMENTS

College Ave

Mejoras a College y Trilby

E Trilby Rd



W Trilby Rd

College/Trilby Improvements

College Ave



Item 13.



COLLEGE AND TRILBY  
INTERSECTION IMPROVEMENTS  
DESIGN EXHIBIT  
9/9/2021

**File Attachments for Item:**

**14. First Reading of Ordinance No. 114, 2024, Authorizing Transfer of Appropriations from the South Timberline Mail Creek Trail Underpass Project to the South Timberline Corridor Project.**

The purpose of this item is to reappropriate funding from the South Timberline Mail Creek Trail Underpass project (“Underpass”) to the South Timberline Corridor project (“Corridor”). No new funding will be appropriated.

August 20, 2024

# AGENDA ITEM SUMMARY

City Council




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## STAFF

Mark Laken, Project Manager  
Dana Hornkohl, Capital Projects Manager

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## SUBJECT

**First Reading of Ordinance No. 114, 2024, Authorizing Transfer of Appropriations from the South Timberline Mail Creek Trail Underpass Project to the South Timberline Corridor Project.**

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## EXECUTIVE SUMMARY

The purpose of this item is to reappropriate funding from the South Timberline Mail Creek Trail Underpass project ("Underpass") to the South Timberline Corridor project ("Corridor"). No new funding will be appropriated.

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## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

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## BACKGROUND / DISCUSSION

The recent South Timberline Road construction includes two groups of work, the Underpass and the Corridor. The Underpass includes a new box culvert for the Mail Creek Ditch and a new pedestrian underpass for the Mail Creek Trail. Underpass construction was substantially complete in 2022. The Corridor includes a combination of buffered bike lanes and a raised multi-use path; new sidewalks; multimodal intersection improvements at two intersections (includes improved geometry, green striping for bicycles; American with Disabilities Act ("ADA") compliant ramps and pushbuttons; and additional travel lanes for vehicles. Corridor work was substantially complete in 2023. There is outstanding landscape and irrigation work to be completed on the Corridor. The contractor is also addressing minor repair work.

The Underpass and Corridor projects have separate funding and business units. This separation allows the City flexibility to expedite structure construction with tight timelines between October and April (ditch bridge replacement) and take full advantage of grant funding, such as Surface Transportation Block Grant (STBG) program funds, for typical corridor improvements.

The Corridor was initially bid for construction in the summer of 2022. Bids were higher than the available budget. Construction cost escalation resulting from the COVID pandemic had become a significant problem and a supplemental appropriation was sought to allow the project to begin construction. The supplemental appropriation was approved by City Council (Ordinance No. 75, 2022) and included \$400,000 from the Community Capital Improvement Program (CCIP) fund reserves. This funding was inadvertently placed in the Underpass business unit. The funding is needed in the Corridor project to close out the outstanding work.

## CITY FINANCIAL IMPACTS

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The following is a summary of the funding anticipated for design, right-of-way acquisition, and construction for the Corridor. No new funding is proposed.

<b>Prior Appropriated Funds</b>	
Surface Transportation Block Grant (STBG) Program Funds	\$ 2,694,602
Transportation Capital Expansion Fee (TCEF) Funds	\$ 3,180,171
Transportation Services Fund Reserves	\$ 390,035
Community Capital Improvement Program (CCIP) Fund Reserves	\$ 400,000
General Fund Reserves	\$ 774,000
<b>Total Prior Appropriation</b>	<b>\$ 7,438,808</b>

The total fund amount projected for this Project is \$7,438,808 composed of funds appropriated with prior actions. This appropriation transfers the prior appropriated CCIP \$400,000 from the Underpass business unit to the Corridor business unit.

## BOARD / COMMISSION / COMMITTEE RECOMMENDATION

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Prior to construction, the Underpass and Corridor projects were presented to several boards and commissions including City Council, Council Finance Committee, and Transportation Board. All boards and commissions to which the projects were presented support the projects.

## PUBLIC OUTREACH

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Prior to and during construction the project staff met with several property owners individually and at open house events.

## ATTACHMENTS

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1. Ordinance for Consideration
2. Ordinance No. 075, 2022

ORDINANCE NO. 114, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING TRANSFER OF APPROPRIATIONS FROM THE  
SOUTH TIMBERLINE MAIL CREEK TRAIL UNDERPASS  
PROJECT TO THE SOUTH TIMBERLINE CORRIDOR PROJECT

A. This Ordinance transfers appropriated funds from the South Timberline Mail Creek Trail Underpass project (“Underpass”) to the South Timberline Corridor project (“Corridor”).

B. No new funding is appropriated by this Ordinance.

C. The recent South Timberline Road construction includes two groups of work, the Underpass and the Corridor.

D. The Underpass includes a new box culvert for the Mail Creek Ditch and a new pedestrian underpass for the Mail Creek Trail. Underpass construction was substantially complete in 2022.

E. The Corridor includes a combination of buffered bike lanes and a raised multi-use path; new sidewalks; multimodal intersection improvements at two intersections (includes improved geometry, green striping for bicycles; American with Disabilities Act (“ADA”) compliant ramps and pushbuttons; and additional travel lanes for vehicles. Corridor work was substantially complete in 2023.

F. For the Corridor, there is outstanding landscape and irrigation work to be completed, and the contractor is addressing minor repair work.

G. The Underpass and Corridor projects have separate funding and business units. This separation allows the City flexibility to expedite structure construction with tight timelines between October and April (ditch bridge replacement) and take full advantage of grant funding, such as Surface Transportation Block Grant (STBG) program funds, for typical corridor improvements.

H. The Corridor was initially bid for construction in the summer of 2022. Bids were higher than the available budget. Construction cost escalation resulting from the COVID pandemic had become a significant problem and a supplemental appropriation was sought to allow the project to begin construction. The supplemental appropriation was approved by City Council (Ordinance No. 75, 2022) and included \$400,000 from the Community Capital Improvement Program (CCIP) fund reserves. This funding was inadvertently placed in the Underpass business unit. The funding is needed in the Corridor business unit to close out the outstanding work.

I. This project involves construction estimated to cost more than \$250,000, and City Code Section 23-304 requires one percent of such costs to be transferred to the



Cultural Services and Facilities Fund for a contribution to the Art in Public Places Program. The prior appropriation (Ordinance No. 075, 2022) included the required contribution to Art in Public Places.

J. Article V, Section 10 of the City Charter authorizes the City Council, upon recommendation by the City Manager, to transfer by ordinance any unexpended and unencumbered appropriated amount or portion thereof from one fund or capital project to another fund or capital project, provided that the purpose for which the transferred funds are to be expended remains unchanged, the purpose for which the funds were initially appropriated no longer exists, or the proposed transfer is from a fund or capital project in which the amount appropriated exceeds the amount needed to accomplish the purpose specified in the appropriation ordinance.

K. The City Manager has recommended the transfer of \$400,000 from the Capital Project fund Underpass budget to the Capital Projects fund Corridor budget and determined that the purpose for which the funds were initially appropriated no longer exists.

L. Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a capital project, that such appropriation shall not lapse at the end of the fiscal year in which the appropriation is made but continue until the completion of the capital project.

M. The City Council wishes to designate the appropriation herein for the Corridor as an appropriation that shall not lapse until the completion of the project.

N. The appropriation in this Ordinance benefits public health, safety and welfare of the residents of Fort Collins and serves the public purpose of improving multimodal transportation infrastructure within the City.

In light of the foregoing Recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The unexpended and unencumbered appropriated amount of FOUR HUNDRED THOUSAND DOLLARS (\$400,000) is authorized for transfer from the Capital Project fund South Timberline Mail Creek Underpass budget to the Capital Projects fund South Timberline Corridor project budget and appropriated therein to be expended for the South Timberline Corridor project.

Section 2. The appropriation herein for the Capital Projects fund South Timberline Corridor project is hereby designated, as authorized in Article V, Section 11 of the City Charter, as an appropriation that shall not lapse at the end of this fiscal year but continue until the completion of the South Timberline Corridor project.

Introduced, considered favorably on first reading on August 20, 2024, and approved on second reading for final passage on September 3, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: September 13, 2024  
Approving Attorney: Heather N. Jarvis

**ORDINANCE NO. 075, 2022  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROPRIATING PRIOR YEAR RESERVES AND MAKING SUPPLEMENTAL  
APPROPRIATIONS AND AUTHORIZING TRANSFERS OF APPROPRIATIONS FOR THE  
SOUTH TIMBERLINE CORRIDOR AND  
RELATED ART IN PUBLIC PLACES**

WHEREAS, the South Timberline Corridor Project (the “Project”) is part of the City’s Master Street Plan and was approved by City Council to reduce congestion, improve safety, and enhance bicycle and pedestrian facilities along the corridor between Stetson Creek Road and Zephyr Road; and

WHEREAS, the Project includes construction of a combination of buffered bike lanes and a raised multi-use path, new sidewalks, multimodal intersection improvements at two intersections, and the Mail Creek Trail underpass with connections to Timberline Road and the future Mail Creek Trail; and

WHEREAS, construction of this Project was set for two phases; and

WHEREAS, Phase 1, which began in December 2021 and is expected to reach final conclusion during June 2022, included the construction of structural road elements and box culverts for the Mail Creek Ditch and the Mail Creek Trail underpass; and

WHEREAS, Phase 2 work includes construction of all remaining corridor improvements; and

WHEREAS, Phase 2 was funded in part by a Surface Transportation Block Grant from the North Front Range Metropolitan Planning Organization that is administered by the Colorado Department of Transportation (“CDOT”); and

WHEREAS, the Grant requires formal concurrence from CDOT before the City can advertise the construction contract, but said concurrence was not granted until February of 2022; and

WHEREAS, beginning in the Summer of 2021, the nation, the State of Colorado, and the northern Colorado region began experiencing significant inflation in construction costs, reflected in the two most recent Colorado Department of Transportation Colorado Construction Cost Index reports, indicating annual percentage changes of 17.45% (Q4 2021) and 31.79% (Q1 2022); and

WHEREAS, these inflationary pressures impacted the Project as bids were received in March 2022, increasing costs for most unit price work items and resulting in the lowest responsible bid exceeding the project budget by approximately \$2,148,000; and

WHEREAS, City staff has identified three options to reach project completion; and

WHEREAS, the first option would be to remove elements from the Project design, such as removal of City-owned landscaping elements (estimated reduction of costs by \$550,000) and removal of new traffic signal improvements at Kechter Road (estimated reduction of costs by \$520,000), although the existing signal at Kechter Road ultimately will need to be replaced in the future to address shortcomings; and

WHEREAS, the second option would be to delay non-essential scope of work items until additional funding can be secured; and

WHEREAS, the third option would be to secure supplemental appropriation totaling \$2,148,000 at this time to meet the Project requirements; and

WHEREAS, staff has recommended that Council make a supplemental appropriation at this time because the first and second options would result in the project not meeting the identified project goals within the promised time frame, would expose the remaining work to the likelihood of continued inflation of costs, and would negatively impact the schedule and budgets for other transportation capital projects in the design, acquisition, and construction pipeline; and

WHEREAS, this appropriation benefits the public health, safety, and welfare of the residents of Fort Collins and serves the public purpose of improving transportation infrastructure within the City; and

WHEREAS, this Project involves construction estimated to cost more than \$250,000 and, as such, City Code Section 23-304 requires one percent of these appropriations to be transferred to the Cultural Services and Facilities Fund for a contribution to the Art in Public Places program ("APP Program"); and

WHEREAS, a portion of the funds appropriated in this Ordinance for the South Timberline Corridor Project are ineligible for use in the APP Program due to restrictions placed on them by the Surface Transportation Block Grant administered by the Colorado Department of Transportation; and

WHEREAS, the total project cost of \$10,738,808 includes a prior appropriation of \$8,406,038 completed in the 2019-20 Budget, and the total project cost (excluding an administrative error of \$762,620 and the Surface Transportation Block Grant of \$2,694,602) has been used to calculate the contribution to the APP program; and

WHEREAS, a contribution to the APP program in the amount of \$23,930 was included in the prior appropriation; therefore, the amount to be contributed to the APP Program in this Ordinance will be \$23,328; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council, upon the recommendation of the City Manager, to make supplemental appropriations by ordinance at any time during the fiscal year such funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated; and

WHEREAS, the Interim City Manager has recommended the appropriations described herein and determined that these appropriations are available and previously unappropriated from the Transportation Capital Expansion Fee Fund, General Fund, Transportation Fund, and the Community Capital Improvement Program Fund, as applicable, and will not cause the total amount appropriated in the Transportation Capital Expansion Fee Fund, General Fund, Transportation Fund, and the Community Capital Improvement Program Fund, as applicable, to exceed the current estimate of actual and anticipated revenues and all other funds to be received in these funds during this fiscal year; and

WHEREAS, Article V, Section 10 of the City Charter authorizes the City Council, upon recommendation by the City Manager, to transfer by ordinance any unexpended and unencumbered appropriated amount or portion thereof from one fund or capital project to another fund or capital project, provided that the purpose for which the transferred funds are to be expended remains unchanged, the purpose for which the funds were initially appropriated no longer exists, or the proposed transfer is from a fund or capital project in which the amount appropriated exceeds the amount needed to accomplish the purpose specified in the appropriation ordinance; and

WHEREAS, the Interim City Manager has recommended the transfer of \$23,328 from the Capital Projects Fund to the Cultural Services & Facilities Fund and determined that the purpose for which the transferred funds are to be expended remains unchanged; and

WHEREAS, the Interim City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the Transportation Services Fund and will not cause the total amount appropriated in the Transportation Services Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year; and

WHEREAS, Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a capital project that such appropriation shall not lapse at the end of the fiscal year in which the appropriation is made but continue until the completion of the capital project.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That there is hereby appropriated from new revenue or other funds in the Transportation Services Fund the sum of ONE HUNDRED EIGHTY-FOUR THOUSAND SEVEN HUNDRED SEVENTY DOLLARS (\$184,770) to be expended in the Transportation Fund for transfer to the Capital Projects Fund for the Timberline South Corridor project and appropriated therein.

Section 3. That there is hereby appropriated from prior year reserves in the Transportation Capital Expansion Fee Fund the sum of SEVEN HUNDRED SEVENTY-FOUR THOUSAND DOLLARS (\$774,000) to be expended in the Transportation Capital Expansion Fee Fund for transfer to the Capital Projects Fund for the Timberline South Corridor project and appropriated therein.

Section 4. That there is hereby appropriated from prior year reserves in the General Fund the sum of SEVEN HUNDRED SEVENTY-FOUR THOUSAND DOLLARS (\$774,000) to be expended in the General Fund for transfer to the Capital Projects Fund for the Timberline South Corridor project and appropriated therein.

Section 5. That there is hereby appropriated from prior year reserves in the Transportation Fund the sum of TWO HUNDRED THOUSAND DOLLARS (\$200,000) to be expended in the Transportation Fund for transfer to the Capital Projects Fund for the Timberline South Corridor project and appropriated therein.

Section 6. That there is hereby appropriated from prior year reserves in the Community Capital Improvement Program Fund the sum of FOUR HUNDRED THOUSAND DOLLARS (\$400,000) to be expended in the Community Capital Improvement Program Fund for transfer to the Capital Projects Fund for the Timberline South Corridor project and appropriated therein.

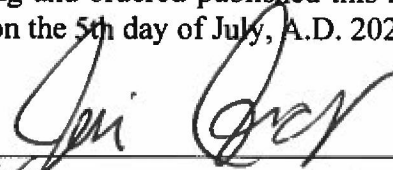
Section 7. That the unexpended and unencumbered appropriated amount of EIGHTEEN THOUSAND ONE HUNDRED NINETY-SIX DOLLARS (\$18,196) in the Capital Projects Fund is hereby authorized for transfer to the Cultural Services and Facilities Fund and appropriated and expended therein to fund art projects under the APP Program.

Section 8. That the unexpended and unencumbered appropriated amount of FOUR THOUSAND SIX HUNDRED SIXTY-FIVE DOLLARS (\$4,665) in the Capital Projects Fund is authorized for transfer to the Cultural Services and Facilities Fund and appropriated and expended therein for the operation costs of the APP Program.


Section 9. That the unexpended and unencumbered appropriated amount of FOUR HUNDRED SIXTY-SEVEN DOLLARS (\$467) in the Capital Project Fund is authorized for transfer to the Cultural Services and Facilities Fund and appropriated and expended therein for the maintenance costs of the APP Program.

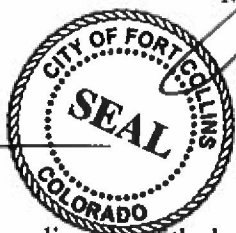
Section 10. That the appropriation herein for the Timberline South Corridor project is hereby designated, as authorized in Article V, Section 11 of the City Charter, as an appropriation that shall not lapse at the end of this fiscal year but continue until the completion of the project.

Introduced, considered favorably on first reading and ordered published this 21st day of June, A.D. 2022, and to be presented for final passage on the 5th day of July, A.D. 2022.

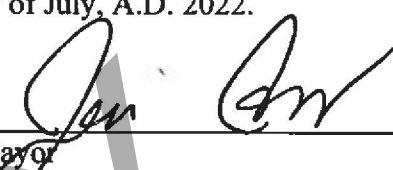
  
\_\_\_\_\_  
Mayor

ATTEST:


  
\_\_\_\_\_  
City Clerk, Deputy

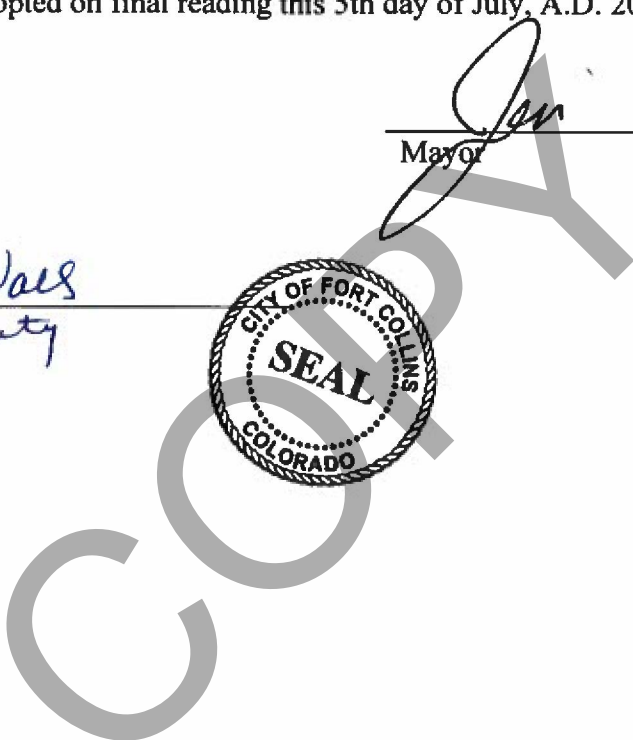


Passed and adopted on final reading this 5th day of July, A.D. 2022.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk, Deputy



**File Attachments for Item:**

**15. First Reading of Ordinance No. 115, 2024, Making Supplemental Appropriations of Prior Year Reserves from Developer Contributions and Authorizing Transfers for the Future Vine and Timberline Overpass Project and Related Art in Public Places.**

The purpose of this item is to enable the City to appropriate development payment-in-lieu (PIL) funds for the Vine and Timberline Overpass Project (Project). The funds will be used for design services and grant application support services. If approved, this item will: 1) appropriate \$273,361 received in 2016 as a development contribution to construction by an adjacent development; and 2) appropriate \$3,318 (1% of PIL) from a PIL to the City from a development contribution to construction to the Art in Public Places (APP) program.



August 20, 2024

# AGENDA ITEM SUMMARY

City Council



## STAFF

Marc Virata, TCEF Program Manager  
Dana Hornkohl, Capital Projects Manager

## SUBJECT

**First Reading of Ordinance No. 115, 2024, Making Supplemental Appropriations of Prior Year Reserves from Developer Contributions and Authorizing Transfers for the Future Vine and Timberline Overpass Project and Related Art in Public Places.**

## EXECUTIVE SUMMARY

The purpose of this item is to enable the City to appropriate development payment-in-lieu (PIL) funds for the Vine and Timberline Overpass Project (Project). The funds will be used for design services and grant application support services. If approved, this item will: 1) appropriate \$273,361 received in 2016 as a development contribution to construction by an adjacent development; and 2) appropriate \$3,318 (1% of PIL) from a PIL to the City from a development contribution to construction to the Art in Public Places (APP) program.

## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

## BACKGROUND / DISCUSSION

The existing intersection of Timberline Road and Vine Drive experiences congestion with safety and delay concerns due to the existing 4-way stop control along with an at-grade rail crossing near the intersection. The Vine and Timberline Intersection Improvements project will improve the intersection with a traffic signal interconnected to a new rail crossing signal. That project is fully funded, and construction is currently underway. Construction on that intersection improvement project will be completed later this autumn.

As northeast Fort Collins continues to develop, increasing traffic volumes at the intersection will result in the need for an overpass like the one recently constructed at Vine and Lemay. This grade separation over the railroad has been part of the City's Master Street Plan for several years. The Transportation Capital Projects Prioritization Study (TCPPS) includes the Vine and Timberline Overpass (Project) as one of the top 15 projects in the study. TCPPS was discussed at the August 22, 2023, City Council Work Session and later adopted by City Council on September 19, 2023 (Resolution 2023-086).

The East Ridge Second Filing development provided a development contribution PIL for its local street portion of Timberline Road in the amount of \$276,679 in 2016. This section of Timberline Road would eventually be constructed as part of the Project. The funds along with a prior appropriation from Waterfield

Fourth Filing (shown in the Prior Appropriated Funds in the table below) will be used for procurement of preliminary design services and grant application support for the Project.

## CITY FINANCIAL IMPACTS

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The following is a summary of the current and proposed funding appropriations for the Vine and Timberline Overpass Project.

<b>Prior Appropriated Funds</b>	
Development Contributions to Construction	
Payment in Lieu	\$ 58,466
<b>Total Prior Appropriation</b>	<b>\$ 58,466</b>
<b>Funds to be Appropriated per this Action</b>	
Development Contributions to Construction	
Payment in Lieu	\$ 276,679
<b>Total Funds to be Appropriated per this Action</b>	<b>\$ 276,679</b>
<b>Transfer to Art in Public Places</b>	<b>\$ 3,318</b>
<b>Total Project Funds</b>	<b>\$ 335,145</b>

The total fund amount projected for this Project is \$335,145 composed of funds appropriated with prior actions and with this action.

## BOARD / COMMISSION / COMMITTEE RECOMMENDATION

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Council adopted TCPPS (Project is identified in the study) on September 19, 2023. The study was also brought to the Transportation Board on August 16, 2023, and the Bike Advisory Committee on August 28, 2023, and both bodies support the results of the study.

## PUBLIC OUTREACH

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A public engagement plan was established as part of the development of the TCPPS work plan. This effort included a bilingual webpage on ourcity.fcgov.com, social media platforms, press releases, newsletters published by the City and various organizations, email distribution in coordination with Larimer County Department of Health and Environment, and an in-person open house table for the West Elizabeth Corridor Design Project in July 2021.

A virtual open house for TCPPS was held from October 14-31, 2021, to provide a project progress update, display analysis findings, garner feedback, and encourage viewers to take a public survey if they had not already done so. The public survey itself was accessed by 472 visitors, contributed to by 166 unique people, and received 1,020 pins/comments.

## ATTACHMENTS

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1. Ordinance for Consideration
2. Conceptual Design

ORDINANCE NO. 115, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
MAKING SUPPLEMENTAL APPROPRIATIONS OF PRIOR YEAR  
RESERVES FROM DEVELOPER CONTRIBUTIONS AND  
AUTHORIZING TRANSFERS FOR THE FUTURE VINE AND  
TIMBERLINE OVERPASS PROJECT AND RELATED ART IN  
PUBLIC PLACES

A. This Ordinance appropriates development payment-in-lieu (“PIL”) funds for design services and grant application support services for the Vine and Timberline Overpass Project (the “Project”).

B. The existing intersection of Vine Drive and Timberline Road experiences congestion with safety and delay concerns due to the existing four-way stop control along with an at-grade rail crossing near the intersection.

C. A project separate from the Overpass Project, the Vine and Timberline Intersection Improvements project will improve the intersection with a traffic signal interconnected to a new rail crossing signal. That project is fully funded, and construction is currently underway. Construction on that intersection improvement project is expected to be completed later this autumn.

D. As northeast Fort Collins continues to develop, increasing traffic volumes at the intersection will result in the need for an overpass, a grade-separated crossing over the railroad.

E. This grade separation over the railroad has been part of the City’s Master Street Plan for several years and has been included in the Transportation Capital Projects Prioritization Study as one of the top fifteen projects in the study.

F. A private development project provided a development contribution PIL for its local street portion of Timberline Road in the amount of \$276,679 in 2016. That portion of Timberline Road is a section that will be constructed as part of the Project.

G. An August 2023 appropriation from another development’s PIL contribution will be used together with the funds appropriated in this Ordinance to procure preliminary design services and to provide grant application support for the Project.

H. Article V, Section 9 of the City Charter permits the City Council, upon the recommendation of the City Manager, to make supplemental appropriations by ordinance at any time during the fiscal year from such revenues and funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated.

I. The City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the Transportation Capital Expansion Fee fund and will not cause the total amount appropriated in the Transportation Capital Expansion Fee fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this fund during this fiscal year.

J. Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a capital project or for a federal, state or private grant, that such appropriation shall not lapse at the end of the fiscal year in which the appropriation is made, but continue until the completion of the capital project or until the earlier of the expiration of the federal, state or private grant or private contribution the City's expenditure of all funds received from such contribution.

K. The City Council wishes to designate the appropriation herein of the developer contribution as an appropriation that shall not lapse until the earlier of the expiration of the contribution or the City's expenditure of all funds received from the contribution.

L. This Project involves construction estimated to cost more than \$250,000, and City Code Section 23-304 requires one percent of these appropriations to be transferred to the Cultural Services and Facilities fund for a contribution to the Art in Public Places ("APP") program.

M. The total Project cost of \$331,827 has been used to calculate the contribution to the APP program.

N. The amount to be contributed to the APP program in this Ordinance will be \$3,318.

O. The appropriations in this Ordinance benefit public health, safety and welfare of the residents of Fort Collins and serve the public purpose of improving transportation infrastructure within the City.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. There is hereby appropriated from prior year reserves in the Transportation Capital Expansion Fee fund the sum of TWO HUNDRED SEVENTY-THREE THOUSAND THREE HUNDRED SIXTY-ONE DOLLARS (\$273,361) to be expended in the Transportation Capital Expansion Fee fund for transfer to the Capital Projects fund and appropriated therein for the Vine and Timberline Overpass Project.

Section 2. The unexpended and unencumbered appropriated amount of TWO THOUSAND FIVE HUNDRED EIGHTY-EIGHT DOLLARS (\$2,588) in the Capital Projects fund is hereby authorized for transfer to the Cultural Services and Facilities fund and appropriated and expended therein to fund art projects under the APP program.

Section 3. The unexpended and unencumbered appropriated amount of SIX HUNDRED SIXTY-FOUR DOLLARS (\$664) in the Capital Projects fund is hereby authorized for transfer to the Cultural Services and Facilities fund and appropriated and expended therein for the operation costs of the APP program.

Section 4. The unexpended and unencumbered appropriated amount of SIXTY- SIX DOLLARS (\$66) in the Capital Projects fund is hereby authorized for transfer to the Cultural Services and Facilities fund and appropriated and expended therein for the maintenance costs of the APP program.

Section 5. The appropriation herein for the developer contribution is hereby designated as an appropriation that shall not lapse until the earlier of the expiration of the contribution or the City’s expenditure of all funds received from the contribution.

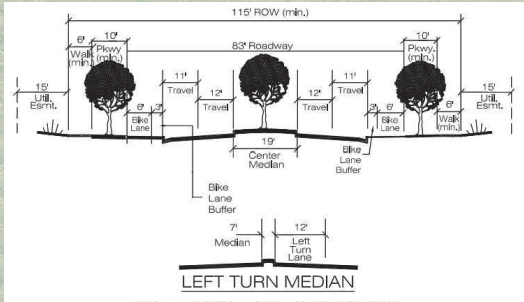
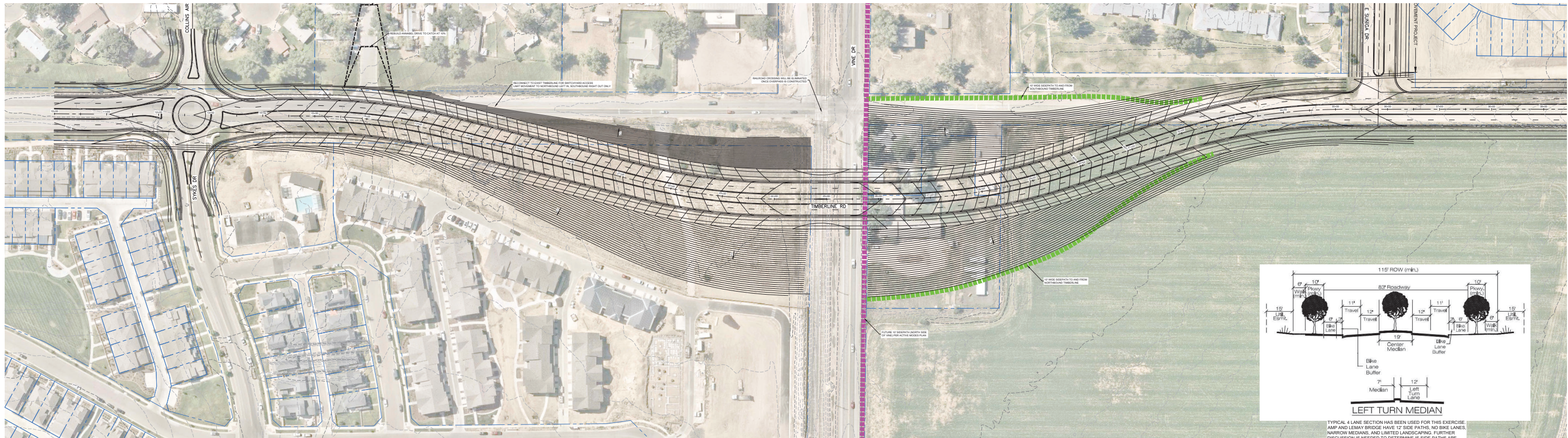
Introduced, considered favorably on first reading on August 20, 2024, and approved on second reading for final passage on September 3, 2024.

\_\_\_\_\_  
Mayor Pro Tem

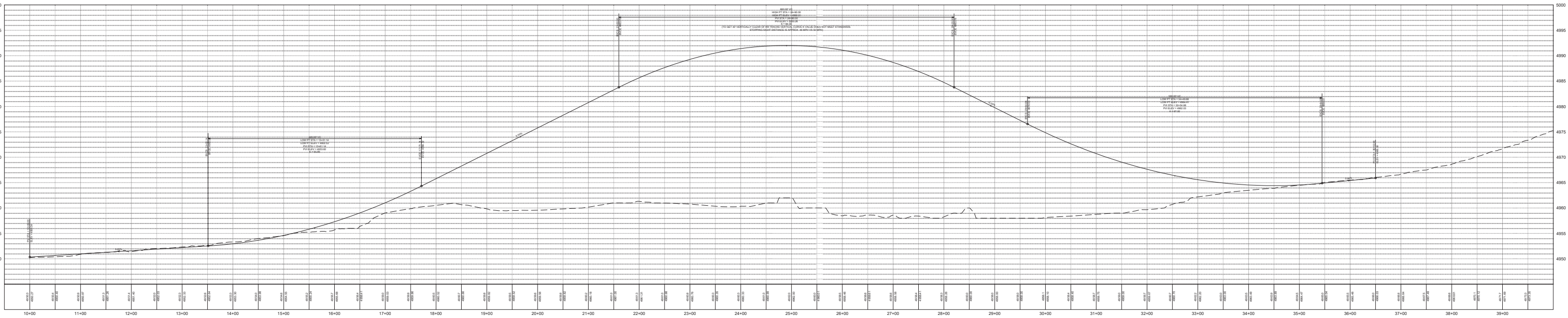
ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: September 13, 2024  
Approving Attorney: Heather N. Jarvis

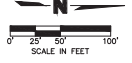


TYPICAL 4 LANE SECTION HAS BEEN USED FOR THIS EXERCISE. AMP AND LEMAY BRIDGE HAVE 12' SIDE PATHS, NO BIKE LANES, NARROW MEDIANS, AND LIMITED LANDSCAPING. FURTHER DISCUSSION IS NEEDED TO DETERMINE IF SIDE PATHS ARE DETACHED AND MEANDERING AND IF THIS 115' WIDE ROW IS MORE THAN NEEDED.



**LEGEND**

- EXISTING ROW & PARCELS
- 10' SIDE PATH TO AND FROM TIMBERLINE
- VINE 10' SIDE PATH



PROJECT NO: XXX-XXXXX  
 DRAWN BY: XXX  
 DATE: 07/06/23

PROJECT NO: XXX-XXXXX  
 DRAWN BY: XXX  
 DATE: 07/06/23

N. TIMBERLINE RD OVERPASS AT E.VINE DR - SKYES DR TO E SUNIGA RD

THIS DOCUMENT HAS BEEN  
 PREPARED BY WILSON  
 ASSOCIATES AS A CONCEPTUAL  
 DESIGN AND IS SUBJECT TO  
 CHANGE WITHOUT NOTICE. THIS  
 DOCUMENT IS NOT TO BE USED  
 FOR CONSTRUCTION.



EXHIBIT  
 1

**File Attachments for Item:**

**16. First Reading of Ordinance No. 116, 2024, Making Supplemental Appropriations of Revenue from Developer Contributions and Authorizing Transfers for the Cordova Road Right-of-Way Acquisition.**

The purpose of this item is to appropriate developer contribution funds for the City to acquire right-of-way for Cordova Road as provided in the development agreement for The Landing at Lemay. If approved, this item will appropriate \$500,000 received in July as a development contribution for Cordova Road Right-of-Way Acquisition.

August 20, 2024

# AGENDA ITEM SUMMARY

City Council



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## STAFF

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Marc Virata, TCEF Program Manager  
Dana Hornkohl, Capital Projects Manager

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## SUBJECT

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**First Reading of Ordinance No. 116, 2024, Making Supplemental Appropriations of Revenue from Developer Contributions and Authorizing Transfers for the Cordova Road Right-of-Way Acquisition.**

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## EXECUTIVE SUMMARY

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The purpose of this item is to appropriate developer contribution funds for the City to acquire right-of-way for Cordova Road as provided in the development agreement for The Landing at Lemay. If approved, this item will appropriate \$500,000 received in July as a development contribution for Cordova Road Right-of-Way Acquisition.

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## STAFF RECOMMENDATION

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Staff recommends adoption of the Ordinance on First Reading

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## BACKGROUND / DISCUSSION

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Cordova Road is an existing roadway from the roundabout at Lincoln Avenue to Duff Drive, built by the Capstone Cottage development in 2017. On September 21, 2023, the Planning and Zoning Commission approved The Landing at Lemay Project Development Plan (PDP). The Landing at Lemay Project is located directly north of Capstone Cottages and the PDP depicts the developer's dedication and construction extending Cordova Road from Duff Drive to Link Lane.

After the Planning and Zoning Commission approval and before entitlement, the developer informed the City that they were unable to acquire property intended for the Cordova Road dedication to the City. By the terms of their development agreement with the City, the developer has agreed to provide the City \$500,000 towards securing the property identified for Cordova Road right-of-way. Per the development agreement, if the City is successful in acquiring the property while The Landing at Lemay is under construction, the developer will construct the Cordova Road extension. If the City is not successful in acquiring the property in this timeframe, the developer will pay a payment-in-lieu (PIL) for the local portion of Cordova Road associated with the dedication of the property between Duff Drive and Link Lane.

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## CITY FINANCIAL IMPACTS

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The following is a summary of the funding anticipated for the Cordova Road Right-of-Way Acquisition.



<b>Funds to be Appropriated per this Action</b>	
Development Contributions to Construction	\$ 500,000
<b>Total Funds to be Appropriated per this Action</b>	<b>\$ 500,000</b>
<b>Total Project Funds</b>	<b>\$ 500,000</b>

The total fund amount projected for this acquisition is \$500,000 composed of funds appropriated with this action.

### **BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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The Planning and Zoning Commission approved The Landing at Lemay PDP on September 21, 2023, depicting the dedication and construction of the extension of Cordova Road.

### **PUBLIC OUTREACH**

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The Landing at Lemay PDP had a neighborhood meeting on October 4, 2021, and was subject to the standard notice to owners of record within 800-feet of the development as prescribed in the Land Use Code.

### **ATTACHMENTS**

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1. Ordinance for Consideration
2. Landing at Lemay Development Agreement
3. Cordova Road Vicinity Map

ORDINANCE NO. 116, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
MAKING SUPPLEMENTAL APPROPRIATIONS OF REVENUE  
FROM DEVELOPER CONTRIBUTIONS AND AUTHORIZING  
TRANSFERS FOR THE CORDOVA ROAD RIGHT-OF-WAY  
ACQUISITION

A. This Ordinance appropriates developer contribution funds to acquire the right-of-way necessary to complete the extension of Cordova Road through to Link Lane (the "Acquisition").

B. Cordova Road is an existing roadway from the roundabout at Lincoln Avenue to Duff Drive, built by the Capstone Cottage development in 2017.

C. On September 21, 2023, the Planning and Zoning Commission approved The Landing at Lemay Project Development Plan ("PDP"). The Landing at Lemay Project is located directly north of Capstone Cottages, and the PDP depicts the developer's dedication and construction extending Cordova Road from Duff Drive to Link Lane.

D. After the Planning and Zoning Commission approval and before entitlement, the developer informed the City that they were unable to acquire the Acquisition.

E. By the terms of their subsequently negotiated development agreement with the City, the developer agreed to provide the City \$500,000 towards securing the Acquisition.

F. Per the development agreement, if the City is successful in acquiring the Acquisition while The Landing at Lemay is under construction, the developer will construct the Cordova Road extension.

G. Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, to make a supplemental appropriation by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriation, in combination with all previous appropriations for that fiscal year, do not exceed the current estimate of actual and anticipated revenues and all other funds to be received during the fiscal year.

H. The City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the Capital Project fund and will not cause the total amount appropriated in the Capital Project fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this fund during this fiscal year.

I. The City Manager has recommended the appropriations described herein and determined that these appropriations are available and previously unappropriated

from the Transportation Improvement fund and will not cause the total amount appropriated in the Transportation Improvement fund, as applicable, to exceed the current estimate of actual and anticipated revenues and all other funds to be received in these funds during this fiscal year.

J. Article V, Section 10 of the City Charter authorizes the City Council, upon recommendation by the City Manager, to transfer by ordinance any unexpended and unencumbered appropriated amount or portion thereof from one fund or capital project to another fund or capital project, provided that the purpose for which the transferred funds are to be expended remains unchanged, the purpose for which the funds were initially appropriated no longer exists, or the proposed transfer is from a fund or capital project in which the amount appropriated exceeds the amount needed to accomplish the purpose specified in the appropriation ordinance.

K. The City Manager has recommended the transfer of \$500,000 from the Transportation Improvement fund to the Capital Project fund and determined that the purpose for which the transferred funds are to be expended remains unchanged.

L. Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a capital project or for a federal, state or private grant or contribution, that such appropriation shall not lapse at the end of the fiscal year in which the appropriation is made, but continue until the completion of the capital project or until the earlier of the expiration of the federal, state or private grant or private contribution the City's expenditure of all funds received from such contribution.

M. The City Council wishes to designate the appropriation herein for the developer contribution as an appropriation that shall not lapse until the earlier of the expiration of the contribution or the City's expenditure of all funds received from the contribution.

N. The appropriations in this Ordinance benefit public health, safety and welfare of the residents of Fort Collins and serve the public purpose of improving transportation infrastructure within the City.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. There is hereby appropriated from new revenue or other funds in the Transportation Improvement fund the sum of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) to be expended in the Transportation Improvement fund for transfer to the Capital Projects fund and appropriated therein for the Acquisition.

Section 2. The appropriation herein for the developer contribution is designated as an appropriation that shall not lapse until the earlier of the expiration of the private contribution or the City's expenditure of all funds received from such contribution.

Introduced, considered favorably on first reading on August 20, 2024, and approved on second reading for final passage on September 3, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: September 13, 2024  
Approving Attorney: Heather N. Jarvis

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DEVELOPMENT AGREEMENT BETWEEN THE CITY OF FORT COLLINS AND  
TTRES CO Fort Collins Vine, LLC

THIS DEVELOPMENT AGREEMENT (the "**Agreement**"), is made and entered into this 10th day of July 2024, by and between the CITY OF FORT COLLINS, COLORADO, a Municipal Corporation, hereinafter referred to as the "**City**"; and TTRES CO Fort Collins Vine, LLC, a Delaware limited liability company, operating as a foreign corporation subject to the requirements of the Colorado Secretary of State (ID# 20231145960), hereinafter referred to as the "**Developer**."

WITNESSETH:

WHEREAS, the Developer is the owner of certain real property situated in the County of Larimer, State of Colorado (hereafter sometimes referred to as the "**Property**" or "**Development**") and legally described as follows, to wit:

Lot 1, Block 1, LOCATED IN THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6<sup>TH</sup> P.M., City of Fort Collins, County of Larimer, State of Colorado, as further described as a portion of the plat recorded at Rec. No. 20240024906 in the real property records of the Larimer County Clerk & Recorder.

WHEREAS, the Development is known to the City as The Landing at Lemay, ID# PDP230004, and FDP230020; and

WHEREAS, the Developer desires to develop the Property and has submitted to the City all plats, plans (including utility plans), reports and other documents required for the approval of a final plan according to the City's development application submittal requirements master list (collectively, the "**Final Development Plan Documents**"), copies of which are on file in the office of the City Engineer and made a part hereof by reference; and

WHEREAS, the parties acknowledge that Developer intends to develop the Property in multiple phases (each, a "**Phase**") as generally described herein; and

WHEREAS, the parties hereto have agreed that the development of the Property will require increased municipal services from the City in order to serve such area and will further require the installation of certain improvements primarily of benefit to the Property and not to the City as a whole; and

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WHEREAS, the City has approved the Final Development Plan Documents submitted by the Developer, subject to certain requirements and conditions, which involve the installation of and construction of utilities and other municipal improvements in connection with the development of the Property, all as described herein.

NOW, THEREFORE, in consideration of the promises of the parties hereto and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, it is agreed as follows:

I. General Conditions

A. The Recitals set forth above are hereby incorporated in and made a part of this Agreement by this reference.

B. References to the City Code, Land Use Code, or other laws, regulations, or rules shall include subsequent amendments thereto or adopted laws, regulations, or rules intended to replace or otherwise supersede prior laws, regulations, or rules. By way of example, if the City were to adopt in the future a revised Land Use Code that replaces and supersedes the current Land Use Code, then the relevant section of the revised Land Use Code would apply in lieu of the Land Use Code provisions referenced herein. Notwithstanding, the foregoing language is not intended to alter or otherwise affect valid vested rights except as may be provided for in § 24-68-105, C.R.S.

C. The terms of this Agreement shall govern all development activities of the Developer pertaining to the Property. For the purposes of this Agreement, "**development activities**" shall include, but not be limited to, the following: (1) the actual construction of improvements, (2) obtaining a permit therefor, or (3) any change in grade, contour or appearance of the Property caused by, or on behalf of, the Developer with the intent to construct improvements thereon.

D. All water lines, sanitary sewer collection lines, storm sewer lines and facilities, streets, curbs, gutters, sidewalks, and bike paths shall be installed as shown on the Final Development Plan Documents and in full compliance with the standards and specifications of the City on file in the office of the City Engineer at the time of approval of the utility plans relating to the specific utility, subject to a three (3) year time limitation from the date of approval of the site specific development plan. In the event that the Developer commences or performs any construction pursuant hereto after the passage of three (3) years from the date of approval of the site-specific development plan, the Developer shall resubmit the utility plans to the City Engineer for reexamination. The City may then require the Developer to comply with the approved standards and specifications of the City on file in the office of the City Engineer at the time of the resubmittal.

E. No building permit for the construction of any structure within the Property shall be issued by the City until the public water lines and stubs to each lot, fire hydrants, electrical lines, sanitary sewer lines and stubs to each lot, and public streets (including curb, gutter, sidewalk, and pavement with at least the base course completed) serving

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**Tina Harris, Clerk & Recorder, Larimer County, CO**

Item 16.

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such structure have been completed and accepted by the City. No building permits shall be issued for any structure within the Development located in excess of six hundred and sixty feet (660') from a single point of access, unless the structures contain sprinkler systems that are approved by the Poudre Fire Authority.

F. Any water lines, sanitary sewer lines, storm drainage lines, electrical lines, and/or streets described on Exhibit A, attached hereto and incorporated herein by reference, shall be installed within the time and/or sequence required on Exhibit A. If the City Engineer has determined that any water lines, sanitary sewer lines, storm drainage facilities and/or streets are required to provide service or access to other areas of the City, those facilities shall be shown on the Final Development Plan Documents and shall be installed by the Developer within the time as established under the Special Conditions section of this Agreement.

G. Except as otherwise herein specifically agreed, the Developer agrees to install and pay for all water, sanitary sewer, storm drainage facilities and appurtenances, all streets, curbs, gutters, sidewalks, bikeways and other public improvements required by this Development as shown on the Final Development Plan Documents and other approved documents pertaining to this Development on file with the City.

H. The street improvements described in this Agreement shall not be installed until all utility lines to be placed therein have been completely installed, including all individual lot service lines (water and sewer) leading in and from the main to the Property line and all electrical lines.

I. The installation of all public utilities shown on the Final Development Plan Documents shall be inspected by the Engineering Department of the City and shall be subject to such department's approval. Developer shall be responsible for obtaining any and all private/third party approvals required for the installation of any private utilities shown on the Final Development Plan Documents. The Developer agrees to correct any deficiencies in such installations in order to meet the requirements of the Final Development Plan Documents. In case of conflict, the Final Development Plan Documents shall supersede the City's standard specifications, except that if the conflicts are a result of Federal or State mandated requirements, then the Federal or State mandated requirements shall prevail.

J. Unless authorized by the City pursuant to law, the public right-of-way shall not be used for staging or storage of materials or equipment ("**Staging**") associated with the Development, nor shall it be used for parking by any contractors, subcontractors, or other personnel working for or hired by the Developer to construct the Development. The Developer shall find a location(s) on private property to accommodate any necessary Staging and/or parking needs associated with the completion of the Development. Information on the location(s) of these areas shall be provided to the City as a part of the Development Construction Permit application.

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K. All privately maintained streets within the Development shall be constructed in accordance with the Final Development Plan Documents. Public easements shall be provided for access, utilities, and drainage as required by the design and location of such infrastructure and as reflected in the Final Development Plan Documents. Alignment and grades on privately maintained streets and drives shall allow for safe access, ingress and egress by owners, visitors, the general public, and public safety officials and equipment, as set forth on the plat for the Property. Any private streets constructed at less than the standards set forth in the Larimer County Urban Area Street Standards ("LCUASS") will not be accepted by the City for ownership and maintenance until the streets are improved to meet LCUASS.

L. All storm drainage facilities shall be designed and constructed by the Developer so as to protect downstream and adjacent properties against injury and to adequately serve the Property (and other lands as may be required, if any). The Developer shall meet or exceed the minimum requirements for storm drainage facilities as have been established by the City in its Drainage Master Plans and Design Criteria. The Developer, for itself and its successor(s) in interest, does hereby indemnify and hold harmless the City from any and all claims that might arise, directly or indirectly, as a result of the discharge of injurious storm drainage or seepage waters from the Property in a manner or quantity different from that which was historically discharged and caused by the design or construction of the storm drainage facilities, except for (1) such claims and damages as are caused by the acts or omissions of the City in maintenance of such facilities as have been accepted by the City for maintenance; (2) errors, if any, in the general concept of the City's master plans (but not to include any details of such plans, which details shall be the responsibility of the Developer); and (3) specific written or otherwise documented directives that may be given to the Developer by the City. No language in this Paragraph shall be construed or interpreted as establishing in any way the City's liability for any act or omission and the terms of this Paragraph solely relate to the Developer's obligation to indemnify and hold harmless the City. The City agrees to promptly give notice to the Developer of any claim made against it to which this indemnity and hold harmless agreement by the Developer could apply, and the Developer shall have the right to defend any lawsuit based on such claim and to settle any such claim provided Developer must obtain a complete discharge of all City liability through such settlement. Failure of the City to give notice of any such claim to the Developer within ninety (90) days after the City first receives a notice of such claim under the Colorado Governmental Immunity Act for the same, shall cause this indemnity and hold harmless agreement by the Developer to not apply to such claim and such failure shall constitute a release of this indemnity and hold harmless agreement as to such claim. Approval of and acceptance by the City of any storm drainage facility design or construction shall in no manner be deemed to constitute a waiver or relinquishment by the City of the aforesaid indemnification. The Developer shall engage a Colorado licensed professional engineer to design the storm drainage facilities as aforesaid and it is expressly affirmed hereby that such engagement shall be intended for the benefit of the City, and subsequent purchasers of property in the Development.

M. The Developer shall pay the applicable "stormwater plant investment fee"



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in accordance with Chapter 26, Article VII of the Code of the City of Fort Collins (the "**City Code**"). This fee is included with building permit fees and shall be paid prior to the issuance of each building permit.

N. The Developer shall provide as-built drawings to the City for review and acceptance upon completion of each Phase of the construction. Utilities will not be initially accepted prior to as-built drawings being submitted to and approved by the City. Developer shall provide the City Engineer with certified Record Plan Transparencies on Black Image Diazo Reverse Mylars for acceptance prior to the issuance of the first certificate of occupancy for each Phase of the Project.

O. The Developer specifically represents that to its knowledge all property dedicated (both in fee simple and as easements) to the City associated with this Development (whether on or off-site) is in compliance with all environmental protection and anti-pollution laws, rules, regulations, orders or requirements, including solid waste requirements, as defined by the U. S. Environmental Protection Agency Regulations at 40 C.F.R., Part 261, and that such property as is dedicated to the City pursuant to this Development, is in compliance with all such requirements pertaining to the disposal or existence in or on such dedicated property of any hazardous substances, pollutants or contaminants, as defined by the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, and regulations promulgated thereunder. The Developer, for itself and its successor(s) in interest, does hereby indemnify and hold harmless the City from any liability whatsoever that may be imposed upon the City by any governmental authority or any third party, pertaining to the disposal of hazardous substances, pollutants or contaminants, and cleanup necessitated by leaking underground storage tanks, excavation and/or backfill of hazardous substances, pollutants or contaminants, or environmental cleanup responsibilities of any nature whatsoever on, of, or related to any property dedicated to the City in connection with this Development, provided that such damages or liability are not caused by circumstances arising entirely after the date of acceptance by the City of the public improvements constructed on the dedicated property, except to the extent that such circumstances are the result of acts or omissions of the Developer. Said indemnification shall not extend to claims, actions or other liability arising as a result of any hazardous substance, pollutant or contaminant generated or deposited by the City, its agents or representatives, upon the property dedicated to the City in connection with this Development. The City agrees to give notice to the Developer of any claim made against it to which this indemnity and hold harmless agreement by the Developer could apply, and the Developer shall have the right to defend any lawsuit based on such claim and to settle any such claim provided the Developer must obtain a complete discharge of all City liability through such settlement. Failure of the City to give notice of any such claim to the Developer within ninety (90) days after the City first receives a notice of such claim under the Colorado Governmental Immunity Act for the same, shall cause this indemnity and hold harmless agreement by the Developer to not apply to such claim and such failure shall constitute a release of this indemnity and hold harmless agreement as to such claim.

P. The Developer acknowledges and agrees that the City, as the owner of any adjacent property (the "**City Property**") on which off-site improvements may be

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constructed, or that may be damaged by the Developer's activities hereunder, expressly retains (and does not by this Agreement waive) its rights as property owner. The City's rights as owner of the City Property may include without limitation those rights associated with the protection of the City Property from damage, and/or the enforcement of restrictions, limitations, and requirements associated with activities on the City Property by the Developer as an easement recipient.

Q. If the Developer or its contractor or any agent or representative of the Developer causes damage to any public infrastructure (including without limitation, any surface pavers, flagstones, or other stone or concrete surfaces, planters, street and decorative lights, or canopies) such damage shall be promptly repaired with the same kind, quality, color, serviceability and material composition aspects as was possessed by the infrastructure immediately prior to incurring such damage, unless otherwise expressly agreed to by the City in writing.

## II. Special Conditions

### A. Water Lines

Not applicable.

### B. Sewer Lines

Not applicable.

### C. Storm Drainage Lines and Appurtenances

1. The Developer agrees to provide and maintain erosion and sediment control improvements as shown on the Final Development Plan Documents until all disturbed areas in and adjacent to this Development's construction activities are stabilized. The Developer shall also be required to post security ("**Security**") in the amount shown in the Final Development Plan Documents prior to beginning construction to guarantee the proper installation and maintenance of the improvements described therein, and upon completion of construction, removal of the erosion and sediment control measures shown on the Final Development Plan Documents. Said Security shall be made in accordance with the criteria set forth in the City's Stormwater Criteria Manual ("**Criteria**") referenced at City Code § 26-500. When said Security is a letter of credit or a bond the Developer shall replace the Security no later than thirty (30) days before its expiration date. If the Security posted by the Developer is a letter of credit, and such letter has not been replaced or renewed within thirty (30) days of its expiration date, the City may elect to draw and hold the funds as it sees fit. The City shall have the option in any case to also withhold building permits and certificates of occupancy, as stated in Paragraph III.D of this Agreement, as it deems necessary in order to ensure that at all times the Developer is maintaining appropriate levels of security to guarantee completion of the erosion and sediment control improvements. If, at any time, the Developer fails to abide by the erosion control provisions of the Final Development Plan Documents or the erosion control provisions of the Criteria after receiving notice of the same or an

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emergency situation exists which would reasonably require immediate mitigation measures, then, in either event, and notwithstanding any provisions contained in Paragraph III.J to the contrary, the City may enter upon the Property for the purpose of making such improvements and undertaking such activities as may be necessary to ensure that the provisions of the Final Development Plan Documents and the Criteria are properly enforced. The City may apply such portion of the Security as may be necessary to pay all costs incurred by the City in undertaking the administration, construction, and/or installation of the erosion control measures required by said plans and the Criteria. In addition, subject to Section I.N above, Developer shall have the option to request building permits and certificates of occupancy for certain improvements prior to the completion of all Phases as long as Developer installs, maintains, and ultimately removes the erosion and sediment control measures as and when required by the City throughout the build-out of this Development. When identified, any violations of applicable laws, regulations, or policies regarding erosion and sediment control are to be corrected immediately per Part I.D.8 of the Developer's Colorado Discharge Permit System ("CDPS") Permit for Stormwater Discharges Associated with Construction Activity as required by the Colorado Department of Public Health and Environment ("CDPHE") and City Code § 26-498, Water Quality Control. If no CDPS Permit is required, violations of any applicable laws, regulations, or policies regarding erosion and sediment control are to be corrected immediately as required by the CDPHE and the Environmental Protection Agency ("EPA") in accordance with the Clean Water Act, and City Code § 26-498, Water Quality Control. Failure to correct any violation shall permit the City to issue a "stop work order" preventing the Developer from continuing construction of any kind within the Development until fully corrected. Upon stabilization of the disturbed areas, and upon the request of the Developer, the City will confirm that the Property is stabilized from potential erosion and sediment control discharges from construction activities and that all temporary erosion and sediment control measures used by the Developer are removed. In confirmation by the City that the Property is stabilized, any remaining portions of the Security that is associated with the adequate maintenance of erosion and sediment control improvements shall be returned to the Developer.

2. All on-site and off-site storm drainage improvements associated with this Development, as shown on the Final Development Plan Documents, shall be completed by the Developer in accordance with said Final Development Plan Documents prior to the issuance any certificate of occupancy. Completion of improvements shall include the certification by a professional engineer licensed in Colorado that the drainage facilities which serve this Development have been constructed in conformance with said Final Development Plan Documents. Said certification shall be submitted to the City for review and acceptance at least two (2) weeks prior to the issuance of any certificate of occupancy in this Development.

3. For private permanent water quality improvements located on private property associated with this Development (the "**Private Water Quality Improvements**"), on-site inspection by a City Inspector is required to verify the proper installation of such improvements at different stages of construction as specified in the City's Overall Site and Drainage Certification form. In the event of non-compliance, the City Inspector shall

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have the option to withhold building permits and certificates of occupancy. In addition, the City may avail itself of any other legal remedy that may be provided in the City Code, the Fort Collins Land Use Code (“**Land Use Code**”) or this Agreement, as deemed necessary in order to ensure that the Developer or its successor(s) in interest properly installs and maintains the Private Water Quality Improvements as specified in the Final Development Plan Documents.

4. The Developer or its successor(s) in interest shall be responsible for maintaining the structural integrity and operational function of all drainage facilities constructed as part of this Development including, but not limited to, all drainage facilities and water quality features, extended detention water quality basins, bioretention facilities and permeable pavement systems. These drainage facilities and features must be maintained in their original operational integrity throughout the build-out of this Development, following the completion of the construction of said facilities and features, and after acceptance of said facilities and features as certified to the City. If at any time following construction and certification (as required pursuant to Paragraph II.C.2 above) or during the construction of additional structures or lots within this Development, the City determines that said drainage facilities and features no longer comply with the Final Development Plan Documents, the City may give written notice to the Developer of all items that do not comply with the Final Development Plan Documents and request the restoration of the drainage facilities and features back to the function, standards and specifications designed and specified in the Final Development Plan Documents. Failure to maintain the structural integrity and operational function of said drainage facilities and features following certification will result in the withholding of the issuance of additional building permits and/or certificates of occupancy and, in addition, the City may avail itself of any other legal remedy that may be provided in the City Code, the Land Use Code and/or this Agreement until said drainage facilities and water quality features are repaired and restored to the physical characteristics, operational function and structural integrity originally specified in the Final Development Plan Documents approved by the City for this Development.

5. All lots must be graded to drain in the configuration shown on the Final Development Plan Documents. For this reason, the following requirements shall be followed for all buildings/structures on all lots:

- a. Prior to the issuance of a certificate of occupancy for any lot or building the Developer shall provide the City with certification that the lot has been graded in compliance with the Final Development Plan Documents. This grading certification shall demonstrate that the lot and building finish floor elevation has been built in accordance with the elevation specified on the Final Development Plan Documents. The certification shall also show that the minimum floor elevation or minimum opening elevation for any building constructed is in compliance with the minimum elevation as required on the Final Development Plan Documents. The certification shall demonstrate as well that any minor swales adjacent to the building or on the lot have been graded correctly and in accordance with the grades shown on the Final Development Plan Documents. The certification shall also show that the elevations of all corners of the lot are in accordance with the

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elevations shown on the Final Development Plan Documents. Said certification shall be completed by a Colorado licensed professional engineer and shall be submitted to the City for review and acceptance at least two (2) weeks prior to the requested date of issuance of the applicable certificate of occupancy.

- b. The Developer shall obtain the City's prior approval of any changes from the Final Development Plan Documents in grade elevations and/or storm drainage facility configuration that occur as a result of the construction of buildings and/or development of lots, whether by the Developer or others. The City reserves the right to withhold the issuance of building permits and certificates of occupancy for this Development until the City has deemed such changes as being acceptable for the safe and efficient delivery of storm drainage water.
- c. The Developer shall limit the construction of the off-site storm drainage improvements to the limits of construction as shown on the Final Development Plan Documents. The Developer shall re-seed and restore all areas that are disturbed during construction of the off-site storm drainage improvements in accordance with the Final Development Plan Documents promptly following construction. The Developer shall ensure that no negative impact occurs to the adjoining properties during the construction of these facilities. No grading shall be done outside of the approved areas as shown on the Final Development Plan Documents.
- d. Developer's drainage design for this Development includes evacuation of storm drainage runoff out of the water quality and detention facilities and into the drainage outfall system in a reasonable amount of time. The water quality and detention facilities have been designed to discharge stormwater runoff from frequent storms over a forty (40) hour period through a small diameter outlet. Under the intended operation of the water quality and detention pond, there will not be standing water in these facilities after more than forty-eight (48) hours after the end of a rainfall event. If after construction and acceptance of the detention facilities associated with this Development, surfacing or standing water conditions persist in these facilities, and if such conditions are beyond what can be expected in accordance with the approved stormwater design, the Developer shall promptly, upon such discovery, install an adequate de-watering system in the detention facilities. Such a system shall be reviewed and approved by the City prior to installation.
- e. Developer's drainage design for this Development includes evacuation of storm drainage runoff through bioretention facilities and into the drainage outfall system in a reasonable amount of time. These bioretention facilities have been designed to discharge stormwater runoff from frequent storms over a twelve (12) hour period. Under the intended operation of these bioretention facilities, there will not be standing water in the facility after more than twenty-four (24) hours after the end of a rainfall event. If after construction and acceptance of the bioretention facility associated with this Development, surfacing or standing water conditions persist in this facility, and if such conditions are beyond what can be expected in

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accordance with the approved stormwater design, the Developer shall promptly, upon such discovery, take appropriate action in order to return or modify (subject to City's approval of any such modification) the facility to function in accordance with the designed operation in accordance with the Final Development Plan Documents.

- f. The Developer shall be responsible for maintenance of all storm drainage facilities not identified as public in the Final Development Plan Documents in accordance with the Standard Operating Procedures ("**SOPs**") contained in Exhibit C, attached hereto and incorporated herein by reference.

#### D. Streets

1. Onsite Cordova Road Costs. A portion of Cordova Road will be located within the boundaries of the Property ("**Onsite Cordova Road**"). Developer shall make a "cash-in-lieu" contribution ("**Onsite Contribution**") to the City for the future construction of the Onsite Cordova Road. The Onsite Contribution shall be determined based on the linear frontage multiplied by the yearly local portion dollar amount that's adopted when the fee is paid. The length of linear frontage for the Onsite Cordova Road improvements is 233.5 linear feet. This payment must be made prior to the issuance of the first building permit for the Property.

2. Offsite Cordova Road Costs. Developer shall make a "cash-in-lieu" contribution ("**Offsite Contribution**") to the City for the future construction of the portions of Cordova Road that will be located outside the boundaries of the Property ("**Offsite Cordova Road**"). The Offsite Contribution shall include separate construction cost and right-of-way ("**ROW**") acquisition cost components, as follows:

- a. The construction cost component of the Offsite Contribution ("**Construction Cost Component**") shall be determined based on the linear frontage multiplied by the yearly local portion dollar amount that's adopted when the fee is paid. The length of linear frontage for the Offsite Cordova Road improvements is 495.0 linear feet. This payment must be made prior to the issuance of the first building permit for the Property. Cordova Road shall be constructed in accordance with the City's "Two Lane Arterial" standard and in accordance with plans to be approved by the City.
- b. The ROW acquisition cost component of the Offsite Contribution ("**ROW Cost Component**") shall be based upon the actual cost incurred by the City to acquire the ROW for the Offsite Cordova Road in accordance with applicable law, not to exceed Five Hundred Thousand Dollars (\$500,000.00) ("**ROW Acquisition Cost Cap**"). The City shall be responsible for acquiring the necessary ROW. The City may seek authorization to acquire the ROW through the use of eminent domain, and may also choose to defer ROW acquisition to an undetermined future date. The City and other parties (excluding Developer) will be responsible for ROW acquisition costs through the use of eminent domain that exceed the ROW Acquisition Cost Cap. Prior to the Developer's completion of construction of the

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final Phase of the Development, the City will either (i) complete the acquisition of the necessary ROW, or (ii) determine that the ROW acquisition costs exceed the ROW Acquisition Cost Cap. If the ROW acquisition is completed and actual costs (staff time, appraisal costs, land purchase price, and fees incidental to closing) are less than the ROW Acquisition Cost Cap, then the ROW Cost Component shall be equal to the actual cost of the ROW acquisition, and the remaining balance of the Offsite Contribution shall be refunded to Developer in a timely manner. If the ROW acquisition is not completed by the completion of the final Phase of the Development and Developer timely removes all encumbrances and other uses under its control that interfere with the City's acquisition or use of the Offsite Cordova Road ROW dedication parcel, including all activities associated with the provided license to stage and access the project for construction, the ROW Cost Component shall not exceed the ROW Acquisition Cost Cap. In either instance, the Offsite Contribution must be paid within ten (10) business days of the date the Development Construction Permit ("**DCP**") for the Property is issued. If this payment is not made by the end of the tenth business day following the DCP issuance, then the DCP shall be void without further action required of the City, and the Developer will forfeit the permit application fee and all amounts paid for other components of the Project.

Notwithstanding the foregoing, if the City is able to acquire fee title to the entirety of the Offsite Cordova Road prior to the completion of the final Phase of the Development ("**Offsite Cordova Road Acquisition Deadline**"), Developer shall be responsible for constructing approximately 495.0 linear feet of the Offsite Cordova Road using the Offsite Contribution. Both the Offsite Cordova Road and Onsite Cordova Road, including the portion of such road running from the intersection of Duff Drive up to and including the intersection with Link Lane (collectively, "**Full Cordova Road**") shall be fully constructed by Developer. If the City is unable to obtain fee title to the Offsite Cordova Road by the Offsite Cordova Road Acquisition Deadline, the City will retain the Offsite Contribution that Developer paid to the City contemporaneously with the DCP issuance until such time as it acquires the Full Cordova Road, at which point it will apply those funds to complete the Full Cordova Road.

3. Cordova Road Extension. The Final Development Plan Documents do not include constructing the Full Cordova Road. However, if 1) the entirety of the Offsite Cordova Road ROW is acquired by the City, and 2) the Developer has not completed construction of the final Phase in the Development, the Developer agrees to amend the Final Development Plan Documents to require the construction of the Full Cordova Road and related changes to stormwater improvements. If the Developer is obligated to construct the Full Cordova Road, the following provisions shall apply:

- a. Subject to the conditions of this Agreement, the City agrees to reimburse the Developer for oversizing the Full Cordova Road as shown on the Final Development Plan Documents ("**Oversizing Reimbursement**"). The Oversizing Reimbursement shall be equal to the cost to upgrade the streets from local access

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standards to the City's "Two Lane Arterial" standard and for the cost of acquiring the ROW necessary to accommodate the expansion of such street and sidewalk ("**Road Oversizing**"). The City shall pay the Oversizing Reimbursement to Developer in the manner provided in and in accordance with City Code Section 24-112. As identified in the City Code, the City shall not participate in the cost of transportation improvements required solely for the special use and benefit of the Development as may be required by the transportation impact study for the Development or by the City Traffic Engineer.

- b. The Developer acknowledges that the City shall have no obligation to pay the Oversizing Reimbursement unless funds for such payments are budgeted and appropriated from the transportation improvements fund by the City Council. The Developer does hereby agree to complete the Road Oversizing for the Full Cordova Road on the terms and conditions set forth herein with the understanding that the Developer may not be fully reimbursed by the City for the cost of such construction. The Developer further agrees to accept payment of the Oversizing Reimbursement in accordance with City Code Section 24-112(d) as full and final settlement and complete accord and satisfaction of all obligations of the City to make reimbursements to the Developer for construction of the Road Oversizing.
- c. It is understood that the improvements to be constructed in the public right-of-way described in this Section II.D are City Improvements. The term "**City Improvements**" shall mean either (1) existing improvements owned by the City that are to be modified or reconstructed, or (2) any improvements funded in whole or in part by the City. Any contract for the construction of City Improvements must be executed in writing. If the estimated cost of the City Improvements exceeds Sixty Thousand Dollars (\$60,000.00), the contract for construction of the City Improvements must be subject to a competitive bidding process resulting in an award to the lowest responsible bidder. Evidence must be submitted to the City prior to the commencement of the work showing that the award was given to the lowest responsible bidder. If the cost of the City Improvements exceeds One Hundred Thousand Dollars (\$100,000.00), the contract for construction of the City Improvements must be insured by a performance bond or other equivalent security.
- d. In the event the Developer does not construct the Full Cordova Road as part of its Development, the Developer, for itself and its successor(s) in interest, does hereby agree the City shall not be obligated to construct the Full Cordova Road, and hereby indemnifies and holds harmless the City from any and all claims that might arise, directly or indirectly, as a result of the City not constructing the Full Cordova Road, resulting from the Developer's inability to provide for the dedication and construction of the Full Cordova Road as shown on the approved Project Development Plan ("**PDP**"). The Developer, for itself and its successor(s) in interest understands that the inability to complete construction of the Full Cordova Road may result in perceived concerns that are including but not limited to increased response time for emergency services for community members in the



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Development, increased maintenance obligations for privately maintained streets located outside of City limits, and noise impacts to future community members in the Development at such time that the Full Cordova Road is built. The Developer, for itself and its successors and assigns, hereby agrees to pay all costs and fees incurred by the City in defense of any claims arising from these concerns, including, but without limitation, attorney's fees. The Developer further agrees to indemnify and hold the City harmless for any damages or awards arising from or relation to any such claim or civil action.

4. North Lemay Avenue ROW Costs. Pursuant to City Code Section 24-95(c), the Developer agrees to reimburse the City for the City's costs associated with constructing the local access portion of North Lemay Avenue adjacent to the Property ("**Local Access Contribution**"). The Local Access Contribution is calculated based on the linear frontage multiplied by the yearly local portion dollar amount that's adopted when the fee is paid. The length of linear frontage for North Lemay Avenue improvements is 933.0 linear feet. Payment shall be made to the City prior to the issuance of the first building permit for the Development.

5. Duff Drive ROW Costs. The Developer acknowledges there is a Reimbursement Agreement dated January 16, 2019 between the developer of the adjacent Capstone Cottages, Capstone Collegiate Communities – Fort Collins LLC project and the City, which attaches a reimbursement payment obligation on the Property for a portion of the costs for improvements constructed on the northern portion of Duff Drive abutting the Property ("**Duff Drive Contribution**") prior to any building permits being issued for the Development. The Developer agrees to provide a payment of Two Hundred Sixty-Four Thousand Seven Hundred Eight and 18/100 Dollars (\$264,708.18) to the City, pursuant to that prior Reimbursement Agreement, to satisfy the Developer's Duff Drive Contribution and to satisfy the associated local improvement reimbursement obligations attached to the Property. This payment must be made at the earlier of (a) the date that is fourteen (14) calendar days after the first Memorandum of Agreement for the purchase of any portion of the Offsite Cordova Road ROW is fully executed and recorded in the public records of Larimer County, and (b) prior to the date the first building permit is issued for the Development.

6. Street Standards. The pavement design and construction standards for privately maintained streets shall be the same as the standards for public streets, as set forth in the Land Use Code. Grades, alignments, and widths may be modified in accordance with accepted design principles, only on the condition that safe access is maintained for all future owners, visitors, the general public, and public safety officials and equipment. Such modifications from public street standards may be made only if approved by the City Engineer. Easements for access, utilities, and drainage shall be dedicated to the public and clearly shown on the plat.

7. Encroachments. As identified in Article III, Chapter 23 of the City Code (the "**Encroachment Regulations**") no encroachments or obstructions are allowed within the public rights-of-way without a permit ("**Encroachment Permit**"). The Developer

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understands and acknowledges that if the Final Development Plan Documents now or in the future, through an amendment process, include any encroachments or obstructions in the public ROW the Developer shall apply for, meet any requirements or conditions, and obtain an approved Encroachment Permit prior to the installation of the encroachment(s).

- a. All requirements and conditions as identified on the Encroachment Permit and identified in the Encroachment Regulations shall be met and maintained both prior to and after issuance of the Encroachment Permit. The Encroachment Permit, which is non-transferable, is issued to the property owner or to the lessee of the property (with the property owner's consent) to which the encroachment is adjacent to or benefits and the Developer understands that at such time as ownership of that parcel changes and/or a new lessee exists (as applicable) a new Encroachment Permit will need to be applied for and new liability insurance will need to be provided by the property owner. The permit is revocable pursuant to the Encroachment Regulations.
- b. The Developer, for itself and its successor(s) in interest, does hereby release and hold harmless the City from any damages to the encroachment arising from the City's actions in maintaining, repairing, and/or replacing the public infrastructure including utilities, except as caused by the City's gross negligence or willful misconduct.
- c. The City shall have no responsibility for the installation and maintenance of any encroachment and the Developer, for itself and its successor(s) in interest, does hereby indemnify and hold harmless the City from any and all claims that might arise, directly or indirectly, as a result of the Developer's installation or maintenance of any encroachments onto the public ROW.
- d. Only public utilities (defined as utilities owned and maintained by the City and gas utilities owned by Xcel Energy) and utilities installed by utility providers that have a franchise agreement with the City are allowed to be installed and located within public ROW and public easements. Private utilities are allowed to cross public ROW and easements provided that the crossing is perpendicular to the public ROW or easement, that sleeves are provided for the crossing in accordance with City standards, Encroachment Permits for such crossing are obtained, and the utility is registered with the utility locate center. Any private utilities serving the Property which are found within public ROW or easements not meeting the above criteria shall be required to be removed by the Developer at the Developer's expense, or the Developer shall apply for and obtain an approved Encroachment Permit. All sleeves across the ROW shall be designed and installed in accordance with City standards then in effect.
- e. If there is any conflict between this provision and the Encroachment Regulations, then the Encroachment Regulations will control. The Developer acknowledges

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that, as with any regulation, the Encroachment Regulations are subject to change and Developer agrees to abide by any changes to the Encroachment Regulations.

8. Traffic Improvements. Notwithstanding any provision herein to the contrary, the Developer shall be responsible for all costs for the initial installation of traffic signing and striping for this Development, including both signing and striping related to the Developer's internal street operations and the signing and striping of any adjacent or adjoining local, collector, or arterial streets that is made necessary because of the Development.

9. Maintenance. Following completion of all City Improvements, the Developer shall continue to have responsibility for maintenance and repair of said improvements in accordance with Sections 2.2.3, 3.3.1, and 3.3.2 of the Land Use Code of the City.

#### E. Natural Resources

Prior to the commencement of grading or other construction on the Property, burrowing owl surveys will be conducted by a qualified wildlife biologist according to Colorado Parks and Wildlife Division recommended protocols. If the site is cleared of burrowing owls, then prairie dogs inhabiting the site will be removed according to methods approved by the City Environmental Planner. No grading may occur until the removal is verified through an onsite inspection by the City Environmental Planner

#### F. Soil Amendment

In all areas associated with this Development that are to be landscaped or planted in accordance with the Final Development Plan Documents, and do not require a building permit, the soils within each applicable Phase shall be loosened and amended by the Developer in accordance with Land Use Code § 3.8.21 prior to the issuance of a Certificate of Occupancy in the applicable Phase of this Development, and as otherwise required as set forth herein or as set forth on Exhibit A. In all areas associated with this Development that are to be landscaped or planted in accordance with the Final Development Plan Documents, and which do require a building permit, the completion of soil amendments shall include certification by the Developer that the work has been completed in accordance with City Code §12-132. This certification shall be submitted to the City for review and acceptance at least two (2) weeks prior to the date of issuance of any certificate of occupancy for the applicable Phase of this Development.

#### G. Ground Water, Subdrains and Water Rights

1. The Developer, for itself and its successor(s) in interest, hereby agrees to indemnify and hold harmless the City against any damages or injuries sustained in the Development as a result of ground water seepage or flooding, structural damage, or other damage resulting from failure of any subdrain system build pursuant to the Final Development Plan Documents unless such damages or injuries are proximately caused by the City's negligent operation or maintenance of the City's storm drainage facilities in

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the Development. No language in this Paragraph shall be construed or interpreted as establishing in any way the City's liability for any act or omission and the terms of this Paragraph solely relate to the Developer's obligation to indemnify and hold harmless the City.

2. If the Development includes a subdrain system, any such subdrain system, whether located within private property or within public property such as street ROW or utility or other easements, shall not be owned, operated, maintained, repaired or reconstructed by the City and it is agreed that all ownership, operation, maintenance, repair and reconstruction obligations shall be those of the Developer or the Developer's successor(s) in interest. Such subdrain system is likely to be located both upon private and public property and, to the extent that it is located on public property, all maintenance, operation, repair or reconstruction shall be conducted in such a manner that such public property shall not be damaged, or if damaged, shall, upon completion of any such project, be repaired in accordance with then existing City standards. The City shall not be responsible for, and the Developer, for itself and its successor(s) in interest, hereby agrees to indemnify and hold harmless the City against any damages or injuries sustained in the Development as the result of groundwater seepage or flooding, structural damage or other damage resulting from failure of any such subdrain system.

3. Without admitting or denying any duty to protect water rights, the Developer, for itself and its successor(s) in interest, hereby agrees to indemnify and hold harmless the City against any damages or injuries to water rights caused, directly or indirectly by the construction, establishment, maintenance, or operation of the Development.

4. The City agrees to give notice to the Developer of any claim made against it to which the foregoing indemnities and hold harmless agreements by the Developer contained herein could apply, and the Developer shall have the right to defend any lawsuit based on such claim and to settle any such claim provided the Developer must obtain a complete discharge of all City liability through such settlement. Failure of the City to give notice of any such claim to the Developer within ninety (90) days after the City first receives notice of such claim under the Colorado Governmental Immunity Act for the same, shall cause the foregoing indemnities and hold harmless agreements by the Developer to not apply to such claim and such failure shall constitute a release of the foregoing indemnities and hold harmless agreements as to such claim.

#### H. Hazards and Emergency Access

1. No stockpiled combustible material will be allowed on the Property until a permanent water system is installed by the Developer and approved by the City.

2. Prior to beginning any building construction, and throughout the build-out of this Development, the Developer shall provide and maintain at all times a reasonable accessway to each building. Such accessway shall be adequate to handle any emergency vehicles or equipment, and the accessway shall be kept open during all

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phases of construction. Such accessway shall be constructed to an unobstructed width of at least twenty (20) feet with four (4) inches of aggregate base course material compacted according to City standards and with a one hundred (100) foot diameter turnaround at the building end of said accessway. The turnaround is not required if an exit point is provided at the end of the accessway. Prior to the construction of said accessway, a plan for the accessway shall be submitted to and approved by the Poudre Fire Authority and City Engineer. A digital plan set shall be submitted to the Poudre Fire Authority for review and processing. If such accessway is at any time deemed inadequate by the Poudre Fire Authority or City Engineer, the accessway shall be promptly brought into compliance and until such time that the accessway is brought into compliance, the City and/or the Poudre Fire Authority may issue a stop work order for all or part of the Development.

I. Footing and Foundation Permits

Notwithstanding any provision in this Agreement to the contrary, the Developer shall have the right to obtain Footing and Foundation permits upon the installation of all underground water, sanitary sewer, and storm sewer facilities, and an emergency accessway for the phase in which the permit is being requested. Facilities shall include but not be limited to all mains, lines, services, fire hydrants and appurtenances for the phase as shown on the Final Development Plan Documents.

J. Development Construction Permit

1. The Developer shall apply for and obtain a Development Construction Permit for this Development, in accordance with Division 2.6 of the Land Use Code, prior to the Developer commencing construction. The Developer shall pay the required fees for said permit and construction inspection, and post Security to guarantee completion of the City Improvements required for this Development as described herein, prior to issuance of the Development Construction Permit.

2. Prior to the issuance of a Development Construction Permit the Developer shall obtain the approval of a Construction Management Plan from the City. The Construction Management Plan shall define the management of the construction of the Development, establishing the timing, duration, location, delivery and storage of materials and idle equipment; the timing, duration, and location of parking; and the timing, duration, and location for the operation of equipment. The Construction Management Plan shall define the impacts (if any) to public rights-of-way, which would then be subject to the Encroachment Regulations as indicated in Paragraph II.D.6 of this Agreement.

K. Maintenance and Repair Guarantees

The Developer agrees to provide a two (2) year maintenance guarantee and a five-year repair guarantee covering all errors or omissions in the design and/or construction of the City Improvements, which guarantees shall run concurrently and shall commence upon the date of completion of the City Improvements and acceptance thereof

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by the City. More specific elements of these guarantees are noted in Exhibit B, attached hereto and incorporated herein by reference. Security for the maintenance guarantee and the repair guarantee shall be as provided in Section 3.3.2(C) of the Land Use Code. Notwithstanding the provisions of Paragraphs III. H. and I. of this Agreement to the contrary, the obligations of the Developer pursuant to this Paragraph II.K. and Exhibit B may not be assigned or transferred to any other person or entity unless the warranted improvements are completed by, and a letter of acceptance of the warranted improvements is received from the City by such other person or entity.

#### L. Forestry

1. A Street Tree Permit must be obtained from the City Forester pursuant to City Code Chapter 27, Art. II, Division 2, before any trees or shrubs noted on the Final Development Plan Documents are planted, pruned, or removed from any public ROW or City property. This includes areas between the sidewalk and curb, medians, and other City property. The City may withhold any certificate of occupancy for the Development if the Developer fails to obtain a Street Tree Permit until the Developer obtains a Street Tree Permit and the planting, pruning, and removal of trees or shrubs on or from the public ROW or City property is in compliance with the Street Tree Permit and Final Development Plan Documents. In addition to withholding any certificate of occupancy, the City may avail itself of any other legal remedy provided by law for the failure to obtain a Street Tree Permit. As a condition of the Street Tree Permit and of this Agreement, at least one (1) week prior to planting any trees the Developer shall: (1) allow City Forestry Division staff to inspect the proposed planting sites to review compliance with the Final Development Plan Documents and applicable regulations; and (2) allow City Forestry Division staff to inspect and approve, at the nursery if possible, all trees to be planted. City Forestry has the right to reject and/or substitute any trees that do not meet the Forestry Divisions standards.

2. All tree pruning and removal on the Property must be done by an arborist licensed by the City of Fort Collins and the name of such arborist shall be provided to the City Forestry Division prior to any pruning or removal commencing. A list of licensed arborists is maintained by the City Forestry Division and is available upon request or at [fcgov.com/forestry](http://fcgov.com/forestry). The use of heavy construction equipment, including but not limited to excavators, backhoes, and bulldozers to remove trees is not allowed without prior Forestry Division written permission.

#### M. Park Planning and Development

1. The Developer has agreed to confirm the exact location of the sidewalk connection from the Development to Lemay Avenue with the City Parks department prior to construction. Any irrigation lines, infrastructure, related equipment, or landscaping that is disturbed, destroyed, or moved shall be promptly replaced or repaired at no cost to the City.

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2. The Developer and its successor(s) in interest shall, in perpetuity, be responsible for irrigation and maintenance of public ROW landscaping along Cordova Road, as depicted in approved irrigation and landscape plans incorporated in the Final Development Plan Documents.

### III. Miscellaneous

A. The Developer agrees to provide and install, at its expense, adequate barricades, warning signs and similar safety devices at all construction sites within the public ROW and other areas as deemed necessary by the City Engineer and Traffic Engineer in accordance with the City's "Work Area Traffic Control Handbook" and shall not remove said safety devices until the construction of the Development has been completed.

B. As required pursuant to Chapter 20, Article IV of the City Code, the Developer shall, at all times, keep the public ROW free from accumulation of waste material, rubbish, or building materials caused by the Developer's operation, or the activities of individual builders or subcontractors; shall remove such rubbish as often as necessary, but no less than daily and; at the completion of the work, shall remove all such waste materials, rubbish, tools, construction equipment, machinery, and surplus materials from the public ROW. The Developer further agrees to maintain the finished street surfaces so that they are free from dirt caused by the Developer's operation or as a result of building activity. Any excessive accumulation of dirt or construction materials shall be considered sufficient cause for the City to withhold building permits and/or certificates of occupancy until the problem is corrected to the satisfaction of the City Engineer. If the Developer fails to adequately clean such streets within two (2) days after receipt of written notice, the City may have the streets cleaned at the Developer's expense and the Developer shall be responsible for prompt payment of all such costs. The Developer also agrees to require all contractors within the Development to keep the public ROW clean and free from accumulation of dirt, rubbish, and building materials.

C. The Developer hereby agrees that it will require its contractors and subcontractors to cooperate with the City's construction inspectors by ceasing operations when winds are of sufficient velocity to create blowing dust that, in the inspector's opinion, is hazardous to the public health and welfare.

D. The Developer shall, pursuant to the terms of this Agreement, complete all improvements and perform all other obligations required herein, as such improvements or obligations may be shown on the Final Development Plan Documents, or any documents executed in the future that are required by the City for the approval of an amendment to a development plan, and the City may withhold (or to the extent permitted by law, revoke) such building permits and certificates of occupancy as it deems necessary to ensure performance in accordance with the terms of this Agreement. The processing and routing for approval of the various Final Development Plan Documents may result in certain of said documents carrying dates of approval or execution that are later than the

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date of execution of this Agreement. The Developer hereby waives any right to object to any such discrepancy in dates.

E. Nothing herein contained shall be construed as a waiver of any requirements of the City Code or the Land Use Code and the Developer agrees to comply with all requirements of the same.

F. In the event the City does not immediately pursue damages for any breach of this Agreement, no such delay or inaction shall be held or construed to be a waiver of any current or subsequent breach hereof.

G. All financial obligations of the City arising under this Agreement that are payable after the current fiscal year are contingent upon funds for that purpose being annually appropriated, budgeted and otherwise made available by the Fort Collins City Council, in its discretion.

H. This Agreement shall run with the Property, including any subsequent replatting of all or a portion of the Property. This Agreement shall also be binding upon and inure to the benefit of the parties hereto, their respective personal representatives, heirs, successors, grantees, and assigns. It is agreed that all improvements required pursuant to this Agreement touch and concern the Property regardless of whether such improvements are located on the Property. Assignment of interest within the meaning of this paragraph shall specifically include, but not be limited to, a conveyance or assignment of any portion of the Developer's legal or equitable interest in the Property, as well as any assignment of the Developer's rights to develop the Property under the terms and conditions of this Agreement.

I. In the event the Developer transfers title to the Property, pursuant to Section II.K, and is thereby divested of all or partial equitable and legal interest in the Property, as provided in the City's written assignment terms, the Developer shall be released from liability under this Agreement with respect to any breach of the terms and conditions of this Agreement occurring after the date of any such transfer of the subject interest. In such event, the succeeding property owner shall be bound by the terms of this Agreement.

J. Each and every term of this Agreement shall be deemed to be a material element hereof. In the event that either party shall fail to perform according to the terms of this Agreement, such party may be declared in default. In the event that a party has been declared in default hereof, such defaulting party shall be given written notice specifying such default and shall be allowed a period of ten (10) days within which to cure said default. In the event the default remains uncorrected, the party declaring default may elect to: (a) terminate the Agreement and seek damages; (b) treat the Agreement as continuing and require specific performance or; (c) avail itself of any other remedy at law or equity.



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K. In the event of the default of any of the provisions hereof by the Developer which shall require the City to commence legal or equitable action against the Developer, the Developer shall be liable to the City for its reasonable attorney's fees and costs incurred by reason of the default. Nothing herein shall be construed to prevent or interfere with the City's rights and remedies specified in this Agreement.

L. Except as may be otherwise expressly provided herein, this Agreement shall not be construed as or deemed to be an agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action hereunder for any cause whatsoever.

M. It is expressly understood and agreed by and between the parties hereto that this Agreement shall be governed by and its terms construed under the laws of the State of Colorado and the City of Fort Collins, Colorado.

N. Any notice or other communication given by any party hereto to any other party relating to this Agreement shall be hand-delivered or sent by certified mail, return receipt requested, addressed to such other party at their respective addresses as set forth below; and such notice or other communication shall be deemed given when so hand-delivered or three (3) days after so mailed:

If to the City: Engineering Development Review  
City of Fort Collins  
P.O. Box 580  
Fort Collins, CO 80522

With a copy to: City Attorney's Office  
City of Fort Collins  
P.O. Box 580  
Fort Collins, CO 80522

If to the Developer: TTRES CO Fort Collins Vine, LLC  
111 Monument Circle, Suite 1500  
Indianapolis, IN 46204  
Attn: Brian Southworth

With a copy to: TTRES CO Fort Collins Vine, LLC  
111 Monument Circle, Suite 1500  
Indianapolis, IN 46204  
Attn: Dana S. Grimes, Esq.

With a copy to: Western-Southern Life Assurance Company  
400 Broadway  
Cincinnati, OH 45202

If to the Owner: TTRES CO Fort Collins Vine, LLC

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111 Monument Circle, Suite 1500  
Indianapolis, IN 46204  
Attn: Josh Purvis

With a copy to: TTRES CO Fort Collins Vine, LLC  
111 Monument Circle, Suite 1500  
Indianapolis, IN 46204  
Attn: Dana S. Grimes, Esq.

Notwithstanding the foregoing, if any party to this Agreement, or its successors, grantees or assigns, wishes to change the person, entity, or address to which notices under this Agreement are to be sent as provided above, such party shall do so by giving the other parties to this Agreement written notice of such change.

O. When used in this Agreement, words of the masculine gender shall include the feminine and all genders, and when the sentence so indicates, gendered words shall refer to any gender; and words in the singular shall include the plural and vice versa. This Agreement shall be construed according to its fair meaning, and as if prepared by all parties hereto, and shall be deemed to be and contain the entire understanding and agreement between the parties hereto pertaining to the matters addressed in this Agreement. There shall be deemed to be no other terms, conditions, promises, understandings, statements, representations, expressed or implied, concerning this Agreement, unless set forth in writing signed by all of the parties hereto. Further, paragraph headings used herein are for convenience of reference and shall in no way define, limit, or prescribe the scope or intent of any provision under this Agreement.

#### P. Lender Acknowledgment

1. The City acknowledges (i) that it has been informed by Western-Southern Life Assurance Company, an Ohio corporation (the "**Lender**"), that the Lender intends to extend a loan (the "**Loan**") to the Developer to finance the costs of constructing and equipping the Development.

2. The City acknowledges that, pursuant to Paragraph III.N of this Agreement, the Developer has requested that copies of all notices given by the City to the Developer shall also be given to the Lender at the address set forth therein. The City further acknowledges that the Lender has a right (but not the obligation) to remedy or cure any default by the Developer under this Agreement on behalf of the Developer and that the City will accept such remedy or cure if properly carried out by the Lender on behalf of the Developer.

3. Nothing contained herein shall be construed to impose any liability or obligation of the City to the Lender, except as expressly provided in this Paragraph III.P.

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Q. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or under any other law.

The remainder of this page is intentionally left blank.  
Signatures begin on the following page.

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THE CITY OF FORT COLLINS, COLORADO,  
a Municipal Corporation

DocuSigned by:  
By: Kelly DiMartino  
0B06B5674B09400...

DocuSigned by:  
Kelly DiMartino, City Manager



ATTEST:

DocuSigned by:  
Heather L Walls  
034E242B6309420...  
Heather L Walls  
City Clerk Deputy City Clerk

APPROVED AS TO CONTENT:

DocuSigned by:  
Tim Dinger  
0F6AA2700B004EA...  
Tim Dinger  
City Engineer Civil Engineer II

APPROVED AS TO FORM:

DocuSigned by:  
Cyril Vidergar  
0F62A09A46ED404...  
Cyril Vidergar  
Assistant City Attorney

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OWNER/DEVELOPER:

TTRES CO Fort Collins Vine, LLC, a Delaware limited liability company

By: *Brian Southworth*

Printed: Brian Southworth

Title: Authorized Rep

Date: 6/26/2024

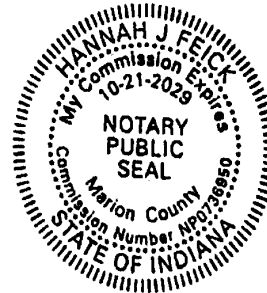
STATE OF Indiana )  
 ) ss.  
COUNTY OF MARION )

The foregoing instrument was acknowledged before me this 26 day of JUNE, 2024, by BRIAN SOUTHWORTH as the AUTH. REP. TTRES CO Fort Collins Vine, LLC, a Delaware limited liability company.

*Hannah J. Feick*  
Notary Public

My Commission Expires: 10-21-29

My County of Residence: MARION



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### EXHIBIT A

1. Schedule of electrical service installation.

Electrical lines need to be installed prior to the installation of the sidewalk, curb returns, handicap ramps, paving and landscaping. If the Developer installs any curb return, sidewalk or handicap ramp prior to the installation of electrical lines in an area that interferes with the installation of the electrical line installation, the Developer shall be responsible for the cost of removal and replacement of those items and any associated street repairs.

2. Schedule of water lines to be installed out of sequence.

Not Applicable.

3. Schedule of sanitary sewer lines to be installed out of sequence.

Not Applicable.

4. Schedule of street improvements to be installed out of sequence.

Not Applicable

5. Schedule of storm drainage improvements to be installed out of sequence.

Not Applicable.

6. Schedule of street improvements installation.

Street improvements shall not be installed until all utility lines to be placed therein have been completely installed, including all individual lot service lines (water and sewer) leading in and from the main to the Property line and all electrical lines.

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## EXHIBIT B

### MAINTENANCE GUARANTEE:

The Developer hereby warrants and guarantees to the City, for a period of two (2) years from the date of completion and first acceptance by the City of the public improvements warranted hereunder, the full and complete maintenance and repair of the public improvements constructed for this Development. This warranty and guarantee is made in accordance with the City of Fort Collins Land Use Code. This guarantee applies to the streets and all other appurtenant structures and amenities lying within the rights-of-way, easements and other public properties, including, without limitation, all curbing, sidewalks, bike paths, drainage pipes, culverts, catch basins, drainage ditches and landscaping. Any maintenance and/or repair required on utilities shall be coordinated with the owning utility company or city department.

The Developer shall maintain said public improvements in a manner that will assure compliance on a consistent basis with all construction standards, safety requirements and environmental protection requirements of the City. The Developer shall also correct and repair, or cause to be corrected and repaired, all damages to said public improvements resulting from development-related or building-related activities. In the event the Developer fails to correct any damages within thirty (30) days after written notice thereof, then said damages may be corrected by the City and all costs and charges billed to and paid by the Developer. The City shall also have any other remedies available to it as authorized by this Agreement. Any damages which occurred prior to the end of said two (2) year period and which are unrepaired at the termination of said period shall remain the responsibility of the Developer.

### REPAIR GUARANTEE:

The Developer agrees to hold the City of Fort Collins, Colorado, harmless for a five (5) year period, commencing upon the date of completion and acceptance by the City of the public improvements constructed for this Development, from any and all claims, damages, or demands arising on account of the design and construction of public improvements of the Property shown on the approved plans and documents for this Development; and the Developer furthermore commits to make necessary repairs to said public improvements, to include, without limitation, the roads, streets, fills, embankments, ditches, cross pans, sub-drains, culverts, walls and bridges within the right-of-way easements and other public properties, resulting from failures caused by design and/or construction defects. This agreement to hold the City harmless includes defects in materials and workmanship, as well as defects caused by or consisting of settling trenches, fills or excavations.

Further, the Developer agrees that the City shall not be liable to the Developer during the warranty period, for any claim of damages resulting from negligence in exercising

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engineering techniques and due caution in the construction of cross drains, drives, structures or buildings, the changing of courses of streams and rivers, flooding from natural creeks and rivers, and any other matter whatsoever on private property. Any and all monetary liability occurring under this paragraph shall be the liability of the Developer.

The obligations of the Developer pursuant to the "maintenance guarantee" and "repair guarantee" provisions set forth above may not be assigned or transferred to any other person or entity unless the warranted improvements are completed by, and a letter of acceptance of the warranted improvements is received from the City by, such other person or entity.



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**EXHIBIT C**  
**STANDARD OPERATING PROCEDURES (SOPs)**

**A. Purpose**

In order for physical stormwater Best Management Practices (BMPs) to be effective, proper maintenance is essential. Maintenance includes both routinely scheduled activities, as well as non-routine repairs that may be required after large storms, or as a result of other unforeseen problems. Standard Operating Procedures (SOPs) clearly identify BMP maintenance responsibility. BMP maintenance is the responsibility of the entity owning the BMP.

Identifying who is responsible for maintenance of BMPs and ensuring that an adequate budget is allocated for maintenance is critical to the long-term success of BMPs. For this project, the privately owned BMPs shown in Section B below are to be maintained by the Developer (or successor in interest which may be a property owner, or Homeowners Association (HOA), or property manager). Developer acknowledges and accepts the obligation to keep maintenance records and provide these records to the City upon request.

**B. Site-Specific SOPs**

The following stormwater facilities contained within this development are subject to SOP requirements:

- Directly Connected Downspouts
- Perforated Subdrain
- Storm Drain Lines
- Dry Extended Detention
- Sedimentation Sump
- Pre-Sedimentation Forebay
- Bioswale
- Bioretention
- Vegetated and/or Cobble Swale
- Underground Detention

The location of said facilities can be found on the Landing at Lemay Utility Plans and Landscape Plans. Required inspection and specific maintenance procedures and frequencies are outlined in the following pages. General maintenance requirements and activities, as well as BMP-specific constraints and considerations shall follow the guidelines outlined in Volume 3 of the Urban Drainage and Flood Control District (UDFCD) Urban Storm Drainage Criteria Manual.

**SOP Maintenance Summary Table**

Stormwater Facility / BMP	Ownership / Responsibility	UDFCD Maintenance Reference
Directly Connected Downspouts	Private	N/A
Perforated Subdrain	Private	N/A

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Storm Drain Lines	Private	Follow guidelines for <i>Storm Sewer System Cleaning (Chapter 5, Source Control BMP Fact Sheet S-12)</i>
Dry Extended Detention	Private	Follow guidelines for <i>Extended Detention Basins (Chapter 6, Section 7.0)</i>
Sedimentation Sump	Private	N/A
Pre-Sedimentation Forebay	Private	Follow guidelines for <i>Pre-Sedimentation Forebay (Chapter 6, Section 9.0)</i>
Bioretention/Bioswale	Private	Follow guidelines for <i>Bioretention (Chapter 6, Section 5.0)</i>
Vegetated and/or Cobble Swale	Private	Follow guidelines for <i>Grass Buffers and Swales (Chapter 6, Section 4.0)</i> . Take note of native vegetation. Also follow recommendations on <i>Landscape Plans and Specifications</i> .
Underground Detention	Private	Follow guidelines for <i>Underground BMPs (Chapter 6, Section 12.0)</i>

**Directly Connected Downspouts**

Many of the downspouts connect directly to the storm drain system. The following SOP generally applies to all direct downspout connections.

This SOP can more specifically apply to those which drain directly to the reservoir areas beneath the Modular Block Pavers. At each of these connections, the downspout discharges to a perforated drain basin. The drain basins discharge directly to the MBP reservoir. The drain basins are designed to prevent debris and sediment from entering the MBP reservoir area. Debris and sediment compromise the functionality and effectiveness of the system.

**Routine Maintenance Table for Directly Connected Downspouts**

Required Action	Maintenance Objective	Frequency of Action
Inspections	Inspect the downspout and basin to ensure the system functions as it was designed. Repair or replace damaged downspouts as needed.	Routine
Sediment, Debris and Litter removal	Remove debris and litter from the basin. Remove sediment from the sump.	Routine – just before annual storm seasons (i.e., April/May); at the end of storm season after leaves have fallen; and following significant rainfall events.

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**Perforated Subdrain**

The perforated subdrain system storm drain outfall at the bottom of the Low Impact Development (LID) system is critical to the overall function of the system subbase. As such, special maintenance has been identified to ensure these perforated drain systems perform as they were designed.

Perforated subdrains leading away from the LID system is designed to provide faster release of water when accumulation occurs under the LID system. Outflow should be seen into downstream storm boxes. If not seen it is recommended that the system is inspected using a video camera to verify no clogging has occurred.

Perforated subdrains leading toward the LID system are designed to provide an opportunity for infiltration. These subdrains may lead to a drywell where additional infiltration capacity is available to reduce runoff per the stated LID goals adopted by the City.

**Routine Maintenance Table**

Required Action	Maintenance Objective	Frequency of Action
Inspection	Use a video camera to inspect the condition of the perforated drain pipes. Cleanout pipes as needed. If the integrity of the pipe is compromised, then repair the damaged section(s).	Every two to five years.
Inspection	Where accessible, expose inlet and/or outlet of perforated pipe and watch for water inflow and/or outflow.	Minimum Annually

**Storm Drain Lines Maintenance Plan**

Storm drain lines are subject to sedimentation as well as tree roots clogging the flow path or altering the pipe slope. Maintenance is important to ensure these storm drain systems perform as they were designed.

**Routine Maintenance Table**

Required Action	Maintenance Objective	Frequency of Action
Inspection	Use a video camera to inspect the condition of the storm drain pipes. Cleanout pipes as needed. If the integrity of the pipe is compromised, then repair the damaged section(s).	Every two to five years.

**Dry Extended Detention Basin**

**Routine Maintenance Table (Summary from Chapter 6 of UDFCD)**

Required Action	Maintenance Objective	Frequency of Action
Lawn mowing and Lawn care	Occasional mowing to limit unwanted vegetation. Maintain irrigated turf grass as 2 to 4 inches tall and non-irrigated native turf grasses at 4 to 6 inches.	Routine – Depending on aesthetic requirements.

Docusign Envelope ID: 46C2FB39-B82C-41D5-90DF-C7A17685353E

Sediment, Debris and Litter removal	Remove sediment, debris and litter from the entire pond to minimize outlet clogging and improve aesthetics.	Routine – Including just before annual storm seasons (that is, April and May), end of storm season after leaves have fallen, and following significant rainfall events.
Major Pond Sediment removal	Remove accumulated sediment from the bottom of the basin.	Non-routine – Performed when sediment accumulation occupies 20 percent of the WQCV. This may vary considerably. Inspections required every 10 years, non-routine maintenance performed at that time if necessary. Typical is 10 – 20 years if no construction activities take place in the tributary watershed.
Inspections	Inspect basins to ensure that the basin continues to function as initially intended. Examine the outlet for clogging, erosion, slumping, excessive sedimentation levels, overgrowth, embankment and spillway integrity, and damage to any structural element.	Routine – Annual inspection of hydraulic and structural facilities. Also check for obvious problems during routine maintenance visits, especially for plugging of outlets.

**Sedimentation Sump Maintenance Plan**

The sedimentation sumps located upstream of drywells or infiltration galleries are intended to reduce the accumulation of sediment and debris in underground systems. These sumps have a capacity provided for accumulated sediment that must be maintained. These sumps are located within manholes or inlets as shown on the utility plans and provided with snouts to reduce the hydrocarbon load dispersed into the undergrounds system that could compromise the functionality.

**Routine Maintenance Table**

Required Action	Maintenance Objective	Frequency of Action
Inspections and Debris Removal	Hydrocarbons and sediment will need to be removed regularly from the inlet. Sediment should be removed prior to the depth of the water reducing below 2' from the top of the sediment buildup to the snout bottom. The layer of hydrocarbons should be removed from the inlet prior to accumulation beyond half of the height of the snout. A vacuum truck should be used to remove all sediment, hydrocarbons and residual water from the inlet. Remaining sediment may be removed manually and disposed of in a legal manner. The sump should then be filled with clean water.	Routine – Inspect at least every other year or as conditions apply.
	The Snout apparatus should be replaced as age deterioration occurs and prior to failure. The seal should be checked regularly to ensure hydrocarbons are not bypassing the device.	

Docusign Envelope ID: 46C2FB39-B82C-41D5-90DF-C7A17685353E

**Pre-Sedimentation Forebay**

**Routine Maintenance Table (Summary from Chapter 6 of UDFCD)**

<b>Required Action</b>	<b>Maintenance Objective</b>	<b>Frequency of Action</b>
Debris and Litter removal	Remove debris and litter as needed. Floating debris can clog the overflow structure	Routine – Including just before annual storm seasons (that is, April and May), end of storm season after leaves have fallen, and following significant rainfall events.
Forebay Sediment removal	Remove accumulated sediment from the bottom of the basin before it becomes a significant source of pollutants for the remainder of the pond. Inspect to ensure that sediment does not result in excessive algae growth or mosquito production.	Non-routine – Performed when sediment accumulation appears to result in excessive algae growth or mosquito production. This may vary considerably, but expect to do this every approximately every 4 years, as necessary per inspection if no construction activities take place in the tributary watershed. More often if they do.
Inspections	Inspect to ensure that the facility continues to function as initially intended. Examine the outlet for clogging, erosion, slumping, excessive sedimentation levels, overgrowth, embankment integrity and damage to any structural element.	Routine – Annual inspection of hydraulic and structural facilities. Also check for obvious problems during routine maintenance visits, especially for plugging of outlets. Note the amount of sediment in the forebay and look for debris at the outlet structure.

**Bioretention**

**Routine Maintenance Table (Summary from Chapter 6 of UDFCD)**

<b>Required Action</b>	<b>Maintenance Objective</b>	<b>Frequency of Action</b>
Lawn mowing and vegetative care	Occasional mowing of grasses and weed removal to limit unwanted vegetation. Maintain irrigated turf grass as 2 to 4 inches tall and non-irrigated native turf grasses at 4 to 6 inches.	Routine – Depending on aesthetic requirements, planting scheme and cover. Weeds should be removed before they flower.
Debris and litter removal and snow stockpiling	Remove debris and litter from bioretention area and upstream concrete forebay to minimize clogging of the sand media. Remove debris and litter from the pond area and outlet orifice plate to minimize clogging. Remove debris and litter from curb channel and sidewalk chase outlets adjacent to pond if applicable to minimize clogging. Avoid stockpiling snow in the bioretention area to minimize clogging from sediment accumulation.	Routine – Including just before annual storm seasons and after snow season (April or May), end of storm season after leaves have fallen, and following significant rainfall events.

**RECEPTION #20240028092, 7/10/2024 1:59:28 PM, 34 of 35, \$183.00 Electronically Recorded  
Tina Harris, Clerk & Recorder, Larimer County, CO**

Item 16.

Docusign Envelope ID: 46C2FB39-B82C-41D5-90DF-C7A17685353E

Inspections	Inspect detention area to determine if the sand media is allowing acceptable infiltration. If standing water persists for more than 24 hours after storm runoff has ceased, clogging should be further investigated and remedied.	Routine – Biannual inspection of the hydraulic performance.
Growing media replacement	Restore infiltration capacity of bioretention facilities.	Non-routine – Performed when clogging is due to the migration of sediments deep into the pore spaces of the media. The frequency of replacement will depend on site-specific pollutant loading characteristics.

**Grass Buffers and Swales**

**Routine Maintenance Table (Summary from Section 4.0, Chapter 6 of UDFCD)**

Required Action	Maintenance Objective	Frequency of Action
Lawn mowing and Lawn care	Maintain irrigated grass at 2 to 4 inches tall and non-irrigated native grass at 6 to 8 inches tall. Collect cuttings and dispose of them offsite or use a mulching mower.	Routine – As needed.
Aeration	Reduces soil compaction and helps water move into the root zone.	Routine – at least once per year when ground is not frozen. Heavy traffic areas may require more frequent aeration.
Fertilizer, Herbicide and Pesticide Application	Use minimum amount of biodegradable nontoxic fertilizers and herbicides needed to establish and maintain dense vegetation cover that is reasonably free of weeds.	Frequency of application should be on an as-needed basis only and should reduce following the establishment of vegetation.
Debris and Litter removal	Remove litter and debris to prevent rill and gully development. Keep the swale area clean for aesthetic reasons, which also reduces the potential for floatables being flushed downstream.	Routine – As needed by inspection, but no less than two times per year.
Sediment removal	Remove accumulated sediment near the buffer interface with impervious area. Replace the grass areas damaged in the process.	Routine – As needed by inspection. Estimate the need to remove sediment from 3 to 10 percent of total length of interface per year, as determined by annual inspection. Expect turf replacement for the interface ever 10-20 years.
Inspections	Check the grass for uniformity of cover, sediment accumulation in the swale, and near culverts.	Routine – Inspect vegetation at least twice annually.

Docusign Envelope ID: 46C2FB39-B82C-41D5-90DF-C7A17685353E

**Underground Detention - StormTech Subsurface Stormwater Management Chambers**

Subsurface stormwater management chambers are located under the parking lot by Detention Pond 1 as shown in the Final Development Plan documents. The primary purpose of this system is to provide detention quantity storage. However, the chambers and associated Isolator Row provide additional water quality and low-impact development benefits as well.

An important component of any stormwater BMP is proper inspection and maintenance. The StormTech Isolator Row is a patented technique to improve Total Suspended Solids (TSS) removal and provide easy access for inspection and maintenance.

**Routine Maintenance Table for Subsurface Stormwater Management Chambers**

<b>Required Action</b>	<b>Maintenance Objective</b>	<b>Frequency of Action</b>
Inspection of Isolator Row	Inspect the Isolator Row for sediment. Using a flashlight and stadia rod, measure depth of sediment and record on maintenance log. If sediment is at, or above, a 1.5" depth Isolator Row must be cleaned. Reference StormTech Operations & Maintenance Guidelines for further information.	Inspect immediately following construction and every 6 months thereafter during the first year of operation. Adjust the inspection interval based on previous observations of sediment accumulation and high water elevations.
Cleaning of Isolator Row	Use a JetVac process with a fixed culvert cleaning nozzle and a rear facing spread of 45" or more. Apply multiple passes of JetVac until backflush water is clean. Vacuum structure sump as required. Reference StormTech Operations & Maintenance Guidelines for further information.	If sediment is at, or above, a 1.5" depth Isolator Row must be cleaned.
Inspection of Upstream and Downstream Structures	Inspect and clean all basins, manholes, and associated structures upstream and immediately downstream of the system.	Follow same schedule as Isolator Row inspections, or more frequently, if desired.

# VICINITY MAP

Item 16.





**File Attachments for Item:**

**17. First Reading of Ordinance No. 117, 2024, Amending Chapters 12 and 19 of the Code of the City of Fort Collins Regarding the Requirements for the Building Energy and Water Scoring Program.**

The purpose of this item is to amend City Code Chapters 12 and 19 relating to the Building Energy and Water Scoring (BEWS) program. This amendment would modify service requirements for municipal court citations issued under City Code Section 12-207. This item does not add any new requirements for building owners.

August 20, 2024

# AGENDA ITEM SUMMARY

City Council




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## STAFF

Katherine Bailey, Energy Services Program Manager  
 Brian Tholl, Energy Services Manager

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## SUBJECT

**First Reading of Ordinance No. 117, 2024, Amending Chapters 12 and 19 of the Code of the City of Fort Collins Regarding the Requirements for the Building Energy and Water Scoring Program.**

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## EXECUTIVE SUMMARY

The purpose of this item is to amend City Code Chapters 12 and 19 relating to the Building Energy and Water Scoring (BEWS) program. This amendment would modify service requirements for municipal court citations issued under City Code Section 12-207. This item does not add any new requirements for building owners.

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## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

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## BACKGROUND / DISCUSSION

### BEWS Overview

Adopted December 4, 2018, the BEWS reporting program increases transparency and access to energy efficiency data for commercial and multi-family buildings 5,000 square feet and larger. The program enhances consumer (tenant) choice and access to information in the real estate market, providing insight about energy use to aid in sales and lease decisions. BEWS also aligns with Fort Collins Utilities (Utilities) incentives to provide additional benefits to covered building owners, who have access to program benchmarking information to guide their decisions relating to efficiency upgrades and energy conservation investments.

Building owners must comply with annual BEWS reporting requirements. In 2023, 96% of covered building owners complied with annual program requirements. As of July 2024, 94.7% of building owners have already complied for the current year. The City of Fort Collins issues municipal court citations to non-compliant building owners beginning August 1, 60 days after the annual June 1 reporting deadline, pursuant to Section 12-207 of the City Code.

Building owners receive multiple annual notifications through the following mechanisms and schedule before citations issue. Additional communications occur throughout the year as needed to address specific circumstances and questions.

Topic	Mechanism	Date
Notice of open data set for year	Email	March 1
Reporting reminder	Email and physical mail	April 1
Reporting reminders	Email, physical mail if no email available	May 1, May 15
Reporting reminder	Email	May 23
Reporting reminders	Phone call	Mid-May, mid-June
Notices of non-compliance	Email and physical mail	June 5, July 5
Citation	Physical certified mail	Aug. 5
Scorecard	Email	October 15

### Proposed Code Change

City Code Section 12-207 directs that BEWS citations are served through the municipal court process in City Code Section 19-65(4). That Section requires officers to attempt to serve citations on a responsible party (building owner or agent) at the site of the violation (building address) or to post citations at that location. Based on feedback from property owners, however this requirement proves impractical for multi-tenant buildings and properties that are not managed by on-site personnel.

All program communications prior to citations are conducted by email or surface mail to the property owner's address in their Utilities service account or Larimer County property records. To ensure effective service of citations and timely ability for building owners to bring properties into compliance and appear on municipal court dates, staff is proposing to update City Code to allow BEWS citations to be effective when served on the responsible party by certified mail at their last known physical address, as stated in the records of the City, Larimer County, or State. A copy may also be posted in a conspicuous place on the property.

This change is proposed acknowledging that building owners are typically not accessible at their building's physical location. Building owners may not reside in Colorado or near the physical location and are more reliably reached by mail. BEWS citations delivered to the site of the violation per Section 19-65(4) may not fully meet due process requirements in instances when citations are received by businesses and tenants, who are not responsible for complying with BEWS requirements. Delivering citations directly to owners, rather than hand-serving or posting them at the property, avoids disruption to ongoing business onsite and tenant confusion, and aligns with building owners' due process interests.

### CITY FINANCIAL IMPACTS

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Though there would be no direct impact on City finances from this proposed code change, there would be associated costs for staff time should a physical posting be required. In 2023, more than 180 building owners received citations, which would translate into several days of staff time and additional fuel costs to deliver citations by hand. In 2024, there will be fewer citations issued, but the numbers of citations in future years are hard to anticipate. Additional staff time would also likely be necessary to address concerns and questions raised by businesses and tenants upon receipt of citations.

### BOARD / COMMISSION / COMMITTEE RECOMMENDATION

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None.

### PUBLIC OUTREACH

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None.

### ATTACHMENTS

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1. Ordinance for Consideration

ORDINANCE NO. 117, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING CHAPTERS 12 AND 19 OF THE CODE OF THE CITY  
OF FORT COLLINS REGARDING THE REQUIREMENTS FOR  
THE BUILDING ENERGY AND WATER SCORING PROGRAM

A. On March 3, 2015, City Council adopted Resolution 2015-030, recognizing the 2015 Climate Action Plan Framework (“2015 CAP Framework”), which contains a high level analysis of the strategies necessary to reduce Fort Collins’s community-wide greenhouse gas emissions and established goals to reduce emissions to 80% below 2005 levels by 2030 and to be carbon neutral by 2050.

B. On April 19, 2016, City Council adopted Ordinance No. 046, 2016, to recognize the electric utility benefits of community building energy scoring by authorizing funding from the Electric Utility Fund to establish a Building Energy Disclosure and Scoring effort to manage or reduce peak demand and overall electric service loads.

C. On December 4, 2018, City Council adopted Ordinance No. 144, 2018, creating the Fort Collins Building Energy and Water Scoring (BEWS) program in Chapter 12 of the City Code, to increase transparency and access to performance information for commercial and multi-family buildings 5,000 square feet and larger, and to enhance efficiency with community programs and partner organizations.

D. Community building energy and water scoring has served as an integral component in identifying strategies to meet the City’s Energy Policy, Water Efficiency Plan, and renewable electricity goals, and the absence of this tracking metric will reduce the efficiency of measures intended to meet these community goals.

E. The State of Colorado (C.R.S. § 25-7-142), the City and more than twenty leading peer U.S. cities, including Denver, Kanas City, St. Louis, Seattle, and Austin, have adopted BEWS reporting and transparency requirements, demonstrating the acceptability and feasibility of such requirements among local governments.

F. BEWS data provides transparent building performance information and enhances coordination with efficiency programs and partner organizations across public, nonprofit, and private sectors, improving the City’s ability to attract prospective tenants and investors seeking to live and work in an energy-conscious community.

G. As of August 6, 2024, 94.7% of building owners required to file BEWS reports have already complied for the current year; the remainder will be subject to citation into municipal court for noncompliance.

H. City Code requires officers serve BEWS noncompliance citations on a building owner at the building address or to post citations at that location, which proves

impractical for providing effective notice of municipal court proceedings involving multi-tenant buildings and other covered buildings not managed by on-site personnel.

I. Based on input from commercial building owners, operators, and real estate professionals gained during BEWS program implementation, Utilities, Sustainability Services, and Environmental Services staff have identified procedural updates in City Code to improve the practices by which municipal court citations for noncompliance with BEWS requirements are served.

J. Staff recommends that City Council adopt the proposed BEWS program service enhancements that would be applicable to all BEWS noncompliance citations issued with municipal court appearance dates on or after October 1, 2024, as administered by Sustainability Services staff in collaboration with Utilities Customer Connections and Environmental Services resources.

K. The City Council finds and determines that the adoption of this Ordinance is necessary for the public's health, safety and welfare because the proposed changes are in furtherance of community climate, energy, and water efficiency efforts and, therefore, wishes to authorize the amended administration of the Building Energy and Water Scoring program requirements described in this Ordinance.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. Section 12-207 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 12-207. Violations and penalties.**

Any person who violates §12-203 or §12-204 without an applicable exception or variance commits a civil infraction and is subject to the penalty provisions of §1-15(f) of the Code. Notwithstanding the citation service requirements otherwise set forth in § 19-65 of the Code, citations for violations of this section will be deemed properly served when delivered to the covered building owner or other responsible party by first-class mail at the last known address of said party, as reflected in the records of the City, County, or State. A copy of the citation may also be posted in a conspicuous place on the covered building.

Failure to comply with §12-203 or §12-204 in any calendar year shall constitute a single violation in that calendar year.

Section 2. Section 19-65(a)(4) of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 19-65. Commencement of action; citation procedure.**

(a) Officers shall have the authority to initiate enforcement proceedings as provided below.

...

(4) Except for service of citations issued according to §12-207 of this Code, ¶the officer shall attempt to serve the citation to a responsible party at the site of the violation ...

...

Introduced, considered favorably on first reading on August 20, 2024, and approved on second reading for final passage on September 3, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: September 13, 2024

Approving Attorney: Cyril Vidergar

**File Attachments for Item:**

**18. Items Relating to the Laporte Avenue Multimodal Improvement Project.**

A. Resolution 2024-097 Authorizing the Execution of an Amendment to An Existing Intergovernmental Agreement between the City of Fort Collins, Colorado, and the Colorado Department of Transportation for the Laporte Avenue Multimodal Improvement Project.

B. First Reading of Ordinance No. 118, 2024, Making Supplemental Appropriations from Grant Revenue and Prior Year Reserves and Authorizing Transfers of Appropriations for the Laporte Avenue Multimodal Improvement Project and Related Art in Public Places.

The purpose of this item is to reappropriate funding from the Laporte Bridges project (“Bridges”) to the Laporte Avenue Multimodal Improvements Project (the “Project”), receive and appropriate Colorado Department of Transportation (“CDOT”) funds, and provide supplemental appropriations to the Project. The CDOT funds will be used for the construction of a Rectangular Rapid Flashing Beacon (“RRFB”) signal at Laporte Avenue and Impala Drive. If approved this item will: 1) authorize the Mayor to execute an amendment to the Intergovernmental Agreement (the “IGA”) for the Project with CDOT; 2) appropriate \$49,500 of Highway Safety Improvement Program (“HSIP”) grant funds to the Project; 3) appropriate \$330,500 from Transportation Capital Expansion Fee (“TCEF”) reserves to the Project; 4) appropriate \$175,000 from Transportation Services Fund reserves to the Project; 5) reappropriate \$517,000 from Bridges to the Project; 6) appropriate \$4,044 (0.8% of TCEF and Transportation Services Project contribution) from TCEF reserves to the Art in Public Places (“APP”) program; 5) appropriate \$1,011 (0.2% of TCEF and Transportation Services Project contribution) for maintenance of art from the Transportation Services Fund Reserves to the APP program.

August 20, 2024

# AGENDA ITEM SUMMARY

City Council




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## STAFF

Gunnar Hale, Project Manager  
Dana Hornkohl, Capital Projects Manager

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## SUBJECT

**Items Relating to the Laporte Avenue Multimodal Improvement Project.**

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## EXECUTIVE SUMMARY

A. Resolution 2024-097 Authorizing the Execution of an Amendment to An Existing Intergovernmental Agreement between the City of Fort Collins, Colorado, and the Colorado Department of Transportation for the Laporte Avenue Multimodal Improvement Project.

B. First Reading of Ordinance No. 118, 2024, Making Supplemental Appropriations from Grant Revenue and Prior Year Reserves and Authorizing Transfers of Appropriations for the Laporte Avenue Multimodal Improvement Project and Related Art in Public Places.

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## STAFF RECOMMENDATION

Staff recommends adoption of the Resolution and Ordinance on First Reading.

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## BACKGROUND / DISCUSSION

The Laporte Avenue projects are developed in three phases: 1) the Bridges and roadway work between Taft Hill Road and Frey Avenue (Bridges), 2) installation of pedestrian and bicycle side paths between Frey Avenue and Fishback Avenue (East Project), and 3) installation of pedestrian and bicycle side paths between Sunset Street and Taft Hill Road (West Project). The initial Bridges phase of this work was



completed in 2023 and replaced two aging bridges in the corridor. The East Project began earlier this year and is scheduled to be completed later in August. The West Project is scheduled to begin in October once property acquisition is complete.

The project delivery method for the East and West Projects is Construction Manager/General Contractor (CM/GC). The chosen contractor held their proposed pricing for the East Project despite a delay in beginning construction due to property acquisition and CDOT approval. The contractor has demonstrated by providing open book pricing and confirmed by an independent cost estimate that price escalation has impacted many of the materials and costs for the West Project. Construction cost inflation is confirmed by the CDOT Colorado Construction Cost Index (CCI) report showing an annual percentage increase in construction costs of 8.03% (Attachment 5). In addition, the cost to acquire real property for the West Project has been significantly higher than was estimated. Increased acquisition costs result from 1) significant escalation in property values during the process, 2) increased use of settlements to minimize delays in some acquisitions, and 3) increased consulting needs (land appraisal and real estate services) resulting from updated CDOT right-of-way processes. Construction was broken into East and West Projects to accommodate the property acquisition schedule introducing some additional design cost.

During this design effort, the City applied for and was awarded Fiscal Year 2027 HSIP grant funds to install an RRFB for additional pedestrian and bicycle safety within the West Project limits at Impala Drive. CDOT has agreed to provide the funding early so that the RRFB may be included in the construction and has proposed an amendment to the CDOT IGA to increase the total funds from \$1,059,084 by \$509,617 to a new total funds amount of \$1,568,701 and to update the funding provisions exhibit of the IGA. Savings from the Bridges (\$517,000) can be reappropriated to the West Project. Including the local match for the HSIP award, it is estimated that an additional \$560,055 (including \$49,500 in CDOT HSIP funds) is needed to complete construction on the West Project.

**CITY FINANCIAL IMPACTS**

The following is a summary of the funding anticipated for design, right-of-way acquisition, and construction for the Laporte Avenue Multimodal Improvement Project.

<b>Prior Appropriated Funds</b>	
Transportation Alternatives Program (TAP) Grant Funds	\$ 3,250,000
Multimodal Transportation and Mitigation Options Funds (MMOF) Grant	\$ 250,000
Revitalizing Mainstreets (RMS) Grant Funds	\$ 1,437,500
Transportation Capital Expansion Fee (TCEF) Funds	\$ 613,830
Transportation Services Fund Reserves	\$ 1,665
Community Capital Improvement Program (CCIP) Bicycle Program	\$ 122,727
Community Capital Improvement Program (CCIP) Pedestrian Program	\$ 402,273
General Fund Reserves	\$ 225,000
<b>Total Prior Appropriation</b>	<b>\$ 6,302,995</b>

<b>Funds to be Appropriated per this Action</b>	
Highway Safety Improvement Program (HSIP) Grant Funds	\$ 49,500
Transportation Capital Expansion Fee (TOEF) Funds	\$ 335,454
Transportation Services Fund Reserves	\$ 175,101
Reappropriation from Bridges Project to Multimodal Improvements Project	\$ 517,000
<b>Total Funds to be Appropriated per this Action</b>	<b>\$ 1,077,055</b>
<b>Transfer to Art in Public Places</b>	<b>\$ 5,055</b>
<b>Total Project Funds</b>	<b>\$ 7,380,050</b>

The total fund amount projected for this Project is \$7,380,050 composed of funds appropriated with prior actions and with this action.

### **BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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The proposed appropriation was brought before the Council Finance Committee at their August 1, 2024, meeting. The committee supported an off-cycle supplemental appropriation and was in favor of forwarding the appropriation request to City Council. At the time, this item was prepared, meeting minutes had not been drafted or approved. Prior to the August 1, 2024, meeting, the Council Finance Committee reviewed the Project on August 11, 2021, and February 23, 2024.

The Project has received full environmental and historical clearances through CDOT during the design, acquisition, and construction phases. The Project was also presented to the Transportation Board as well as the Bicycle Advisory Committee in 2020, both of which support the Project.

### **PUBLIC OUTREACH**

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Staff has developed and continues to implement a comprehensive Public Engagement Plan for the Project.

As part of the design and acquisition process, staff have discussed the Project with the adjacent property owners and current business owners immediately abutting the Project improvements. In addition, staff and an outside acquisition consultant have met or conversed individually with property owners on multiple occasions regarding design and construction details.

Staff has discussed and presented conceptual level drawings at several public outreach events with an open house in October of 2019, two public meetings held on May 1, 2023, and May 23, 2023, and the Transportation Projects Fairs in February 2023 and February 2024. A project website is regularly updated with Project information and upcoming milestones.

City staff continues to engage with local businesses and property owners impacted by ongoing work and traffic patterns that are affected by construction traffic control needs and requirements.

### **ATTACHMENTS**

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1. Resolution for Consideration
2. Exhibit A to Resolution
3. Ordinance for Consideration
4. Laporte Corridor Vicinity Map
5. Construction Cost Inflation

RESOLUTION 2024-097  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING THE EXECUTION OF AN AMENDMENT TO AN  
EXISTING INTERGOVERNMENTAL AGREEMENT BETWEEN  
THE CITY OF FORT COLLINS, COLORADO, AND THE  
COLORADO DEPARTMENT OF TRANSPORTATION FOR THE  
LAPORTE AVENUE MULTIMODAL IMPROVEMENT PROJECT

A. Laporte Avenue between Fishback Avenue and Sunset Street is a two-lane arterial roadway. The road experiences heavy bicycle and pedestrian traffic especially with Poudre High School and many residential neighborhoods and businesses located in this corridor.

B. The corridor has several gaps in multimodal transportation infrastructure. Many locations lack sidewalks, curbs, and gutters, and the bike lanes are often narrow and not well defined.

C. The Laporte Avenue projects are developed in three phases: 1) the Bridges and roadway work between Taft Hill Road and Frey Avenue (“Bridges”), 2) installation of pedestrian and bicycle side paths between Frey Avenue and Fishback Avenue (“East Project”), and 3) installation of pedestrian and bicycle side paths between Sunset Street and Taft Hill Road (“West Project”). Collectively the East Project and West Project comprise the Laporte Avenue Multimodal Improvement Project (the “Project”).

D. The initial Bridges phase of this work was completed in 2023 and replaced two aging bridges in the corridor. The East Project began earlier in 2024 and is scheduled to be completed later in August. The West Project is scheduled to begin in October once property acquisition is complete. Construction was broken into East and West Projects to accommodate the property acquisition schedule introducing some additional design cost.

E. The project delivery method for the East and West Projects is Construction Manager/General Contractor (“CM/GC”). The chosen contractor held their proposed pricing for the East Project despite a delay in beginning construction due to property acquisition and the Colorado Department of Transportation (“CDOT”) approval. The CM/GC has demonstrated by providing open book pricing and confirmed by an independent cost estimate that price escalation has impacted many of the materials and costs for the West Project. Construction cost inflation is confirmed by the CDOT Colorado Construction Cost Index report showing an annual percentage increase in construction costs of 8.03%.

F. Additionally, the cost to acquire real property for the West Project has been significantly higher than was estimated. Increased acquisition costs result from 1) significant escalation in property values during the process, 2) increased use of settlements to minimize delays in some acquisitions, and 3) increased consulting needs (land appraisal and real estate services) resulting from updated CDOT right-of-way processes.

G. During this design effort, the City applied for and was awarded Fiscal Year 2027 Colorado Department of Transportation Highway Safety Improvement Program (“HSIP”) grant funds to install a Rectangular Rapid Flashing Beacon (“RRFB”) for additional pedestrian and bicycle safety within the West Project limits at Impala Drive.

H. CDOT has agreed to provide the funding early so that the RRFB may be included in the construction and has proposed an amendment to the existing CDOT Intergovernmental Agreement (the “IGA”) to increase the total funds from \$1,059,084 by \$509,617 to a new total funds amount of \$1,568,701 and to update the funding provisions exhibit of the IGA.

I. Savings from the Bridges (\$517,000) can be reappropriated to the West Project. Including the local match for the HSIP award (\$335,454), it is estimated that an additional \$560,055 (including \$49,500 in CDOT HSIP funds) is needed to complete construction on the West Project.

J. Resolution 2024-025 authorized execution of an amendment to the IGA with CDOT, which administers the grant funds for the Project, and this Resolution seeks to authorize a further amendment of that IGA to enable the City to receive and expend the additional grant funds to continue the Project.

K. Colorado Revised Statutes Section 29-1-203 provides that governments may cooperate or contract with one another to provide certain services or facilities when the cooperation or contracts are authorized by each party thereto with the approval of its legislative body or other authority having the power to so approve.

L. Article II, Section 16 of the City Charter empowers the City Council, by ordinance or resolution, to enter into contracts with governmental bodies to furnish governmental services and make charges for such services, or enter into cooperative or joint activities with other governmental bodies.

M. City Code Section 1-22 requires the City Council to approve IGAs that require the City to make a direct, monetary payment over \$50,000, and the proposed amendment amends an IGA that requires the City to provide total matching funds in the amount of \$1,420,500.

N. The City Council has determined that this amendment to the IGA with CDOT is in the best interests of the City and that the Mayor be authorized to execute the amendment to the IGA between the City and CDOT in support thereof.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The City Council authorizes the Mayor to execute, on behalf of the City, upon the effective date of Ordinance No. 118, 2024, an amendment to the intergovernmental agreement with the Colorado Department of Transportation relating to the Laport Avenue Multimodal Improvement Project, in substantially the form attached hereto as Exhibit A, with such additional or modified terms and conditions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City or effectuate the purposes of this Resolution.

Section 2. The City Council authorizes the City Manager to approve and execute future amendments to the intergovernmental agreement with the Colorado Department of Transportation relating to the Laport Avenue Multimodal Improvement Project that the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to facilitate completion of the Laport Avenue Multimodal Improvement Project, so long as such amendments do not increase the cost of the Project, substantially modify the purposes of the intergovernmental agreement, increase the allocation or amount of funding for the Project funded by the City, or otherwise increase the obligations and responsibilities of the City as set forth in this amendment to the intergovernmental agreement.

Passed and adopted on August 20, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: August 20, 2024  
Approving Attorney: Heather N. Jarvis



In accordance with §24-30-202 C.R.S., this Amendment is not valid until signed and dated below by the State Controller or an authorized delegate.

**STATE CONTROLLER**  
**Robert Jaros, CPA, MBA, JD**

By: \_\_\_\_\_  
Department of Transportation

Amendment Effective Date: \_\_\_\_\_

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**1) PARTIES**

This Amendment (the “Amendment”) to the Original Agreement shown on the Signature and Cover Pages for this Amendment (the “Agreement”) is entered into by and between the Local Agency and the State.

**2) TERMINOLOGY**

Except as specifically modified by this Amendment, all terms used in this Amendment that are defined in the Agreement shall be construed and interpreted in accordance with the Agreement.

**3) EFFECTIVE DATE AND ENFORCEABILITY****A. Amendment Effective Date**

This Amendment shall not be valid or enforceable until the Amendment Effective Date shown on the Signature and Cover Pages for this Amendment. The State shall not be bound by any provision of this Amendment before that Amendment Effective Date, and shall have no obligation to pay the Local Agency for any Work performed or expense incurred under this Amendment either before or after the Amendment term shown in **§3.B** of this Amendment

**B. Amendment Term**

The Parties’ respective performances under this Amendment and the changes to the Agreement contained herein shall commence on the Amendment Effective Date shown on the Signature and Cover Page for this Amendment and shall terminate on the termination of the Agreement.

**4) PURPOSE**

The Parties entered into the Agreement for the Laporte Avenue Improvements: Fishback to Sunset project in Fort Collins, CO. The Parties now desire to update the Funding Provisions.

**5) MODIFICATIONS**

The Agreement and all prior amendments thereto, if any, are modified as follows:

a) The total budgeted funds are increased from \$6,352,500.00 by \$55,000.00 to a new total budgeted funds of \$6,407,500.00.

b) **Exhibit C-4** shall be replaced by **Exhibit C-5**. Any reference in the Original Agreement to **Exhibit C, Exhibit C-1, Exhibit C-2, Exhibit C-3, or Exhibit C-4** shall be a reference to **Exhibit C-5**.

c) **Exhibit D-1** shall be replaced by **Exhibit D-2**. Any reference in the Original Agreement to **Exhibit D or Exhibit D-1** shall be a reference to **Exhibit D-2**.

**6) LIMITS OF EFFECT**

This Amendment is incorporated by reference into the Agreement, and the Agreement and all prior amendments or other modifications to the Agreement, if any, remain in full force and effect except as specifically modified in this Amendment. Except for the Special Provisions contained in the Agreement, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Agreement or any prior modification to the Agreement, the provisions of this Amendment shall in all respects supersede, govern, and control. The provisions of this Amendment shall only supersede, govern, and control over the Special Provisions contained in the Agreement to the extent that this Amendment specifically modifies those Special Provisions.

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EXHIBIT A TO RESOLUTION 2024-097  
**EXHIBIT C-5 - FUNDING PROVISIONS**

Item 18.

**City of Fort Collins TAP M455-133 (23630, 25890, 25891, 25892)**

**A. Cost of Work Estimate**

The Local Agency has estimated the total cost the Work to be \$6,407,500.00, which is to be funded as follows:

**1. FUNDING**

a. Federal Funds TAP (80.00% of TAP Award)	\$3,250,000.00
b. Local Agency Funds (20.00% of TAP Award)	\$812,500.00
c. Federal Funds HSIP (90.00% of HSIP Award)	\$49,500.00
h. Local Agency Funds (10.00% of HSIP Award)	\$5,500.00
d. Federal Funds ARPA US Treasury Expenditure Category EC6 (80.31% of RMS Award)	\$1,437,500.00
e. Local Agency Funds (19.69% of RMS Award)	\$352,500.00
f. State Funds MMOF (50.00% of MMOF Award)	\$250,000.00
g. Local Agency Funds (50.00% of MMOF Award)	\$250,000.00

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<b>TOTAL FUNDS ALL SOURCES</b>	<b>\$6,407,500.00</b>
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**2. OMB UNIFORM GUIDANCE**

a. Federal Award Identification Number (FAIN):	TBD
b. Name of Federal Awarding Agency:	FHWA, USDT
c. Local Agency Unique Entity Identifier	VEJ3BS5GK5G1
d. Assistance Listing # Highway Planning and Construction	ALN 20.205
e. Assistance Listing # Coronavirus State and Local Fiscal Recovery Funds	ALN 21.027
f. Is the Award for R&D?	No
g. Indirect Cost Rate (if applicable)	N/A
h. Amount of Federal Funds Obligated by this Action:	\$0.00
i. Amount of Federal Funds Obligated to Date (including this Action):	\$2,187,500.00

**3. ESTIMATED PAYMENT TO LOCAL AGENCY**

a. Federal Funds Budgeted	\$3,299,500.00
b. ARPA Funds Budgeted	\$1,437,500.00
c. State Funds Budgeted	\$250,000.00
d. Less Estimated Federal Share of CDOT-Incurred Costs	\$0.00

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<b>TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY</b>	<b>77.73%</b>	<b>\$4,987,000.00</b>
<b>TOTAL ESTIMATED FUNDING BY LOCAL AGENCY</b>	<b>22.27%</b>	<b>\$1,420,500.00</b>
 <b>TOTAL PROJECT ESTIMATED FUNDING</b>	 <b>100.00%</b>	 <b>\$6,407,500.00</b>

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**4. FOR CDOT ENCUMBRANCE PURPOSES**

<b>TAP</b>		
a. Total Encumbrance Amount (Federal funds + Local Agency funds)		\$4,062,500.00
b. Less ROW Acquisition 3111 and/or ROW Relocation 3109		\$0.00

EXHIBIT A TO RESOLUTION 2024-097

Item 18.

**HSIP**

a.	Total Encumbrance Amount (Only State funds are encumbered)	\$55,000.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109	\$0.00

**RMS (ARPA)**

a.	Total Encumbrance Amount (Only ARPA funds are encumbered)	\$1,437,500.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109	\$0.00

**MMOF**

a.	Total Encumbrance Amount (Only State funds are encumbered)	\$250,000.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109	\$0.00

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**NET TO BE ENCUMBERED BY CDOT IS AS FOLLOWS** **\$5,805,000.00**

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Note: Only \$2,586,250.00 is currently available. Additional Design and Construction funds will become available after execution of an Option letter (Exhibit B) or formal Amendment.

**TAP**

WBS Element 23630.10.30	Performance Period Start*/End Date 08/31/2022 – 12/31/2024	Design 3020	\$1.00
WBS Element 25890.20.10	Performance Period Start*/End Date 10/12/2023 – 12/31/2024	Const. 3301	\$937,500.00
WBS Element 25891.20.10	Performance Period Start*/End Date TBD-TBD	Const. 3301	\$0.00
WBS Element 25892.20.10	Performance Period Start*/End Date TBD-TBD	Const. 3301	\$0.00

**HSIP**

WBS Element 25890.20.10	Performance Period Start*/End Date TBD - TBD	Const. 3301	\$0.00
WBS Element 25891.20.10	Performance Period Start*/End Date TBD – TBD	Const. 3301	\$0.00
WBS Element 25892.20.10	Performance Period Start*/End Date TBD - TBD	Const. 3301	\$0.00

**RMS**

WBS Element 23630.10.30	Performance Period Start**/End Date 06/29/2022 – 12/31/2026	Design 3020	\$1,437,499.00
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**MMOF**

WBS Element 25890.10.30	Performance Period Start**/End Date N/A- N/A	Const. 3301	\$211,250.00
WBS Element 25891.20.10	Performance Period Start**/End Date N/A- N/A	Const. 3301	\$0.00
WBS Element 25892.20.10	Performance Period Start**/End Date N/A- N/A	Const. 3301	\$0.00

\* For TAP and HSIP funds, the Local Agency should not begin work until all three (3) of the following are in place: 1) Phase Performance Period Start Date; 2) the execution of the document encumbering funds for the respective phase; and 3) Local Agency receipt of the official Notice to Proceed. Any work performed before these three (3) milestones are achieved will not be reimbursable.

\*\* For RMS and MMOF funds, the Local Agency should not begin work until both of the following are in place: 1) the execution of the document encumbering funds for the respective phase; and 2) Local Agency receipt of the official Notice to Proceed. Any work performed before these two (2) milestones are achieved will not be reimbursable.

**B. Matching Funds**

The funding ratio for the federal & State funds for this Work is 77.73% federal & State funds to 22.27% Local Agency funds, and this ratio applies only to the \$6,407,500.00 that is eligible for federal & State funding. All other costs are borne by the Local Agency at 100%. If the total cost of performance of the Work exceeds \$6,407,500.00, and additional federal & State funds are not available, the Local Agency shall pay all such excess costs. If the total cost of performance of the Work is less than \$6,407,500.00, then the amounts of Local Agency and federal & State funds will be decreased in accordance with the funding ratio described in **A1. This applies to the entire scope of Work.**

**C. Maximum Amount Payable**

The maximum amount payable to the Local Agency under this Agreement shall be \$4,987,000.00. For CDOT accounting purposes, the federal funds of \$3,299,500.00, federal ARPA funds of \$1,437,500.00, State MMOF funds of \$250,000.00 and Local Agency funds of \$818,000.00 will be encumbered, but the Local Agency funds of \$602,500.00 will NOT be encumbered for a total encumbrance of \$5,805,000.00. The total budget of this project is \$6,407,500.00, unless this amount is increased by an executed amendment before any increased cost is incurred. The total cost of the Work is the best estimate available, based on the design data as approved at the time of execution of this Agreement, and that any cost is subject to revisions agreed to by the parties prior to bid and award. The maximum amount payable will be reduced without amendment when the actual amount of the Local Agency's awarded Agreement is less than the budgeted total of the federal funds and the Local Agency funds. The maximum amount payable will be reduced through the execution of an Option Letter as described in Section 7. E. of this contract. **This applies to the entire scope of Work. ARPA Funds can only originate from and after May 18, 2021.**

**D. Single Audit Act Amendment**

All state and local government and non-profit organizations receiving \$750,000 or more from all funding sources defined as federal financial assistance for Single Audit Act Amendment purposes shall comply with the audit requirements of 2 CFR part 200, subpart F (Audit Requirements) see also, 49 CFR 18.20 through 18.26. The Single Audit Act Amendment requirements applicable to the Local Agency receiving federal funds are as follows:

**i. Expenditure less than \$750,000**

If the Local Agency expends less than \$750,000 in Federal funds (all federal sources, not just Highway funds) in its fiscal year then this requirement does not apply.

**ii. Expenditure of \$750,000 or more-Highway Funds Only**

If the Local Agency expends \$750,000 or more, in Federal funds, but only received federal Highway funds (Catalog of Federal Domestic Assistance, CFDA 20.205) then a program specific audit shall be performed. This audit will examine the "financial" procedures and processes for this program area.

**iii. Expenditure of \$750,000 or more-Multiple Funding Sources**

If the Local Agency expends \$750,000 or more in Federal funds, and the Federal funds are from multiple sources (FTA, HUD, NPS, etc.) then the Single Audit Act applies, which is an audit on the entire organization/entity.

**iv. Independent CPA**

Single Audit shall only be conducted by an independent CPA, not by an auditor on staff. An audit is an allowable direct or indirect cost.

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**EXHIBIT D-2**

**LOCAL AGENCY RESOLUTION**

[This page will be replaced with Local Agency Resolution prior to routing for signatures.]

ORDINANCE NO. 118, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
MAKING SUPPLEMENTAL APPROPRIATIONS FROM GRANT  
REVENUE AND PRIOR YEAR RESERVES AND AUTHORIZING  
TRANSFERS OF APPROPRIATIONS FOR THE LAPORTE  
AVENUE MULTIMODAL IMPROVEMENT PROJECT AND  
RELATED ART IN PUBLIC PLACES

A. Laporte Avenue between Fishback Avenue and Sunset Street is a two-lane arterial roadway. The road experiences heavy bicycle and pedestrian traffic especially with Poudre High School and many residential neighborhoods and businesses located in this corridor.

B. The corridor has several gaps in multimodal transportation infrastructure. Many locations lack sidewalks, curbs, and gutters, and the bike lanes are often narrow and not well defined.

C. The Laporte Avenue projects are developed in three phases: 1) the Bridges and roadway work between Taft Hill Road and Frey Avenue (“Bridges”), 2) installation of pedestrian and bicycle side paths between Frey Avenue and Fishback Avenue (“East Project”), and 3) installation of pedestrian and bicycle side paths between Sunset Street and Taft Hill Road (“West Project”). Collectively the East Project and West Project comprise the Laporte Avenue Multimodal Improvement Project (the “Project”).

D. The initial Bridges phase of this work was completed in 2023 and replaced two aging bridges in the corridor. The East Project began earlier in 2024 and is scheduled to be completed later in August. The West Project is scheduled to begin in October once property acquisition is complete. Construction was broken into East and West Projects to accommodate the property acquisition schedule introducing some additional design cost.

E. The project delivery method for the East and West Projects is Construction Manager/General Contractor (“CM/GC”). The chosen contractor held their proposed pricing for the East Project despite a delay in beginning construction due to property acquisition and the Colorado Department of Transportation (“CDOT”) approval. The CM/GC has demonstrated by providing open book pricing and confirmed by an independent cost estimate that price escalation has impacted many of the materials and costs for the West Project. Construction cost inflation is confirmed by the CDOT Colorado Construction Cost Index report showing an annual percentage increase in construction costs of 8.03%.

F. Additionally, the cost to acquire real property for the West Project has been significantly higher than was estimated. Increased acquisition costs result from 1) significant escalation in property values during the process, 2) increased use of settlements to minimize delays in some acquisitions, and 3) increased consulting needs (land appraisal and real estate services) resulting from updated CDOT right-of-way processes.

G. During this design effort, the City applied for and was awarded Fiscal Year 2027 Colorado Department of Transportation Highway Safety Improvement Program (“HSIP”) grant funds to install a Rectangular Rapid Flashing Beacon (“RRFB”) for additional pedestrian and bicycle safety within the West Project limits at Impala Drive.

H. CDOT has agreed to provide the funding early so that the RRFB may be included in the construction and has proposed an amendment to the existing CDOT Intergovernmental Agreement (the “IGA”) to increase the total funds from \$1,059,084 by \$509,617 to a new total funds amount of \$1,568,701 and to update the funding provisions exhibit of the IGA.

I. Savings from the Bridges (\$517,000) can be reappropriated to the West Project. Including the local match for the HSIP award (\$335,454), it is estimated that an additional \$560,055 (including \$49,500 in CDOT HSIP funds) is needed to complete construction on the West Project.

J. Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, to make a supplemental appropriation by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriation, in combination with all previous appropriations for that fiscal year, do not exceed the current estimate of actual and anticipated revenues and all other funds to be received during the fiscal year.

K. Article V, Section 9 of the City Charter permits the City Council, upon the recommendation of the City Manager, to make supplemental appropriations by ordinance at any time during the fiscal year from such revenues and funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated.

L. The City Manager has recommended the appropriations described herein and determined that these appropriations are available and previously unappropriated from the Transportation Capital Expansion Fee fund, the Transportation Services fund, and will not cause the total amount appropriated in the Transportation Capital Expansion Fee fund or the Transportation Services fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in these funds during this fiscal year.

M. Article V, Section 10 of the City Charter authorizes the City Council, upon recommendation by the City Manager, to transfer by ordinance any unexpended and unencumbered appropriated amount or portion thereof from one fund or capital project to another fund or capital project, provided that the purpose for which the transferred funds are to be expended remains unchanged, the purpose for which the funds were initially appropriated no longer exists, or the proposed transfer is from a fund or capital project in which the amount appropriated exceeds the amount needed to accomplish the purpose specified in the appropriation ordinance.

N. The City Manager has recommended the transfer of \$517,000 from the Bridges project in the Capital Project fund to the Laporte Avenue Multimodal Improvement Project in the Capital Projects fund and determined that the purpose for which the transferred funds are to be expended remains unchanged.

O. Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a capital project or for a federal, state or private grant, that such appropriation shall not lapse at the end of the fiscal year in which the appropriation is made, but continue until the completion of the capital project or until the earlier of the expiration of the federal, state or private grant or the City's expenditure of all funds received from such grant.

P. The City Council wishes to designate the appropriation herein for the HSIP grant as an appropriation that shall not lapse until the earlier of the expiration of the grant or the City's expenditure of all funds received from such grant.

Q. The City Council wishes to designate the appropriation herein for the Laporte Avenue Multimodal Improvement Project as an appropriation that shall not lapse until the completion of the Project.

R. This Project involves construction estimated to cost more than \$250,000 and, as such, City Code Section 23-304 requires one percent of these appropriations to be transferred to the Cultural Services and Facilities fund for a contribution to the Art in Public Places ("APP") program.

S. A portion of the funds appropriated in this Ordinance for the Project are ineligible for use in the APP program due to restrictions placed on them by the Colorado Department of Transportation, and the Transfer from the Bridges Project Budget as previously appropriated with APP the source of these funds.

T. A portion of the funds appropriated in this Ordinance for the Project have already been used for contribution to the APP program.

U. The project cost of \$505,500 has been used to calculate the contribution to the APP program.

V. The amount to be contributed in this Ordinance will be \$5,055.

W. The appropriations in this Ordinance benefit public health, safety and welfare of the residents of Fort Collins and serve the public purpose of improving transportation infrastructure within the City.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. There is hereby appropriated from new revenue or other funds in the Capital Projects fund the sum of FORTY-NINE THOUSAND FIVE HUNDRED DOLLARS (\$49,500) to be expended in the Capital Projects fund for the Laporte Ave Multimodal Project.

Section 2. The unexpended and unencumbered appropriated amount of FIVE HUNDRED SEVENTEEN THOUSAND DOLLARS (\$517,000) is authorized for transfer from the Bridges Project in the Capital Projects fund to the Laporte Ave Multimodal Project in the Capital Projects fund and appropriated therein to be expended for Laporte Ave Multimodal Project.

Section 3. There is hereby appropriated from prior year reserves in the Transportation Capital Expansion Fee Fund the sum of THREE HUNDRED THIRTY-FIVE THOUSAND FOUR HUNDRED FIFTY-FOUR DOLLARS (\$335,454) to be expended in the Transportation Capital Expansion Fee fund for transfer to the Capital Projects fund and appropriated therein for the Laporte Ave Multimodal Project.

Section 4. There is hereby appropriated from prior year reserves in the Transportation Services Fund the sum of ONE HUNDRED SEVENTY-FIVE THOUSAND ONE HUNDRED ONE DOLLARS (\$175,101) to be expended in the Transportation Services fund for transfer to the Capital Projects fund and appropriated therein for the Laporte Ave Multimodal Project.

Section 5. The unexpended and unencumbered appropriated amount of THREE THOUSAND NINE HUNDRED FORTY-THREE DOLLARS (\$3,943) in the Capital Projects fund is hereby authorized for transfer to the Cultural Services and Facilities fund and appropriated and expended therein to fund art projects under the APP program.

Section 6. The unexpended and unencumbered appropriated amount of ONE THOUSAND ELEVEN DOLLARS (\$1,011) in the Capital Projects fund is hereby authorized for transfer to the Cultural Services and Facilities fund and appropriated and expended therein for the operation costs of the APP program.

Section 7. The unexpended and unencumbered appropriated amount of ONE HUNDRED ONE DOLLARS (\$101) in the Capital Projects fund is hereby authorized for transfer to the Cultural Services and Facilities fund and appropriated and expended therein for the maintenance costs of the APP program.

Section 8. The appropriation herein for the HISP grant is an appropriation that shall not lapse until the earlier of the expiration of the grant or the City's expenditure of all funds received from such grant.

Section 9. The appropriation herein for the Laporte Avenue Multimodal Improvement Project is an appropriation that shall not lapse until the completion of the Project.



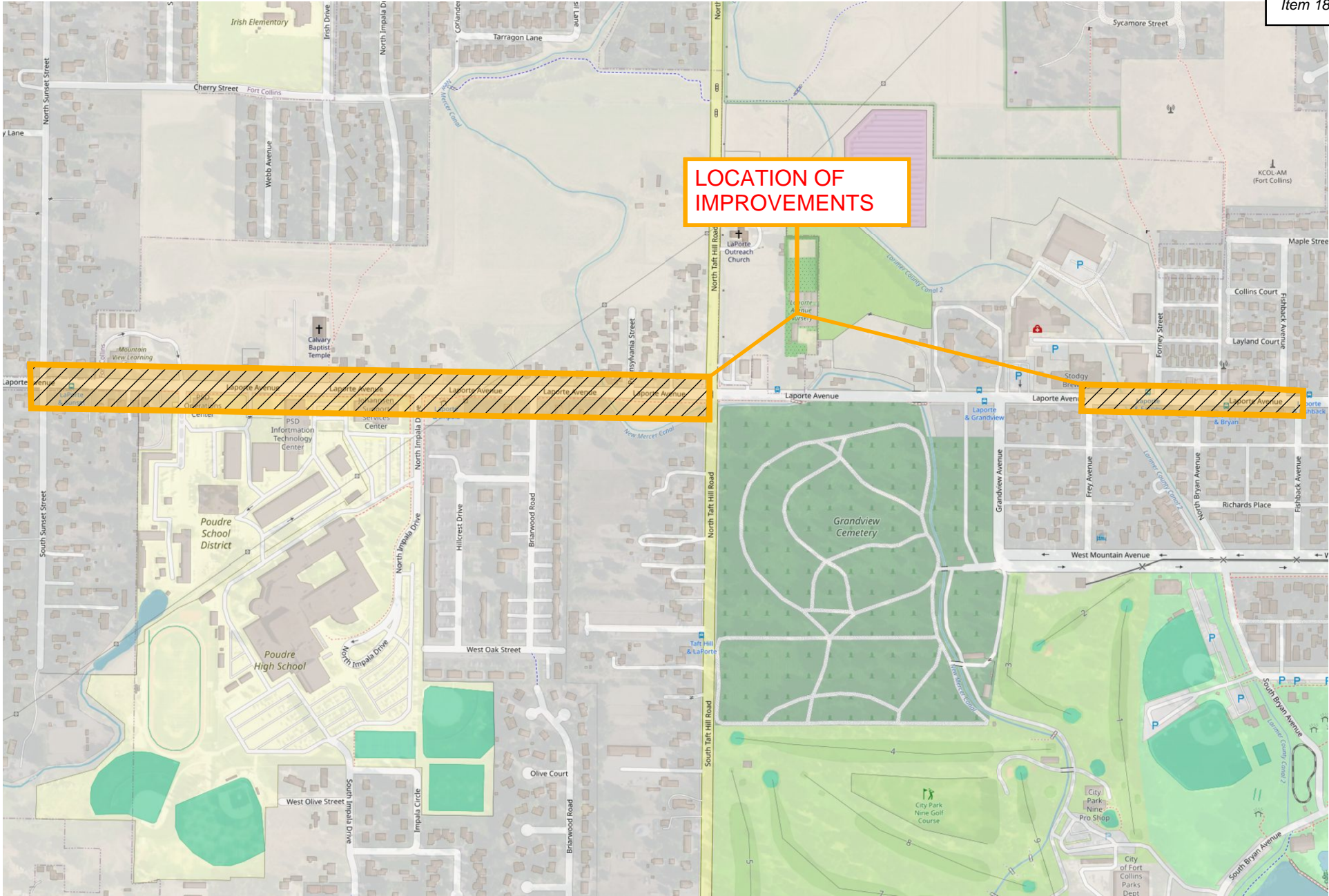
Introduced, considered favorably on first reading on August 20, 2024, and approved on second reading for final passage on September 3, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: September 13, 2024  
Approving Attorney: Heather N. Jarvis



Mercator Projection  
 WGS84  
 UTM Zone 13T  
 CALTOPO



MN  
 7.8°



**COLORADO**  
Department of Transportation

Division of Project Support  
Construction Engineering Services Branch

# Colorado Construction Cost (CCI) Index Report Calendar Year 2024 – First Quarter

*Prepared for:*

Keith Stefanik, Chief Engineer

*Prepared by:*

Stephen Bokros, Manager  
Cost Estimating Services Unit  
Construction Engineering Services Branch  
Division of Project Support

## CCI Report Summary

### First Quarter Ending March 31, 2024

Relative change from last quarter, quarterly data .....	4.55%*
Cumulative change from same quarter last year, quarterly data .....	11.85%*
Relative change from last year, annual data** .....	9.59%

\* Calculations based on quarterly data may vary significantly due to strong seasonality in Colorado.

\*\* Calculations derived from the most recent four consecutive quarters of data compared to the previous four consecutive quarters of data. For example, relative change for Second Quarter Ending June 30, 2017 is derived from July 1, 2016 to June 30, 2017 data compared to July 1, 2015 to June 30, 2016 data.

**Summary for all Design-Bid-Build projects awarded between 01/01/2024 and 03/31/2024.**

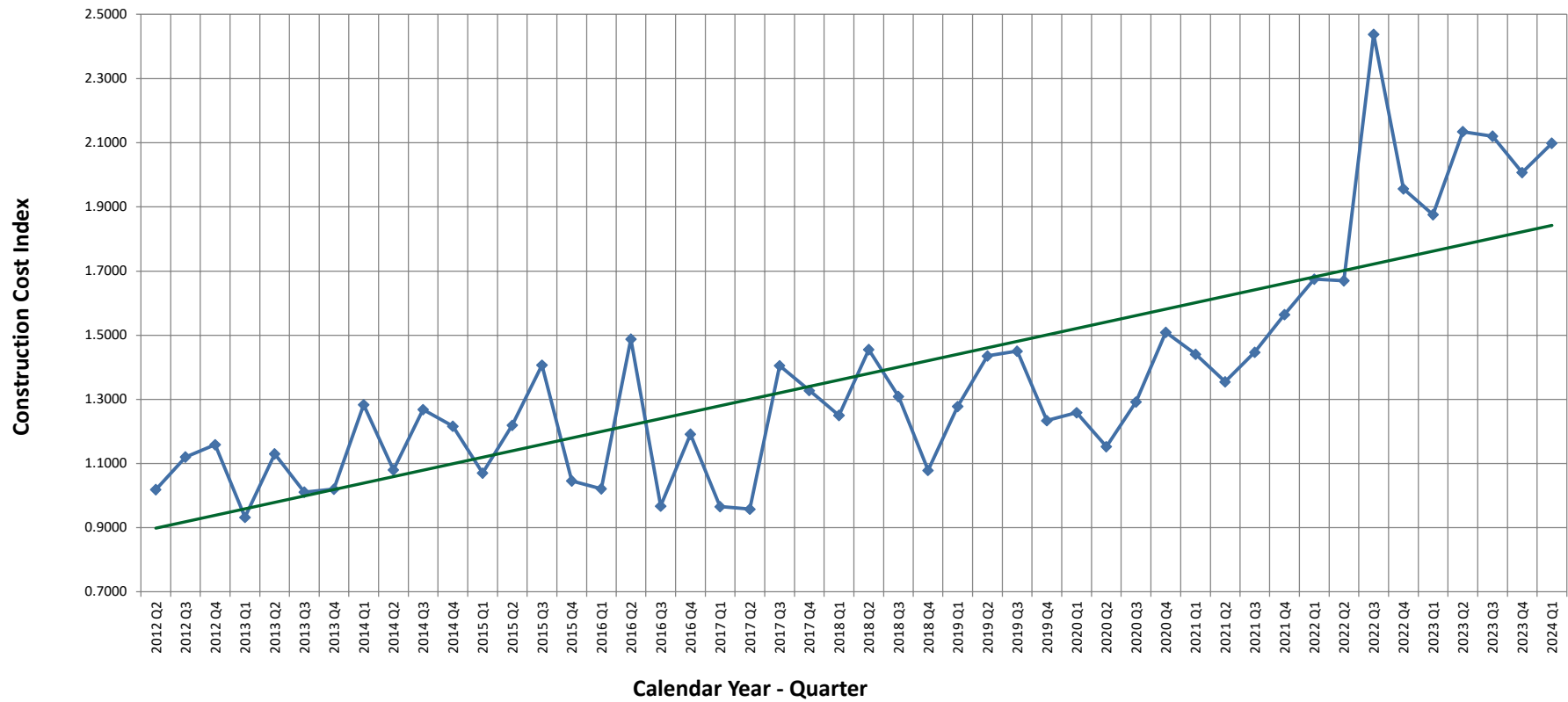
Project Amount	Number of Projects	Number of Bidders	Biddable Items Total Amount	Average Number of Bidders
\$0.00 to \$999,999.99	4	13	\$2,302,663.56	3.25
\$1,000,000.00 to \$4,999,999.99	11	39	\$26,901,130.91	3.55
\$5,000,000.00 to \$19,999,999.99	11	36	\$93,423,055.12	3.27
\$20,000,000.00 or Greater	0	0	\$0.00	0.00
<b>Total</b>	<b>26</b>	<b>88</b>	<b>\$122,626,849.59</b>	<b>3.38</b>

Average number of bidders per project increased to **3.38** this quarter, from **3.02** the previous quarter.  
Average cost per Design-Bid-Build project was **\$4,716,417.29**.



### Colorado CCI - Quarterly Data, Cumulative Assuming 2012 Q1 = 1.0000

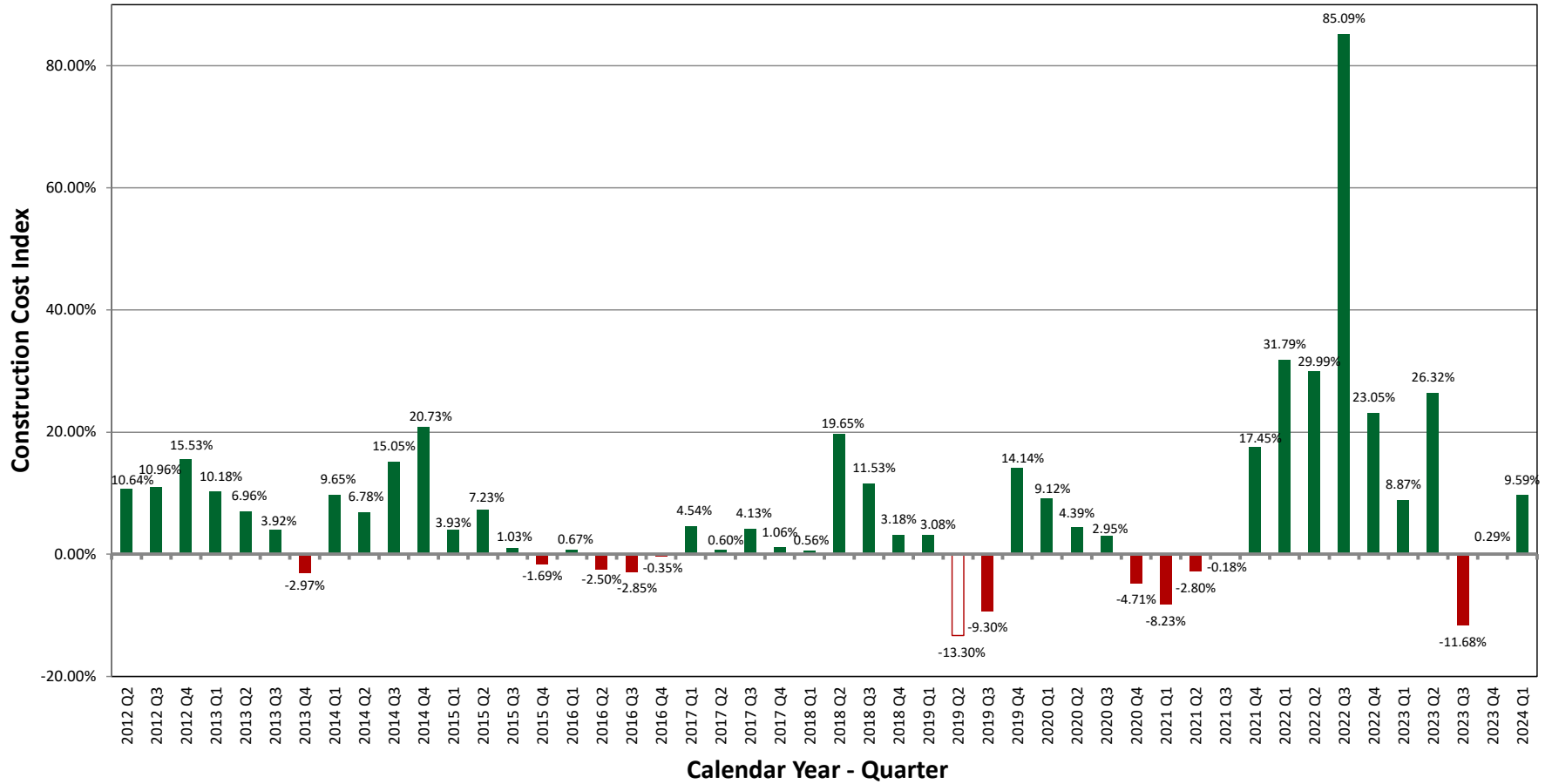
Quarterly Trendline: Annual Percentage = 8.03%







### Colorado CCI - Annual Percentage Change



Calculations derived from the most recent four consecutive quarters of data compared to the previous four consecutive quarters of data.

**Comments:**

The methodology for preparing the CCI is documented in a brief report attached to the '2012 CCI Q2 (Quarter Two)' report at the link below under the 'Construction Cost Index' heading and '2012 CCI Q2' report (<https://www.codot.gov/business/eema/constructioncostindex>).

Starting with 2016 Q3, this quarterly CCI report includes calculations based on annual data. The annual data calculations are less volatile than the quarterly data calculations, partially due to the strong seasonal nature of transportation construction in Colorado.

For the current quarter, price changes for the five subgroups, as shown in the 'Colorado Construction Cost Index Tabulations: Quarterly Data', are listed as follows:

**Earthwork (Excavation and Embankment):**

The average price was \$31.63/CY (cubic yard), which is down \$0.42 CY, with 149.98% of the quantity, from the previous quarter.

**Hot Mix Asphalt:**

The average price was \$139.37/Ton, which is up \$10.47/TON, with 43.37% of the quantity, from the previous quarter.

**Concrete Pavement:**

The average price was \$115.14/SY (square yard), which is up \$30.37, with 28.28% of the quantity, from the previous quarter.

**Structural Concrete:**

The average price was \$1,052.46/CY, which is down \$234.83 SY, with 71.56% of the quantity, from the previous quarter.

**Reinforcing Steel:**

The average price was \$1.76/LB (pound), which is down \$0.68, with 640.25% the quantity, from the previous quarter.

**Additional Information:**

This quarter, based on preceding quarterly data, two subgroups, Hot Mix Asphalt and Concrete Pavement, showed an increase in price. While Earthwork, Structural Concrete, and Reinforcing Steel showed a decrease in price. 26 Design-Bid-Build projects for a total of \$122,626,849.59 were bid and awarded this quarter. The five categories for CCI items totaled \$58,169,575.52, which is 47.44% of the total Design-Bid-Build awarded amount. Last quarter, by comparison, had 41 Design-Bid-Build projects bid and awarded.

**Projects Awarded This Quarter and Not Used in the CCI Calculations**

Project Type	Number of Projects	Biddable Items Total Amount
Design-Build	0	\$0.00
Hybrid / Modified / Streamlined Design-Build	0	\$0.00
Construction Manager / General Contractor	2	\$140,282,498.55
Emergency	2	\$284,045.00
Sub Total	4	\$140,566,543.55

**File Attachments for Item:**

**19. First Reading of Ordinance No. 119, 2024, Making Supplemental Appropriations from Colorado Department of Transportation Revenue for the Intersection Improvements on US-287 (College Avenue) Project.**

The purpose of this item is to appropriate Colorado Department of Transportation (CDOT) revenue dedicated to infrastructure improvements complying with the Americans with Disabilities Act (ADA).

August 20, 2024

# AGENDA ITEM SUMMARY

City Council



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## STAFF

Dillon Willett, Project Manager  
Dana Hornkohl, Capital Projects Manager

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## SUBJECT

**First Reading of Ordinance No. 119, 2024, Making Supplemental Appropriations from Colorado Department of Transportation Revenue for the Intersection Improvements on US-287 (College Avenue) Project.**

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## EXECUTIVE SUMMARY

The purpose of this item is to appropriate Colorado Department of Transportation (CDOT) revenue dedicated to infrastructure improvements complying with the Americans with Disabilities Act (ADA).

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## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

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## BACKGROUND / DISCUSSION

The City was awarded \$876,816 in Fiscal Year 2021 Surface Transportation Block Grant (STBG) program funds by the North Front Range Metropolitan Planning Organization (NFRMPO) with local funding in the amount of \$182,268 (total funding of \$1,059,084). The STBG application proposed to address traffic signal deficiencies at three intersections along US 287: Swallow Road, Pitkin Street, and Rutgers Avenue. During the drafting and execution of an Intergovernmental Agreement (IGA) with CDOT, the intersections at Swallow Road and Rutgers Avenue were replaced by Columbia Road and Harvard Street after being identified as higher priorities for CDOT. Pitkin Street remained within the project scope. The NFRMPO and CDOT allowed the City to remove the work at Harvard Street after project estimates determined there was not enough funding to complete work at all three intersections.

CDOT has agreed to contribute funding (estimated at \$509,617) towards improvements to address ADA deficiencies at the remaining two intersections (Columbia Road and Pitkin Street) that were not originally identified in the grant application. The current estimate to complete the proposed improvements at the two intersections is \$1,568,701. On June 26, 2024, as authorized by Resolution 2022-035, the City Manager executed an amendment to the CDOT IGA to increase total funds from \$1,059,084 by \$509,617 to a new total funds amount of \$1,568,701 and to update the funding provisions exhibit of the IGA (see Attachment 2 to this AIS).

The Harvard Street intersection is within the limits of the proposed Midtown Improvements Project between Drake Road and Swallow Road (currently at the 30% design milestone). The proposed work at Harvard Street will be included in the Midtown project, reducing the chance for duplicative work.

**CITY FINANCIAL IMPACTS**

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The following is a summary of the funding anticipated for design, right-of-way acquisition, and construction for the Intersection Improvements on US-287 (College Avenue) Project. Please note there was a minor error (\$816) in the total STBG program funds in the initial appropriation that is proposed to be corrected with this appropriation.

<b>Prior Appropriated Funds</b>	
Surface Transportation Block Grant (STBG) Program Funds	\$ 876,000
Transportation Capital Expansion Fee (TCEF) Funds	\$ 92,795
Transportation Services Fund Reserves	\$ 205
Community Capital Improvement Program (CCIP) Arterial Intersection Improvements (2020 BFO Offer)	\$ 89,268
<b>Total Prior Appropriation</b>	<b>\$ 1,058,268</b>

<b>Funds to be Appropriated per this Action</b>	
Surface Transportation Block Grant (STBG) Program Funds	\$ 816
Colorado Department of Transportation (CDOT) Americans with Disabilities Act (ADA) Funds	\$ 509,617
<b>Total Funds to be Appropriated per this Action</b>	<b>\$ 510,433</b>
<b>Total Project Funds</b>	<b>\$ 1,568,701</b>

The total fund amount projected for this Project is \$1,568,701 composed of funds appropriated with prior actions and with this action.

**BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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The Project is in the process of receiving full environmental and historical clearances through CDOT as part of the design phase. The Project was brought before the NFRMPO Technical Advisory Committee on March 20, 2024, and Council on March 1, 2022, and both bodies recommended approval.

**PUBLIC OUTREACH**

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Staff has developed and continues to implement a targeted Public Engagement Plan for the Project. City staff will engage with local businesses and property owners impacted by proposed work and traffic patterns that are affected by construction traffic control needs and requirements.

**ATTACHMENTS**

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1. Ordinance for Consideration
2. Executed IGA Amendment
3. College Signals- Vicinity Map

ORDINANCE NO. 119, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
MAKING SUPPLEMENTAL APPROPRIATIONS FROM  
COLORADO DEPARTMENT OF TRANSPORTATION REVENUE  
FOR THE INTERSECTION IMPROVEMENTS ON US-287  
(COLLEGE AVENUE) PROJECT

A. The Intersection Improvements on US-287 (College Avenue) Project (the "Project") has been developed to address traffic signal deficiencies at three intersections along US 287.

B. The City was awarded \$876,816 in Fiscal Year 2021 Surface Transportation Block Grant ("STBG") program funds by the North Front Range Metropolitan Planning Organization ("NFRMPO") with local funding in the amount of \$182,268 (total funding of \$1,059,084).

C. The STBG application proposed to address traffic signal deficiencies at three intersections along US 287: Swallow Road, Pitkin Street, and Rutgers Avenue, but during the drafting and execution of the original Intergovernmental Agreement ("IGA") with the Colorado Department of Transportation ("CDOT"), the intersections at Swallow Road and Rutgers Avenue were replaced by Columbia Road and Harvard Street after being identified as higher priorities for CDOT. Pitkin Street remained within the Project scope.

D. The NFRMPO and CDOT allowed the City to remove the work at Harvard Street after Project estimates determined there was not enough funding to complete work at all three intersections. Additionally, the Harvard Street intersection is within the limits of the proposed Midtown Improvements project between Drake Road and Swallow Road (currently at the 30% design milestone). The proposed work at Harvard Street will be included in the Midtown project, reducing the chance for duplicative work.

E. CDOT has agreed to contribute funding (estimated at \$509,617) towards improvements to address Americans with Disabilities Act deficiencies at the remaining two intersections (Columbia Road and Pitkin Street) that were not originally identified in the grant application. The current estimate to complete the proposed improvements at the two intersections is \$1,568,701.

F. On June 26, 2024, as authorized by Resolution 2022-035, the City Manager executed an amendment to the CDOT IGA to increase the total funds from \$1,059,084 by \$509,617 to a new total funds amount of \$1,568,701 and to update the funding provisions exhibit of the IGA.

G. Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, to make a supplemental appropriation by ordinance at any time during the fiscal year, provided that the total amount of such supplemental

appropriation, in combination with all previous appropriations for that fiscal year, do not exceed the current estimate of actual and anticipated revenues and all other funds to be received during the fiscal year.

H. The City Manager has recommended the appropriations described herein and determined that these appropriations are available and previously unappropriated from the Capital Projects fund and will not cause the total amount appropriated in the Capital Projects fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this fund during this fiscal year.

I. Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a federal, state or private grant or donation, that such appropriation shall not lapse at the end of the fiscal year in which the appropriation is made, but continue until the earlier of the expiration of the federal, state or private grant or donation or the City's expenditure of all funds received from such grant or donation.

J. All of the funds appropriated in this Ordinance for the Project are ineligible for use in the APP Program due to restrictions placed on them by Colorado Department of Transportation Surface Transportation Block Grant Program and Colorado Department of Transportation Americans With Disabilities Act, the sources of these funds.

K. The City Council wishes to designate the appropriations herein for Colorado Department of Transportation Surface Transportation Block Grant Program funds and Colorado Department of Transportation Americans With Disabilities Act funds as appropriations that shall not lapse until the earlier of the expiration of the grants or the City's expenditure of all funds received from such grants.

L. The appropriations in this Ordinance benefit public health, safety and welfare of the residents of Fort Collins and serve the public purpose of improving transportation infrastructure within the City.

In light of the foregoing Recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. There is hereby appropriated from new revenue or other funds in the Capital Projects fund the sum of EIGHT HUNDRED SIXTEEN DOLLARS: (\$816) to be expended in the Capital Projects fund for Intersection Improvements on US-287 (College Avenue).

Section 2. There is hereby appropriated from new revenue or other funds in the Capital Projects fund the sum of FIVE HUNDRED TEN THOUSAND FOUR HUNDRED THIRTY-THREE DOLLARS: (\$509,617) to be expended in the Capital Projects fund for Intersection Improvements on US-287 (College Avenue).

Section 3. The appropriations herein for Colorado Department of Transportation Surface Transportation Block Grants and the Colorado Department of Transportation Americans with Disabilities Act Grant funds are hereby designated, as authorized in Article V, Section 11 of the City Charter, as appropriations that shall not lapse at the end of this fiscal year but continue until the earlier of the expiration of the grants or the City's expenditure of all funds received from such grants.

Introduced, considered favorably on first reading on August 20, 2024, and approved on second reading for final passage on September 3, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: September 13, 2024  
Approving Attorney: Heather N. Jarvis



# STATE OF COLORADO AMENDMENT

**Amendment #: 1                      Project #: STU 2873-215 (24105)**  
**SIGNATURE AND COVER PAGES**

<b>State Agency</b> Department of Transportation		<b>Amendment Routing Number</b> 22-HA4-XC-00225-M0001	
<b>Local Agency</b> CITY OF FORT COLLINS		<b>Original Agreement Routing Number</b> 22-HA4-XC-00225	
<b>Agreement Maximum Amount</b>	\$1,568,701.00	<b>Agreement Performance Beginning Date</b> May 04, 2022	
		<b>Initial Agreement Expiration Date</b> October 05, 2031	

**THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT**

Each person signing this Amendment represents and warrants that he or she is duly authorized to execute this Amendment and to bind the Party authorizing his or her signature.

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

DocuSigned by:

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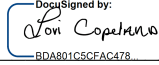
\_\_\_\_\_  
 Keith Stefanik, P.E., Chief Engineer

Date: 6/26/2024

<p style="text-align: center;"><b>LOCAL AGENCY</b> CITY OF FORT COLLINS</p> <div style="display: flex; align-items: center; justify-content: center; margin-top: 10px;"> <div style="border: 1px solid blue; border-radius: 50%; padding: 2px; font-size: 8px;">DocuSigned by:</div> </div> <p style="font-size: 8px; margin-left: 20px;">0B86D5871D89400...</p> <p>_____          Kelly DiMartino                      Signature          City Manager          By: (Print Name and Title)</p> <p>Date: <u>6/26/2024</u></p>	<p style="text-align: center;"><b>ADDITIONAL LOCAL AGENCY SIGNATURES</b> CITY OF FORT COLLINS</p> <p>ATTEST:</p> <div style="display: flex; align-items: center; justify-content: center; margin-top: 10px;"> <div style="border: 1px solid blue; border-radius: 50%; padding: 2px; font-size: 8px;">DocuSigned by:</div> </div> <p style="font-size: 8px; margin-left: 20px;">FABF36BDAC704F4...</p> <p>_____          Delynn Coldiron                      Signature          City Clerk          By: (Print Name and Title)</p> <p>Date: <u>6/26/2024</u></p> <p>APPROVED AS TO FORM:</p> <div style="display: flex; align-items: center; justify-content: center; margin-top: 10px;"> <div style="border: 1px solid blue; border-radius: 50%; padding: 2px; font-size: 8px;">DocuSigned by:</div> </div> <p style="font-size: 8px; margin-left: 20px;">8CB2C1200E9418...</p> <p>_____          Heather Jarvis                      Signature          Assistant City Attorney          By: (Print Name and Title)</p> <p>Date: <u>6/23/2024</u></p>
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In accordance with §24-30-202 C.R.S., this Amendment is not valid until signed and dated below by the State Controller or an authorized delegate.

**STATE CONTROLLER**  
**Robert Jaros, CPA, MBA, JD**

By:  \_\_\_\_\_  
Department of Transportation

Amendment Effective Date: 6/26/2024

**1) PARTIES**

This Amendment (the "Amendment") to the Original Agreement (the "Agreement") shown on the Signature and Cover Pages for this Amendment is entered into by and between the Local Agency and the State.

**2) TERMINOLOGY**

Except as specifically modified by this Amendment, all terms used in this Amendment that are defined in the Agreement shall be construed and interpreted in accordance with the Agreement.

**3) EFFECTIVE DATE AND ENFORCEABILITY****A. Amendment Effective Date**

This Amendment shall not be valid or enforceable until the Amendment Effective Date shown on the Signature and Cover Pages for this Amendment. The State shall not be bound by any provision of this Amendment before that Amendment Effective Date, and shall have no obligation to pay the Local Agency for any Work performed or expense incurred under this Amendment either before or after the Amendment term shown in **§3.B** of this Amendment

**B. Amendment Term**

The Parties' respective performances under this Amendment and the changes to the Agreement contained herein shall commence on the Amendment Effective Date shown on the Signature and Cover Pages for this Amendment and shall terminate on the Expiration Date of the Agreement.

**4) PURPOSE**

The Parties entered into the Agreement for the US 287 Traffic Signals project. The Parties now desire to update the Funding Provisions.

**5) MODIFICATIONS**

The Parties now desire to:

a) Increase the total funds from \$1,059,084.00 by \$509,617.00 to a new total funds amount of \$1,568,701.00.

b) Replace **Exhibit C-3** with **Exhibit C-4**. Any reference in the Agreement to **Exhibit C** shall now be a reference to **Exhibit C-4**.

c) Update the Local Agency Resolution and replace **Exhibit D** with **Exhibit D-1**, which is attached hereto. Any reference in the Agreement to **Exhibit D** shall now be a reference to **Exhibit D-1**.

**6) LIMITS OF EFFECT**

This Amendment is incorporated by reference into the Agreement, and the Agreement and all prior amendments or other modifications to the Agreement, if any, remain in full force and effect except as specifically modified in this Amendment. Except for the Special Provisions contained in the Agreement, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Agreement or any prior modification to the Agreement, the provisions of this Amendment shall in all respects supersede, govern, and control. The provisions of this Amendment shall only supersede, govern, and control over the Special Provisions contained in the Agreement to the extent that this Amendment specifically modifies those Special Provisions.

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Fed \$ LA Work

Item 19.

**EXHIBIT C-4 - FUNDING PROVISIONS****City of Fort Collins - STU 2873-215 (24105)****A. Cost of Work Estimate**

The Local Agency has estimated the total cost the Work to be \$1,568,701.00, which is to be funded as follows:

**1. FUNDING**

a.	<b>Federal Funds</b> (82.79% of STBG Award)	\$ 876,816.00
b.	Local Agency Funds (17.21% of STBG Award)	\$ 182,268.00
c.	<b>Federal Funds</b> (100% of ADA Award)	\$ 509,617.00

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<b>TOTAL FUNDS ALL SOURCES</b>	<b>\$ 1,568,701.00</b>
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**2. OMB UNIFORM GUIDANCE**

a.	Federal Award Identification Number (FAIN):	TBD
b.	Name of Federal Awarding Agency:	FHWA
c.	Local Agency Unique Entity Identifier	VEJ3BS5GK5G1
d.	Assistance Listing # Highway Planning and Construction	ALN 20.205
e.	Is the Award for R&D?	No
f.	Indirect Cost Rate (if applicable)	N/A
g.	Amount of Federal Funds Obligated by this Action:	\$0.00
h.	Amount of Federal Funds Obligated to Date (including this Action):	\$192,722.00

**3. ESTIMATED PAYMENT TO LOCAL AGENCY**

a.	Federal Funds Budgeted	\$ 1,386,433.00
b.	Less Estimated Federal Share of CDOT-Incurred Costs	\$ 0.00

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<b>TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY</b>	<b>88.38%</b>	<b>\$ 1,386,433.00</b>
<b>TOTAL ESTIMATED FUNDING BY LOCAL AGENCY</b>	<b>11.62%</b>	<b>\$ 182,268.00</b>
<b>TOTAL PROJECT ESTIMATED FUNDING</b>	<b>100.00%</b>	<b>\$ 1,568,701.00</b>

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**4. FOR CDOT ENCUMBRANCE PURPOSES**

a.	Total Encumbrance Amount (Federal funds + Local Agency funds)	\$ 1,568,701.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109	\$ 0.00

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<b>NET TO BE ENCUMBERED BY CDOT IS AS FOLLOWS</b>	<b>\$ 1,568,701.00</b>
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Note: Only \$232,784.00 in Design funds are currently available. Additional Design and Construction funds will become available after execution of an Option letter (Exhibit B) or formal Amendment.

WBS Element 24105.10.30	Performance Period Start*/End Date 7/26/2022 - 03/31/2025	Design 3020	\$232,784.00
WBS Element 24105.20.10	Performance Period Start*/End Date TBD- TBD	Const. 3301	\$0.00

\* The Local Agency should not begin work until all three (3) of the following are in place: 1) Phase Performance Period Start Date; 2) the execution of the document encumbering funds for the respective phase; and 3) Local Agency receipt of the official Notice to Proceed. Any work performed before these three (3) milestones are achieved will not be reimbursable.

**B. Funding Ratios**

The funding ratio for the federal funds for this Work is 88.38% federal funds to 11.62% Local Agency

funds, and this ratio applies only to the \$1,568,701.00 that is eligible for federal funding. All other costs are borne by the Local Agency at 100%. If the total cost of performance of the Work exceeds \$1,568,701.00, and additional federal funds are not available, the Local Agency shall pay all such excess costs. If the total cost of performance of the Work is less than \$1,568,701.00, then the amounts of Local Agency and federal funds will be decreased in accordance with the funding ratio described in A1. This applies to the entire scope of Work.

### **C. Maximum Amount Payable**

The maximum amount payable to the Local Agency under this Agreement shall be \$1,386,433.00. For CDOT accounting purposes, the federal funds of \$1,386,433.00 and the Local Agency funds of \$182,268.00 will be encumbered for a total encumbrance of \$1,568,701.00, unless this amount is increased by an executed amendment before any increased cost is incurred. The total budget is \$1,568,701.00, unless this amount is increased by an executed amendment before any increased cost is incurred. The total cost of the Work is the best estimate available, based on the design data as approved at the time of execution of this Agreement, and that any cost is subject to revisions agreed to by the parties prior to bid and award. The maximum amount payable will be reduced without amendment when the actual amount of the Local Agency's awarded Agreement is less than the budgeted total of the federal funds and the Local Agency funds. The maximum amount payable will be reduced through the execution of an Option Letter as described in Section 7. E. of this contract. This applies to the entire scope of Work.

### **D. Single Audit Act Amendment**

All state and local government and non-profit organizations receiving \$750,000 or more from all funding sources defined as federal financial assistance for Single Audit Act Amendment purposes shall comply with the audit requirements of 2 CFR part 200, subpart F (Audit Requirements) see also, 49 CFR 18.20 through 18.26. The Single Audit Act Amendment requirements applicable to the Local Agency receiving federal funds are as follows:

#### **i. Expenditure less than \$750,000**

If the Local Agency expends less than \$750,000 in Federal funds (all federal sources, not just Highway funds) in its fiscal year then this requirement does not apply.

#### **ii. Expenditure of \$750,000 or more-Highway Funds Only**

If the Local Agency expends \$750,000 or more, in Federal funds, but only received federal Highway funds (Catalog of Federal Domestic Assistance, CFDA 20.205) then a program specific audit shall be performed. This audit will examine the "financial" procedures and processes for this program area.

#### **iii. Expenditure of \$750,000 or more-Multiple Funding Sources**

If the Local Agency expends \$750,000 or more in Federal funds, and the Federal funds are from multiple sources (FTA, HUD, NPS, etc.) then the Single Audit Act applies, which is an audit on the entire organization/entity.

#### **iv. Independent CPA**

Single Audit shall only be conducted by an independent CPA, not by an auditor on staff. An audit is an allowable direct or indirect cost.

**EXHIBIT D-1**  
**LOCAL AGENCY RESOLUTION**

Item 19.

**RESOLUTION 2022-035**  
**OF THE COUNCIL OF THE CITY OF FORT COLLINS**  
**AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT**  
**BETWEEN THE CITY OF FORT COLLINS, COLORADO, AND THE COLORADO**  
**DEPARTMENT OF TRANSPORTATION FOR INTERSECTION IMPROVEMENTS ON**  
**U.S. ROUTE 287 (COLLEGE AVENUE)**

WHEREAS, U.S. Route 287 (College Avenue) is a major throughfare for Fort Collins residents and serves as a regional connection for Northern Colorado communities; and

WHEREAS, traffic poles and signals require improvements at three intersections in the City along US 287 at (1) Columbia Road and South College Avenue, (2) Pitkin Street and South College Avenue, and (3) Harvard Street and South College Avenue; and

WHEREAS, plans have been developed to make such improvements at these three intersections on US 287 to increase travel reliability and flow of commuter traffic (hereafter referred to as the "Project"); and

WHEREAS, the plans for the Project include replacing and relocating traffic poles, relocating traffic signals to optimize visibility, and evaluating and improving pedestrian crossings at these intersections; and

WHEREAS, the Project will promote increased safety and traffic efficiency at these intersections, and should have the result of reducing idle time as well as unwanted emissions; and

WHEREAS, the City was awarded Federal Highway Administration Surface Transportation Block Grant funds of \$876,816 by the North Front Range Metropolitan Planning Organization for the Project; and

WHEREAS, these grant funds for the Project are to be administered by the Colorado Department of Transportation ("CDOT") pursuant to an Intergovernmental Agreement ("IGA") with CDOT that requires the City of Fort Collins to provide local matching funds of \$182,268; and

WHEREAS, CDOT has proposed an IGA between CDOT and the City that outlines the terms and conditions of the use of grant funds; and

WHEREAS, Colorado Revised Statutes Section 29-1-203 provides that governments may cooperate or contract with one another to provide certain services or facilities when such cooperation or contracts are authorized by each party thereto with the approval of its legislative body or other authority having the power to so approve; and

WHEREAS, Article II, Section 16 of the City Charter empowers the City Council, by ordinance or resolution, to enter into contracts with governmental bodies to furnish governmental services and make charges for such services, or enter into cooperative or joint activities with other governmental bodies; and

WHEREAS, City Code Section 1-22 requires the City Council to approve intergovernmental agreements that require the City to make a direct, monetary payment over \$50,000 and the proposed IGA requires the City to provide matching funds in the amount of \$182,268; and

WHEREAS, the City Council has determined that the Grant is in the best interests of the City and that the Mayor be authorized to execute the IGA between the City and CDOT in support thereof.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That City Council authorizes the Mayor to execute, on behalf of the City, the Intergovernmental Agreement with the Colorado Department of Transportation, in substantially the form attached hereto as Exhibit "A," with such additional or modified terms and conditions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City or effectuate the purposes of this Resolution.

Section 3. That the City Council hereby authorizes the City Manager to approve and execute future amendments to the IGA that the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to facilitate completion of the Project, so long as such amendments do not increase the cost of the Project, substantially modify the purposes of the IGA, increase the allocation or amount of funding for the Project funded by the City, or otherwise increase the obligations and responsibilities of the City as set forth in the IGA.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 1st day of March, A.D. 2022.

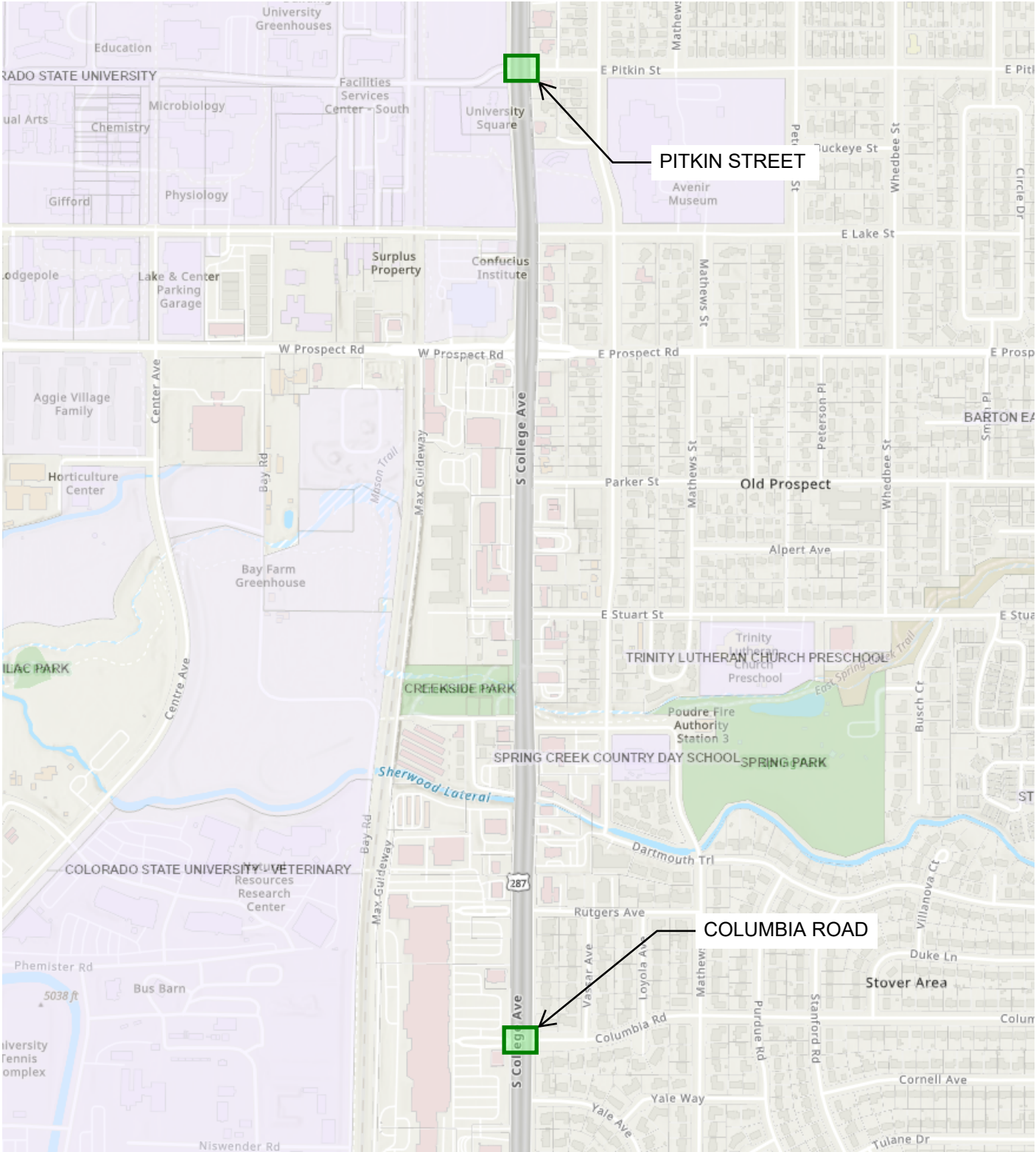


*[Handwritten Signature]*  
\_\_\_\_\_  
Mayor

ATTEST:

*[Handwritten Signature]*  
\_\_\_\_\_  
City Clerk

# VICINITY MAP INTERSECTION IMPROVEMENTS ON US-287 (COLLEGE AVENUE)





**File Attachments for Item:**

**20. Items Relating to the Rocky Ridge Conservation Project.**

A. Resolution 2024-098 Authorizing the Mayor to Execute an Intergovernmental Agreement with Larimer County to Partner on the Purchase of a 484-acre Property in the Wellington Community Separator.

B. First Reading of Ordinance No. 120, 2024, Authorizing the Conveyance to Larimer County of a Conservation Easement and a Right of First Refusal on the Rocky Ridge Property.

The purpose of this item is to authorize an Intergovernmental Agreement (IGA) with Larimer County for the Rocky Ridge Conservation Project. The Project will conserve 484-acres in fee within in the Wellington Community Separator. The Ordinance will authorize the conveyance of a conservation easement and right of first refusal on the property.

August 20, 2024

# AGENDA ITEM SUMMARY

City Council




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## STAFF

Tawnya Ernst, Land Conservation Lead Specialist  
Katie Donahue, Natural Areas Director

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## SUBJECT

**Items Relating to the Rocky Ridge Conservation Project.**

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## EXECUTIVE SUMMARY

A. Resolution 2024-098 Authorizing the Mayor to Execute an Intergovernmental Agreement with Larimer County to Partner on the Purchase of a 484-acre Property in the Wellington Community Separator.

B. First Reading of Ordinance No. 120, 2024, Authorizing the Conveyance to Larimer County of a Conservation Easement and a Right of First Refusal on the Rocky Ridge Property.

The purpose of this item is to authorize an Intergovernmental Agreement (IGA) with Larimer County for the Rocky Ridge Conservation Project. The Project will conserve 484-acres in fee within in the Wellington Community Separator. The Ordinance will authorize the conveyance of a conservation easement and right of first refusal on the property.

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## STAFF RECOMMENDATION

Staff recommends adoption of the Resolution and the Ordinance on First Reading.

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## BACKGROUND / DISCUSSION

The City purchased a 484-acre property in the Wellington Community Separator in May. This parcel conserves a buffer along two large reservoirs, ensuring habitat and migration corridors for wildlife and fills in gaps in the community separator – a primary goal of the Open Space Yes ballot language (Attachment 3).

For more than two decades, the City and Larimer County Open Lands have collaborated to conserve land throughout Larimer County to meet shared land conservation goals. This collaboration includes funding partnerships on various open space and conservation easement acquisitions. This acquisition and conservation easement will protect important values that confer the following public benefits:

- The property provides a critical buffer for the reservoirs and the surrounding wetlands habitat. It encompasses a mix of native and domestic grasses and previously tilled fields. Data from the Colorado Conservation Data Explorer (CODEX) reveals the property is part of the overall range for mountain lion, black bear, mule deer, brewer sparrow, Cassin's sparrow, ferruginous hawk, golden eagle, grasshopper sparrow, lazuli bunting, prairie falcon, Swainson's hawk, Virginia's warbler, Townsends big-eared bat, tri-colored bat, short-short horned lizard, milksnake, and ornate box turtle. The adjoining reservoirs

have been noted as nesting range for the Great Blue Heron, a brood concentration area for Canada geese, and winter forage area for bald eagles.

- Scenic values that provide a spectacular viewshed of the foothills and City of Fort Collins' skyline.
- Open space values will contribute to existing conserved lands in the vicinity with potential recreation opportunities where appropriate.

The proposed agreement between the City and the County authorizes the County to contribute \$1,500,000 towards the City's recent acquisition of the Rocky Ridge property and the City to convey a conservation easement and right of first refusal on the property in return. The conservation easement will ensure that any development on Rocky Ridge property is limited in size and area to designated "building envelopes", and that the property will be managed to protect its conservation values in perpetuity. The City and County have also agreed that as part of the Conservation Easement, the City will retain the ability to construct a parking lot, trailhead and related amenities (vault toilets, shade structures, kiosks), along with soft surface trails.

The project addresses key criteria noted in the Land Acquisition Partnership Guidelines:

- The project aligns with the goals of the Council-adopted Natural Areas Master Plan for regional conservation and partnerships by conserving lands within the Foothills/Buckhorn/Redstone conservation focus area.
- Larimer County and the City have a positive track record of partnerships.
- The proposed partnership enhances landscape scale conservation efforts in the Wellington Community Separator (Attachment 4)

## **CITY FINANCIAL IMPACTS**

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The total cost to acquire the 484-acre Rocky Ridge property and to subsequently convey a conservation easement on said property is approximately \$5,117,600. This total includes the purchase price of the fee acquisition as well as the due diligence and closing costs associated with both the fee acquisition and conservation easement conveyance. The City's share is approximately \$3,612,350 and the County will contribute \$1,505,250.

## **BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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At its June 12, 2024, meeting, the Land Conservation and Stewardship Board voted unanimously to recommend that Council approve the IGA with Larimer County to partner on the purchase of, and conveyance of a conservation easement for, the Rocky Ridge Conservation Project. (Attachment 5).

## **PUBLIC OUTREACH**

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Natural Areas staff presented the proposed partnership to the Land Conservation and Stewardship Board in a public Meeting on June 12, 2024. Larimer County Open Lands staff will present the proposed partnership to the County Open Lands Board in a public meeting on July 25. Larimer County staff will present the proposed partnership to the Board of County Commissioners on July 30.

## **ATTACHMENTS**

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1. Resolution for Consideration
2. Exhibit A to Resolution
3. Ordinance for Consideration
4. Vicinity Map
5. Administrative Policy – Land Acquisition Partnership Guidelines
6. Land Conservation and Stewardship Board Minutes, June 12, 2024 (excerpt)

RESOLUTION 2024-098  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING THE MAYOR TO EXECUTE AN  
INTERGOVERNMENTAL AGREEMENT WITH LARIMER  
COUNTY TO PARTNER ON THE PURCHASE OF A 484-ACRE  
PROPERTY IN THE WELLINGTON COMMUNITY SEPARATOR

A. To meet shared land conservation goals, the City and Larimer County (“County”) have been collaborating for more than two decades on funding partnerships to acquire various open space properties and conservation easements.

B. Earlier this year, the City purchased a 484-acre property in the Wellington Community Separator known as the “Rocky Ridge Property”. The Rocky Ridge Property conserves a buffer along two large reservoirs, ensuring habitat and migration corridors for wildlife and fills in gaps in the community separator. The property provides open space, scenic views, and a critical buffer for the reservoirs and the surrounding wetlands habitat. It encompasses a mix of native and domestic grasses and previously tilled fields.

C. The County has agreed to contribute funds towards the cost of acquisition of the Rocky Ridge Property in exchange for the City’s agreement to convey to the County a conservation easement over the Rocky Ridge Property as well as a right of first refusal in case the City ever wishes to sell all or a portion of its fee interest in the Rocky Ridge Property, which conveyance the City Council is being asked to authorize by separate ordinance (the “Conservation Easement”).

D. The total cost to acquire the Rocky Ridge Property and to subsequently convey a conservation easement is approximately \$5,117,600. This total includes the purchase price of the fee acquisition as well as the due diligence and closing costs associated with both the fee acquisition and conservation easement conveyance. The City’s share is approximately \$3,612,350 and the County will contribute \$1,505,250.

E. The City and County are negotiating a proposed intergovernmental agreement regarding the proposed transaction, a draft of which is attached hereto as Exhibit A (the “IGA”).

F. At its June 12, 2024, meeting, the Land Conservation and Stewardship Board voted unanimously to recommend that Council approve the proposed IGA with Larimer County to partner on the purchase of, and conveyance of a conservation easement for, the Rocky Ridge property.

G. Article II, Section 16 of the City Charter empowers the City Council, by ordinance or resolution, to enter into contracts with governmental bodies to furnish governmental services and make charges for such services, or enter into cooperative or joint activities with other governmental bodies.

H. Section 29-1-203 of the Colorado Revised Statutes provides that governments may cooperate or contract with one another to provide certain services or facilities when such cooperation or contracts are authorized by each party thereto with the approval of its legislative body or other authority having the power to so approve.

I. Approval of intergovernmental agreements by City Council is required under Section 1-22 of the City Code, unless an exception applies.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that the City Council hereby authorizes the Mayor, upon the effective date of Ordinance No. 120, 2024, to execute the IGA, attached hereto as Exhibit "A," together with such modifications, deletions and additions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the interests of the City or further the purposes of this Resolution.

Passed and adopted on August 20, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: August 20, 2024  
Approving Attorney: Ted Hewitt

INTERGOVERNMENTAL AGREEMENT  
CONCERNING THE ROCKY RIDGE CONSERVATION PROJECT

This Intergovernmental Agreement (Agreement) is made this \_\_\_\_ day of \_\_\_\_\_, 2024, by and between the CITY OF FORT COLLINS, COLORADO (the "City") and LARIMER COUNTY, COLORADO (the "County")

WHEREAS, part 2 of Article 1 of Title 29, C.R.S. authorizes governments to cooperate and contract with one another to provide any function, service or facility lawfully authorized to each, including the sharing of costs; and

WHEREAS, the County has imposed a sales and use tax via the "Help Preserve Open Spaces Initiative" for the purchase and maintenance of open space, natural areas, wildlife habitat, parks and trails and a portion of the funds generated by said sales tax are distributed to municipalities located within Larimer County, including the City; and

WHEREAS, the City has imposed a dedicated 0.25% sales and use tax known as "Open Space Yes!", portions of the revenues from which are intended and available for the purchase and maintenance of open space, natural areas, and trails; and

WHEREAS, the parties recognize through the Larimer County Open Lands Master Plan and Fort Collins Natural Areas Master Plans that certain lands in the foothills and along the mountain backdrop to the cities of Fort Collins and Wellington (the "Conservation Area") are important to be conserved through various means such as fee acquisition, conservation easements, and regulatory measures; and

WHEREAS, the Larimer County Natural Resources Department and the City of Fort Collins Natural Areas Department share common goals in conserving land in the Conservation Area, and by this IGA intend to form a partnership to carry out a land conservation project known as the "Rocky Ridge Conservation Project" to conserve in fee and in conservation easement approximately 484 acres of land; and

WHEREAS, the Natural Areas Department has prioritized encumbering City Natural Areas' properties with conservation easements to add further protection to Natural Areas land based on the advice of the City Land Conservation and Stewardship Board; and

WHEREAS, the City has acquired through purchase of fee interest, the real property referred to as the "Rocky Ridge Property", described in **Exhibit A**, attached hereto and incorporated herein by reference ("Rocky Ridge"); and

WHEREAS, in consideration of a \$1,500,000 contribution from the County towards the purchase of Rocky Ridge, the City intends to convey a conservation easement (the "Conservation Easement") to the County on Rocky Ridge; and

WHEREAS, the parties desire to cooperate and contract with one another concerning the sharing of costs and responsibilities for the conservation of the Rocky Ridge property.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

A. Subject Properties/Easement

1. The City acquired Rocky Ridge on April 30, 2024.

2. The cost for conserving the Rocky Ridge, including the purchase price, conveyance of the Conservation Easement, closing costs, title insurance, Mineral Remoteness Opinion, and Baseline Report is estimated to be approximately \$5,117,600 as shown in **Exhibit B**, attached hereto and incorporated herein by reference. The County and City are responsible for paying the estimated costs designated to each of them in Exhibit B.

- (a) The County, within sixty (60) days of full execution of this Agreement, will contribute \$1,500,000 toward the cost of the acquisition of Rocky Ridge in exchange for the City granting the Conservation Easement on said property.
- (b) The City will pay all due diligence costs associated with the fee acquisition of Rocky Ridge. The parties agree to share the due diligence costs associated with the conveyance of the Conservation Easement from the City to the County on Rocky Ridge. These estimated costs are shown in Exhibit B.
- (c) If either the City or County determines it is unable to pay its share of any unanticipated costs, they agree to negotiate in good faith to reach a resolution such that the acquisition may be completed. Such resolution may include modifying the amount each party will pay for the unanticipated costs.

3. Within eighteen (18) months of the execution of this IGA, the City will convey the Conservation Easement on Rocky Ridge to the County. The terms and conditions of the Conservation Easement will be substantially the same as the form conservation easement template attached as **Exhibit C** which the County and City agree must be completed and revised (including exhibits thereto) subject to approval of both County and City each in their sole and separate subjective discretion prior to the conveyance of the Conservation Easement.

- (a) Conveyance of the Conservation Easement and the Option as defined in paragraph C.1 below, are both subject to prior approval by the Fort Collins City Council in its discretion by final adoption of an ordinance. If the City Council does not pass such an ordinance on second reading on or before October 1, 2024, or if the Council approves such ordinance but within ten (10) days of the passage of the ordinance a notice of protest against the ordinance is filed with the City Clerk of the City of Fort Collins pursuant to Section 2(b) of Article X of the Charter of the City of Fort Collins, then this IGA shall terminate and both parties shall be released from their obligations hereunder and the County shall be entitled to a refund of its contribution towards the City's purchase of Rocky Ridge.
- (b) The County will prepare the Conservation Easement instrument covering Rocky Ridge, in collaboration with the City. Upon completion of the transaction the County shall submit the Conservation Easement to the Larimer County Clerk and Recorder for recording in the real property records of the County and shall provide a copy of the recorded Conservation Easement to the City upon completion of recording. If the Parties cannot agree on the terms of the Conservation Easement, the County shall be entitled to a refund of its contribution towards the City's purchase of Rocky

Ridge.

4. Following the closing of the fee acquisition and conservation easement conveyance, the City will prepare a summary report similar to Exhibit B showing the exact costs paid by each party. It is not necessarily the parties' intent that the costs paid by each party will be equivalent to the value of the property interest held by such party.

5. The City shall have the discretion to make decisions related to the negotiations including choice of surveyor, title company, and other administrative matters, consistent with this Agreement. The parties shall promptly communicate with each other on any new material information related to Rocky Ridge and the Conservation Easement acquisition.

**B. Management of Rocky Ridge**

1. The City will manage Rocky Ridge in accordance with management priorities for City Natural Areas properties in a similar geographic location. Within 18 months of Conservation Easement conveyance the City will complete an onboarding planning process for the site and establish management tactics for the site. Subsequent management tactics will be established through a Zone Update to be completed within five years of conveyance.

2. In the event of emergency circumstances requiring immediate response prior to the Mountains to Plains Zone Update which will be used to guide the management of Rocky Ridge, the City shall be entitled to use reasonable discretion in responding to such circumstances. If possible, the City shall consult with the County in advance of any action being taken. In the event advance consultation is not reasonably possible, the City shall limit its actions to those necessary to address the existing emergency and shall make reasonable efforts to inform the County promptly of any such event and chosen course of action.

**C. Subsequent Sale and/or Transfer of Rocky Ridge or Conservation Easement Interests**

1. If the City desires to sell all or any portion of its fee interest in Rocky Ridge, the City shall provide written notice to the County of its intention to sell its interest ("Notice of Intent to Sell"). The County shall have a right of first refusal ("Option") to purchase such interest ("Interest") for its fair market value.

- (a) The County shall have 30 days from the date of the Notice of Intent to Sell to notify the City if it is interested in purchasing the Interest. The parties shall then jointly select an appraiser to determine the fair market value of the Interest. The cost of such appraisal shall be split equally between the parties.
- (b) The County shall notify the City within 30 days following the completion of the appraisal whether it intends to purchase the Interest. The parties shall then work in good faith to negotiate a purchase and sale agreement and any necessary documents for completion of the sale. The Option shall expire if the County does not, within 30 days of the completion of the appraisal, notify the City that it intends to purchase the Interest.
- (c) If the County timely notifies the City of its intent to purchase, the Option shall nonetheless expire two years after the date of the Notice of Intent to Purchase if the parties, acting in good faith, have not closed on the



conveyance of the Interest by that time.

- (d) If the County declines to purchase the Interest, either before or after having the Interest appraised, the City may then convey the Interest to a third-party as it chooses without compensation to the County, as long as such sale of the Interest is subject to the terms of the Conservation Easement and any other existing encumbrances, restrictions, or conditions applicable to the conveyed property.

2. If the City desires to sell all or any portion of its fee interest in Rocky Ridge, including easements or rights of way, and the County notifies the City of a potential adverse impact of the proposed sale on the remaining interests in Rocky Ridge or the Conservation Easement, the parties agree to negotiate in good faith to resolve the issue prior to the conveyance of such interests, as described in the Conservation Easement.

3. If all or any portion of Rocky Ridge is taken by eminent domain prior to the City's conveyance of the Conservation Easement to the County, the net proceeds from such disposition shall be divided between the City and the County in the same percentage as their respective contributions to the initial purchase payments for acquiring the property interests taken as defined in Exhibit B. Proceeds from such conveyance shall be subject to the provisions of each party's respective applicable policies, ordinances, resolutions, and plans. If all or any portion of Rocky Ridge is taken by eminent domain after conveyance of the Conservation Easement, the compensation received for the taking shall be divided between the parties as described in the Conservation Easement.

4. If the County wishes to assign the Conservation Easement (including any form of transfer or conveyance) to a third party, it shall provide written notice to the City of its intention to do so and the identity of the proposed assignee ("Notice"). The City shall have thirty (30) days from receipt of the Notice to notify the County of any objection the City has to the proposed assignment and the basis for such objection. If the City raises such an objection, the parties agree to negotiate in good faith to resolve the issue prior to the assignment of the Conservation Easement. Per the terms of the Conservation Easement, the County shall have the authority to assign the Conservation Easement despite objection by the City provided that the County has negotiated in good faith with the City to resolve the objection. The parties understand and acknowledge that if the County assigns the Conservation Easement to a third-party, the County may not receive any payment for such transfer, and neither the County nor the City would be entitled to recover any portion of its initial contribution to the value of the Conservation Easement.

#### D. General Provisions.

1. Each party agrees to execute all additional instruments and documents necessary to effectuate the transactions and purposes described herein, subject to any necessary approvals.

2. This Agreement shall be binding upon and inure to the benefit of the parties' respective successors and permitted assigns.

3. Financial obligations of the parties payable after the current fiscal year are contingent upon the governing bodies of the parties, in their discretion, appropriating funds sufficient and intended for such purposes.

4. Each party is responsible for its own negligence and that of its officers, employees,

and volunteers. Nothing in this Agreement waives the immunities, limits of liability, or other terms and conditions of the Colorado Governmental Immunity Act as now in force or hereafter amended.

5. Any notices required or permitted to be given shall be in writing and personally delivered to the office of the parties hereof, or sent by first class mail, postage prepaid, or by overnight commercial courier, addressed as follows:

Katie Donahue	Daylan Figgs
Natural Areas Director	Natural Resources Director
City of Fort Collins - Natural Areas Department	Larimer County Natural Resources Department
PO Box 580, Fort Collins, CO 80522	1800 S County Rd 31, Loveland, CO 80537
<a href="mailto:kdonahue@fcgov.com">kdonahue@fcgov.com</a>	<a href="mailto:dfiggs@larimer.org">dfiggs@larimer.org</a>

Any such notice shall be effective (i) in the case of personal delivery or by overnight commercial courier, when the notice is actually received, or (ii) in the case of first-class mail, the third day following deposit in the United States mail, postage prepaid, addressed as set forth above. Any party may change these persons or addresses by giving notice as required above.

6. If either party should fail or refuse to perform according to the terms of this Agreement, such party may be declared in default thereof. If a party has been declared in default, such defaulting party shall be allowed a period of ten (10) days within which to cure said default. In the event the default remains uncorrected, the party declaring default may elect to (a) terminate the Agreement and seek damages; (b) treat the Agreement as continuing and require specific performance; or (c) avail itself of any other remedy at law or equity. If the non-defaulting party commences legal or equitable actions against the defaulting party, the defaulting party shall be liable to the non-defaulting party for the non-defaulting party's reasonable attorney fees and costs incurred because of the default.

7. Nothing in this Agreement shall imply any partnership, joint venture, or other association between the City and the County. Each party shall have sole responsibility for the content and the conduct of its activities. Neither party shall use the other's name or logo to suggest co- sponsorship or endorsement of any activity without the other's prior written approval.

IN WITNESS WHEREOF, the parties hereto have executed this Intergovernmental Agreement concerning the Rocky Ridge Conservation Project, on the day and year first above written.

A Municipal Corporation

By: \_\_\_\_\_  
Jeni Arndt, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
(print name) (title)

\_\_\_\_\_  
(print name)

BOARD OF COUNTY COMMISSIONERS  
LARIMER COUNTY, COLORADO

By: \_\_\_\_\_  
Chair

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
County Attorney

## EXHIBIT A

## Rocky Ridge Property

**PARCEL I:**

BEGINNING AT THE NE CORNER OF SECTION 10, TOWNSHIP 8 NORTH, RANGE 69 WEST OF THE 6TH P.M., COUNTY OF LARIMER, STATE OF COLORADO; THENCE ALONG THE EAST LINE, S 0 DEGREES 21' W, 2692.04 FEET TO ROCKY RIDGE RESERVOIR; THENCE ALONG SAID RESERVOIR, S 86 DEGREES 5' W, 133.54 FEET, AND AGAIN S 29 DEGREES 22' W, 343.87 FEET, AND AGAIN S 40 DEGREES 19' E, 240.88 FEET, AND AGAIN S 49 DEGREES 03' E, 188.34 FEET TO A POINT ON SAID EAST LINE OF SECTION 10; THENCE ALONG SAID EAST LINE, S 00 DEGREES 21' W, 538.97 FEET TO THE CENTERLINE OF THE LARIMER COUNTY CANAL; THENCE ALONG SAID CENTERLINE, N 77 DEGREES 08' W, 331.40 FEET; AND AGAIN N 89 DEGREES 31' W, 110.66 FEET; AND AGAIN S 79 DEGREES 17' W, 376.18 FEET; AND AGAIN S 62 DEGREES 18' W, 507.39 FEET; AND AGAIN S 49 DEGREES 03' W, 68.12 FEET; AND AGAIN S 75 DEGREES 02' W, 280.34 FEET, AND AGAIN N 81 DEGREES 33' W, 114.06 FEET; AND AGAIN N 61 DEGREES 44' W, 124.62 FEET; AND AGAIN N 50 DEGREES 45' W, 292.72 FEET; AND AGAIN N 42 DEGREES 12' W, 106.18 FEET; AND AGAIN N 56 DEGREES 02' W, 536.40 FEET; AND AGAIN N 51 DEGREES 31' W, 172.01 FEET; AND AGAIN N 55 DEGREES 26' W, 321.35 FEET; AND AGAIN N 64 DEGREES 28' W, 184.95 FEET; AND AGAIN N 43 DEGREES 36' W, 112.22 FEET; AND AGAIN N 27 DEGREES 17' W, 166.53 FEET; AND AGAIN N 42 DEGREES 25' W, 274.20 FEET; AND AGAIN N 20 DEGREES 85' W, 265.25 FEET; AND AGAIN N 09 DEGREES 32' W, 124.82 FEET; AND AGAIN N 04 DEGREES 09' E, 234.25 FEET; AND AGAIN N 15 DEGREES 00' E 338.49 FEET, AND AGAIN N 06 DEGREES 33' W, 298.29 FEET; AND AGAIN N 01 DEGREES 59' W, 265.99 FEET; AND AGAIN N 13 DEGREES 23' E, 138.90 FEET; AND AGAIN N 39 DEGREES 37' E, 124.48 FEET; AND AGAIN N 76 DEGREES 58' E, 87.88 FEET, AND AGAIN S 80 DEGREES 56' E, 124.70 FEET; AND AGAIN N 83 DEGREES 17' E, 90.65 FEET; AND AGAIN N 41 DEGREES 50' E, 391.61 FEET; AND AGAIN N 21 DEGREES 15' E, 486.27 FEET; AND AGAIN N 00 DEGREES 40' E, 72.04 FEET, AND AGAIN N 27 DEGREES 02' W, 47.83 FEET; AND AGAIN N 43 DEGREES 29' W, 219.45 FEET TO THE NORTH LINE OF SAID SECTION 10; THENCE ALONG SAID NORTH LINE, E 2845.43 FEET OF THE POINT OF BEGINNING;

EXCEPT THAT PORTION DESCRIBED IN DEED RECORDED NOVEMBER 10, 1981 IN 2140 AT PAGE 1506

EXCEPT 30 FOOT RIGHT OF WAY FOR LARIMER COUNTY CANAL ALONG THE SOUTHERLY AND WESTERLY LINES THEREOF.

**PARCEL II:**

A PARCEL OF LAND IN SECTION 11, TOWNSHIP 8 NORTH, RANGE 69 WEST OF THE 6TH P.M., COUNTY OF LARIMER, STATE OF COLORADO, WITH ALL BEARINGS RELATIVE TO THE NORTH LINE, AS EAST-WEST; AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTH LINE OF SECTION 11, 762.00 FEET WEST OF NE CORNER OF SECTION 11, SAID POINT BEING THE POINT OF BEGINNING; THENCE WEST ALONG THE NORTH LINE OF SECTION 11, 1872.74 FEET TO THE N 1/4 CORNER OF SECTION 11; THENCE CONTINUING WEST ALONG THE NORTH LINE OF SAID SECTION 11, 1090.00 FEET, THENCE SOUTH 1570.00 FEET; THENCE S 86 DEGREES 30' 00" E, 900.00 FEET; THENCE S 66 DEGREES 30' 00" E, 1677.00 FEET; THENCE N 25 DEGREES 17' 20" E, 1087.76 FEET; THENCE N 02 DEGREES 42' 08" E, 1311.59 FEET TO THE POINT OF BEGINNING.

**PARCEL III:**

BEGINNING AT THE NW CORNER OF SECTION 11, TOWNSHIP 8 NORTH, RANGE 69 WEST OF THE 6TH P.M., COUNTY OF LARIMER, STATE OF COLORADO; THENCE EAST 1550 FEET; THENCE SOUTH 2126 FEET; THENCE S 69 DEGREES 45' W, 1648 FEET; THENCE NORTH 2700 FEET TO BEGINNING;

EXCEPTING FROM PARCEL III ANY PORTION OF PARCEL II INCLUDED IN THE CONVEYANCE RECORDED IN [BOOK 395 AT PAGE 353](#).

ALSO EXCEPTING FROM ABOVE PARCELS, RIGHT OF WAY FOR COUNTY ROAD AS ESTABLISHED AND/OR USED.

EXHIBIT B

Rocky Ridge Conservation Project

Draft IGA Cost Data

Costs are Estimates and are subject to change

Property	Acres	Fort Collins	Larimer County	Total
<b>Rocky Ridge Fee Purchase</b>				
Land Acquisition	484	\$3,600,000	\$1,500,000	\$5,100,000
Closing Costs		\$4,600		\$4,600
Environmental Assessment		\$2,500		\$2,500
Subtotal				\$5,107,100
<b>Conservation Easement on Rocky Ridge</b>				
Easement Acquisition			\$1,500,000	
Baseline Report		\$3,500	\$3,500	\$7,000
Mineral Remoteness Report		\$1,250	\$1,250	\$2,500
Closing Costs		\$500	\$500	\$1,000
Subtotal				\$10,500
<b>Grand TOTALS</b>	<b>484</b>	<b>\$3,612,350</b>	<b>\$1,505,250</b>	<b>\$5,117,600</b>

**Exhibit C**  
**TEMPLATE DEED OF CONSERVATION EASEMENT**

THIS DEED OF CONSERVATION EASEMENT (the “**Deed**”) is granted on this \_\_\_\_ day of \_\_\_\_\_ 2024 (“**Effective Date**”), by **THE CITY OF FORT COLLINS, COLORADO**, a Colorado municipal corporation (“**Grantor**”) whose address for the purposes of this Deed is 300 LaPorte Avenue, P.O. Box 580, Fort Collins, Colorado 80522 to the **INSERT NAME**, (“**Grantee**”), having its address at \_\_\_\_\_. (Grantor and Grantee may be individually referred to as a “**Party**” and collectively referred to as “**Parties.**”) The following exhibits are attached and incorporated:

- |           |   |  |
|-----------|---|--|
| Exhibit A | - | Legal Description of Property  |
| Exhibit B | - | Map of Property  |
| Exhibit C | - | Descriptions and Maps of Building Envelope Areas (Approximate Building Envelope area and surveyed addendums) |

RECITALS

A. Grantor is the sole owner in fee simple of approximately \_\_\_\_\_ acres of real property located in Larimer County, Colorado, more particularly described in **Exhibit A** and generally depicted on **Exhibit B** (the “**Property**”).

B. The Property possesses relatively natural habitat, scenic, open space, educational, and recreational values (collectively, “**Conservation Values**”) of great importance to Grantor, the people of the City of Fort Collins and the surrounding Larimer County region, and the people of the State of Colorado. In particular, the Property contains the following characteristics, as described in the baseline report, which are also included within the definition of Conservation Values.

- i. Scenic and open space values, including views of grassy plains, the foothills and mountains, hogback ridges, rock outcroppings and cliffs.
- ii. Natural Vegetation communities include, cottonwood galleries, foothills grasslands, and a wildlife corridor for resident and migrant birds and mammals. Wildlife values include habitat for deer, elk, bighorn sheep, mountain lion, bobcat, coyote, fox, various smaller mammals, various snake and amphibian species, raptors, and other resident and migratory bird species.
- iii. Ecological values, representing a native biotic community of grasslands, and shrublands.
- iv. Agricultural values for limited livestock grazing and hay production.
- v. Recreational Values: Conservation of the Property will provide potential for future public access for appropriate non-motorized trail-based recreation such as walking, hiking, horseback riding, and biking.

Conservation of this property is consistent with the following state and local governmental policies:

- i. C.R.S. § 33-1-101, et seq., provides in relevant part that "[i]t is the policy of the state of Colorado that the wildlife and their environment are to be protected, preserved, enhanced, and managed for the use, benefit, and enjoyment of the people of this state and its visitors."
- ii. C.R.S. § 38-30.5-101, et seq., provides for the establishment of conservation easements to maintain land "in a natural, scenic, or open condition, or for wildlife habitat, or for agricultural, horticultural, wetlands, recreational, forest, or other use or condition consistent with the protection of open land, environmental quality or life-sustaining ecological diversity, or appropriate to the conservation and preservation of buildings, sites, or structures having historical, architectural, or cultural interest or value."
- iii. The Western Governors' Association Policy Resolution 2021-04 states that the "Western Governors support all reasonable proactive management efforts to conserve species and the ecosystems upon which they depend to sustain populations of diverse wildlife and habitats, preclude the need to list a species under the ESA, and retain the West's wildlife legacy for future generations. Western Governor's also support initiatives that engage stakeholders to develop incentives for early, voluntary conservation measures to address multiple threats to species while preserving and enhancing western working landscapes."
- iv. The Colorado Department of Transportation statutes, C.R.S. § 43-1-401, et seq., provide that the "preservation and enhancement of the natural and scenic beauty of this state" is a substantial state interest.
- v. Priority III of Colorado's Statewide Comprehensive Outdoor Recreation Plan (SCORP) 2019-2023 is land, water, and wildlife conservation and the goal of Priority III is "Private and public lands and waters are conserved to support sustainable outdoor recreation, the environment, and wildlife habitat. Objective I of Priority III is to advance landscape-scale conservation.
- vi. Colorado's 2015 State Wildlife Action Plan (SWAP) contains the following guiding principles:
  - "Encourage and support conservation actions that meet the needs of Species of Greatest Conservation Need;
  - Acknowledge the pivotal role that private landowners and local stakeholders play in conservation;
  - Maintain an atmosphere of cooperation, participation, and commitment among wildlife managers, landowners, private and public land managers, and other stakeholders in development and implementation of conservation actions."
- vii. The City of Fort Collins Natural Areas Master Plan (2014) states that "the mission of the Natural Areas Department is to conserve and enhance lands with natural resource, agricultural, and scenic values, while providing meaningful education and appropriate recreation opportunities" and establishes conservation focus areas including the Foothills: Buckhorn, Redstone and Rist Canyon focus area which encompass the Property.
- viii. The City of Fort Collins City Plan (2019) includes the following Principle ENV1: "Conserve, create and enhance ecosystems and natural spaces with Fort Collins, the GMA and the region."

C. Grantor intends that the Conservation Values be preserved and protected in perpetuity, and that the Deed prohibits any uses that would materially adversely affect the Conservation Values or that otherwise would be inconsistent with the Purpose (defined below). The Parties acknowledge and agree that uses expressly permitted by this Deed and Grantor's current land



use patterns on the Property, including without limitation those relating to grazing livestock, hay production, maintaining shrubland and grassland health and public open space and recreation purposes existing on the Effective Date (as defined in **Section 27**, below), do not materially adversely affect the Conservation Values and are consistent with the Purpose

D. By granting this Deed, Grantor further intends to create a conservation easement interest that binds Grantor as the owner of the Property and also binds future owners of the Property and to convey to Grantee the right to preserve and protect the Conservation Values in perpetuity.

E. Grantee is a \_\_\_\_\_, and a “qualified organization” under I.R.C. § 170(h) and Treas. Reg. § 1.170A-14(c), whose primary purpose is to preserve and protect significant open space, natural areas, wildlife habitat, and develop parks and trails for present and future generations.

F. Grantee is qualified to hold conservation easements as a \_\_\_\_\_ under C.R.S. § 38-30.5-104, *et seq.*

G. Grantee is certified as license number \_\_\_\_\_ by the State of Colorado’s Division of Real Estate pursuant to C.R.S. § 12-61-724 and 4 C.C.R. 725-4, Chapter 2, to hold conservation easements for which a tax credit is claimed.

H. Grantee agrees by accepting this Deed to preserve and protect in perpetuity the Conservation Values for the benefit of this and future generations.

NOW, THEREFORE, pursuant to the laws of the State of Colorado, and in particular C.R.S. § 38-30.5-101, *et seq.*, and in consideration of the recitals set forth above, the mutual covenants, terms, conditions, and restrictions contained in this Deed, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor voluntarily grants and conveys to Grantee, and Grantee voluntarily accepts, a conservation easement in gross in perpetuity over the Property for the Purpose set forth below and of the nature and character and to the extent set forth in this Deed.

1. Purpose. The purpose of this Deed is to ensure that Grantor preserves and protects in perpetuity the Conservation Values as they exist upon the Effective Date and as they may evolve in the future, in accordance with I.R.C. § 170(h), Treas. Reg. § 1.170A-14 and C.R.S. § 38-30.5-101 *et seq.* (“**Purpose**”). To effectuate the Purpose, Grantor and Grantee agree: (i) to allow those uses of the Property that are expressly permitted by this Deed, subject to any limitations or restrictions stated in this Deed, and those uses of the Property that do not materially adversely affect the Conservation Values; and (ii) to prevent any use of the Property that is expressly prohibited by this Deed or will materially adversely affect the Conservation Values. Notwithstanding the foregoing, nothing in this Deed is intended to compel a specific use of the Property, such as agriculture, other than the preservation and protection of the Conservation Values.

2. Baseline Documentation Report. The Parties acknowledge that a written report will be prepared by \_\_\_\_\_ to be reviewed and approved by the Parties, which will document the Property’s condition as of the Effective Date (the “Baseline Report”). The Baseline Report shall contain a natural resources inventory of the Property at the time of the Baseline Report and also document existing improvements on and current uses of the Property. A copy of the Baseline Report shall be kept on file with each Party and by this reference shall be made part of this Deed. The Parties acknowledge that the Baseline Report is intended to establish and accurately represent the condition of the Property as of the Effective Date. The Parties will use the Baseline Report to ensure that any future changes to the Property are consistent with the Purpose. However, the Parties agree that the existence of the Baseline Report shall in no way

limit the Parties' ability to use other pertinent information in resolving any controversy that may arise with respect to the condition of the Property as of the Effective Date.

3. Rights of Grantee. To accomplish the Purpose, in addition to the rights of the Grantee described in C.R.S. § 38-30.5-101 *et seq.*, and the rights of Grantee described elsewhere in this Deed, this Deed conveys the following rights to Grantee:

a. To preserve and protect the Conservation Values in perpetuity;

b. To enter upon the Property at reasonable times to monitor Grantor's compliance with and, if necessary, to enforce the terms of this Deed. Such entry shall be made upon prior reasonable notice to Grantor, except in the event Grantee reasonably determines that immediate entry upon the Property is necessary to prevent or mitigate a violation of this Deed. Such entry shall be conducted without damage to natural resources and may involve reasonable vehicle access restrictions imposed by Grantor. In the case where Grantee has determined that immediate entry is necessary, a reasonable attempt will be made to notify Grantor prior to such entry. Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property when exercising any such rights;

c. To prevent any activity on or use of the Property that is inconsistent with the Purpose or the express terms of this Deed and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent use; and

d. To require Grantor to consult with Grantee regarding the negotiations of any and all agreements between Grantor and third parties that may include activities inconsistent with the purpose of the Easement, such as, but not limited to, easement agreements, utility easements, right of way agreements, surface use agreements, and lease agreements (other than those specifically related to the agricultural and recreational operations of the Property), and to have the right to approve any such agreement prior to such agreement being executed, Grantee shall grant or withhold its approval in writing within sixty (60) days of receipt of Grantor's written request and sufficient supporting details as described above, or explain to Grantor why Grantee reasonably requires no more than an additional thirty (30) days to reach a decision. Nothing in this Deed is intended to require Grantee to approve any action or agreement that is inconsistent with the terms of this Deed.

4. Reserved Rights. Subject to the terms of the Deed, Grantor reserves to Grantor, and to Grantor's personal representatives, successors, and assigns, all rights accruing from Grantor's ownership of the Property, including (i) the right to engage in or permit or invite others to engage in all uses of the Property that are expressly permitted by this Deed, subject to any limitations or restrictions stated in this Deed, and those uses of the Property that do not materially adversely affect the Conservation Values; and (ii) to retain the economic viability of the Property and retain income derived from the Property from all sources, unless otherwise provided in this Deed, that are consistent with the terms of this Deed. Grantor may not, however, exercise these retained rights in a manner that is expressly prohibited by this Deed or that materially adversely affects the Conservation Values. Without limiting the generality of the foregoing, Grantor reserves the specific rights set forth below.

a. Right to Convey. Grantor may sell, give, lease, devise, mortgage, or otherwise encumber or convey the Property, subject to the following: (i) any lease, deed, or other conveyance or encumbrance is subject to this Deed, and any such document shall specifically incorporate the terms and conditions of this Deed by reference to this Deed; (ii) any lease or deed or other conveyance document shall specifically state which reserved rights have been exercised, if at all, and which reserved rights are specifically allocated to the new owner or lessee; and (iii)

notice of any proposed conveyance or encumbrance as set forth in this **Section 4.a** shall be subject to the provisions of **Section 19** of this Deed.

b. Land Stewardship. To accomplish the preservation and protection of the Conservation Values in perpetuity, Grantor shall operate, manage, and maintain the Property in a manner that promotes the continued viability of the natural resources on the Property while maintaining any permissible productive uses of the Property, subject to the provisions of **Section 6** of this Deed. Specifically, Grantor agrees to conduct the activities listed below in a manner consistent with the Purpose. Notwithstanding the foregoing, Grantor and Grantee recognize that changes in economic conditions, in agricultural technologies, in accepted farm, ranch and forest management practices, in the natural progression of ecosystems, and in the situation of Grantor may result in an evolution of agricultural, silvicultural, and other uses of the Property, and such uses are permitted if they are consistent with the Purpose.

(1) Habitat Management. Grantor may conduct any activities to create, maintain, restore, or enhance wildlife habitat and native biological communities on the Property, provided that such activities do not have more than a limited, short-term adverse effect on the Conservation Values.

(i) Weed/Pest Management. Management of land to control erosion, growth of weeds and brush, rodents, pests, insects and pathogens, fire danger and other threats is permitted consistent with applicable laws and regulations and in keeping with maintenance of the Conservation Values of the Property, and in accordance with the Land Management Plan described in **Section 6** below. The Grantor agrees to manage noxious weeds in accordance with the requirements of Larimer County, the State of Colorado and other applicable agencies.

(ii) Maintenance/Restoration. Maintenance, stabilization, replacement, realignment, rebuilding, or restoration of existing croplands, springs, ditches and pastureland, are permitted. Wetland pond, riparian, and grassland restoration and creation are permitted if and to the extent consistent with the Purpose and the terms of this Deed.

(iii) Prescribed Fire. Igniting outdoor prescribed fires for agricultural or ecological purposes shall be allowed on the Property, provided that such activity is conducted in accordance with accepted prescribed burn practices, all applicable laws or regulations, and the Land Management Plan described in **Section 6** below.

(iv) Wildlife Management. In coordination with Colorado Parks and Wildlife, management of wildlife including hunting and native species reintroductions shall be allowed on the Property.

(2) Agriculture. Grantor reserves the right to use the Property for grazing livestock. Grantor shall conduct all agricultural activities using stewardship and management methods that preserve the natural resources on the property. Long-term stewardship and management goals include preserving soil productivity, maintaining natural stream channels, preventing soil erosion, minimizing and controlling invasive species, avoiding unsustainable livestock grazing practices, and minimizing loss of native vegetation. Non-native hay production is limited to areas historically used for such production. A map of non-native historic hayed areas can be found in the Baseline Report. Sodbusting, the removal of native vegetation for purposes of establishing additional croplands, is expressly prohibited.

(i) Grazing. Livestock grazing is permitted in accordance with sound stewardship and management practices, and shall be managed so that the overall

condition of the Property is preserved at no less than its baseline condition and in no event in less than “fair” condition (as defined by the most current *applicable U.S. Department of Agriculture - Natural Resources Conservation Service (NRCS) Technical Guide*) and managed to improve the ecological health of the property, as outlined in the Land Management Plan. For the purposes of this Deed “livestock” shall mean cattle, sheep, goats, llamas, alpaca, yaks, and bison. The raising of other livestock and/or game animals shall not be permitted unless specifically approved by the Grantee and described in the Land Management Plan. The Grantor shall comply with and have responsibility for compliance of the Property with the Colorado Noxious Weed Act and any other governmental noxious weed control regulations.

(3) Timber Management. Trees may be cut to control insects and disease, to control invasive non-native species, to prevent personal injury and property damage, to promote forest health, and for fire mitigation purposes including limited and localized tree and vegetation thinning and the creation of defensible space for permitted improvements. Dead trees may also be cut for firewood and other uses on the Property. Any large-scale fire mitigation activities or timber harvesting on the Property shall be conducted on a sustainable yield basis and in substantial accordance with a forest management plan prepared by Grantor or on Grantor’s behalf by a professional forester. Any large-scale fire mitigation activities or timber harvesting shall be conducted in a manner that is consistent with the Purpose. A copy of the forest management plan shall be approved by Grantee prior to any large-scale fire mitigation activities or timber harvesting.

c. Recreational Activities. Grantor reserves the right to provide non-motorized passive recreational activities, such as horseback riding, mountain biking, hiking, cross-country skiing, snowshoeing, and other similar on-trail, low-impact recreational uses, and to make the Property available to the public for such uses. Limited off-trail access is allowed for pedestrian uses and non-vehicular activities, including hiking, photography, seed collection, vegetation and wildlife studies, and wildlife viewing. Additionally, Grantor reserves the right to allow motorized recreational activities for persons with a disability under the Americans with Disabilities Act (ADA). Fishing and hunting are also permitted, so long as they are undertaken in compliance with applicable state and federal laws and regulations and pursued in a manner that is consistent with the Purpose. All Recreational Activities listed in this section will be in accordance with the Land Management Plan, referenced in **Section 12** of this Deed. Recreational trail activities for public use in the future are permitted in accordance with **Section 4.e(2)** of this Deed.

d. Residential and Non-Residential Improvements. Improvements existing as of the Effective Date are permitted, and Grantor may maintain, repair and replace such improvements in their current locations without Grantee’s approval. Grantor reserves the right to construct or place Residential Improvements and Non-Residential Improvements, as defined below, subject to **Sections 4.d(1), 4.d(2), 4.d(3)** and **4.d(4)** below, with prior written approval of Grantee, and Grantor shall provide prior notice of such construction to Grantee in accordance with **Section 7** of this Deed. Grantor reserves the right to construct Minor Non-Residential Improvements, as defined below, without Grantee’s approval. Once constructed, Grantor may maintain, repair and replace such new improvements in their initially constructed locations without Grantee’s approval.

“**Residential Improvements**” shall mean covered improvements containing habitable space intended for full or part-time human habitation, including homes, cabins, guest houses, mobile homes, yurts, tepees, and any space attached to any such improvement such as a garage or covered porch.

“**Non-Residential Improvements**” shall mean all other covered or uncovered agricultural and non-residential improvements that are not intended for human habitation, including

barns, hay storage areas, machine shops, sheds, free-standing garages, well houses, outhouses, gazebos, picnic areas, pools, outdoor kitchens, indoor and outdoor riding arenas, wildlife viewing platforms, shade structures, parking areas and trailhead areas (including vault toilets, shelters and trailhead kiosks).

**“Minor Non-Residential Improvements”** shall mean minor agricultural or non-residential improvements including fences (subject to the terms of **Section 4.f** of this Deed), corrals, hayracks, cisterns, stock tanks, stock ponds, troughs, fenced haystacks, livestock feeding stations, hunting blinds, sprinklers, water lines, water wells, ditches, diversion structures, bridges, information kiosks, trail markers and trash receptacles and benches.

In no case shall any Improvements be built on the Property within three hundred (300) feet of any naturally occurring stream surface spring water, or wetland, as identified in the Baseline Report or as may subsequently develop or be determined to exist on the Property, with the following exceptions: Water Facilities. Maintenance, development and construction of water facilities such as water wells, livestock watering wells, windmills, springs, water storage tanks, hydrants, pumps, water conveyance structures, and access bridges and or similar minor agricultural infrastructure that are solely for use on the Property in conjunction with those activities on the Property permitted by this Easement, including providing drinking water for users and livestock on the Property, for use by the Grantor, Grantor’s lessees and/or invitees, are permitted. Any Improvements pursuant to this paragraph shall be sited and constructed or placed so as not to substantially diminish or impair the Conservation Values of the Property and may be considered exempt from the setback requirement described in **Section 4d**. The Grantor shall report and describe development, construction, or modifications to water facilities on the Property as part of the Land Management Plan. All development and construction must comply with local, state, and federal requirements.

(1) Reserved Building Envelopes. Grantor may designate \_\_\_\_\_ building envelope(s) (the “Reserved Building Envelope”) of no more than \_\_\_\_\_ total acres.

(i) Reserved Building Envelope #1 will be for the purposes of XXXX. Prior to the construction or placement of any improvements, Grantor shall inform Grantee in writing of Grantor’s choice of location for the Reserved Building Envelope. Grantor shall, at its expense, describe and depict the boundaries of both the Reserved Building Envelope using a survey and provide a copy of such description to Grantee. Grantor and Grantee shall execute and record a supplement to this Deed that describes and depicts the exact boundaries of the Reserved Building Envelope.

(2) Outside of the Building Envelope. No construction or placement of Residential Improvements is allowed outside any Building Envelope. Following Grantor’s notice to Grantee pursuant to **Section 7** of this Deed and confirmation that all construction and placement will meet the following limitations, Grantor may construct or place Non-Residential Improvements and Minor Non-Residential Improvements in the portion of the Property outside of the Building Envelopes subject to the following limitations:

(i) Grantor may maintain, repair, or remove Non-Residential Improvements existing as of the Effective Date of this Deed and documented in the Baseline Documentation Report in their current locations without Grantee’s approval.

(ii) Subject to the terms outlined below, Grantor may construct new Non-Residential Improvements with the prior written approval of Grantee, and shall

provide notice of such construction to Grantee in accordance with **Section 7** of this Deed.

- a. The maximum number of new Non-Residential Improvements shall not exceed \_\_\_\_\_ ( ).
  - b. The maximum Footprint for each structure shall not exceed \_\_\_\_\_ square feet.
  - c. The maximum height of each structure shall not exceed twenty (20) feet.
  - d. Once constructed, Grantor may maintain, repair and replace such new improvements in their initially constructed locations without Grantee's approval.
- (iii) Grantor reserves the right to maintain, construct or place Minor Non-Residential Improvements, as defined above, without Grantee's approval.

(3) Definition of Footprint. For the purposes of this Deed, "Footprint" is defined as the total ground area occupied by a Residential Improvement or Non-Residential Improvement, calculated on the basis of exterior dimensions (whether at or above ground level) including carports or breezeways, but does not include eaves, uncovered decks or patios.

(4) Measurement of Height. For the purposes of this Deed, "Height" is defined as the vertical distance from the low point of the grade at the structure perimeter to the high point of the structure. For the purposes of this Deed, "Grade at the structure perimeter" means either the natural grade or the finished grade, whichever is lower in elevation.

e. Roads and Trails. Maintenance of existing Roads and Trails is permitted. "**Roads**" shall mean any road that is graded, improved or maintained, including seasonal unimproved roads and two-track roads. "**Trails**" shall mean any unimproved or improved path, or paved or unpaved trail constructed or established by human use, but shall not include game trails established and used by wildlife only.

(1) Grantor shall not construct or establish any Road that substantially impacts the conservation values nor that is wider than necessary to provide access for all permitted uses or to meet local codes for width of access to improvements permitted by this Deed. Grantor shall not pave or otherwise surface a Road with any impervious surface, except as may be required by local, state, or federal regulations to accommodate access to the Property or to meet ADA standards, as outlined in the Land Management Plan.

(2) Trails. Grantor may construct Trails for public recreation of such number, type and nature as are normally associated with a natural area that is opened to the public for limited use. The Grantor will work with the Grantee on the location of any potential future Trail alignments by providing notice and accepting input on the extent and location of such Trails.

f. Fences. Existing fences may be maintained, repaired, and replaced, and new fences may be built anywhere on the Property. The location and design of any new fencing shall facilitate and be compatible with the movement of wildlife across the Property and otherwise consistent with the Purpose.

g. Utility Improvements. Unless otherwise permitted in an instrument recorded as of the Effective Date or approved by Grantee after notice to Grantee in accordance with **Section 7** of this Deed, new Utility Improvements shall not be established on the Property, unless establishment is to provide onsite service. Existing energy generation or transmission infrastructure and other existing utility improvements, if any, may be repaired or replaced with an improvement of similar size and type at their current locations on the Property without further permission from Grantee. Utility improvements include : (i) natural gas distribution pipelines, electric power poles, transformers, and lines; (ii) telephone and communications towers, poles, and lines; (iii) septic systems; (iv) water wells, domestic water storage and delivery systems; and (v) renewable energy generation systems including wind, solar, geothermal, or hydroelectric for use on the Property (“Utility Improvements”). Utility Improvements may be enlarged or constructed on the Property, subject to the restrictions below and provided that they are consistent with the Purpose. No commercial or large -scale utility improvements are allowed.

(1) Additional Requirements. Prior to the enlargement or construction of any Utility Improvements on the Property, Grantor shall provide notice to Grantee in accordance with **Section 7** of this Deed. Following the repair, replacement, enlargement or construction of any Utility Improvements, Grantor shall promptly restore any disturbed area to a condition consistent with the Purpose.

(2) Alternative Energy.

(i) Wind, solar, and hydroelectric generation facilities that are for the generation of energy for use on the Property in conjunction with those activities permitted by this Deed (collectively “Alternative Energy Generation Facilities”) may be constructed in accordance with this **Section 4.g(2)**. Notwithstanding the foregoing, no approval of Grantee shall be required if the Alternative Energy Generation Facilities permitted by this **Section 4.g(2)** are installed in conjunction with the operation of an agricultural improvement as described in **Section 4.d** above. Any other Alternative Energy Generation Facilities may only be constructed with the prior written approval of Grantee in Grantee’s sole discretion. Without limiting Grantee’s right to withhold such approval in its sole discretion, factors that Grantee may consider in determining whether to grant such approval shall include (a) whether the installation and siting would substantially diminish or impair the Conservation Values, (b) the physical impact of the proposed facility on the Conservation Values, (c) the feasibility of less impactful alternatives, and (d) such other factors as Grantee may determine are relevant to the decision. The construction of Alternative Energy Generation Facilities that are not for use in conjunction with those activities permitted by this Deed are prohibited anywhere on the Property. Nothing in this **Section 4.g(2)** shall be construed as permitting the construction or establishment of a wind farm or commercial solar energy production facility.

(ii) Any energy generated by Alternative Energy Generation Facilities constructed in accordance with this **Section 4.g(2)** that is incidentally in excess of Grantor’s consumption may be sold, conveyed, or credited to a provider of retail electric service to the extent permitted by Colorado law.

(iii) In the event of technological changes or legal changes that make “expanded” Alternative Energy Generation Facilities more compatible with I.R.C. Section 170(h) or any applicable successor law, Grantee in its sole discretion may approve expanded Alternative Energy Generation Facilities that would not substantially diminish or impair the Conservation Values. For the purposes of this **Section 4.g(2)(iii)**, the term “expanded” shall mean the development of Alternative Energy Generation Facilities to an extent that is greater than the level permitted by **Sections 4.g(2)(i) and 4.g(2)(ii)**.

5. Prohibited and Restricted Uses. Any activity on or use of the Property inconsistent with the Purpose is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited or restricted as set forth below:

a. Development Rights. To fulfill the Purpose, Grantor conveys to Grantee all development rights, except those expressly reserved by Grantor in this Deed, deriving from, based upon or attributable to the Property in any way, including all present and future rights to divide the Property for the purpose of development into residential, commercial or industrial lots or units or to receive density or development credits for the same for use off of the Property ("**Grantee's Development Rights**"). The Parties agree that Grantee's Development Rights shall be held by Grantee in perpetuity in order to fulfill the Purpose, and to ensure that such rights are forever released, terminated and extinguished as to Grantor, and may not be used on or transferred off of the Property to any other property or used for the purpose of calculating density credits or permissible lot yield of the Property or any other property.

b. Residential, Non-Residential and Minor Non-Residential Improvements. Grantor shall not construct or place any Residential Improvements, Non-Residential Improvements or Minor Non-Residential Improvements on the Property except in accordance with **Section 4.d** of this Deed.

c. Recreational and Commercial Improvements. Grantor shall not construct or place any new recreational improvement on the Property, including athletic fields, golf courses or ranges, racetracks, airstrips, helicopter pads, or shooting ranges, except as described in **Section 4** of this Deed. Grantor shall not construct or place any new commercial improvement on the Property.

d. Subdivision. Division or subdivision of the Property, physically or by legal process, including partition, is strictly prohibited.

e. Removal of Vegetation and Timber Harvesting. Except as otherwise set forth in this Deed, or outlined in the Land Management Plan, Grantor shall not remove any vegetation, including shrubs and trees, or harvest any timber from the Property except in accordance with **Section 4.b(2)** and **Section 4.b(3)**. Sodbusting or removal of native vegetation for purposes of establishing additional croplands, is expressly prohibited.

f. Mineral and Hydrocarbon Extraction. As of the Effective Date, Grantor does not own all of the coal, oil, gas, hydrocarbons, sand, soil, gravel, rock and other minerals of any kind of description (the "**Minerals**") located on, under, or in the Property or otherwise associated with the Property. This Deed expressly prohibits the mining or extraction of Minerals using any surface mining method. Grantor may permit subsurface access to Minerals from locations off the Property, provided that Grantor shall not permit such subsurface access to disturb the subjacent and lateral support of the Property or to materially adversely affect the Conservation Values. Notwithstanding the foregoing, Grantor and Grantee may permit mineral extraction utilizing methods other than surface mining if the method of extraction has a limited, localized impact on the Property that is not irretrievably destructive of the Conservation Values. However, Grantor and Grantee agree that the following provisions shall apply to any proposed mineral extraction by Grantor or any third party, as applicable:

(1) Soil, Sand, Gravel and Rock. Grantor may extract soil, sand, gravel or rock without further permission from Grantee so long as such extraction: (i) is solely for use on the Property for non-commercial purposes; (ii) is in conjunction with activities permitted in this Deed, such as graveling roads and creating stock ponds; (iii) is accomplished in a manner consistent



with the preservation and protection of the Conservation Values; (iv) does not involve disturbing by such extraction more than one half-acre of the Property at one time, and uses methods of mining that may have a limited and localized impact on the Property but are not irretrievably destructive of the Conservation Values; and (v) is reclaimed within a reasonable time by refilling or some other reasonable reclamation method for all areas disturbed. This provision shall be interpreted in a manner consistent with I.R.C. § 170(h), as amended, and the Treasury Regulations adopted pursuant thereto.

(2) Oil and Gas. Grantor, or a third party permitted by Grantor, may explore for and extract oil and gas owned in full or in part by Grantor, provided Grantor ensures that such activities are conducted in a manner that does not constitute surface mining and complies with the following conditions:

(i) The exploration for or extraction of oil, gas and other hydrocarbons is conducted in accordance with a plan (the "**Oil and Gas Plan**"), prepared at Grantor's expense and approved in advance by Grantee. The Oil and Gas Plan shall describe: (a) the specific activities proposed; (b) the specific land area to be used for well pad(s), parking, staging, drilling, and any other activities necessary for the extraction of oil and gas, and the extent of the disturbance of such land area before and after reclamation; (c) the location of facilities, equipment, roadways, pipelines and any other infrastructure to be located on the Property; (d) the method of transport of oil or gas produced from the Property; (e) the method of disposal of water, mining byproducts and hazardous chemicals produced by or used in the exploration and development of the oil or gas; (f) the proposed operation restrictions to minimize impacts on the Conservation Values, including noise and dust mitigation and any timing restrictions necessary to minimize impacts to wildlife; (g) the reclamation measures necessary to minimize disturbance to and reclaim the surface of the Property, including restoring soils to the original contours and replanting and re-establishing native vegetation using specific seed mixes and processes to ensure successful re-vegetation of the Property, including and in addition to those measures required by law; and (h) remedies for damages to the Conservation Values.

(ii) No tank batteries, refineries, secondary production facilities, compressors, gas processing plants, or other similar facilities may be located on the Property.

(iii) Areas of surface disturbance shall be mitigated promptly in accordance with the Oil and Gas Plan.

(iv) Travel for the purpose of oil or gas development shall be restricted to existing roads or to new roads approved in advance in writing by Grantee as part of the Oil and Gas Plan.

(v) Well facilities and pipelines shall either be placed underground or screened or concealed from view by the use of existing topography, existing native vegetation, newly planted but native vegetation, and/or use of natural tone coloring. Pipelines shall be located along or under existing roadways to the maximum extent possible.

(vi) Drilling equipment may be located above ground without concealment or screening, provided that such equipment shall be promptly removed after drilling is completed.

(vii) Any soil or water contamination due to the exploration for or extraction of oil or gas must be promptly remediated at the expense of Grantor.

(viii) Any water, mining byproducts or hazardous chemicals produced by or used in the exploration and development of the oil or gas shall not be stored or disposed of on the Property.

(ix) Flaring to enhance oil production is prohibited; flaring for emergencies or operational necessity is permitted.

(x) Grantee shall be released, indemnified and held harmless by the oil and gas operator from any liabilities, damages, or expenses resulting from any claims, demands, costs or judgments arising out of the exercise of any rights by Grantor, any lessees or other third parties relating to the exploration for or extraction of oil, gas or hydrocarbons.

(3) Third-Party Mineral Extraction. If a third party owns all, or controls some, of the Minerals, and proposes to extract Minerals from the Property, Grantor shall immediately notify Grantee in writing of any proposal or contact from a third party to explore for or develop the Minerals on the Property. Grantor shall not enter into any lease, surface use agreement, no-surface occupancy agreement, or any other instrument related to Minerals associated with the Property (each, a “**Mineral Document**”), with a third party subsequent to the Effective Date without providing a copy of the same to Grantee prior to its execution by Grantor for Grantee’s review and approval. Any Mineral Document shall require that Grantor provide notice to Grantee whenever notice is given to Grantor, require the consent of Grantee for any activity not specifically authorized by the instrument, and give Grantee the right, but not the obligation, to object, appeal and intervene in any action in which Grantor has such rights. Any Mineral Document must either (i) prohibit any access to the surface of the Property or (ii) must (a) limit the area(s) of disturbance to a specified area(s); (b) contain provisions that ensure that the proposed activities have a limited, localized impact on the Property that is not irretrievably destructive of the Conservation Values; and (c) contain a full description of the activities proposed, a description of the extent of disturbance, the location of facilities, equipment, roadways, pipelines and any other infrastructure, the proposed operation restrictions to minimize impacts on the Conservation Values, reclamation measures including and in addition to those required by law, and remedies for damages to the Conservation Values. Any Mineral Document that only permits subsurface access to Minerals but prohibits any access to the surface of the Property shall also prohibit any disturbance to the subjacent and lateral support of the Property, and shall not allow any use that would materially adversely affect the Conservation Values.

(4) This **Section 5.f** shall be interpreted in a manner consistent with I.R.C. § 170(h) and the Treasury Regulations adopted pursuant thereto.

g. Trash. The dumping or accumulation of any kind of trash or refuse on the Property, including household trash and hazardous chemicals, is prohibited. Limited dumping or accumulation of other farm-related trash and refuse produced on the Property is permitted, provided that such dumping does not substantially diminish or impair the Conservation Values and is confined within a total area less than one-quarter acre at any given time. This **Section 5.g** shall not be interpreted to prevent the storage of agricultural products and by-products on the Property in accordance with all applicable government laws and regulations.

h. Water. Water features on the Property, as of the Effective Date, are depicted and described in the Baseline Report. Parties agree any water uses and rights, do not significantly contribute to the Conservation Values of the Property. Water Infrastructure is allowed to be constructed, repaired, replaced, and maintained as described in **Section 4d**.

i. Motorized Vehicles. Motorized vehicles may be used only in conjunction with activities permitted by this Deed and in a manner that is consistent with the Purpose. Off-road vehicle courses for snowmobiles, all-terrain vehicles, motorcycles, or other motorized vehicles are prohibited.

j. Commercial or Industrial Activity.

(1) No industrial uses shall be allowed on the Property. Commercial uses are allowed, as long as they are conducted in a manner that is consistent with I.R.C. § 170(h) and the Purpose. Without limiting other potential commercial uses that meet the foregoing criteria, the following uses are allowed:

(i) Grazing livestock, as defined in **Section 4b.(2)** above.

(ii) Haying;

(iii) Hunting and fishing;

(iv) Additional Commercial uses permitted in City of Fort Collins Natural Areas such as photography, seed collection, filming and guided programs (including hikes, bike rides, horseback rides and environmental or cultural education programs).

(2) The foregoing descriptions of allowed commercial uses notwithstanding, commercial feed lots and other intensive growth livestock farms, such as dairy, swine, or poultry farms, are inconsistent with the Purpose and are prohibited. For purposes of this Deed, "commercial feed lot" is defined as a permanently constructed confined area or facility within which the Property is not grazed or cropped annually, and which is used and maintained for purposes of engaging in the commercial business of the reception and feeding of livestock.

k. Signage or Billboards. No commercial signs, billboards, awnings, or advertisements shall be displayed or placed on the Property, except for appropriate and customary ranch or pasture identification signs, building identification signs for the Event Center in Building Envelope "A", signs identifying the Property as an open space area and related informational, directional and other signage of a number, nature and type typical of other City of Fort Collins Natural Areas, "for sale" or "for lease" signs alerting the public to the availability of the Property for purchase or lease, "no trespassing" signs, signs regarding the private leasing of the Property for hunting, fishing, or other low-impact recreational uses, and signs informing the public of the status of ownership. Any such signs shall be located and designed in a manner consistent with the Purpose.

6. Land Management / Management Plan.

Grantor and Grantee acknowledge that the preservation and protection of the Conservation Values as contemplated under this Deed requires careful and thoughtful stewardship of the Property. Between Management Plan updates, adaptive management tactics based on best practices in natural resource management may be identified and carried out, as long as they are consistent with upholding the Conservation Values of the Property. In the event Grantee believes at any time that the resource management practices used on the Property are not consistent with the Purpose, Grantor and Grantee shall jointly prepare an update to the \_\_\_\_\_ Natural Area Management Plan ("**Land Management Plan**") detailing requirements for the preservation and protection of the Conservation Values regarding of the Property: agricultural, timber, mining, water, wildlife, weed control or other management practices that Grantee has identified as being at issue. Grantor shall comply with the requirements established in the Land Management Plan.

The Parties will cooperate in an effort to update the Management Plan if either Party determines an update is necessary.

7. Grantor Notice and Grantee Approval. The purpose of requiring Grantor to notify Grantee prior to undertaking certain permitted activities is to afford Grantee an opportunity to ensure that the activities in question are designed and carried out in a manner consistent with the Purpose. Whenever notice is required, Grantor shall notify Grantee in writing no less than thirty (30) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the Purpose. Where Grantee's approval is required, Grantor shall not undertake the requested activity until Grantor has received Grantee's approval in writing. Grantee shall grant or withhold its approval in writing within twenty-one (21) days of receipt of Grantor's written request and sufficient supporting details as described above. Grantee's approval may be withheld only upon Grantee's reasonable determination that the activity as proposed is not consistent with the Purpose or the express terms of this Deed, unless this Deed provides that approval for a particular request may be withheld in the sole discretion of the Grantee.

8. Enforcement. If Grantee finds what it believes is a violation of this Deed, Grantee shall immediately notify Grantor in writing of the nature of the alleged violation. Upon receipt of this written notice, Grantor shall either:

a. Restore the Property to its condition prior to the violation; or

b. Provide a written explanation to Grantee of the reason why the alleged violation should be permitted, in which event the Parties agree to meet as soon as practicable to resolve their differences. If a resolution cannot be achieved at the meeting, the Parties may meet with a mutually acceptable mediator to attempt to resolve the dispute. Grantor shall discontinue any activity that could increase or expand the alleged violation during the mediation process. If Grantor refuses to undertake mediation in a timely manner or should mediation fail to resolve the dispute, Grantee may, at its discretion, take appropriate legal action. Notwithstanding the foregoing, when Grantee, in its sole discretion, determines there is an ongoing or imminent violation that could irreversibly diminish or impair the Conservation Values, Grantee may, at its sole discretion, take appropriate legal action without pursuing mediation, including seeking an injunction to stop the alleged violation temporarily or permanently or to require the Grantor to restore the Property to its prior condition.

9. Costs of Enforcement. Grantor shall pay any costs incurred by Grantee in enforcing the terms of this Deed against Grantor, including without limitation costs and expenses of suit, attorney fees and any costs of restoration necessitated by Grantor's violation of the terms of this Deed. If the deciding body determines that Grantor has prevailed in any such legal action, then each Party shall pay its own costs and attorney fees. However, if the deciding body determines that Grantee's legal action was frivolous or groundless, Grantee shall pay Grantor's costs and attorney fees in defending the legal action.

10. No Waiver or Estoppel. If the Grantee does not exercise, or delays the exercise of, its rights under this Deed in the event of a violation of any term, such inaction or delay shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent violation of the same or any other term of this Deed or of any of Grantee's rights under this Deed. Grantor waives any defense of laches, estoppel, or prescription, including the one-year statute of limitations for commencing an action to enforce the terms of a building restriction or to compel the removal of any building or improvement because of the violation of the same under C.R.S. § 38-41-119, *et seq.*

11. Acts Beyond Grantor's Control. Nothing contained in this Deed shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including without limitation fire, flood, storm, natural ecosystem progression, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes. Notwithstanding the foregoing, Grantor shall be responsible for preventing activities by third parties on or affecting the Property that may violate the terms of this Deed.

12. Access. The general public shall have access to the Property, in Grantor's discretion, subject to any regulations by Grantor necessary and appropriate to protect public health and safety, and subject to the requirements of this Deed.

13. Costs and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including weed control and eradication and maintaining adequate comprehensive general liability insurance coverage. Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

14. Taxes. Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "**Taxes**"), including any Taxes imposed upon, or incurred as a result of, this Deed, and shall furnish Grantee with satisfactory evidence of payment upon request.

15. Liability. Grantor and Grantee are each responsible for their own wrongful or negligent acts and omissions and those of their respective officers and employees. Anything else in this Deed to the contrary notwithstanding, no term or condition of this Deed shall be construed or interpreted as a waiver, either express or implied, of any of the immunities, rights, benefits or protection provided to Grantor and Grantee under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended or as may be amended in the future (including, without limitation, any amendments to such statute, or under any similar statute which is subsequently enacted), subject to any applicable provisions of the Colorado Constitution and applicable laws. Without limiting the foregoing, nothing in this Deed shall be construed as giving rise to any right or ability in Grantee, nor shall Grantee have any right or ability, to exercise physical or managerial control over the day-to-day operations of the Property, or otherwise to become an operator with respect to the Property within the meaning of The Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, or any similar law or regulation.

16. Real Property Interest. This Deed constitutes a real property interest immediately vested in Grantee, the value of which has not been determined as of the Effective Date. Should the Deed be taken for the public use or otherwise terminated according to **Section 17** below, Grantee shall be entitled to compensation for its interest, which shall be determined by a qualified appraisal that establishes the ratio of the value of the Deed interest to the value of the fee simple interest in the Property, expressed as a percentage, as of the date of the taking or termination (the "Easement Value Percentage"). The Easement Value Percentage shall be used to determine Grantee's compensation according to the following **Section 17**.

17. Condemnation or Other Extinguishment. If this Deed is taken, in whole or in part, by exercise of the power of eminent domain ("**Condemnation**"), or if circumstances arise in the future that render the Purpose impossible to accomplish, this Deed can only be terminated for this reason, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. Each Party shall promptly notify the other Party in writing when it first learns of such circumstances. Grantee shall be entitled to full compensation for its interest in any portion of this Deed that is terminated as a result of Condemnation or other proceedings. Grantee's proceeds

shall be an amount at least equal to the Easement Value Percentage multiplied by the value of the unencumbered fee simple interest (excluding the value of any improvements) in the portion of the Property that will no longer be encumbered by this Deed as a result of Condemnation or termination. Grantor shall not voluntarily accept proceeds equal to less than the full fair market value of the affected Property unrestricted by this Deed as determined by an appraisal or through a valuation hearing in an eminent domain proceeding without the approval of Grantee. Grantee shall use its proceeds in a manner consistent with the conservation purposes of this Deed. Grantee's remedies described in this **Section 17** shall be cumulative and shall be in addition to any and all remedies now or hereafter existing at law or in equity, including the right to recover any damages for loss of Conservation Values as described in C.R.S. § 38-30.5-108.

18. Assignment.

a. This Deed is transferable, but Grantee may assign its rights and obligations under this Deed only to an organization that:

(1) is a qualified organization at the time of transfer under I.R.C. § 170(h) as amended (or any successor provision then applicable) and the applicable regulations promulgated thereunder;

(2) is authorized to acquire and hold conservation easements under Colorado law;

(3) agrees in writing to assume the responsibilities imposed on Grantee by this Deed.

19. Subsequent Transfers. Grantor shall incorporate by reference the terms and conditions of this Deed in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Property. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least 45 days prior to the date of such transfer. The failure of Grantor to perform any act required by this **Section 19** shall not impair the validity of this Deed or limit its enforceability in any way.

20. Notices. Any notice, demand, request, consent, approval, or communication that either Party is required to give to the other in writing shall be either served personally or delivered by (a) certified mail, with return receipt requested; or (b) a commercial delivery service that provides proof of delivery, addressed as follows:

To Grantor:  
 City of Fort Collins  
 Natural Areas Director  
 Natural Areas Department  
 P.O. Box 580  
 Fort Collins, CO 80522

To Grantee:

or to such other address as either Party from time to time shall designate by written notice to the

other.

21. Grantor's Title Warranty. Grantor warrants that Grantor has good and sufficient title to the Property and Grantor has access to the Property for the purposes granted or permitted to Grantee in this Deed, and Grantor promises to defend the same against all claims whatsoever.

22. Subsequent Liens on the Property. No provisions of this Deed shall be construed as impairing the ability of Grantor to use this Property as collateral for subsequent borrowing, provided that any deed of trust, mortgage or lien arising from such a borrowing shall be subordinate to this Deed for all purposes so that any such instrument expressly shall be deemed to have been recorded after this Deed and so that any foreclosure of such deed of trust, mortgage or lien shall not affect any provision of this Deed, including without limitation its perpetual nature, the payment of proceeds as described in **Section 17** above, and the limitation of **Section 5.d**.

23. Recording. Grantee shall record this Deed in a timely fashion in the official records of Larimer County in which the Property is situated, and may re-record it at any time as may be required to preserve its rights in this Deed.

24. Environmental Attributes. Unless otherwise provided in this Deed, Grantor reserves all Environmental Attributes associated with the Property. "**Environmental Attributes**" shall mean any and all tax or other credits, benefits, renewable energy certificates, emissions reductions, offsets, and allowances (including water, riparian, greenhouse gas, beneficial use, and renewable energy), generated from or attributable to the conservation, preservation and management of the Property in accordance with this Deed. Nothing in this **Section 24** shall modify the restrictions imposed by this Deed or otherwise be inconsistent with the Purpose.

25. Tax Benefits [This **Section 25** intentionally omitted.]

26. Deed Correction. The Parties shall cooperate to correct mutually acknowledged errors in this Deed (and exhibits), including typographical, spelling, or clerical errors. The Parties shall make such corrections by written agreement.

27. Effective Date. The Effective Date of this Deed shall be the date and year first written above.

28. General Provisions.

a. Controlling Law. The interpretation and performance of this Deed shall be governed by the laws of the State of Colorado.

b. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Deed shall be liberally construed in favor of the grant to affect the Purpose and the policy and purpose of C.R.S. § 3830.5101, *et seq.* If any provision in this Deed is found to be ambiguous, an interpretation consistent with the Purpose that would render the provision valid shall be favored over any interpretation that would render it invalid.

c. Severability. If any provision of this Deed, or the application thereof to any person or circumstance, is found to be invalid, it shall be deemed severed from this Deed, and the balance of this Deed shall otherwise remain in full force and effect.

d. Entire Agreement. The Recitals above are a material part of this Deed and are incorporated into this Deed. This Deed sets forth the entire agreement of the Parties with respect to the grant of a conservation easement over the Property and supersedes all prior discussions,

negotiations, understandings, or agreements relating to the grant, all of which are merged in this Deed.

e. Joint Obligation. The obligations imposed upon Grantor and Grantee in this Deed shall be joint and several in the event that more than one entity or individual holds either interest at any given time.

f. Obligations Subject to Annual Appropriation. Any obligations of the Parties under this Deed for fiscal years after the year of this Deed are subject to annual appropriation by such Parties' governing bodies, in their sole discretion, of funds sufficient and intended for such purposes.

g. Non-Merger. No merger shall be deemed to have occurred hereunder or under any documents executed in the future affecting this Easement, unless the parties expressly state that they intend a merger of estates or interests to occur.

h. Successors. The covenants, terms, conditions, and restrictions of this Deed shall be binding upon, and inure to the benefit of, the Parties and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property.

i. Termination of Rights and Obligations. Provided a transfer is permitted by this Deed, a Party's rights and obligations under the Deed terminate upon transfer of the Party's interest in the Deed or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

j. Captions. The captions in this Deed have been inserted solely for convenience of reference and are not a part of this Deed and shall have no effect upon construction or interpretation.

k. No Third-Party Beneficiaries. This Deed is entered into by and between Grantor and Grantee, and is solely for the benefit of Grantor and Grantee and their respective successors and assigns for the purposes set forth in this Deed. This Deed does not create rights or responsibilities in any third parties beyond Grantor and Grantee

l. Amendment. If circumstances arise under which an amendment to or modification of this Deed or any of its exhibits would be appropriate, Grantor and Grantee may jointly amend this Deed so long as the amendment (i) is consistent with the Conservation Values and Purpose of this Deed (ii) does not affect the perpetual duration of the restrictions contained in this Deed, (iii) does not affect the qualifications of this Deed under any applicable laws, (iv) complies with Grantee's procedures and standards for amendments (as such procedures and standards may be amended from time to time). Any amendment must be in writing, signed by the Parties, and recorded in the records of the Clerk and Recorder of the county or counties in which the Property is located. Nothing in this **Section 28.I** shall be construed as requiring Grantee to agree to any particular proposed amendment.

m. Change of Conditions or Circumstances. A change in the potential economic value of any use that is prohibited by or inconsistent with this Deed, or a change in any current or future uses of neighboring properties, shall not constitute a change in conditions or circumstances that make it impossible for continued use of the Property, or any portion thereof, for conservation purposes and shall not constitute grounds for terminating the Deed in whole or in part. In conveying this Deed, the Parties have considered the possibility that uses prohibited or restricted by the terms of this Deed may become more economically valuable than permitted uses, and that neighboring



or nearby properties may in the future be put entirely to such prohibited or restricted uses. It is the intent of Grantor and Grantee that any such changes shall not be deemed to be circumstances justifying the termination or extinguishment of this Deed, in whole or in part. In addition, the inability of Grantor, or Grantor's successors, or assigns, to conduct or implement any or all of the uses permitted under the terms of this Deed, or the unprofitability of doing so, shall not impair the validity of this Deed or be considered grounds for its termination or extinguishment, in whole or in part.

n. Authority to Execute. Each Party represents to the other that such Party has full power and authority to execute, deliver, and perform this Deed, that the individual executing this Deed on behalf of each Party is fully empowered and authorized to do so, and that this Deed constitutes a valid and legally binding obligation of each Party enforceable against each Party in accordance with its terms.

TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Deed of Conservation Easement as of the Effective Date.

GRANTOR:

**CITY OF FORT COLLINS**  
a Colorado municipal corporation

By: \_\_\_\_\_  
Jeni Arndt, Mayor

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
(Printed Name)

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
(Printed Name)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by Jeni Arndt as Mayor of the City of Fort Collins.

Witness my hand and official seal

My commission expires:

\_\_\_\_\_  
Notary Public

**GRANTEE:**

**[name]**

By: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_

Date: \_\_\_\_\_

ORDINANCE NO. 120, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING THE CONVEYANCE TO LARIMER COUNTY OF A  
CONSERVATION EASEMENT AND A RIGHT OF FIRST  
REFUSAL ON THE ROCKY RIDGE PROPERTY

A. To meet shared land conservation goals, the City and Larimer County (“County”) have been collaborating for more than two decades on funding partnerships to acquire various open space properties and conservation easements.

B. Earlier this year, the City purchased a 484-acre property in the Wellington Community Separator known as the “Rocky Ridge Property”. The Rocky Ridge Property conserves a buffer along two large reservoirs, ensuring habitat and migration corridors for wildlife and fills in gaps in the community separator. It provides open space, scenic views, and a critical buffer for the reservoirs and the surrounding wetlands habitat. And it encompasses a mix of native and domestic grasses and previously tilled fields.

C. The County has agreed to contribute \$1,505,250 towards the \$5,117,600 total cost of acquisition of the Rocky Ridge Property and related costs in exchange for the City’s agreement to convey to the County a conservation easement (the “Conservation Easement”) over the Rocky Ridge Property. The Conservation Easement will ensure that any development on the Rocky Ridge Property is limited in size and area to designated “building envelopes”, and that the property will be managed to protect its conservation values in perpetuity. The City and County have also agreed that as part of the Conservation Easement the City will retain the ability to construct a parking lot, trailhead and related amenities (vault toilets, shade structures, kiosks), along with soft surface trails. The City will also convey a right of first refusal to the County in case the City ever wishes to sell all or a portion of its fee interest in Rocky Ridge Property, in which case the County would be able to purchase the fee interest up for sale at fair market value.

D. Concurrently with this Ordinance, the City Council is considering Resolution 2024-098 authorizing an intergovernmental agreement between the City and the County regarding the conservation of the Rocky Ridge property (the “IGA”).

E. At its June 12, 2024, meeting, the Land Conservation and Stewardship Board voted unanimously to recommend that Council approve the IGA with Larimer County to partner on the purchase of, and conveyance of a conservation easement for, the Rocky Ridge property.

F. City Code Section 23-111(a) authorizes the City Council to sell, convey or otherwise dispose of any interest in real property owned by the City, provided that the City Council first finds, by ordinance, that such sale or other disposition is in the best interests of the City.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The City Council finds that the City’s conveyance of a conservation easement and granting of a right of first refusal on the Rocky Ridge property to Larimer County as provided herein is in the best interests of the City.

Section 2. The City Council authorizes the Mayor to execute such documents as are necessary to convey a conservation easement to the County on terms and conditions consistent with this Ordinance, together with such terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the interests of the City.

Section 3. The City Council authorizes the Mayor to execute such documents in addition to the IGA as may be necessary to grant a right of first refusal to the County on terms and conditions consistent with this Ordinance, together with such terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the interests of the City.

Introduced, considered favorably on first reading on August 20, 2024, and approved on second reading for final passage on September 3, 2024.

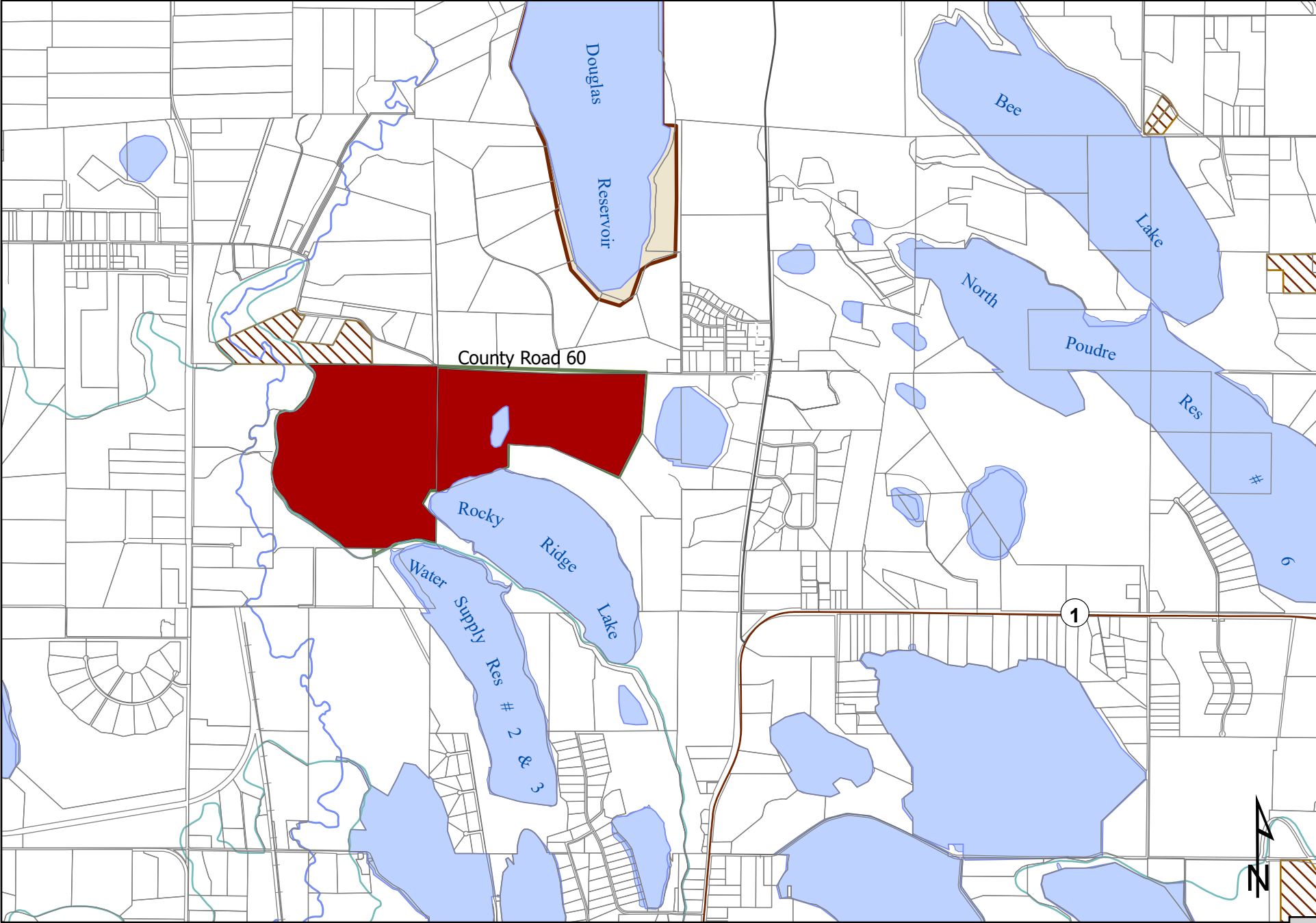
\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: September 13, 2024  
Approving Attorney: Ted Hewitt

# Rocky Ridge Vicinity Map



 Rocky Ridge property



## Natural Areas – Administrative Policy Land Acquisition Partnership Guidelines

### Background

As requested by City Council during the December 11, 2018 work session, staff developed criteria and associated guiding questions to address Council’s suggestions related to external land conservation partnerships. The criteria and guiding questions will be utilized well in advance of formalizing a partnership. If staff believes the partnership to be justified based upon the criteria and guiding questions, a memo detailing staff’s recommendation will be presented to Council prior to moving forward. Thus, if Council has any concerns they can be addressed well in advance of a potential transaction.

### Criteria

- The acquisition must align with the land conservation priorities set forth by the Council Adopted - City of Fort Collins 2014 Natural Areas Master Plan.
- Visitation must be free of charge if public access is allowed.
  - If access fees are proposed, a staff recommendation to move forward must be explained and justified in the report to council.
- The partner/s must have a positive track record of partnerships with the City and/or other organizations.
- The partnership must enhance the conservation protections of the project.
- The land conservation project must leverage the parties’ resources in a manner that leads to additional land conservation by one, or both, parties.

### Guiding Questions

- Does the land conservation project align with the land conservation priorities set forth by the Council Adopted - City of Fort Collins 2014 Natural Areas Master Plan?
- Does the partner have a positive track record of partnership with the City and or other organizations?
- Is the project of mutual interest due to previous investments by the partners or due to its location?
- How will the land conservation project benefit citizens of Fort Collins?
- How can/should the land conservation project be funded?
  - Are there grants available to help fund the project?
  - Do the partners have the financial ability to participate?
- Will the financial partnership positively affect a grant application?
  - Which partner is best suited to apply for and manage the grant?
- Would the land conservation project be possible without the partnership?
  - If so, does the partnership leverage resources for additional conservation or partnership opportunities?
- If the property is purchased:
  - Which partner is best suited to manage the property?
- If the land is conserved with a conservation easement?
  - Which partner is best suited to hold and monitor the conservation easement?

### **This Policy was Administratively Adopted by:**

**John Stokes**

Digitally signed by John Stokes  
Date: 2019.11.12 16:24:58 -07'00'

November 12 2019

John Stokes, Natural Areas Department Director

Date

# MINUTES

CITY OF FORT COLLINS • BOARDS AND COMMISSIONS



## Land Conservation & Stewardship Board June 12, 2024 Regular Meeting – Excerpt

### Rocky Ridge IGA

Tawnya Ernst, Land Conservation Lead Specialist, stated she was seeking a recommendation from the LCSB to enter into an Intergovernmental Agreement (IGA) with Larimer County. The proposed IGA between the City and the County would authorize the County to contribute \$1,500,000 toward reimbursement of the acquisition cost of a 484-acre parcel recently purchased by the City. In return, the County would receive a conservation easement on property. The conservation easement adds an extra layer of protection to the Natural Areas property and ensures it will remain undeveloped and managed for its conservation values.

### Discussion

Chair Cunniff asked where this property fell on staff’s priority list of conservation easements. Tawnya explained it makes sense when acquiring large parcels in which Larimer County can partner on to place a conservation easement on the property at the time of acquisition, rather than at a later date. Katie Donahue clarified this conservation easement was separate from the conservation easement priority list for existing NAD properties.

Vice Chair Mason asked if this property would be eligible for the Larimer County Natural Resources zoning designation. Julia Feder, Environmental Planning Manager, stated it was likely eligible.

***Member Culver made a motion to that the Land Conservation and Stewardship Board recommends that City Council approve an Intergovernmental Agreement (IGA) with Larimer County to partner on the recent acquisition of a 484-acre property in the Wellington Community Separator. Member Mason seconded the motion. The motion was unanimously approved 8-0***

**File Attachments for Item:**

**21. Items Relating to the Poudre Water Supply Infrastructure Wildfire Ready Action Plan.**

A. Resolution No. 2024-099 Authorizing the City Manager to Enter into a Grant Agreement with the State of Colorado Regarding the Poudre Water Supply Infrastructure Wildfire Ready Action Plan.

B. First Reading of Ordinance No. 121, 2024, Making Supplemental Appropriations of Unanticipated Grant Revenue, Prior Year Reserves, and Authorizing Transfers for the Poudre Water Supply Infrastructure Wildfire Ready Action Plan.

The purpose of this item is to support Fort Collins Utilities (Utilities) in developing a Wildfire Ready Action Plan (WRAP) in collaboration with the City of Greeley (Greeley) and the Water Supply and Storage Company (WSSC). The WRAP will help Utilities and its partners mitigate the vulnerability of water supplies and water supply infrastructure in the upper Poudre and Michigan River watersheds to the threat of wildfire. Accordingly, pursuant to Resolution No. 2024-066, the City, Greeley, and WSSC entered into an agreement, dated May 21, 2024, to coordinate their joint efforts related to funding and developing the WRAP. In addition, the City has recently been awarded grant funding from the Colorado Water Conservation Board (CWCB) through the Wildfire Ready Watershed Grant Program to assist in the development of a WRAP. Once adopted, this resolution will authorize Utilities to enter into the Intergovernmental Grant Agreement (IGGA) with the State of Colorado to receive funding to support the development of the WRAP. The Ordinance will: 1) appropriate the grant revenue from the State of Colorado; 2) appropriate monetary contributions from Greeley and WSSC; and 3) appropriate and authorize transfers of Utilities grant match commitments.



August 20, 2024

# AGENDA ITEM SUMMARY

City Council




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## STAFF

Jared Heath, Senior Specialist, Sciences  
 Kerri Ishmael, Senior Analyst, Grants Administration

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## SUBJECT

**Items Relating to the Poudre Water Supply Infrastructure Wildfire Ready Action Plan.**

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## EXECUTIVE SUMMARY

A. Resolution No. 2024-099 Authorizing the City Manager to Enter into a Grant Agreement with the State of Colorado Regarding the Poudre Water Supply Infrastructure Wildfire Ready Action Plan.

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## STAFF RECOMMENDATION

Staff recommends adoption of the Resolution and Ordinance on First Reading.

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## BACKGROUND / DISCUSSION

### Bottom Line

Utilities' source water supplies provide high quality raw water for drinking water treatment and include the Poudre River and Horsetooth Reservoir. The upper Poudre River watershed also provides raw water supplies to Greeley and WSSC. Utilities, Greeley, and WSSC separately own elements of a network of

interconnected water supply infrastructure in the upper Poudre and upper Michigan River watersheds near Cameron Pass. The WRAP will assist these water providers in collectively protecting their water supplies and water supply infrastructure from the threat of wildfire. The City, Greeley, and WSSC entered into an agreement on May 21, 2024, pursuant to Resolution No. 2024-066 (Attachment 2), to jointly develop and share in the cost of the WRAP. Furthermore, Utilities was recently awarded grant funding from CWCB's Wildfire Ready Watershed Grant Program to assist in the development of the WRAP.

City staff are proposing two actions by City Council: 1) Adoption of a Resolution to authorize the City to enter into an agreement with the State of Colorado (Attachment 1), and 2) Adoption of an Ordinance to authorize the City to appropriate new grant revenue and other monetary contributions and authorize the transfer of Utilities funds (Attachment 3). Adopting the items will secure grant funding from the CWCB and grant match contributions from Utilities, Greeley, and WSSC to be used to support the development of the WRAP.

### **Overview of CWCB's Wildfire Ready Watershed Grant Program**

The objective of CWCB's Wildfire Ready Watershed Grant Program is to enhance watershed resilience in Colorado to protect water resources, infrastructure, and communities from the threat of wildfire. The primary goal of the grant program is to facilitate the development and implementation of Wildfire Ready Action Plans (WRAPs) and projects that address wildfire risk at the local level. WRAPs involve a thorough assessment of wildfire hazards and vulnerabilities within a watershed, followed by the identification of actions and strategies to reduce risk and enhance resilience both before and after a wildfire occurs. Utilities applied for and was awarded \$209,688 of grant funding through CWCB's Wildfire Ready Watershed Grant Program to support the development of a collaborative WRAP in partnership with Greeley and WSSC.

### **Resolution for Grant Agreement with the State of Colorado**

The proposed Resolution authorizes the City Manager to execute an IGGA with the State of Colorado to secure grant funding from the CWCB to develop the WRAP. The City is required to contribute \$68,625 in matching funds to accept the grant, as presented in the Budget in Exhibit C to the IGGA. Matching funds include monetary contributions from the City, Greeley and WSSC, and in-kind contributions from the City in the form of staff time to manage the project and administer the grant.

As approved by Resolution 2024-066, the City entered into an agreement with Greeley and WSSC on May 21, 2024, to jointly develop the WRAP. The agreement discusses the CWCB's Wildfire Ready Watershed Grant Program and the City pursuing grant funds in capacity as the lead applicant, with the parties collectively agreeing to provide monetary and in-kind contributions as required under the grant program. Pursuant to the grant award from the CWCB and the agreement between the City, Greeley and WSSC (Attachment 2), the parties will contribute the following:

- Grant funding from the CWCB: \$209,688
  - \$171,875 for direct costs
  - \$37,813 for indirect costs
- Cash match contributions from the project partners: \$28,125
  - Utilities: \$9,063 for direct costs
  - Greeley: \$9,063 for direct costs
  - WSSC: \$10,000 for direct costs
- In-kind match contributions from the City: \$40,500
  - \$28,125 for direct costs
  - \$12,375 for indirect costs

## Ordinance for Making Supplemental Appropriations, Appropriating Prior Year Reserves, and Authorizing Transfers

The proposed Ordinance authorizes the City to: 1) appropriate the new grant revenue from the CWCB and monetary contributions from Greeley and WSSC; and 2) appropriate and authorize transfers of City contributions to meet the match requirements of the grant. The Ordinance includes the following actions:

- Appropriate \$209,688 of unanticipated grant revenue from the CWCB's Wildfire Ready Watershed Grant Program;
- Appropriate \$19,063 in monetary contributions from Greeley and WSSC;
- Transfer \$9,063 matching funds from existing 2024 appropriations in the Water Fund; and
- Appropriate \$28,125 from the Water Fund reserves for in-kind staff time in managing the grant.

### Summary

As demonstrated in Exhibit C, Budget of the IGGA, the total cost of the project is \$278,313, with the grant providing \$209,688. Of this money, \$200,000 will be used to hire a consultant to support the development of the WRAP. This amount includes the \$28,125 in monetary contributions from Utilities, Greeley, and WSSC and \$171,875 in grant funds. The remaining \$37,813 in grant funds is for indirect costs corresponding to the City's central service departments supporting the project. The City will also support the project and meet the remaining required local match of \$40,500 through in-kind staff time and the City's share of indirect costs.

### CITY FINANCIAL IMPACTS

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This item appropriates \$256,875 in costs to support the joint development of the WRAP from:

- \$209,688 in unanticipated grant revenue from the State of Colorado through CWCB's Wildfire Ready Watershed Grant Program
- \$19,063 in monetary contributions from Greeley and WSSC
- \$28,125 in Water Fund reserves to be used toward required local matching funds for in-kind staff time in managing the grant

Required matching funds in the amount of \$9,063 have already been appropriated by Utilities in the 2024 Water Fund in the Watershed Protection budget. The \$9,063 will be transferred from the 2024 Watershed Protection budget to the grant project. This serves to support tracking of match requirements under the grant.

The \$12,375 in-kind match corresponds to the value of indirect costs in relation to services provided by City's central services departments (Financial Services, Human Resources, Legal, et al.). Because central service staff do not record time spent on each grant funded project, awarding agencies, including the CWCB, allow eligible organizations to calculate indirect costs using an allowable base. The allowable base for this project is total direct costs. The indirect costs are based on a calculation corresponding to overhead for central service departments time in supporting the grant project, with such time appropriated in the General Fund.

The unanticipated grant funds awarded to the City through CWCB's Wildfire Ready Watershed Grant Program are federal funds being passed through by the State of Colorado under the U.S. Department of the Treasury's Coronavirus State and Local Fiscal Recovery Funds program, Assistance Listing Number 21.027.

**BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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Utilities staff presented the Poudre Water Supply Infrastructure WRAP project plan to Water Commission at the March 21, 2024, Regular Meeting. During this meeting, staff also sought a recommendation from Water Commission that City Council formally approve of Utilities entering into the agreement regarding the Poudre Water Supply Infrastructure WRAP with Greeley and WSSC (Attachment 2). The Water Commission was supportive of Utilities developing a WRAP and Commissioner Bruxvoort moved that the Water Commission recommend City Council formally approve of Utilities entering into the agreement and it passed unanimously.

**PUBLIC OUTREACH**

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None.

**ATTACHMENTS**

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1. Resolution for Consideration
2. Exhibit A to Resolution
3. Ordinance for Consideration
4. Resolution 2024-066

RESOLUTION 2024-099  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING THE CITY MANAGER TO ENTER INTO A GRANT  
AGREEMENT WITH THE STATE OF COLORADO REGARDING  
THE POUFRE WATER SUPPLY INFRASTRUCTURE WILDFIRE  
READY ACTION PLAN

A. The City owns and operates a water utility that provides water service to customers within its water service area. The Cache la Poudre River provides a key source of water for the City and its water utility. Water in the Cache la Poudre River originates in various watersheds, including several watersheds near Cameron Pass, namely the Joe Wright Creek Watershed, Peterson Lake Watershed, and Upper Michigan River Watershed (collectively, "Watersheds").

B. The Cache la Poudre River and these Watersheds also provide key sources of water for the City of Greeley ("Greeley") and the Water Supply and Storage Company ("WSSC").

C. Water supplies and infrastructure in the Watersheds face various challenges, including risks associated with wildfires. Protecting water supplies and infrastructure within the Watersheds is a high priority for the City, Greeley, and WSSC to, among other things, ensure all current and future water demands are met, and to continue providing their communities, customers, and shareholders with reliable, safe, and high-quality water.

D. The State of Colorado, through the Colorado Water Conservation Board ("CWCB"), has a program to assist in the development of wildfire ready watershed action plans, including via grant funding. Such plans are generally intended to help stakeholders develop actionable plans to address the impacts from wildfires through actions that may be taken both before and after wildfires.

E. The City, Greeley, and WSSC desire to develop a wildfire ready watershed action plan for the Watersheds ("Plan"). Accordingly, pursuant to Resolution 2024-066, they have entered into the *Agreement Regarding a Wildfire Ready Watershed Action Plan for the Joe Wright Creek, Peterson Lake, and Upper Michigan River Watersheds*, dated May 21, 2024, the purpose of which is to coordinate their joint efforts related to developing the Plan, including funding a consultant to assist with the development of the Plan.

F. The City has been awarded \$209,688 from the State of Colorado, acting through the Colorado Water Conservation Board and its Wildfire Ready Watershed Grant Program to develop the Plan. The proposed grant agreement is attached as Exhibit "A" ("Agreement").

G. As presented in the Budget, Exhibit C, to the Agreement, the City is required to contribute in matching funds to accept the grant. The appropriation for said grant is addressed in Ordinance No. 121, 2024.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that, contingent upon final adoption of Ordinance No. 121, 2024, and it going into effect, the City Manager is hereby authorized to execute an Agreement substantially in the form of Exhibit "A", with such additional terms and conditions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City or effectuate the purposes of this Resolution.

Passed and adopted on August 20, 2024.

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Mayor Pro Tem

ATTEST:

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City Clerk

Effective Date: August 20, 2024  
Approving Attorney: Eric Potyondy

# State of Colorado

## Intergovernmental Grant Agreement for SLFRF

### COVER PAGE

<p><b>State Agency</b>                  Department of Natural Resources (DNR)                  Colorado Water Conservation Board (CWCB)                  1313 Sherman St #718                  Denver CO, 80203</p>	<p><b>Agreement Number</b>                  CMS# 191508                  CTGG1 2024*4110</p>
<p><b>Grantee</b>                  City of Fort Collins</p>	<p><b>Agreement Performance Beginning Date</b>                  The Effective Date</p>
<p><b>Grantee UEI</b>                  VEJ3BS5GK5G1</p>	<p><b>Initial Agreement Expiration Date</b>                  December 30, 2026</p>
<p><b>Agreement Maximum Amount</b></p> <p>Total for All State Fiscal Years                      \$209,688.00</p>	<p><b>Fund Expenditure End Date</b>                  December 30, 2026</p>
<p><b>Agreement Authority</b>                  HB 22-1379 (Using American Rescue Plan Act funds through the Colorado Watershed Restoration Program, which will focus on the development of Wildfire Ready Watershed action plans and implementation of projects designed to mitigate post wildfire impacts.)</p>	
<p><b>Agreement Purpose</b></p> <p>The goal of this project is to implement a Wildfire Ready Watersheds (WRW) study and develop a Wildfire Ready Action Plan (WRAP) to address the susceptibility of critical water supplies and infrastructure in the Upper Cache la Poudre and North Platte watersheds to post-wildfire impacts and hazards. The WRW study and WRAP will focus on the combined Joe Wright Creek, Peterson Lake, and Headwaters Michigan River watersheds that encompass the Michigan Ditch, Joe Wright Reservoir, Chambers Lake, Barnes Meadow Reservoir, and Peterson Lake.</p>	
<p><b>Exhibits and Order of Precedence</b></p> <p>The following Exhibits and attachments are included with this Agreement:</p> <ol style="list-style-type: none"> <li>1. Exhibit A, Statement of Work.</li> <li>2. Exhibit B, Sample Option Letter.</li> <li>3. Exhibit C, Budget.</li> <li>4. Exhibit D, Federal Provisions.</li> <li>5. Exhibit E, Agreement with Subrecipient of Federal Recovery Funds</li> <li>6. Exhibit F, SLFRF Subrecipient Quarterly Report</li> <li>7. Exhibit G, SLFRF Reporting Modification Form</li> <li>8. Exhibit H, PII Certification</li> <li>9. Exhibit I, HIPAA BAA</li> </ol> <p>In the event of a conflict or inconsistency between this Agreement and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:</p> <ol style="list-style-type: none"> <li>1. Exhibit I, HIPAA BAA</li> <li>2. Exhibit D, Federal Provisions</li> <li>3. Exhibit E, Agreement with Subrecipient of Federal Recovery Funds</li> <li>4. Colorado Special Provisions in §17 of the main body of this Agreement.</li> <li>5. The provisions of the other sections of the main body of this Agreement.</li> <li>6. Exhibit A, Statement of Work.</li> <li>7. Exhibit H, PII Certification</li> <li>8. Exhibit B, Sample Option Letter.</li> <li>9. Exhibit C, Budget.</li> <li>10. Exhibit F, SLFRF Subrecipient Quarterly Report</li> <li>11. Exhibit G, SLFRF Reporting Modification Form</li> </ol>	

**Principal Representatives**

For the State:

Andrea Harbin-Monahan  
 Colorado Water Conservation Board  
 1313 Sherman Ave  
 Room 718  
 Denver, CO 80203  
[andrea.harbinmonahan@state.co.us](mailto:andrea.harbinmonahan@state.co.us)

For Grantee:

Jared Heath  
 City of Fort Collins  
 4316 W. Laporte Ave  
 Fort Collins, CO 80521  
[jheath@fcgov.com](mailto:jheath@fcgov.com)

**FEDERAL AWARD(S) APPLICABLE TO THIS GRANT AWARD**

Federal Awarding Office	US Department of the Treasury
Grant Program	Coronavirus State and Local Fiscal Recovery Funds
Assistance Listing Number	21.027
Federal Award Number	SLFRP0126
Federal Award Date *	May 18, 2021
Federal Award End Date	December 31, 2024^ ^Pending Final Rule by U.S. Treasury
Federal Statutory Authority	Title VI of the Social Security Act, Section 602
Total Amount of Federal Award (this is <u>not</u> the amount of this grant agreement)	\$3,828,761,790

\* Funds may not be available through the Federal Award End Date subject to the provisions in §2 and §5 below.



**SIGNATURE PAGE**

**THE SIGNATORIES LISTED BELOW AUTHORIZE THIS GRANT**

<p style="text-align: center;"><b>GRANTEE</b> City of Fort Collins</p> <hr/> <p>By: _____</p> <p style="text-align: center;">Date: _____</p>	<p style="text-align: center;"><b>STATE OF COLORADO</b> Jared S. Polis, Governor Colorado Department of Natural Resources Dan Gibbs, Executive Director Colorado Water Conservation Board</p> <hr/> <p>By: _____</p> <p style="text-align: center;">Date: _____</p>
<p style="text-align: center;">2nd State or Grantee Signature if Needed</p> <hr/> <p>By: _____</p> <p style="text-align: center;">Date: _____</p>	<p style="text-align: center;"><b>LEGAL REVIEW</b> Philip J. Weiser, Attorney General</p> <hr/> <p>By: _____ Assistant Attorney General</p> <p style="text-align: center;">Date: _____</p>
<p style="text-align: center;">In accordance with §24-30-202, C.R.S., this Grant is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p style="text-align: center;"><b>STATE CONTROLLER</b> <b>Robert Jaros, CPA, MBA, JD</b></p> <p style="text-align: center;">By: _____</p> <p style="text-align: center;">Effective Date: _____</p>	

## 1. GRANT

As of the Grant Issuance Date, the State Agency shown on the first page of this Intergovernmental Grant Agreement (the “State”) hereby obligates and awards to Grantee shown on the first page of this Intergovernmental Grant Agreement (the “Grantee”) an award of Grant Funds in the amounts shown on the first page of this Intergovernmental Grant Agreement . By accepting the Grant Funds provided under this Intergovernmental Grant Agreement, Grantee agrees to comply with the terms and conditions of this Intergovernmental Grant Agreement and requirements and provisions of all Exhibits to this Intergovernmental Grant Agreement.

## 2. TERM

### A. Initial Grant Term and Extension

The Parties’ respective performances under this Intergovernmental Grant Agreement shall commence on the Grant Issuance Date and shall terminate on the Grant Expiration Date unless sooner terminated or further extended in accordance with the terms of this Intergovernmental Grant Agreement. Upon request of Grantee, the State may, in its sole discretion, extend the term of this Intergovernmental Grant Agreement by providing Grantee with an updated Intergovernmental Grant Agreement showing the new Grant Expiration Date.

### B. Early Termination in the Public Interest

The State is entering into this Intergovernmental Grant Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Intergovernmental Grant Agreement ceases to further the public interest of the State or if State, Federal or other funds used for this Intergovernmental Grant Agreement are not appropriated, or otherwise become unavailable to fund this Intergovernmental Grant Agreement, the State, in its discretion, may terminate this Intergovernmental Grant Agreement in whole or in part by providing written notice to Grantee that includes, to the extent practicable, the public interest justification for the termination. If the State terminates this Intergovernmental Grant Agreement in the public interest, the State shall pay Grantee an amount equal to the percentage of the total reimbursement payable under this Intergovernmental Grant Agreement that corresponds to the percentage of Work satisfactorily completed, as determined by the State, less payments previously made. Additionally, the State, in its discretion, may reimburse Grantee for a portion of actual, out-of-pocket expenses not otherwise reimbursed under this Intergovernmental Grant Agreement that are incurred by Grantee and are directly attributable to the uncompleted portion of Grantee’s obligations, provided that the sum of any and all reimbursements shall not exceed the maximum amount payable to Grantee hereunder. This subsection shall not apply to a termination of this Intergovernmental Grant Agreement by the State for breach by Grantee.

### C. Grantee’s Termination Under Federal Requirements

Grantee may request termination of this Grant by sending notice to the State, or to the Federal Awarding Agency with a copy to the State, which includes the reasons for the termination and the effective date of the termination. If this Grant is terminated in this manner, then Grantee shall return any advanced payments made for work that will not be performed prior to the effective date of the termination.

### 3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. “**Budget**” means the budget for the Work described in Exhibit C.
- B. “**Business Day**” means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1), C.R.S.
- C. “**CJI**” means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended and all Criminal Justice Records as defined under §24-72-302, C.R.S.
- D. “**CORA**” means the Colorado Open Records Act, §§24-72-200.1, *et seq.*, C.R.S.
- E. “**Grant Expiration Date**” means the Grant Expiration Date shown on the first page of this Intergovernmental Grant Agreement.
- F. “**Grant Funds**” means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Intergovernmental Grant Agreement.
- G. “**Grant Issuance Date**” means the Grant Issuance Date shown on the first page of this Intergovernmental Grant Agreement.
- H. “**Exhibits**” exhibits and attachments included with this Grant as shown on the first page of this Grant
- I. “**Extension Term**” means the period of time by which the Grant Expiration Date is extended by the State through delivery of an updated Intergovernmental Grant Agreement
- J. “**Federal Award**” means an award of Federal financial assistance or a cost-reimbursement contract under the Federal Acquisition Regulations by a Federal Awarding Agency to the Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
- K. “**Federal Awarding Agency**” means a Federal agency providing a Federal Award to a Recipient. The US Department of the Treasury (USDT) is the Federal Awarding Agency for the Federal Award which is the subject of this Grant.
- L. “**Goods**” means any movable material acquired, produced, or delivered by Grantee as set forth in this Intergovernmental Grant Agreement and shall include any movable material acquired, produced, or delivered by Grantee in connection with the Services.
- M. “**Incident**” means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access or disclosure of State Confidential Information or of the unauthorized modification, disruption, or destruction of any State Records.
- N. “**Initial Term**” means the time period between the Grant Issuance Date and the Grant Expiration Date.
- O. “**Intergovernmental Grant Agreement**” means this Agreement which offers Grant Funds to Grantee, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future updates thereto.

- P. **“Matching Funds”** means the funds provided Grantee as a match required to receive Grant Funds.
- Q. **“Party”** means the State or Grantee, and **“Parties”** means both the State and Grantee.
- R. **“PCI”** means payment card information including any data related to credit card holders’ names, credit card numbers, or the other credit card information as may be protected by state or federal law.
- S. **“PII”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §§24-72-501 and 24-73-101, C.R.S. **“PII”** shall also mean **“personal identifying information”** as set forth at § 24-74-102, et. seq., C.R.S.
- T. **“PHI”** means any protected health information, including, without limitation any information whether oral or recorded in any form or medium: **(i)** that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and **(ii)** that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI includes, but is not limited to, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act.
- U. **“Recipient”** means the State Agency shown on the first page of this Intergovernmental Grant Agreement, for the purposes of the Federal Award.
- V. **“Services”** means the services to be performed by Grantee as set forth in this Intergovernmental Grant Agreement, and shall include any services to be rendered by Grantee in connection with the Goods.
- W. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, PHI, PCI, Tax Information, CJI, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Contractor which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Contractor without restrictions at the time of its disclosure to Contractor; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Contractor to the State; (iv) is disclosed to Contractor, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.
- X. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.
- Y. **“State Fiscal Year”** means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- Z. **“State Records”** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.

- AA. “**Sub-Award**” means this grant by the State (a Recipient) to Grantee (a Subrecipient) fund in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to this Sub-Award unless the terms and conditions of the Federal Award specifically indicate otherwise.
- BB. “**Subcontractor**” means third-parties, if any, engaged by Grantee to aid in performance of the Work. “Subcontractor” also includes sub-grantees.
- CC. “**Subrecipient**” means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization entity that receives a Sub-Award from a Recipient to carry out part of a Federal program, but does not include an individual that is a beneficiary of such program. A Subrecipient may also be a recipient of other Federal Awards directly from a Federal Awarding Agency. For the purposes of this Grant, Grantee is a Subrecipient. For SLFRF Grants, a subrecipient relationship continues to exist for Expenditure Category 6.1 Revenue Replacement.
- DD. “**Tax Information**” means Federal and State of Colorado tax information including, without limitation, Federal and State tax returns, return information, and such other tax-related information as may be protected by Federal and State law and regulation. Tax Information includes, but is not limited to all information defined as Federal tax information in Internal Revenue Service Publication 1075.
- EE. “**Uniform Guidance**” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200, commonly known as the “Super Circular, which supersedes requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up.
- FF. “**Work**” means the delivery of the Goods and performance of the Services described in this Intergovernmental Grant Agreement.
- GG. “**Work Product**” means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Grant Issuance Date that is used, without modification, in the performance of the Work.

Any other term used in this Intergovernmental Grant Agreement that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

#### 4. STATEMENT OF WORK

Grantee shall complete the Work as described in this Intergovernmental Grant Agreement and in accordance with the provisions of Exhibit A & C. The State shall have no liability to compensate or reimburse Grantee for the delivery of any goods or the performance of any services that are not specifically set forth in this Intergovernmental Grant Agreement.

#### 5. PAYMENTS TO GRANTEE

##### A. Maximum Amount

Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Grantee any amount under this Grant that exceeds the Grant Amount for each State Fiscal Year shown on the first page of this Intergovernmental Grant Agreement. Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. The

State shall not be liable to pay or reimburse Grantee for any Work performed or expenses incurred before the Grant Issuance Date or after the Grant Expiration Date; provided, however, that Work performed and expenses incurred by Grantee before the Grant Issuance Date that are chargeable to an active Federal Award may be submitted for reimbursement as permitted by the terms of the Federal Award.

B. Federal Recovery

The close-out of a Federal Award does not affect the right of the Federal Awarding Agency or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period, as defined below.

C. Matching Funds

Grantee shall provide the Local Match Amount shown on the first page of this Intergovernmental Grant Agreement and described in Exhibit C (the “Local Match Amount”). Grantee shall appropriate and allocate all Local Match Amounts to the purpose of this Intergovernmental Grant Agreement each fiscal year prior to accepting any Grant Funds for that fiscal year. Grantee does not by accepting this Intergovernmental Grant Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Intergovernmental Grant Agreement is not intended to create a multiple-fiscal year debt of Grantee. Grantee shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Grantee’s laws or policies.

D. Reimbursement of Grantee Costs

The State shall reimburse Grantee’s allowable costs, not exceeding the maximum total amount described in this Intergovernmental Grant Agreement for all allowable costs described in this Intergovernmental Grant Agreement and shown in the Budget, except that Grantee may adjust the amounts between each line item of the Budget without formal modification to this Agreement with written approval from the State. The change shall not modify the total maximum amount of this Intergovernmental Grant Agreement, the maximum amount for any State fiscal year, or modify any requirements of the Work. The State shall reimburse Grantee for the Federal share of properly documented allowable costs related to the Work after the State’s review and approval thereof, subject to the provisions of this Grant. The State shall only reimburse allowable costs if those costs are: **(i)** reasonable and necessary to accomplish the Work and for the Goods and Services provided; and **(ii)** equal to the actual net cost to Grantee (i.e. the price paid minus any items of value received by Grantee that reduce the cost actually incurred).

E. Close-Out

Grantee shall close out this Grant within 45 days after the Grant Expiration Date. To complete close out, Grantee shall submit to the State all deliverables (including documentation) as defined in this Intergovernmental Grant Agreement and Grantee’s final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete. If the Federal Awarding Agency has not closed this Federal Award within 1 year and 90 days after the Grant Expiration Date due to Grantee’s failure to submit required documentation, then Grantee may be prohibited from applying for new Federal Awards through the State until such documentation is submitted and accepted.

## 6. REPORTING - NOTIFICATION

### A. Performance and Final Status

Grantee shall submit all financial, performance and other reports to the State no later than the end of the close out described in §5.E, containing an evaluation and review of Grantee's performance and the final status of Grantee's obligations hereunder.

### B. Violations Reporting

Grantee shall disclose, in a timely manner, in writing to the State and the Federal Awarding Agency, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. The State or the Federal Awarding Agency may impose any penalties for noncompliance allowed under 2 CFR Part 180 and 31 U.S.C. 3321, which may include, without limitation, suspension or debarment.

## 7. GRANTEE RECORDS

### A. Maintenance and Inspection

Grantee shall make, keep, and maintain, all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to this Grant for a period of five years following the completion of the close out of this Grant. Grantee shall permit the State to audit, inspect, examine, excerpt, copy and transcribe all such records during normal business hours at Grantee's office or place of business, unless the State determines that an audit or inspection is required without notice at a different time to protect the interests of the State.

### B. Monitoring

The State will monitor Grantee's performance of its obligations under this Intergovernmental Grant Agreement using procedures as determined by the State. Grantee shall allow the State to perform all monitoring required by the Uniform Guidance, based on the State's risk analysis of Grantee. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Grantee's performance in a manner that does not unduly interfere with Grantee's performance of the Work. If Grantee enters into a subcontract or subgrant with an entity that would also be considered a Subrecipient, then the subcontract or subgrant entered into by Grantee shall contain provisions permitting both Grantee and the State to perform all monitoring of that Subcontractor in accordance with the Uniform Guidance.

### C. Final Audit Report

Grantee shall promptly submit to the State a copy of any final audit report of an audit performed on Grantee's records that relates to or affects this Grant or the Work, whether the audit is conducted by Grantee or a third party. Additionally, if Grantee is required to perform a single audit under 2 CFR 200.501, *et seq.*, then Grantee shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

## 8. CONFIDENTIAL INFORMATION-STATE RECORDS

### A. Confidentiality

Grantee shall hold and maintain, and cause all Subcontractors to hold and maintain, any and all State Records that the State provides or makes available to Grantee for the sole and exclusive benefit of the State, unless those State Records are otherwise publically available at the time of disclosure or are subject to disclosure by Grantee under CORA. Grantee shall not, without prior written approval of the State, use for Grantee's own benefit, publish, copy,

or otherwise disclose to any third party, or permit the use by any third party for its benefit to the detriment of the State, any State Records, except as otherwise stated in this Intergovernmental Grant Agreement. Grantee shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. If Grantee or any of its Subcontractors will or may receive the following types of data, Grantee or its Subcontractors shall provide for the security of such data according to the following: **(i)** the most recently promulgated IRS Publication 1075 for all Tax Information and in accordance with the Safeguarding Requirements for Federal Tax Information attached to this Grant as an Exhibit, if applicable, **(ii)** the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, **(iii)** the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJI, and **(iv)** the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Agreement attached to this Grant, if applicable. Grantee shall immediately forward any request or demand for State Records to the State's principal representative.

**B. Other Entity Access and Nondisclosure Agreements**

Grantee may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Intergovernmental Grant Agreement. Grantee shall ensure all such agents, employees, assigns, and Subcontractors sign nondisclosure agreements with provisions at least as protective as those in this Grant, and that the nondisclosure agreements are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Grantee shall provide copies of those signed nondisclosure restrictions to the State upon request.

**C. Use, Security, and Retention**

Grantee shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Grantee shall provide the State with access, subject to Grantee's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Grant, Grantee shall return State Records provided to Grantee or destroy such State Records and certify to the State that it has done so, as directed by the State. If Grantee is prevented by law or regulation from returning or destroying State Confidential Information, Grantee warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

**D. Incident Notice and Remediation**

If Grantee becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. After an Incident, Grantee shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State.

**E. Safeguarding PII**



If Grantee or any of its Subcontractors will or may receive PII under this Agreement, Grantee shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Grantee shall be a “Third-Party Service Provider” as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 *et seq.*, C.R.S. In addition, as set forth in § 24-74-102, *et. seq.*, C.R.S., Contractor, including, but not limited to, Contractor’s employees, agents and Subcontractors, agrees not to share any PII with any third parties for the purpose of investigating for, participating in, cooperating with, or assisting with Federal immigration enforcement. If Contractor is given direct access to any State databases containing PII, Contractor shall execute, on behalf of itself and its employees, the certification attached hereto as Exhibit H on an annual basis Contractor’s duty and obligation to certify as set forth in Exhibit H shall continue as long as Contractor has direct access to any State databases containing PII. If Contractor uses any Subcontractors to perform services requiring direct access to State databases containing PII, the Contractor shall require such Subcontractors to execute and deliver the certification to the State on an annual basis, so long as the Subcontractor has access to State databases containing PII.

## 9. CONFLICTS OF INTEREST

Grantee shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Grantee under this Grant. Grantee acknowledges that, with respect to this Grant, even the appearance of a conflict of interest shall be harmful to the State’s interests and absent the State’s prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee’s obligations under this Grant. If a conflict or the appearance of a conflict arises, or if Grantee is uncertain whether a conflict or the appearance of a conflict has arisen, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State’s consideration. Grantee acknowledges that all State employees are subject to the ethical principles described in §24-18-105, C.R.S. Grantee further acknowledges that State employees may be subject to the requirements of §24-18-105, C.R.S. with regard to this Grant.

## 10. INSURANCE

Grantee shall maintain at all times during the term of this Grant such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the “GIA”). Grantee shall ensure that any Subcontractors maintain all insurance customary for the completion of the Work done by that Subcontractor and as required by the State or the GIA.

## 11. REMEDIES

In addition to any remedies available under any exhibit to this Intergovernmental Grant Agreement, if Grantee fails to comply with any term or condition of this Grant or any terms of the Federal Award, the State may terminate some or all of this Grant and require Grantee to repay any or all Grant funds to the State in the State’s sole discretion. The State may also terminate this Intergovernmental Grant Agreement at any time if the State has determined, in its sole discretion, that Grantee has ceased performing the Work without intent to resume performance, prior to the completion of the Work.

## 12. DISPUTE RESOLUTION

Except as herein specifically provided otherwise or as required or permitted by federal regulations related to any Federal Award that provided any of the Grant Funds, disputes concerning the

performance of this Grant that cannot be resolved by the designated Party representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager or official designated by Grantee for resolution.

### **13. NOTICES AND REPRESENTATIVES**

Each Party shall identify an individual to be the principal representative of the designating Party and shall provide this information to the other Party. All notices required or permitted to be given under this Intergovernmental Grant Agreement shall be in writing, and shall be delivered either in hard copy or by email to the representative of the other Party. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §13.

### **14. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION**

Grantee hereby grants to the State a perpetual, irrevocable, non-exclusive, royalty free license, with the right to sublicense, to make, use, reproduce, distribute, perform, display, create derivatives of and otherwise exploit all intellectual property created by Grantee or any Subcontractors or Subgrantees and paid for with Grant Funds provided by the State pursuant to this Grant.

### **15. GOVERNMENTAL IMMUNITY**

Liability for claims for injuries to persons or property arising from the negligence of the Parties, their departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. 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, protections, or other provisions, contained in these statutes.

### **16. GENERAL PROVISIONS**

#### **A. Assignment**

Grantee's rights and obligations under this Grant are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Grantee's rights and obligations approved by the State shall be subject to the provisions of this Intergovernmental Grant Agreement.

#### **B. Captions and References**

The captions and headings in this Intergovernmental Grant Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Intergovernmental Grant Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

#### **C. Entire Understanding**

This Intergovernmental Grant Agreement represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Intergovernmental Grant Agreement.

#### **D. Modification**

The State may modify the terms and conditions of this Grant by issuance of an updated Intergovernmental Grant Agreement, which shall be effective if Grantee accepts Grant Funds following receipt of the updated letter. The Parties may also agree to modification of the terms and conditions of the Grant in a formal amendment to this Grant, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules.

E. Statutes, Regulations, Fiscal Rules, and Other Authority

Any reference in this Intergovernmental Grant Agreement to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Grant Issuance Date. Grantee shall strictly comply with all applicable Federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. Digital Signatures

If any signatory signs this agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Contract by reference.

G. Severability

The invalidity or unenforceability of any provision of this Intergovernmental Grant Agreement shall not affect the validity or enforceability of any other provision of this Intergovernmental Grant Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under the Grant in accordance with the intent of the Grant.

H. Survival of Certain Intergovernmental Grant Agreement Terms

Any provision of this Intergovernmental Grant Agreement that imposes an obligation on a Party after termination or expiration of the Grant shall survive the termination or expiration of the Grant and shall be enforceable by the other Party.

I. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described above, this Intergovernmental Grant Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Any services or benefits which third parties receive as a result of this Grant are incidental to the Grant, and do not create any rights for such third parties.

J. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Intergovernmental Grant Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

K. Accessibility

i. Grantee shall comply with and the Work Product provided under this Agreement shall be in compliance with all applicable provisions of §§24-85-101, *et seq.*, C.R.S., and the Accessibility Standards for Individuals with a Disability, as established by the Governor's Office of Information Technology (OIT), pursuant to Section §24-85-103 (2.5), C.R.S. Grantee shall also comply with all State of Colorado technology standards

related to technology accessibility and with Level AA of the most current version of Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.

- ii. The State may require Grantee's compliance to the State's Accessibility Standards to be determined by a third party selected by the State to attest to Grantee's Work Product and software is in compliance with §§24-85-101, *et seq.*, C.R.S., and the Accessibility Standards for Individuals with a Disability as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S.

L. Federal Provisions

Grantee shall comply with all applicable requirements of Exhibit D at all times during the term of this Grant.

**17. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)**

These Special Provisions apply to all agreements except where noted in italics.

A. **STATUTORY APPROVAL. §24-30-202(1), C.R.S.**

This Agreement shall not be valid until it has been approved by the Colorado State Controller or designee. If this Agreement is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), C.R.S., then this Agreement shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. **FUND AVAILABILITY. §24-30-202(5.5), C.R.S.**

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

C. **GOVERNMENTAL IMMUNITY.**

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, *et seq.* C.R.S. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. **INDEPENDENT CONTRACTOR.**

Grantee shall perform its duties hereunder as an independent contractor, and not as an employee. Neither Grantee nor any agent or employee of Grantee shall be deemed to be an agent or employee of the State. Grantee shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Grantee and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Grantee or any of its agents or employees. Grantee shall pay when due all applicable employment taxes and income**

**taxes and local head taxes incurred pursuant to this Agreement. Grantee shall provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.**

**E. COMPLIANCE WITH LAW.**

Grantee shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

**F. CHOICE OF LAW, JURISDICTION, AND VENUE.**

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

**G. PROHIBITED TERMS.**

Any term included in this Agreement that requires the State to indemnify or hold Grantee harmless; requires the State to agree to binding arbitration; limits Grantee's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Agreement shall be construed as a waiver of any provision of §24-106-109 C.R.S.

**H. SOFTWARE PIRACY PROHIBITION.**

State or other public funds payable under this Agreement shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Grantee hereby certifies and warrants that, during the term of this Agreement and any extensions, Grantee has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Grantee is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Agreement, including, without limitation, immediate termination of this Agreement and any remedy consistent with federal copyright laws or applicable licensing restrictions.

**I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.**

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Agreement. Grantee has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Grantee's services and Grantee shall not employ any person having such known interests.

## EXHIBIT A, STATEMENT OF WORK

Statement Of Work	
<b>Prepared Date:</b>	<b>1/18/2024</b>
<b>Name of Grantee:</b>	<b>City of Fort Collins Utilities</b>
<b>Name of Water Project:</b>	<b>Poudre Water Supply Infrastructure Wildfire Ready Action Plan</b>
<b>Water Project Overview:</b> Please provide brief description of the proposed water activity (no more than 200 words). Please define all acronyms.	
<p>The Cache La Poudre (CLP) Watershed headwaters begin within the Arapaho-Roosevelt National Forest and drain down through the City of Fort Collins (Fort Collins) and urban areas of the Front Range until its confluence with the South Platte River, east of the City of Greeley (Greeley). The watershed is a valuable shared resource between local municipalities, agriculture, and recreational stakeholders. A network of critical water supply infrastructure is located near the watershed divide at Cameron Pass on Highway 14, which Fort Collins, Greeley, and Water Supply and Storage Company (WSSC) use to manage their water supplies. The highest risk to the watersheds that deliver water to these assets, as identified in the Fort Collins’ Source Water Protection Plan, is catastrophic wildfire. Protecting the physical infrastructure and the water stored and conveyed by these structures is a high priority for Fort Collins, Greeley, and WSSC to ensure adequate delivery of reliable and high-quality water supplies to their downstream users and to improve flows in the Poudre River. Fort Collins, Greeley, and WSSC are seeking to develop a Wildfire Ready Action Plan (WRAP) in the shared interest of protecting this interconnected water supply system.</p>	
<b>Project Objectives:</b>	
<p>The goal of this project is to implement a Wildfire Ready Watersheds (WRW) study and develop a WRAP to address the susceptibility of critical water supplies and infrastructure in the Upper Cache la Poudre and North Platte watersheds to post-wildfire impacts and hazards. The WRW study and WRAP will focus on the combined Joe Wright Creek, Peterson Lake, and Headwaters Michigan River watersheds that encompass the Michigan Ditch, Joe Wright Reservoir, Chambers Lake, Barnes Meadow Reservoir, and Peterson Lake.</p>	

Tasks
<b>Task 1: Vision and Establishment of Goals and Objectives</b>
Description of Task:
<p>Fort Collins, in partnership with Greeley, WSSC, and the Coalition for the Poudre River Watershed (CPRW), established a vision and goals for a WRW Framework Study. This effort occurred over several meetings in late 2023 focused on identifying potential stakeholders, reviewing existing watershed planning efforts (i.e. Upper Poudre Resiliency Plan) and other available resources to support the study, and defining the geographic area of concern (WRW target area) for the study. The shared vision for this study is to develop a WRAP to address the susceptibility of critical water supplies and infrastructure in the Cache la Poudre and North Platte watersheds to</p>

<p>post-wildfire impacts and hazards. This task will focus on sharing and further refining that vision through targeted stakeholder identification and analysis, and outreach and engagement.</p>
<p>Method/Procedure:</p>
<p><b>Task 1.1 – Stakeholder Identification and Analysis:</b> Fort Collins and Greeley (Core Team) will work with the Fort Collins Utilities Customer Connections Division (C&amp;E Team) to conduct a stakeholder inventory and analysis to 1) identify all relevant watershed stakeholders that may be interested in or affected by the project, 2) analyze the risks and opportunities related to stakeholders in the WRW target area, and 3) develop strategies and tactics for targeted communication, outreach, and engagement with the stakeholders.</p> <p><b>Task 1.2 – Stakeholder Engagement:</b> The Core Team will convene and participate in two to three facilitated outreach and engagement workshops with all stakeholders. This effort will leverage CPRW’s Upper Poudre Stakeholder Steering Committee meetings and additional workshops for stakeholders who do not currently participate in the Upper Poudre Stakeholder Steering Committee.</p> <p><b>Task 1.3 – Agreements and Partnerships:</b> The Core Team will develop agreements with partners and stakeholders as needed. These agreements may outline funding agreements, data sharing, resource support, or other resources that may be made available for the WRW study.</p>
<p>Deliverable:</p>
<ul style="list-style-type: none"> <li>• Summary of the stakeholder inventory and analysis</li> <li>• List of key stakeholders</li> <li>• Summary document presenting the outcomes of stakeholder engagement and outreach workshops.</li> </ul>

Tasks
<p><b>Task 2: Stakeholder Collaboration, Community Outreach, and Public Meetings</b></p>
<p>Description of Task:</p>
<p>The Core Team and/or Consultant will communicate with stakeholders during the planning process to provide updates, solicit feedback, share study findings and priorities, develop agreements, and keep stakeholders informed throughout the development of the WRAP.</p>
<p>Method/Procedure:</p>
<p><b>Task 2.1 – Communication &amp; Engagement Plan:</b> The Core Team will work with the C&amp;E Team to develop and implement a Communication and Engagement Plan (C&amp;E Plan). The C&amp;E Plan will outline communication strategies and outreach activities to share and solicit information with stakeholders and the broader community during the WRW Framework Study.</p> <p><b>Task 2.2 – Communication, Outreach &amp; Engagement Activities:</b> The Core Team, with support from the C&amp;E Team and the Consultant, will communicate regularly with stakeholders and lead and participate in outreach and engagement activities. Communication, outreach, and engagement activities will be guided by the stakeholder identification and analysis completed in Task 1 and the strategies and tactics outlined in the C&amp;E Plan developed in Task 2.1.</p>
<p>Deliverable:</p>
<ul style="list-style-type: none"> <li>• Communication &amp; Engagement Plan</li> <li>• Fact sheets and informational brochures for outreach events</li> <li>• Meeting agendas, presentations, and meeting minutes</li> </ul>

- Press releases, memos, and other outreach products to be determined in C&E Plan
- Project website and ongoing website communications

**Tasks**

**Task 3: Data Collection, Research, Review, and Gap Analysis**

Description of Task:

A considerable amount of data collection and analyses has been completed within the proposed WRAP target area to support restoration efforts following the 2020 Cameron Peak Wildfire and during the development of CPRW’s 2024 Upper Poudre Resiliency Plan. The Consultant, in coordination with the Core Team, will identify, review, and document existing data collection efforts, relevant reports, studies, or research in the WRW target area. The Consultant will compile and organize all available data that can be leveraged to support the WRW Framework Study and conduct a data gap analysis to determine additional data and analysis needs. The WRW GIS Preparedness for Wildfire Planning and Recovery tool developed by CWCB will guide this effort.

Method/Procedure:

**Task 3.1 – GIS Data Collection:** The Consultant will coordinate with all stakeholders and partners to identify relevant GIS data related to watershed features and characteristics, hazards, assets and values, and basemap and supporting data that may be used to support the study. The data summary will directly reflect the WRW GIS Data Matrix developed by CWCB.

**Task 3.2 – Reports, Studies, Research:** The Consultant will research previous planning studies, analyses, reports, and research within the WRW target area and provide a review of each including a summary memorandum of the study contents and relevant information that could be used to support the study.

**Task 3.4 – Infrastructure Operations:** The Consultant will work with the Core Team to gather information related to infrastructure operations for water supply and other values at risk identified in the WRW target area.

**Task 3.5 – Stream Data Conditions Assessment:** The Consultant will work with the Core Team to select a subset of stream reaches within the WRW target area that may be suitable for post-fire hazard mitigation. The Consultant will assess the existing physical conditions of stream reaches, including geomorphological and riparian conditions. A [River Health Assessment](#) of the Upper Poudre River Watershed was completed in 2019 before the Cameron Peak Wildfire. The results from this assessment may be informative for unburned areas in the WRW target area. CPRW’s recently completed River Health Assessment Framework may serve as a tool to conduct additional assessments of the physical conditions of stream reaches in areas burned by the Cameron Peak Wildfire or in unburned areas where data do not exist (e.g. Upper Michigan River Watershed).

**Task 3.6 – Gap Analysis:** Once all available data have been collected and reviewed, the Consultant will perform a data gap analysis to identify any necessary data that are not available for the study in a usable GIS format.

Deliverables:

- Data gap summary
- Stream Assessment Technical Memorandum
- Annotated bibliography of all relevant reports, research, and studies
- Literature review summaries
- Tabulation summary of infrastructure operations
- Data Needs and Recommendations memorandum



Tasks
<p><b>Task 4: Post-Fire Hazard Analysis</b></p>
<p>Description of Task:</p> <p>The Consultant will engage with the Working Group to collect the necessary information to conduct post-fire hazard evaluations within the WRW target area. A comprehensive post-fire hazard analysis was recently completed for CPRW’s 2024 Upper Poudre Resiliency Plan that evaluated wildfire hazards, debris flow hazards, hillslope erosion hazards, and road hazards to 7<sup>th</sup>-level watersheds. These analyses will be leveraged to support this task. The desired geographic scope of each type of post-fire hazard analysis may be determined based on values and assets at risk, expected post-fire hazard types, and the data necessary for pre-disaster mitigation planning and design. Existing post-fire hazard data and the data gap analysis documented in Task 3 will inform the analysis needs for this task.</p>
<p>Method/Procedure:</p> <p><b>Task 4.1 – Pre-Hazard-Modeling Risk Assessment:</b> The Consultant will provide a high-level assessment of the WRW target area to determine where post-fire hazards likely exist and where they may be a threat to water supplies and infrastructure. The purpose of this assessment is to determine both the need for and level of detail appropriate for each hazard type described below in Task 4.2 – Task 4.6. This assessment is meant to guide the Consultant and Working Group to refine hazard analyses to areas and stream reaches where there is a significant risk to water supplies and infrastructure.</p> <p><b>Task 4.2 – Pre- and Post-Fire Hydrology:</b> The Consultant will conduct a hydrologic analysis to compare pre- and post-fire hydrology for critical stream reaches determined in the Pre-Hazard Modeling Risk Assessment (Task 4.1).</p> <p><b>Task 4.3 – Post-Fire Hydraulics:</b> The Consultant will develop a hydraulic model using the completed post-fire hydrologic analysis (Task 4.2) to show both pre-fire and post-fire hydraulics for critical stream reaches identified in the Pre-Hazard Modeling Risk Assessment (Task 4.1).</p> <p><b>Task 4.4 – Fluvial Hazard Zones:</b> The Consultant will develop Fluvial Hazard Zone (FHZ) delineations for critical stream reaches identified in the Pre-Hazard Modeling Risk Assessment.</p> <p><b>Task 4.5 – Debris Flow:</b> Debris flow modeling was recently completed for 7<sup>th</sup>-level watersheds, within the Joe Wright Creek watershed, Peterson Lake watershed, and portions of the Headwaters Michigan River watershed, as part of the Upper Poudre Resiliency Plan update. The Consultant will conduct debris flow modeling for critical areas identified in the Pre-Hazard Modeling Risk Assessment (Task 4.1) that have not been analyzed for debris flow hazard. The analyses will be used to identify debris flow probability and predict debris flow volumes from specified rain events.</p> <p><b>Task 4.6 – Hillslope Erosion:</b> Hillslope erosion modeling was recently completed for 7<sup>th</sup>-level watersheds, within the Joe Wright Creek watershed, Peterson Lake watershed, and portions of the Headwaters Michigan River watershed, as part of the Upper Poudre Resiliency Plan update. The Consultant will conduct hillslope erosion modeling for critical areas identified in the Pre-Hazard Modeling Risk Assessment (Task 4.1) that have not been analyzed for debris flow hazard.</p>
<p>Deliverables:</p> <ul style="list-style-type: none"> <li>• Executive summary of post-fire hazard evaluations completed under the WRW Framework study including a discussion regarding the Pre-Hazard Modeling Risk Assessment task and what areas or locations within the watershed were determined to need further hazard evaluations.</li> <li>• Hydrology Technical Memorandum with all supporting documentation, model computer files, and associated GIS data.</li> <li>• Hydraulics Technical Memorandum with all supporting documentation, model computer files, and associated GIS data.</li> <li>• Fluvial Hazard Technical Memorandum with all supporting documentation, model computer files, and associated GIS data.</li> </ul>

- Debris Flow Technical Memorandum with all supporting documentation, model computer files, and associated GIS data.
- Hillslope Erosion Technical Memorandum with all supporting documentation, model computer files, and associated GIS data.

Tasks
<b>Task 5: Susceptibility Analysis</b>
Description of Task:
A susceptibility analysis will be completed to evaluate post-wildfire hazard risk to stakeholder values using the collected GIS data, relevant information and reports (Task 3), post-fire hazard analyses (Task 4), and stakeholder values identified through outreach and engagement (Task 2). This assessment will identify and prioritize critical values at risk throughout the WRW target area; however, there will be a focus on water supply and infrastructure.
Method/Procedure:
<p><b>Task 5.1 – Intersection of Values at Risk with Hazards (point-of-impact):</b> The Consultant will create a geospatial overlay, using available or developed hazard data, of the identified stakeholder values and post-fire hazards. This evaluation will be based on the WRW Framework Risk Matrix developed by CWCB. The intersection of assets and hazards will generate a preliminary determination of whether assets are at risk from post-fire hazards.</p> <p><b>Task 5.2 – Watershed Susceptibility Risk (watershed risk):</b> The Consultant will use the collected data and outcomes of Task 5.1 to compare post-fire susceptibility of HUC-14 (7<sup>th</sup>-level) or smaller watersheds throughout the WRW target area. The analysis will develop a risk rating score (i.e. low, moderate, or high) to be used to understand the severity of post-fire impacts on stakeholder values at the watershed level.</p> <p><b>Task 5.3 – Susceptibility Analysis (stream corridor or stream reach risk):</b> The Consultant will use the outcomes of Tasks 5.1 and 5.2 to complete a susceptibility evaluation across the WRW target area for relevant and probable post-fire hazard impacts. The primary focus of these evaluations will be on post-fire hazard impacts on water supplies and infrastructure.</p> <p><b>Task 5.4 – Reporting and Mapping:</b> A susceptibility report and web-based map summarizing risk levels by watershed, infrastructure type, and life/property will be produced based on the outcomes of Tasks 5.1 – 5.3.</p>
Deliverables:
<ul style="list-style-type: none"> <li>• Post-fire susceptibility report</li> <li>• Post-fire susceptibility mapping including all supporting and developed GIS data</li> </ul>

Tasks
<b>Task 6:</b>
Description of Task:
<p>Building on the WRW Framework Study developed in Tasks 3 – 5, a WRAP will be developed that outlines both:</p> <ul style="list-style-type: none"> <li>• <b>Pre-Fire Actions:</b> Actions, management strategies, and mitigation projects that can be implemented before a wildfire to protect water supplies and infrastructure from post-fire hazards, and</li> <li>• <b>Post-Fire Actions:</b> Actions, management strategies, and mitigation projects that can be implemented following a fire to water supplies and infrastructure.</li> </ul> <p>Estimates of implementation costs, permit requirements, timelines, stakeholders, and lead agency (project manager) will be provided for all identified pre-fire and post-fire actions.</p>

Method/Procedure:
<p><b>Task 6.1 – Pre-Disaster Preparedness Plan:</b> The Consultant will work with the Working Group to develop a list of possible actions to protect water supplies and infrastructure from post-fire hazards. The types of mitigation actions will likely include watershed and stream restoration, infrastructure protection and upgrades, warning systems, water supply systems, burn severity mitigation and fire prevention, and risk mitigation. Following this effort, the Consultant will evaluate the suitability of locations within the WRW target area and along river corridors to support mitigation projects that enhance floodplain connectivity, provide sediment storage, create floodplain storage, increase riparian corridors and vegetative diversity, and incorporate restoration practices that complement the overall goals and objectives of the WRAP. The list of actions and projects will be prioritized, based on input from the Working Group, and a funding program summary will be developed that outlines where and how funding can be used and leveraged to implement these actions and projects. The outcome of these efforts will be documented in a Pre-Disaster Preparedness Plan.</p> <p><b>Task 6.2 – Post-Disaster Preparedness Plan:</b> The Consultant will work with the Working Group to develop a list of actions that might be taken to further assess post-fire hazards, implement warning systems, and protect infrastructure or values-at-risk from post-fire hazards. The types of mitigation actions will likely include post-fire assessments, GIS data preparedness, contracting, agreements, infrastructure upgrades, and post-fire recovery actions. The Consultant will then assist the Working Group in developing guidance and communications for responding to post-fire recovery and determining roles and responsibilities, financial needs and capabilities, and disaster response permitting. The outcome of these efforts will be documented in a Post-Disaster Preparedness Plan.</p>
Deliverables:
<ul style="list-style-type: none"> <li>• Pre-Disaster Preparedness Plan</li> <li>• Pre-Disaster action mapping including all supporting and developed GIS data</li> <li>• Post-Disaster Preparedness Plan</li> <li>• Post-Disaster action mapping including all supporting and developed GIS data</li> <li>• Online web map displaying proposed pre- and post-mitigation activities (if funding allows)</li> </ul>

Tasks
<b>Task 7: Project Management and Administration</b>
Description of Task:
<p>Fort Collins will provide the overall project management of the WRW Framework Study. The City of Fort Collins will manage all tasks required to perform design services including coordination with the Consultant, partners, stakeholders, planning team, specialists, regulatory agencies, local governments, and other government partners.</p> <p>This work will include:</p> <ul style="list-style-type: none"> <li>• Supervising all Consultant team operations;</li> <li>• Preparing bi-annual (six-month) progress reports to CWCB along with a final project report;</li> <li>• Supporting public outreach efforts; and</li> <li>• Monitoring progress of overall planning effort.</li> </ul>
Method/Procedure:
<p>The City of Fort Collins will:</p> <ul style="list-style-type: none"> <li>• Provide overall project management, task management, and contractor management.</li> <li>• Be the single point of contact to answer questions related to the WRW Framework Study and WRAP.</li> </ul>

<ul style="list-style-type: none"> <li>• Provide grant administration, invoicing, and administrative functions.</li> <li>• Be the primary point of contact for CWCB and will provide six-month and a final progress report, compile reimbursement documentation, and final reporting</li> </ul>
<p>Deliverables:</p>
<ul style="list-style-type: none"> <li>• Six-month progress reports and a final report will be provided to document the successes (or challenges) of the outreach and coordination efforts.</li> <li>• Grant reimbursement documentation will also be provided.</li> <li>• Project schedule and schedule updates to be provided with six-month progress reports</li> </ul>

**Budget and Schedule**

This Statement of Work is accompanied by a combined Budget and Schedule that reflects the tasks identified in the Statement of Work.

**Reporting Requirements**

**Progress Reports:** The grantee shall provide the CWCB a progress report every six months, beginning from the date of issuance of the grant agreement. The progress report shall describe the status of the tasks identified in the statement of work, including a description of any major issues that have occurred and any corrective action taken to address these issues.

**Final Report:** At completion of the project, the applicant shall provide the CWCB a final report on the applicant's letterhead that:

- Summarizes the project and how the project was completed.
- Describes any obstacles encountered, and how these obstacles were overcome.
- Confirms that all matching commitments have been fulfilled.
- Includes photographs, summaries of meetings and engineering reports/designs.

The CWCB will pay out the last 10% of the budget when the final report is completed to the satisfaction of CWCB staff. Once the final report has been accepted, and final payment has been issued, the grant agreement will be closed without any further payment

**Payment**

Payment will be made based on actual expenditures and must include invoices for all work completed. The request for payment must include a description of the work accomplished by task, an estimate of the percent completion for individual tasks and the entire project in relation to the percentage of budget spent, identification of any major issues, and proposed or implemented corrective actions.

Costs incurred prior to the effective date of this grant agreement are not reimbursable. The last 10% of the entire grant will be paid out when the final deliverable has been received. All products, data and information developed as a result of the grant agreement must be provided to the CWCB as part of the project documentation.

**Performance Measures**

Performance measures for the grant agreement shall include the following:

(a) Performance standards and evaluation: Grantee will produce detailed deliverables for each task as specified. Grantee shall maintain receipts for all project expenses and documentation of the minimum in-kind contributions (if applicable) per the budget. Per grant guidelines, the CWCB will pay out the last 10% of the budget when the final report is completed to the satisfaction of CWCB staff. Once the final report has been accepted, and final payment has been issued, the grant agreement will be closed without any further payment.

(b) Accountability: Per grant guidelines full documentation of project progress must be submitted with each invoice for reimbursement. Grantee must confirm that all grant conditions have been complied with on each invoice. In addition, per Grant Guidelines, progress reports must be submitted at least once every 6 months. A final report must be submitted and approved before final project payment.

(c) Monitoring Requirements: Grantee is responsible for ongoing monitoring of project progress per Exhibit A. Progress shall be detailed in each invoice and in each progress report, as detailed above. Additional inspections or field consultations will be arranged as may be necessary.

(d) Noncompliance Resolution: Payment will be withheld if grantee is not current on all grant conditions. Flagrant disregard for grant conditions will result in a stop work order and cancellation of the grant agreement.

**EXHIBIT B, SAMPLE OPTION LETTER**

<b>State Agency</b> Insert Department's or IHE's Full Legal Name	<b>Option Letter Number</b> Insert the Option Number (e.g. "1" for the first option)
<b>Grantee</b> Insert Grantee's Full Legal Name, including "Inc.", "LLC", etc...	<b>Original Agreement Number</b> Insert CMS number or Other Agreement Number of the Original Agreement
<b>Current Agreement Maximum Amount</b> Initial Term State Fiscal Year 20xx \$0.00	<b>Option Agreement Number</b> Insert CMS number or Other Agreement Number of this Option
Extension Terms State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00	<b>Agreement Performance Beginning Date</b> Month Day, Year
Total for All State Fiscal Years \$0.00	<b>Current Agreement Expiration Date</b> Month Day, Year

1. **OPTIONS:**

- A. Option to extend for an Extension Term
- B. Option to change the quantity of Goods under the Agreement
- C. Option to change the quantity of Services under the Agreement
- D. Option to modify Agreement rates
- E. Option to initiate next phase of the Agreement

2. **REQUIRED PROVISIONS:**

- A. **For use with Option 1(A):** In accordance with Section(s) Number of the Original Agreement referenced above, the State hereby exercises its option for an additional term, beginning Insert start date and ending on the current Agreement expiration date shown above, at the rates stated in the Original Agreement, as amended.
- B. **For use with Options 1(B and C):** In accordance with Section(s) Number of the Original Agreement referenced above, the State hereby exercises its option to Increase/Decrease the quantity of the Goods/Services or both at the rates stated in the Original Agreement, as amended.
- C. **For use with Option 1(D):** In accordance with Section(s) Number of the Original Agreement referenced above, the State hereby exercises its option to modify the Agreement rates specified in Exhibit/Section Number/Letter. The Agreement rates attached to this Option Letter replace the rates in the Original Agreement as of the Option Effective Date of this Option Letter.
- D. **For use with Option 1(E):** In accordance with Section(s) Number of the Original Agreement referenced above, the State hereby exercises its option to initiate Phase indicate which Phase: 2, 3, 4, etc, which shall begin on Insert start date and end on Insert ending date at the cost/price specified in Section Number.
- E. **For use with all Options that modify the Agreement Maximum Amount:** The Agreement Maximum Amount table on the Agreement's Signature and Cover Page is hereby deleted and replaced with the Current Agreement Maximum Amount table shown above.

3. **OPTION EFFECTIVE DATE:**

- A. The effective date of this Option Letter is upon approval of the State Controller or \_\_\_\_\_, whichever is later.

<p><b>STATE OF COLORADO</b> Jared S. Polis, Governor INSERT-Name of Agency or IHE INSERT-Name &amp; Title of Head of Agency or IHE</p> <p>_____ By: Name &amp; Title of Person Signing for Agency or IHE</p> <p>Date: _____</p>	<p>In accordance with §24-30-202, C.R.S., this Option is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p><b>STATE CONTROLLER</b> <b>Robert Jaros, CPA, MBA, JD</b></p> <p>By: _____ Name of Agency or IHE Delegate-Please delete if agreement will be routed to OSC for approval</p> <p>Option Effective Date: _____</p>
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## EXHIBIT C, BUDGET

### 1. BUDGET BY US TREASURY EXPENDITURE CATEGORY

1.1 Expenditure Categories identified in Exhibit C will determine what is reported on as outlined in Exhibits D-G.

Project Number	Project Title	US Treasury Expenditure Category Number and Name	Budget
RRP020	Poudre Water Supply Infrastructure WRAP	6.1 Revenue Replacement; Provisions of Government Services	\$209,688.00
<b>Total</b>			

### 2. BUDGET BY FUNCTION

 <b>COLORADO</b> Colorado Water Conservation Board Department of Natural Resources							
Colorado Water Conservation Board							
Budget and Schedule							
<b>Prepared Date:</b> 1/19/2024							
<b>Name of Applicant:</b> City of Fort Collins							
<b>Name of Water Project:</b> Poudre Water Supply Infrastructure Wildfire Ready Action Plan							
<b>Project Start Date:</b> 1/1/2025							
<b>Project End Date:</b> 2/25/2026							
Task No.	Task Description	Task Start Date	Task End Date	Grant Funding Request	Match Funding	Total	
1	Capacity Building, Vision, and Establishment of Goals and Objectives	1/1/2025	2/26/2025	\$4,834	\$791	\$5,625	
2	Stakeholder Collaboration, Community Outreach, and Public Meetings	1/1/2025	2/25/2026	\$9,668	\$1,582	\$11,250	
3	Data Collection, Research, Review, and Gap Analysis	2/26/2025	5/7/2025	\$14,502	\$2,373	\$16,875	
4	Post Fire Hazard Analysis	5/7/2025	7/30/2025	\$48,340	\$7,910	\$56,250	
5	Susceptibility Analysis	7/30/2025	11/5/2025	\$19,336	\$3,164	\$22,500	
6	Wildfire Ready Action Plan	11/5/2025	2/25/2026	\$75,195	\$12,305	\$87,500	
7	Direct Project Management & Administration	1/1/2025	2/25/2026	\$0	\$28,125	\$28,125	
<b>Total Direct Costs</b>				\$171,875	\$56,250	\$228,125	
		Indirect Costs	1/1/2025	2/25/2026	\$37,813	\$12,375	\$50,188
<b>Total Project Costs</b>				\$209,688	\$68,625	\$278,313	

### 3. EXPENDITURE CATEGORY MODIFICATIONS

3.1 Increases or decreases in any Expenditure Category must be requested and approved by the State Agency by using the SLFRF Expenditure Modification Form. This form can be found at: <https://osc.colorado.gov/american-rescue-plan-act> (see SLFRF Grant Agreement Templates tab)

## Exhibit D, Federal Provisions

### 1. APPLICABILITY OF PROVISIONS.

- 1.1. The Grant to which these Federal Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Federal Provisions, the Special Provisions, the body of the Grant, or any attachments or exhibits incorporated into and made a part of the Grant, the provisions of these Federal Provisions shall control.
- 1.2. The State of Colorado is accountable to Treasury for oversight of their subrecipients, including ensuring their subrecipients comply with the SLFRF statute, SLFRF Award Terms and Conditions, Treasury's Final Rule, and reporting requirements, as applicable.
- 1.3. Additionally, any subrecipient that issues a subaward to another entity (2<sup>nd</sup> tier subrecipient), must hold the 2<sup>nd</sup> tier subrecipient accountable to these provisions and adhere to reporting requirements.
- 1.4. These Federal Provisions are subject to the Award as defined in §2 of these Federal Provisions, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.

### 2. DEFINITIONS.

- 2.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.
  - 2.1.1. "Award" means an award of Federal financial assistance, and the Grant setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.
  - 2.1.2. "Entity" means:
    - 2.1.2.1. a Non-Federal Entity;
    - 2.1.2.2. a foreign public entity;
    - 2.1.2.3. a foreign organization;
    - 2.1.2.4. a non-profit organization;
    - 2.1.2.5. a domestic for-profit organization (for 2 CFR parts 25 and 170 only);
    - 2.1.2.6. a foreign non-profit organization (only for 2 CFR part 170) only);
    - 2.1.2.7. a Federal agency, but only as a Subrecipient under an Award or Subaward to a non-Federal entity (or 2 CFR 200.1); or
    - 2.1.2.8. a foreign for-profit organization (for 2 CFR part 170 only).
  - 2.1.3. "Executive" means an officer, managing partner or any other employee in a management position.
  - 2.1.4. "Expenditure Category (EC)" means the category of eligible uses as defined by the US Department of Treasury in "Appendix 1 of the Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at [www.treasury.gov](http://www.treasury.gov).



- 2.1.5. “Federal Awarding Agency” means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR 200.1
- 2.1.6. “Grant” means the Grant to which these Federal Provisions are attached.
- 2.1.7. “Grantee” means the party or parties identified as such in the Grant to which these Federal Provisions are attached. Grantee also means Subrecipient.
- 2.1.8. “Non-Federal Entity” means a State, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a Federal Award as a Recipient or a Subrecipient.
- 2.1.9. “Nonprofit Organization” means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:
- 2.1.9.1. Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
  - 2.1.9.2. Is not organized primarily for profit; and
  - 2.1.9.3. Uses net proceeds to maintain, improve, or expand the operations of the organization.
- 2.1.10. “OMB” means the Executive Office of the President, Office of Management and Budget.
- 2.1.11. “Pass-through Entity” means a non-Federal Entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.
- 2.1.12. “Prime Recipient” means the Colorado State agency or institution of higher education identified as the Grantor in the Grant to which these Federal Provisions are attached.
- 2.1.13. “Subaward” means an award by a Prime Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Subaward unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR 200.101. The term does not include payments to a Contractor or payments to an individual that is a beneficiary of a Federal program.
- 2.1.14. “Subrecipient” or “Subgrantee” means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term does not include an individual who is a beneficiary of a federal program. For SLFRF Grants, a subrecipient relationship continues to exist for Expenditure Category 6.1 Revenue Replacement. Subrecipient also means Grantee.
- 2.1.15. “System for Award Management (SAM)” means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>.
- 2.1.16. “Total Compensation” means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year (see 48 CFR 52.204-10, as prescribed in 48 CFR 4.1403(a)) and includes the following:
- 2.1.16.1. Salary and bonus;

- 2.1.16.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
  - 2.1.16.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
  - 2.1.16.4. Change in present value of defined benefit and actuarial pension plans;
  - 2.1.16.5. Above-market earnings on deferred compensation which is not tax-qualified;
  - 2.1.16.6. Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 2.1.17. “Transparency Act” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.
- 2.1.18. “Uniform Guidance” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.
- 2.1.19. “Unique Entity ID” means the Unique Entity ID established by the federal government for a Grantee at <https://sam.gov/content/home>.

### **3. COMPLIANCE.**

- 3.1. Grantee shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, all provisions of the Uniform Guidance, and all applicable Federal Laws and regulations required by this Federal Award Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of Colorado, at its discretion, may provide written notification to Grantee of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
- 3.2. Per US Treasury Final Award requirements, grantee programs or services must not include a term or conditions that undermines efforts to stop COVID-19 or discourages compliance with recommendations and CDC guidelines.

### **4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND UNIQUE ENTITY ID (UEI) REQUIREMENTS.**

- 4.1. SAM. Grantee shall maintain the currency of its information in SAM until the Grantee submits the final financial report required under the Award or receives final payment, whichever is later. Grantee shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in the information.
- 4.2. UEI. Grantee shall provide its Unique Entity ID to its Prime Recipient, and shall update Grantee’s information at <https://www.sam.gov> at least annually after the initial registration, and more frequently if required by changes in Grantee’s information.

### **5. TOTAL COMPENSATION.**

5.1. Grantee shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:

5.1.1. The total Federal funding authorized to date under the Award is \$30,000 or more; and

5.1.2. In the preceding fiscal year, Grantee received:

5.1.2.1. 80% or more of its annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and

5.1.2.2. \$30,000,000 or more in annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and

5.1.2.3. 5.1.2.3 The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.

## 6. REPORTING.

6.1. If Grantee is a Subrecipient of the Award pursuant to the Transparency Act, Grantee shall report data elements to SAM and to the Prime Recipient as required in this Exhibit. No direct payment shall be made to Grantee for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Grant price. The reporting requirements in this Exhibit are based on guidance from the OMB, and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Grant and shall become part of Grantee's obligations under this Grant.

## 7. EFFECTIVE DATE AND DOLLAR THRESHOLD FOR FEDERAL REPORTING.

7.1. Reporting requirements in §8 below apply to new Awards as of October 1, 2010, if the initial award is \$30,000 or more. If the initial Award is below \$30,000 but subsequent Award modifications result in a total Award of \$30,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$30,000. If the initial Award is \$30,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$30,000, the Award shall continue to be subject to the reporting requirements. If the total award is below \$30,000 no reporting required; if more than \$30,000 and less than \$50,000 then FFATA reporting is required; and, \$50,000 and above SLFRF reporting is required.

7.2. The procurement standards in §9 below are applicable to new Awards made by Prime Recipient as of December 26, 2015. The standards set forth in §11 below are applicable to audits of fiscal years beginning on or after December 26, 2014.

## 8. SUBRECIPIENT REPORTING REQUIREMENTS.

8.1. Grantee shall report as set forth below.

8.1.1. Grantee shall use the SLFRF Subrecipient Quarterly Report Workbook as referenced in Exhibit F to report to the State Agency within ten (10) days following each quarter ended September, December, March and June. Additional information on specific requirements are detailed in the SLFRF Subrecipient Quarterly Report Workbooks and "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at [www.treasury.gov](http://www.treasury.gov).



**EC 1 – Public Health****All Public Health Projects**

- a) Description of structure and objectives
- b) Description of relation to COVID-19
- c) Identification of impacted and/or disproportionately impacted communities
- d) Capital Expenditures
  - i. Presence of capital expenditure in project
  - ii. Total projected capital expenditure
  - iii. Type of capital expenditure
  - iv. Written justification
  - v. Labor reporting

**COVID-19 Interventions and Mental Health (1.4, 1.11, 1.12, 1.13)**

- a) Amount of total project used for evidence-based programs
- b) Evaluation plan description

**COVID-19 Small Business Economic Assistance (1.8)**

- a) Number of small businesses served

**COVID-19 Assistance to Non-Profits (1.9)**

- a) Number of non-profits served

**COVID-19 Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (1.10)**

- a) Sector of employer
- b) Purpose of funds

**EC 2 – Negative Economic Impacts****All Negative Economic Impacts Projects**

- a) Description of project structure and objectives
- b) Description of project's response to COVID-19
- c) Identification of impacted and/or disproportionately impacted communities
- d) Amount of total project used for evidence-based programs and description of evaluation plan (*not required for 2.5, 2.8, 2.21-2.24, 2.27-2.29, 2.31, 2.34-2.36*)
- e) Number of workers enrolled in sectoral job training programs
- f) Number of workers completing sectoral job training programs
- g) Number of people participating in summer youth employment programs
- h) Capital Expenditures
  - i. Presence of capital expenditure in project
  - ii. Total projected capital expenditure
  - iii. Type of capital expenditure
  - iv. Written justification
  - v. Labor reporting

**Household Assistance (2.1-2.8)**

- a) Number of households served

- b) Number of people or households receiving eviction prevention services (2.2 & 2.5 only) *(Federal guidance may change this requirement in July 2022)*
- c) Number of affordable housing units preserved or developed (2.2 & 2.5 only) *(Federal guidance may change this requirement in July 2022)*

#### **Healthy Childhood Environments (2.11-2.13)**

- a) Number of children served by childcare and early learning *(Federal guidance may change this requirement in July 2022)*
- b) Number of families served by home visiting *(Federal guidance may change this requirement in July 2022)*

#### **Education Assistance (2.14, 2.24-2.27)**

- a) National Center for Education Statistics (“NCES”) School ID or NCES District ID
- b) Number of students participating in evidence-based programs *(Federal guidance may change this requirement in July 2022)*

#### **Housing Support (2.15, 2.16, 2.18)**

- a) Number of people or households receiving eviction prevention services *(Federal guidance may change this requirement in July 2022)*
- b) Number of affordable housing units preserved or developed *(Federal guidance may change this requirement in July 2022)*

#### **Small Business Economic Assistance (2.29-2.33)**

- a) Number of small businesses served

#### **Assistance to Non-Profits (2.34)**

- a) Number of non-profits served

#### **Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (2.35-2.36)**

- a) Sector of employer
- b) Purpose of funds
- c) If other than travel, tourism and hospitality (2.36) – description of hardship

#### **EC 3 – Public Health – Negative Economic Impact: Public Sector Capacity**

##### **Payroll for Public Health and Safety Employees (EC 3.1)**

- a) Number of government FTEs responding to COVID-19

##### **Rehiring Public Sector Staff (EC 3.2)**

- a) Number of FTEs rehired by governments

#### **EC 4 – Premium Pay**

##### **All Premium Pay Projects**

- a) List of sectors designated as critical by the chief executive of the jurisdiction, if beyond those listed in the final rule
- b) Numbers of workers served
- c) Employer sector for all subawards to third-party employers
- d) Written narrative justification of how premium pay is responsive to essential work during the public health emergency for non-exempt workers or those making over 150 percent of the state/county’s average annual wage

- e) Number of workers to be served with premium pay in K-12 schools

### **EC 5 – Infrastructure Projects**

#### **All Infrastructure Projects**

- a) Projected/actual construction start date (month/year)
- b) Projected/actual initiation of operations date (month/year)
- c) Location (for broadband, geospatial data of locations to be served)
- d) Projects over \$10 million
  - i. Prevailing wage certification or detailed project employment and local impact report
  - ii. Project labor agreement certification or project workforce continuity plan
  - iii. Prioritization of local hires
  - iv. Community benefit agreement description, if applicable

#### **Water and sewer projects (EC 5.1-5.18)**

- a) National Pollutant Discharge Elimination System (NPDES) Permit Number (if applicable; for projects aligned with the Clean Water State Revolving Fund)
- b) Public Water System (PWS) ID number (if applicable; for projects aligned with the Drinking Water State Revolving Fund)
- c) Median Household Income of service area
- d) Lowest Quintile Income of the service area

#### **Broadband projects (EC 5.19-5.21)**

- a) Confirm that the project is designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds.
  - i. If the project is not designed to reliably meet or exceed symmetrical 100 Mbps download and upload speeds, explain why not, and
  - ii. Confirm that the project is designed to, upon completion, meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed, and be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.
- b) Additional programmatic data will be required for broadband projects and will be defined in a subsequent version of the US Treasury Reporting Guidance, including, but not limited to (*Federal guidance may change this requirement in July 2022*):
  - i. Number of households (broken out by households on Tribal lands and those not on Tribal lands) that have gained increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, with the number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download and number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload
  - ii. Number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) that have projected increased access to broadband meeting the minimum speed standards in areas that previously

lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization, with the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.

- iii. Narrative identifying speeds/pricing tiers to be offered, including the speed/pricing of its affordability offering, technology to be deployed, miles of fiber, cost per mile, cost per passing, number of households (broken out by households on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download, number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload, and number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization. Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.

### All Expenditure Categories

- a) Program income earned and expended to cover eligible project costs
- 8.1.2. A Subrecipient shall report the following data elements to Prime Recipient no later than five days after the end of the month following the month in which the Subaward was made.
- 8.1.2.1. Subrecipient Unique Entity ID;
- 8.1.2.2. Subrecipient Unique Entity ID if more than one electronic funds transfer (EFT) account;
- 8.1.2.3. Subrecipient parent's organization Unique Entity ID;
- 8.1.2.4. Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;



- 8.1.2.5. Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and
  - 8.1.2.6. Subrecipient's Total Compensation of top 5 most highly compensated Executives if the criteria in §4 above met.
- 8.1.3. To Prime Recipient. A Subrecipient shall report to its Prime Recipient, the following data elements:
- 8.1.3.1. Subrecipient's Unique Entity IDas registered in SAM.
  - 8.1.3.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.
  - 8.1.3.3. Narrative identifying methodology for serving disadvantaged communities. See the "Project Demographic Distribution" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at [www.treasury.gov](http://www.treasury.gov). This requirement is applicable to all projects in Expenditure Categories 1 and 2.
  - 8.1.3.4. Narrative identifying funds allocated towards evidenced-based interventions and the evidence base. See the "Use of Evidence" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at [www.treasury.gov](http://www.treasury.gov). See section 8.1.1 for relevant Expenditure Categories.
  - 8.1.3.5. Narrative describing the structure and objectives of the assistance program and in what manner the aid responds to the public health and negative economic impacts of COVID-19. This requirement is applicable to Expenditure Categories 1 and 2. For aid to travel, tourism, and hospitality or other impacted industries (EC 2.11-2.12), also provide the sector of employer, purpose of funds, and if not travel, tourism and hospitality a description of the pandemic impact on the industry.
  - 8.1.3.6. Narrative identifying the sector served and designated as critical to the health and well-being of residents by the chief executive of the jurisdiction and the number of workers expected to be served. For groups of workers (e.g., an operating unit, a classification of worker, etc.) or, to the extent applicable, individual workers, other than those where the eligible worker receiving premium pay is earning (with the premium pay included) below 150 percent of their residing state or county's average annual wage for all occupations, as defined by the Bureau of Labor Statistics Occupational Employment and Wage Statistics, whichever is higher, OR the eligible worker receiving premium pay is not exempt from the Fair Labor Standards Act overtime provisions, include justification of how the premium pay or grant is responsive to workers performing essential work during the public health emergency. This could include a description of the essential workers' duties, health or financial risks faced due to COVID-19 but should not include personally identifiable information. This requirement applies to EC 4.1, and 4.2.
  - 8.1.3.7. For infrastructure projects (EC 5), or capital expenditures in any expenditure category, narrative identifying the projected construction start date (month/year), projected initiation of operations date (month/year), and location (for broadband, geospatial location data).
    - 8.1.3.7.1. For projects over \$10 million:

- 8.1.3.7.1.1. Certification that all laborers and mechanics employed by Contractors and Subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the Agreement work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as "baby Davis-Bacon Acts"). If such certification is not provided, a recipient must provide a project employment and local impact report detailing (1) the number of employees of Contractors and sub-contractors working on the project; (2) the number of employees on the project hired directly and hired through a third party; (3) the wages and benefits of workers on the project by classification; and (4) whether those wages are at rates less than those prevailing. Recipients must maintain sufficient records to substantiate this information upon request.
- 8.1.3.7.2. A Subrecipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing: (1) how the Subrecipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project; (2) how the Subrecipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project; and (3) how the Subrecipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities; (4) whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and (5) whether the project has completed a project labor agreement.
- 8.1.3.7.3. Whether the project prioritizes local hires.
- 8.1.3.7.4. Whether the project has a Community Benefit Agreement, with a description of any such agreement.
- 8.1.4. Subrecipient also agrees to comply with any reporting requirements established by the US Treasury, Governor's Office and Office of the State Controller. The State of Colorado may need additional reporting requirements after this agreement is executed. If there are additional reporting requirements, the State will provide notice of such additional reporting requirements via Exhibit G – SLFRF Reporting Modification Form.

**9. PROCUREMENT STANDARDS.**

- 9.1. Procurement Procedures. A Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and applicable regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, 2 CFR 200.318 through 200.327 thereof.
- 9.2. Domestic preference for procurements (2 CFR 200.322). As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all Agreements and purchase orders for work or products under this award.
- 9.3. Procurement of Recovered Materials. If a Subrecipient is a State Agency or an agency of a political subdivision of the State, its Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247, that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**10. ACCESS TO RECORDS.**

- 10.1. A Subrecipient shall permit Prime Recipient and its auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of 2 CFR 200.332 (Requirements for pass-through entities), 2 CFR 200.300 (Statutory and national policy requirements) through 2 CFR 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance.

**11. SINGLE AUDIT REQUIREMENTS.**

- 11.1. If a Subrecipient expends \$750,000 or more in Federal Awards during the Subrecipient's fiscal year, the Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR 200.501.

- 11.1.1. Election. A Subrecipient shall have a single audit conducted in accordance with Uniform Guidance 2 CFR 200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with 2 CFR 200.507 (Program-specific audits). The Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Prime Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
- 11.1.2. Exemption. If a Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, the Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.
- 11.1.3. Subrecipient Compliance Responsibility. A Subrecipient shall procure or otherwise arrange for the audit required by Subpart F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with 2 CFR 200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Subpart F-Audit Requirements.

## 12. GRANT PROVISIONS FOR SUBRECIPIENT AGREEMENTS.

- 12.1. In addition to other provisions required by the Federal Awarding Agency or the Prime Recipient, Grantees that are Subrecipients shall comply with the following provisions. Subrecipients shall include all of the following applicable provisions in all Subcontractors entered into by it pursuant to this Grant.
- 12.1.1. [Applicable to federally assisted construction Agreements.] Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all Agreements that meet the definition of "federally assisted construction Agreement" in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, Office of Federal Agreement Compliance Programs, Equal Employment Opportunity, Department of Labor.
- 12.1.2. [Applicable to on-site employees working on government-funded construction, alteration and repair projects.] Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).

- 12.1.3. Rights to Inventions Made Under a grant or agreement. If the Federal Award meets the definition of “funding agreement” under 37 CFR 401.2 (a) and the Prime Recipient or Subrecipient wishes to enter into an Agreement with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the Prime Recipient or Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Agreements and Cooperative Agreements,” and any implementing regulations issued by the Federal Awarding Agency.
- 12.1.4. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Agreements and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal awardees to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).
- 12.1.5. Debarment and Suspension (Executive Orders 12549 and 12689). A Agreement award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in SAM, in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- 12.1.6. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal Agreement, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- 12.1.7. Never Contract with the Enemy (2 CFR 200.215). Federal awarding agencies and recipients are subject to the regulations implementing “Never Contract with the Enemy” in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered Agreements, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.
- 12.1.8. Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR 200.216). Grantee is prohibited from obligating or expending loan or grant funds on certain telecommunications and video surveillance services or equipment pursuant to 2 CFR 200.216.

12.1.9. Title VI of the Civil Rights Act. The Subgrantee, Contractor, Subcontractor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CRF Part 22, and herein incorporated by reference and made part of this Agreement or agreement.

### 13. CERTIFICATIONS.

- 13.1. Subrecipient Certification. Subrecipient shall sign a "State of Colorado Agreement with Recipient of Federal Recovery Funds" Certification Form in Exhibit E and submit to State Agency with signed grant agreement.
- 13.2. Unless prohibited by Federal statutes or regulations, Prime Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR 200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR 200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

### 14. EXEMPTIONS.

- 14.1. These Federal Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.
- 14.2. A Grantee with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

### 15. EVENT OF DEFAULT AND TERMINATION.

- 15.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Grant and the State of Colorado may terminate the Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30-day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.
- 15.2. Termination (2 CFR 200.340). The Federal Award may be terminated in whole or in part as follows:
- 15.2.1. By the Federal Awarding Agency or Pass-through Entity, if a Non-Federal Entity fails to comply with the terms and conditions of a Federal Award;
- 15.2.2. By the Federal awarding agency or Pass-through Entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;

- 15.2.3. By the Federal awarding agency or Pass-through Entity with the consent of the Non-Federal Entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;
- 15.2.4. By the Non-Federal Entity upon sending to the Federal Awarding Agency or Pass-through Entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal Awarding Agency or Pass-through Entity determines in the case of partial termination that the reduced or modified portion of the Federal Award or Subaward will not accomplish the purposes for which the Federal Award was made, the Federal Awarding Agency or Pass-through Entity may terminate the Federal Award in its entirety; or
- 15.2.5. By the Federal Awarding Agency or Pass-through Entity pursuant to termination provisions included in the Federal Award.

## Exhibit E, AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS

Section 602(b) of the Social Security Act (the Act), as added by section 9901 of the American Rescue Plan Act (ARPA), Pub. L. No. 117-2 (March 11, 2021), authorizes the Department of the Treasury (Treasury) to make payments to certain Subrecipients from the Coronavirus State Fiscal Recovery Fund. The State of Colorado has signed and certified a separate agreement with Treasury as a condition of receiving such payments from the Treasury. This agreement is between your organization and the State and your organization is signing and certifying the same terms and conditions included in the State's separate agreement with Treasury. Your organization is referred to as a Subrecipient.

As a condition of your organization receiving federal recovery funds from the State, the authorized representative below hereby (i) certifies that your organization will carry out the activities listed in section 602(c) of the Act and (ii) agrees to the terms attached hereto. Your organization also agrees to use the federal recovery funds as specified in bills passed by the General Assembly and signed by the Governor.

Under penalty of perjury, the undersigned official certifies that the authorized representative has read and understood the organization's obligations in the Assurances of Compliance and Civil Rights Requirements, that any information submitted in conjunction with this assurances document is accurate and complete, and that the organization is in compliance with the nondiscrimination requirements.

Subrecipient Name \_\_\_\_\_

Authorized Representative: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_



AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS  
TERMS AND CONDITIONS

1. Use of Funds.
  - a. Subrecipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 602(c) of the Social Security Act (the Act) and Treasury's regulations implementing that section and guidance.
  - b. Subrecipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. Period of Performance. The period of performance for this subaward is shown on page one of this Agreement. Subrecipient may use funds to cover eligible costs incurred, as set forth in Treasury's implementing regulations, during this period of performance.
3. Reporting. Subrecipient agrees to comply with any reporting obligations established by Treasury as they relate to this award. Subrecipient also agrees to comply with any reporting requirements established by the Governor's Office and Office of the State Controller. The State will provide notice of such additional reporting requirements via Exhibit G – Reporting Modification Form.
4. Maintenance of and Access to Records
  - a. Subrecipient shall maintain records and financial documents sufficient to evidence compliance with section 602(c), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
  - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Subrecipient in order to conduct audits or other investigations.
  - c. Records shall be maintained by Subrecipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
6. Administrative Costs. Subrecipient may use funds provided under this award to cover both direct and indirect costs. Subrecipient shall follow guidance on administrative costs issued by the Governor's Office and Office of the State Controller.

7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Subrecipient.
8. Conflicts of Interest. The State of Colorado understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Subrecipient and Contractors must disclose in writing to the Office of the State Controller or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112. The Office of the State Controller shall disclose such conflict to Treasury.
9. Compliance with Applicable Law and Regulations.
  - a. Subrecipient agrees to comply with the requirements of section 602 of the Act, regulations adopted by Treasury pursuant to section 602(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
  - b. Federal regulations applicable to this award include, without limitation, the following:
    - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
    - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
    - iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
    - iv. OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (Agreements and Subcontractors described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury’s implementing regulation at 31 C.F.R. Part 19.
    - v. Subrecipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.

- vi. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
  - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
  - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
  - ix. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
  - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
  - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
  - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
  - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

**Remedial Actions.** In the event of Subrecipient's noncompliance with section 602 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 602(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as

10. provided in section 602(e) of the Act and any additional payments may be subject to withholding as provided in sections 602(b)(6)(A)(ii)(III) of the Act, as applicable.
11. Hatch Act. Subrecipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
12. False Statements. Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or Agreements, and/or any other remedy available by law.
13. Publications. Any publications produced with funds from this award must display the following language: “This project [is being] [was] supported, in whole or in part, by federal award number SLFRF0126 awarded to the State of Colorado by the U.S. Department of the Treasury.”
14. Debts Owed the Federal Government.
  - a. Any funds paid to the Subrecipient (1) in excess of the amount to which the Subrecipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to sections 602(e) and 603(b)(2)(D) of the Act and have not been repaid by the Subrecipient shall constitute a debt to the federal government.
  - b. Any debts determined to be owed to the federal government must be paid promptly by Subrecipient. A debt is delinquent if it has not been paid by the date specified in Treasury’s initial written demand for payment, unless other satisfactory arrangements have been made or if the Subrecipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.
15. Disclaimer.
  - a. The United States expressly disclaims any and all responsibility or liability to Subrecipient or third persons for the actions of Subrecipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any Agreement, or Subcontractor under this award.
  - b. The acceptance of this award by Subrecipient does not in any way establish an agency relationship between the United States and Subrecipient.
16. Protections for Whistleblowers.
  - a. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably

believes is evidence of gross mismanagement of a federal Agreement or grant, a gross waste of federal funds, an abuse of authority relating to a federal Agreement or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal Agreement (including the competition for or negotiation of an Agreement) or grant.

- b. The list of persons and entities referenced in the paragraph above includes the following:
- i. A member of Congress or a representative of a committee of Congress;
  - ii. An Inspector General;
  - iii. The Government Accountability Office;
  - iv. A Treasury employee responsible for Agreement or grant oversight or management;
  - v. An authorized official of the Department of Justice or other law enforcement agency;
  - vi. A court or grand jury; or
  - vii. A management official or other employee of Subrecipient, Contractor, or Subcontractor who has the responsibility to investigate, discover, or address misconduct.
- c. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.
17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Subrecipient should encourage its Contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.
18. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Subrecipient should encourage its employees, Subrecipients, and Contractors to adopt and enforce policies that ban text messaging while driving, and Subrecipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

## ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

### ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the Subrecipient provides the assurances stated herein. The federal financial assistance may include federal grants, loans and Agreements to provide assistance to the Subrecipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass Agreements of guarantee or insurance, regulated programs, licenses, procurement Agreements by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Subrecipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Subrecipient's program(s) and activity(ies), so long as any portion of the Subrecipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Subrecipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Subrecipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Subrecipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Subrecipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Subrecipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Subrecipient's programs, services, and activities.
3. Subrecipient agrees to consider the need for language services for LEP persons when Subrecipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

4. Subrecipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Subrecipient and Subrecipient's successors, transferees, and assignees for the period in which such assistance is provided.
5. Subrecipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every Agreement or agreement subject to Title VI and its regulations between the Subrecipient and the Subrecipient's sub-grantees, Contractors, Subcontractors, successors, transferees, and assignees:

*The sub-grantee, Contractor, Subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits Subrecipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42*

*U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this Agreement or agreement.*

6. Subrecipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Subrecipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Subrecipient for the period during which it retains ownership or possession of the property.
7. Subrecipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Subrecipient shall comply with information requests, on-site compliance reviews and reporting requirements.
8. Subrecipient shall notify the OSC, who will report to the Department of Treasury, any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome.
9. Subrecipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Subrecipient and the administrative agency that made the finding. If the Subrecipient settles a case or matter alleging such discrimination, the Subrecipient must provide documentation of the settlement. If

Subrecipient has not been the subject of any court or administrative agency finding of discrimination, please so state.

10. If the Subrecipient makes sub-awards to other agencies or other entities, the Subrecipient is responsible for ensuring that sub-Subrecipients also comply with Title VI and other applicable authorities covered in this document State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that that they are effectively monitoring the civil rights compliance of sub- Subrecipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.



## EXHIBIT F, SLFRF SUBRECIPIENT QUARTERLY REPORT

### 1. SLFRF SUBRECIPIENT QUARTERLY REPORT WORKBOOK

- 1.1 The SLFRF Subrecipient Quarterly Report Workbook must be submitted to the State Agency within ten (10) days following each quarter ended September, December, March and June. The SLFRF Subrecipient Quarterly Report Workbook can be found at: <https://osc.colorado.gov/american-rescue-plan-act> (see SLFRF Grant Agreement Templates tab)

### Exhibit G – SAMPLE SLFRF REPORTING MODIFICATION FORM

Grantee:		Grant Agreement No:	
Project Title:		Project No:	
Project Duration:	To:	From:	
State Agency:			

This form serves as notification that there has been a change to the reporting requirements set forth in the original SLFRF Grant Agreement.

The following reporting requirements have been (add/ remove additional rows as necessary):

Updated Reporting Requirement (Add/Delete/Modify)	Project Number	Reporting Requirement

By signing this form, the Grantee agrees to and acknowledges the changes to the reporting requirements set forth in the original SLFRF Grant Agreement. All other terms and conditions of the original SLFRF Grant Agreement, with any approved modifications, remain in full force and effect. Grantee shall submit this form to the State Agency within 10 business days of the date sent by that Agency.

\_\_\_\_\_ Grantee

\_\_\_\_\_ Date

\_\_\_\_\_ State Agency Grant Manager

\_\_\_\_\_ Date

**EXHIBIT H-PII CERTIFICATION**

**STATE OF COLORADO**

**THIRD PARTY INDIVIDUAL CERTIFICATION FOR ACCESS TO PII THROUGH A  
DATABASE OR AUTOMATED NETWORK**

Pursuant to § 24-74-105, C.R.S., I hereby certify under the penalty of perjury that I have not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT H-PII CERTIFICATION**

**STATE OF COLORADO**

**THIRD PARTY ENTITY / ORGANIZATION CERTIFICATION FOR ACCESS TO PII  
THROUGH A DATABASE OR AUTOMATED NETWORK**

Pursuant to § 24-74-105, C.R.S., I, \_\_\_\_\_, on behalf of \_\_\_\_\_  
(legal name of entity / organization) (the “Organization”), hereby certify under the penalty of perjury that the Organization has not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.

I hereby represent and certify that I have full legal authority to execute this certification on behalf of the Organization.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT I - HIPAA BUSINESS ASSOCIATE AGREEMENT**

This HIPAA Business Associate Agreement (“Agreement”) between the State and Contractor is agreed to in connection with, and as an exhibit to, the Contract. For purposes of this Agreement, the State is referred to as “Covered Entity” and the Contractor is referred to as “Business Associate”. Unless the context clearly requires a distinction between the Contract and this Agreement, all references to “Contract” shall include this Agreement.

**1. Purpose**

Covered Entity wishes to disclose information to Business Associate, which may include Protected Health Information ("PHI"). The Parties intend to protect the privacy and security of the disclosed PHI in compliance with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), Pub. L. No. 104-191 (1996) as amended by the Health Information Technology for Economic and Clinical Health Act (“HITECH Act”) enacted under the American Recovery and Reinvestment Act of 2009 (“ARRA”) Pub. L. No. 111–5 (2009), implementing regulations promulgated by the U.S. Department of Health and Human Services at 45 C.F.R. Parts 160, 162 and 164 (the “HIPAA Rules”) and other applicable laws, as amended. Prior to the disclosure of PHI, Covered Entity is required to enter into an agreement with Business Associate containing specific requirements as set forth in, but not limited to, Title 45, Sections 160.103, 164.502(e) and 164.504(e) of the Code of Federal Regulations (“C.F.R.”) and all other applicable laws and regulations, all as may be amended.

**2. Definitions**

The following terms used in this Agreement shall have the same meanings as in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

The following terms used in this Agreement shall have the meanings set forth below:

- a. Business Associate. “Business Associate” shall have the same meaning as the term “business associate” at 45 C.F.R. 160.103, and shall refer to Contractor.
- b. Covered Entity. “Covered Entity” shall have the same meaning as the term “covered entity” at 45 C.F.R. 160.103, and shall refer to the State.
- c. Information Technology and Information Security. “Information Technology” and “Information Security” shall have the same meanings as the terms “information technology” and “information security”, respectively, in §24-37.5-102, C.R.S.

Capitalized terms used herein and not otherwise defined herein or in the HIPAA Rules shall have the meanings ascribed to them in the Contract.

### 3. Obligations and Activities of Business Associate

#### a. Permitted Uses and Disclosures.

- i. Business Associate shall use and disclose PHI only to accomplish Business Associate's obligations under the Contract.
- i. To the extent Business Associate carries out one or more of Covered Entity's obligations under Subpart E of 45 C.F.R. Part 164, Business Associate shall comply with any and all requirements of Subpart E that apply to Covered Entity in the performance of such obligation.
- ii. Business Associate may disclose PHI to carry out the legal responsibilities of Business Associate, provided, that the disclosure is Required by Law or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that:
  - A. the information will remain confidential and will be used or disclosed only as Required by Law or for the purpose for which Business Associate originally disclosed the information to that person, and;
  - B. the person notifies Business Associate of any Breach involving PHI of which it is aware.
- iii. Business Associate may provide Data Aggregation services relating to the Health Care Operations of Covered Entity. Business Associate may de-identify any or all PHI created or received by Business Associate under this Agreement, provided the de-identification conforms to the requirements of the HIPAA Rules.

#### b. Minimum Necessary. Business Associate, its Subcontractors and agents, shall access, use, and disclose only the minimum amount of PHI necessary to accomplish the objectives of the Contract, in accordance with the Minimum Necessary Requirements of the HIPAA Rules including, but not limited to, 45 C.F.R. 164.502(b) and 164.514(d).

#### c. Impermissible Uses and Disclosures.

- i. Business Associate shall not disclose the PHI of Covered Entity to another covered entity without the written authorization of Covered Entity.
- ii. Business Associate shall not share, use, disclose or make available any Covered Entity PHI in any form via any medium with or to any person or entity beyond the boundaries or jurisdiction of the United States without express written authorization from Covered Entity.

#### d. Business Associate's Subcontractors.

- i. Business Associate shall, in accordance with 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any Subcontractors who create, receive, maintain, or

transmit PHI on behalf of Business Associate agree in writing to the same restrictions, conditions, and requirements that apply to Business Associate with respect to safeguarding PHI.

- ii. Business Associate shall provide to Covered Entity, on Covered Entity's request, a list of Subcontractors who have entered into any such agreement with Business Associate.
  - iii. Business Associate shall provide to Covered Entity, on Covered Entity's request, copies of any such agreements Business Associate has entered into with Subcontractors.
- e. Access to System. If Business Associate needs access to a Covered Entity Information Technology system to comply with its obligations under the Contract or this Agreement, Business Associate shall request, review, and comply with any and all policies applicable to Covered Entity regarding such system including, but not limited to, any policies promulgated by the Office of Information Technology and available at <http://oit.state.co.us/about/policies>.
- f. Access to PHI. Business Associate shall, within ten days of receiving a written request from Covered Entity, make available PHI in a Designated Record Set to Covered Entity as necessary to satisfy Covered Entity's obligations under 45 C.F.R. 164.524.
- g. Amendment of PHI.
- i. Business Associate shall within ten days of receiving a written request from Covered Entity make any amendment to PHI in a Designated Record Set as directed by or agreed to by Covered Entity pursuant to 45 C.F.R. 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 C.F.R. 164.526.
  - ii. Business Associate shall promptly forward to Covered Entity any request for amendment of PHI that Business Associate receives directly from an Individual.
- h. Accounting Rights. Business Associate shall, within ten days of receiving a written request from Covered Entity, maintain and make available to Covered Entity the information necessary for Covered Entity to satisfy its obligations to provide an accounting of Disclosure under 45 C.F.R. 164.528.
- i. Restrictions and Confidential Communications.
- i. Business Associate shall restrict the Use or Disclosure of an Individual's PHI within ten days of notice from Covered Entity of:
    - A. a restriction on Use or Disclosure of PHI pursuant to 45 C.F.R. 164.522; or
    - B. a request for confidential communication of PHI pursuant to 45 C.F.R. 164.522.

- ii. Business Associate shall not respond directly to an Individual's requests to restrict the Use or Disclosure of PHI or to send all communication of PHI to an alternate address.
  - iii. Business Associate shall refer such requests to Covered Entity so that Covered Entity can coordinate and prepare a timely response to the requesting Individual and provide direction to Business Associate.
- j. **Governmental Access to Records.** Business Associate shall make its facilities, internal practices, books, records, and other sources of information, including PHI, available to the Secretary for purposes of determining compliance with the HIPAA Rules in accordance with 45 C.F.R. 160.310.
- k. **Audit, Inspection and Enforcement.**
- i. Business Associate shall obtain and update at least annually a written assessment performed by an independent third party reasonably acceptable to Covered Entity, which evaluates the Information Security of the applications, infrastructure, and processes that interact with the Covered Entity data Business Associate receives, manipulates, stores and distributes. Upon request by Covered Entity, Business Associate shall provide to Covered Entity the executive summary of the assessment.
  - ii. Business Associate, upon the request of Covered Entity, shall fully cooperate with Covered Entity's efforts to audit Business Associate's compliance with applicable HIPAA Rules. If, through audit or inspection, Covered Entity determines that Business Associate's conduct would result in violation of the HIPAA Rules or is in violation of the Contract or this Agreement, Business Associate shall promptly remedy any such violation and shall certify completion of its remedy in writing to Covered Entity.
- l. **Appropriate Safeguards.**
- i. Business Associate shall use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic PHI to prevent use or disclosure of PHI other than as provided in this Agreement.
  - ii. Business Associate shall safeguard the PHI from tampering and unauthorized disclosures.
  - iii. Business Associate shall maintain the confidentiality of passwords and other data required for accessing this information.
  - iv. Business Associate shall extend protection beyond the initial information obtained from Covered Entity to any databases or collections of PHI containing information derived from the PHI. The provisions of this section shall be in force unless PHI is de-identified in conformance to the requirements of the HIPAA Rules.
- m. **Safeguard During Transmission.**



- i. Business Associate shall use reasonable and appropriate safeguards including, without limitation, Information Security measures to ensure that all transmissions of PHI are authorized and to prevent use or disclosure of PHI other than as provided for by this Agreement.
  - ii. Business Associate shall not transmit PHI over the internet or any other insecure or open communication channel unless the PHI is encrypted or otherwise safeguarded with a FIPS-compliant encryption algorithm.
- n. Reporting of Improper Use or Disclosure and Notification of Breach.
- i. Business Associate shall, as soon as reasonably possible, but immediately after discovery of a Breach, notify Covered Entity of any use or disclosure of PHI not provided for by this Agreement, including a Breach of Unsecured Protected Health Information as such notice is required by 45 C.F.R. 164.410 or a breach for which notice is required under §24-73-103, C.R.S.
  - ii. Such notice shall include the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such Breach.
  - iii. Business Associate shall, as soon as reasonably possible, but immediately after discovery of any Security Incident that does not constitute a Breach, notify Covered Entity of such incident.
  - iv. Business Associate shall have the burden of demonstrating that all notifications were made as required, including evidence demonstrating the necessity of any delay.
- o. Business Associate's Insurance and Notification Costs.
- i. Business Associate shall bear all costs of a Breach response including, without limitation, notifications, and shall maintain insurance to cover:
    - A. loss of PHI data;
    - B. Breach notification requirements specified in HIPAA Rules and in §24-73-103, C.R.S.; and
    - C. claims based upon alleged violations of privacy rights through improper use or disclosure of PHI.
  - ii. All such policies shall meet or exceed the minimum insurance requirements of the Contract or otherwise as may be approved by Covered Entity (e.g., occurrence basis, combined single dollar limits, annual aggregate dollar limits, additional insured status, and notice of cancellation).

- iii. Business Associate shall provide Covered Entity a point of contact who possesses relevant Information Security knowledge and is accessible 24 hours per day, 7 days per week to assist with incident handling.
  - iv. Business Associate, to the extent practicable, shall mitigate any harmful effect known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of this Agreement.
- p. Subcontractors and Breaches.
- i. Business Associate shall enter into a written agreement with each of its Subcontractors and agents, who create, receive, maintain, or transmit PHI on behalf of Business Associate. The agreements shall require such Subcontractors and agents to report to Business Associate any use or disclosure of PHI not provided for by this Agreement, including Security Incidents and Breaches of Unsecured Protected Health Information, on the first day such Subcontractor or agent knows or should have known of the Breach as required by 45 C.F.R. 164.410.
  - ii. Business Associate shall notify Covered Entity of any such report and shall provide copies of any such agreements to Covered Entity on request.
- q. Data Ownership.
- i. Business Associate acknowledges that Business Associate has no ownership rights with respect to the PHI.
  - ii. Upon request by Covered Entity, Business Associate immediately shall provide Covered Entity with any keys to decrypt information that the Business Association has encrypted and maintains in encrypted form, or shall provide such information in unencrypted usable form.
- r. Retention of PHI. Except upon termination of this Agreement as provided in Section 5 below, Business Associate and its Subcontractors or agents shall retain all PHI throughout the term of this Agreement, and shall continue to maintain the accounting of disclosures required under Section 3.h above, for a period of six years.
4. Obligations of Covered Entity
- a. Safeguards During Transmission. Covered Entity shall be responsible for using appropriate safeguards including encryption of PHI, to maintain and ensure the confidentiality, integrity, and security of PHI transmitted pursuant to this Agreement, in accordance with the standards and requirements of the HIPAA Rules.
  - b. Notice of Changes.
    - i. Covered Entity maintains a copy of its Notice of Privacy Practices on its website. Covered Entity shall provide Business Associate with any changes in, or revocation of,

permission to use or disclose PHI, to the extent that it may affect Business Associate's permitted or required uses or disclosures.

- ii. Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI to which Covered Entity has agreed in accordance with 45 C.F.R. 164.522, to the extent that it may affect Business Associate's permitted use or disclosure of PHI.

## 5. Termination

### a. Breach.

- i. In addition to any Contract provision regarding remedies for breach, Covered Entity shall have the right, in the event of a breach by Business Associate of any provision of this Agreement, to terminate immediately the Contract, or this Agreement, or both.
- ii. Subject to any directions from Covered Entity, upon termination of the Contract, this Agreement, or both, Business Associate shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Business Associate in which Covered Entity has an interest.

### b. Effect of Termination.

- i. Upon termination of this Agreement for any reason, Business Associate, at the option of Covered Entity, shall return or destroy all PHI that Business Associate, its agents, or its Subcontractors maintain in any form, and shall not retain any copies of such PHI.
- ii. If Covered Entity directs Business Associate to destroy the PHI, Business Associate shall certify in writing to Covered Entity that such PHI has been destroyed.
- iii. If Business Associate believes that returning or destroying the PHI is not feasible, Business Associate shall promptly provide Covered Entity with notice of the conditions making return or destruction infeasible. Business Associate shall continue to extend the protections of Section 3 of this Agreement to such PHI, and shall limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible.

## 6. Injunctive Relief

Covered Entity and Business Associate agree that irreparable damage would occur in the event Business Associate or any of its Subcontractors or agents use or disclosure of PHI in violation of this Agreement, the HIPAA Rules or any applicable law. Covered Entity and Business Associate further agree that money damages would not provide an adequate remedy for such Breach. Accordingly, Covered Entity and Business Associate agree that Covered Entity shall be entitled to injunctive relief,

specific performance, and other equitable relief to prevent or restrain any Breach or threatened Breach of and to enforce specifically the terms and provisions of this Agreement.

#### 7. Limitation of Liability

Any provision in the Contract limiting Contractor's liability shall not apply to Business Associate's liability under this Agreement, which shall not be limited.

#### 8. Disclaimer

Covered Entity makes no warranty or representation that compliance by Business Associate with this Agreement or the HIPAA Rules will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made and actions taken by Business Associate regarding the safeguarding of PHI.

#### 9. Certification

Covered Entity has a legal obligation under HIPAA Rules to certify as to Business Associate's Information Security practices. Covered Entity or its authorized agent or contractor shall have the right to examine Business Associate's facilities, systems, procedures, and records, at Covered Entity's expense, if Covered Entity determines that examination is necessary to certify that Business Associate's Information Security safeguards comply with the HIPAA Rules or this Agreement.

#### 10. Amendment

- a. Amendment to Comply with Law. The Parties acknowledge that state and federal laws and regulations relating to data security and privacy are rapidly evolving and that amendment of this Agreement may be required to provide procedures to ensure compliance with such developments.
  - i. In the event of any change to state or federal laws and regulations relating to data security and privacy affecting this Agreement, the Parties shall take such action as is necessary to implement the changes to the standards and requirements of HIPAA, the HIPAA Rules and other applicable rules relating to the confidentiality, integrity, availability and security of PHI with respect to this Agreement.
  - ii. Business Associate shall provide to Covered Entity written assurance satisfactory to Covered Entity that Business Associate shall adequately safeguard all PHI, and obtain written assurance satisfactory to Covered Entity from Business Associate's Subcontractors and agents that they shall adequately safeguard all PHI.
  - iii. Upon the request of either Party, the other Party promptly shall negotiate in good faith the terms of an amendment to the Contract embodying written assurances consistent with the standards and requirements of HIPAA, the HIPAA Rules, or other applicable rules.

- iv. Covered Entity may terminate this Agreement upon 30 days' prior written notice in the event that:
- A. Business Associate does not promptly enter into negotiations to amend the Contract and this Agreement when requested by Covered Entity pursuant to this Section; or
  - B. Business Associate does not enter into an amendment to the Contract and this Agreement, which provides assurances regarding the safeguarding of PHI sufficient, in Covered Entity's sole discretion, to satisfy the standards and requirements of the HIPAA, the HIPAA Rules and applicable law.
- b. Amendment of Appendix. The Appendix to this Agreement may be modified or amended by the mutual written agreement of the Parties, without amendment of this Agreement. Any modified or amended Appendix agreed to in writing by the Parties shall supersede and replace any prior version of the Appendix.

### **11. Assistance in Litigation or Administrative Proceedings**

Covered Entity shall provide written notice to Business Associate if litigation or administrative proceeding is commenced against Covered Entity, its directors, officers, or employees, based on a claimed violation by Business Associate of HIPAA, the HIPAA Rules or other laws relating to security and privacy or PHI. Upon receipt of such notice and to the extent requested by Covered Entity, Business Associate shall, and shall cause its employees, Subcontractors, or agents assisting Business Associate in the performance of its obligations under the Contract to, assist Covered Entity in the defense of such litigation or proceedings. Business Associate shall, and shall cause its employees, Subcontractor's and agents to, provide assistance, to Covered Entity, which may include testifying as a witness at such proceedings. Business Associate or any of its employees, Subcontractors or agents shall not be required to provide such assistance if Business Associate is a named adverse party.

### **12. Interpretation and Order of Precedence**

Any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with the HIPAA Rules. In the event of an inconsistency between the Contract and this Agreement, this Agreement shall control. This Agreement supersedes and replaces any previous, separately executed HIPAA business associate agreement between the Parties.

### **13. Survival**

Provisions of this Agreement requiring continued performance, compliance, or effect after termination shall survive termination of this contract or this agreement and shall be enforceable by Covered Entity.

**APPENDIX TO HIPAA BUSINESS ASSOCIATE AGREEMENT**

This Appendix (“Appendix”) to the HIPAA Business Associate Agreement (“Agreement”) is an appendix to the Contract and the Agreement. For the purposes of this Appendix, defined terms shall have the meanings ascribed to them in the Agreement and the Contract.

Unless the context clearly requires a distinction between the Contract, the Agreement, and this Appendix, all references to “Contract” or “Agreement” shall include this Appendix.

**1. Purpose**

This Appendix sets forth additional terms to the Agreement. Any sub-section of this Appendix marked as “Reserved” shall be construed as setting forth no additional terms.

**2. Additional Terms**

- a. **Additional Permitted Uses.** In addition to those purposes set forth in the Agreement, Business Associate may use PHI for the following additional purposes:
  - i. Reserved.
- b. **Additional Permitted Disclosures.** In addition to those purposes set forth in the Agreement, Business Associate may disclose PHI for the following additional purposes:
  - i. Reserved.
- c. **Approved Subcontractors.** Covered Entity agrees that the following Subcontractors or agents of Business Associate may receive PHI under the Agreement:
  - i. Reserved.
- d. **Definition of Receipt of PHI.** Business Associate’s receipt of PHI under this Contract shall be deemed to occur, and Business Associate’s obligations under the Agreement shall commence, as follows:
  - i. Reserved.
- e. **Additional Restrictions on Business Associate.** Business Associate agrees to comply with the following additional restrictions on Business Associate’s use and disclosure of PHI under the Contract:
  - i. Reserved.
- f. **Additional Terms.** Business Associate agrees to comply with the following additional terms under the Agreement:
  - i. Reserved.

ORDINANCE NO. 121, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
MAKING SUPPLEMENTAL APPROPRIATIONS OF  
UNANTICIPATED GRANT REVENUE, PRIOR YEAR RESERVES,  
AND AUTHORIZING TRANSFERS FOR THE POUDBRE WATER  
SUPPLY INFRASTRUCTURE WILDFIRE READY ACTION PLAN

A. The City owns and operates a water utility that provides water service to customers within its water service area. The Cache la Poudre River provides a key source of water for the City and its water utility. Water in the Cache la Poudre River originates in various watersheds, including several watersheds near Cameron Pass, namely the Joe Wright Creek Watershed, Peterson Lake Watershed, and Upper Michigan River Watershed (collectively, "Watersheds").

B. The Cache la Poudre River and these Watersheds also provide key sources of water for the City of Greeley ("Greeley") and the Water Supply and Storage Company ("WSSC").

C. Water supplies and infrastructure in the Watersheds face various challenges, including risks associated with wildfires. Protecting water supplies and infrastructure within the Watersheds is a high priority for the City, Greeley, and WSSC to, among other things, ensure all current and future water demands are met, and to continue providing their communities, customers, and shareholders with reliable, safe, and high-quality water.

D. The State of Colorado, through the Colorado Water Conservation Board ("CWCB"), has a program to assist in the development of wildfire ready watershed action plans, including via grant funding. Such plans are generally intended to help stakeholders develop actionable plans to address the impacts from wildfires through actions that may be taken both before and after wildfires.

E. The City, Greeley, and WSSC desire to develop a wildfire ready watershed action plan for the Watersheds ("Plan"). Accordingly, pursuant to Resolution 2024-066, they have entered into the Agreement Regarding a Wildfire Ready Watershed Action Plan for the Joe Wright Creek, Peterson Lake, and Upper Michigan River Watersheds, dated May 21, 2024, the purpose of which is to coordinate their joint efforts related to developing the Plan, including funding a consultant to assist with the development of the Plan. Pursuant to that agreement, Greeley will contribute \$9,063 and WSSC will contribute \$10,000.

F. The City has been awarded \$209,688 from the State of Colorado, acting through the Colorado Water Conservation Board and its Wildfire Ready Watershed Grant Program to develop the Plan. The agreement for said grant is addressed in Resolution 2024-099.

G. As presented in the Budget, Exhibit C, to the agreement, the City is required to contribute in matching funds to accept the grant. The appropriations set forth herein will allow the City to accept the grant and thus receive the benefit of the grant to develop the Plan to benefit the City's water supplies.

H. Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, to make a supplemental appropriation by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriation, in combination with all previous appropriations for that fiscal year, do not exceed the current estimate of actual and anticipated revenues and all other funds to be received during the fiscal year.

I. The City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the Water Fund and will not cause the total amount appropriated in the Water Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year.

J. Article V, Section 9 of the City Charter permits the City Council, upon the recommendation of the City Manager, to make supplemental appropriations by ordinance at any time during the fiscal year from such revenues and funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated.

K. The City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the Water Fund and will not cause the total amount appropriated in the Water Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year.

L. Article V, Section 10 of the City Charter authorizes the City Council, upon recommendation by the City Manager, to transfer by ordinance any unexpended and unencumbered appropriated amount or portion thereof from one fund or capital project to another fund or capital project, provided that the purpose for which the transferred funds are to be expended remains unchanged, the purpose for which the funds were initially appropriated no longer exists, or the proposed transfer is from a fund or capital project in which the amount appropriated exceeds the amount needed to accomplish the purpose specified in the appropriation ordinance.

M. The City Manager has recommended the transfer of \$9,063 from the Water Fund Watershed Protection budget to the Water Fund Watershed Protection Grant Project Budget and determined that the purpose for which the transferred funds are to be expended remains unchanged.

N. Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a federal, state or private grant



or donation, that such appropriation shall not lapse at the end of the fiscal year in which the appropriation is made, but continue until the earlier of the expiration of the federal, state or private grant or the City's expenditure of all funds received from such grant.

O. The City Council wishes to designate the appropriation herein for the State of Colorado through CWCB's Wildfire Ready Watershed Grant Program and Monetary contributions from Greeley and WSSC as appropriations that shall not lapse until the expiration of the grants or the City's expenditure of all funds received from such grants.

P. All of the funds appropriated in this Ordinance for the Project are ineligible for use in the APP Program due to restrictions placed on them from the State of Colorado through CWCB, the source of these funds.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. There is hereby appropriated from new revenue or other funds in the Water Fund the sum of TWO HUNDRED NINE THOUSAND SIX HUNDRED EIGHTY-EIGHT DOLLARS (\$209,688) to be expended in the Water Fund for the Poudre Water Supply Infrastructure Wildfire Ready Action Plan.

Section 2. There is hereby appropriated from new revenue or other funds in the Water Fund the sum of NINETEEN THOUSAND SIXTY-THREE DOLLARS (\$19,063) to be expended in the Water Fund for the Poudre Water Supply Infrastructure Wildfire Ready Action Plan.

Section 3. There is hereby appropriated from prior year reserves in the Water Fund the sum of TWENTY-EIGHT THOUSAND ONE HUNDRED TWENTY-FIVE DOLLARS (\$28,125) to be expended in the Water Fund for the Poudre Water Supply Infrastructure Wildfire Ready Action Plan.

Section 4. The unexpended and unencumbered appropriated amount of NINE THOUSAND SIXTY-THREE DOLLARS (\$9,063) is authorized for transfer from the Water Fund Watershed Protection budget to the Water Fund Watershed Protection Grant Project Budget and appropriated therein to be expended for the Poudre Water Supply Infrastructure Wildfire Ready Action Plan.

Section 5. The appropriation herein for the State of Colorado through CWCB's Wildfire Ready Watershed Grant Program are hereby designated, as authorized in Article V, Section 11 of the City Charter, as appropriations that shall not lapse at the end of this fiscal year but continue until the earlier of the expiration of the grants or the City's expenditure of all funds received from such grants.

Introduced, considered favorably on first reading on the 20th day of August 2024, and approved on second reading for final passage on the 3rd day of September 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: September 13, 2024  
Approving Attorney: Eric Potyondy

**RESOLUTION 2024-066  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING THE CITY MANAGER TO ENTER INTO AN  
AGREEMENT WITH VARIOUS ENTITIES REGARDING  
THE POUDDRE WATER SUPPLY INFRASTRUCTURE  
WILDFIRE READY ACTION PLAN**

A. The City owns and operates a water utility that provides water service to customers within its water service area. The Cache la Poudre River provides a key source of water for the City and its water utility. Water in the Cache la Poudre River originates in various watersheds, including several watersheds near Cameron Pass, namely the Joe Wright Creek Watershed, Peterson Lake Watershed, and Upper Michigan River Watershed (collectively, "Watersheds").

B. The Cache la Poudre River and these Watersheds also provide key sources of water for the City of Greeley ("Greeley") and the Water Supply and Storage Company ("WSSC").

C. Water supplies and infrastructure in the Watersheds face various challenges, including risks associated with wildfires. Protecting water supplies and infrastructure within the Watersheds is a high priority for the City, Greeley, and WSSC to, among other things, ensure all current and future water demands are met, and to continue providing their communities, customers, and shareholders with reliable, safe, and high-quality water.

D. The State of Colorado, through the Colorado Water Conservation Board ("CWCB"), has a program to assist in the development of wildfire ready watershed action plans, including via grant funding. Such plans are generally intended to help stakeholders develop actionable plans to address the impacts from wildfires through actions that may be taken both before and after wildfires.

G. The City, Greeley, and WSSC desire to develop a wildfire ready watershed action plan for the Watersheds ("Plan"). Accordingly, they have negotiated a proposed agreement, attached as Exhibit "A" ("Agreement"), the purpose of which is to coordinate their joint efforts related to developing the Plan, including funding a consultant to assist with the development of the Plan.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that the City Manager is hereby authorized to execute an Agreement substantially in the form of Exhibit "A", with such additional terms and conditions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City or effectuate the purposes of this Resolution.

Passed and adopted on May 7, 2024.



\_\_\_\_\_  
Mayor Pro Tem

ATTEST:



\_\_\_\_\_  
Interim City Clerk

Effective Date: May 7, 2024  
Approving Attorney: Eric Potyondy

COPY

**AGREEMENT REGARDING A WILDFIRE READY WATERSHED ACTION PLAN  
FOR THE JOE WRIGHT CREEK, PETERSON LAKE, AND  
UPPER MICHIGAN RIVER WATERSHEDS**

This Agreement (“Agreement”) is entered into by and between the following Parties:

- City of Fort Collins, a municipal corporation (“Fort Collins”);
- City of Greeley, a municipal corporation (“Greeley”); and
- Water Supply and Storage Company, a Colorado mutual ditch and reservoir company (“WSSC”).

**RECITALS**

A. The Joe Wright Creek Watershed comprises the lands drained by Joe Wright Creek and its tributaries. The Joe Wright Creek Watershed has Fort Collins’ Joe Wright Reservoir, Greeley’s Barnes Meadows Reservoir, and WSSC’s Chambers Lake Reservoir.

B. The Peterson Lake Watershed is located just southeast of the Joe Wright Creek Watershed and comprises the lands drained by a small, unnamed tributary to the Cache la Poudre River that flows through Peterson Lake Reservoir. The Peterson Lake Watershed includes Greeley’s Peterson Lake Reservoir.

C. The Upper Michigan River Watershed comprises the lands drained by the Michigan River and its tributaries above Gould. At Cameron Pass, water from the Michigan River and its tributaries is delivered into the Joe Wright Creek Watershed via Fort Collins’ Michigan Ditch and WSSC’s Cameron Pass Ditch.

D. The Joe Wright Creek, Peterson Lake, and Upper Michigan River Watersheds (together, “Watersheds”) are and have historically been a source of raw water for Fort Collins, Greeley, and WSSC. By way of example, water from the Watersheds flows down the Cache a Poudre River to the Parties’ other various points of diversion.

E. Water supplies and infrastructure in the Watersheds face various challenges, including<sup>1</sup> risks associated with wildfires. Protecting water supplies and infrastructure within the Watersheds is a high priority for the Parties to, among other things, ensure all current and future water demands are met, and to continue providing their communities, customers, and shareholders with reliable, safe, and high-quality water.

F. The State of Colorado, through the Colorado Water Conservation Board (“CWCB”), has a program to assist in the development of wildfire ready watershed action plans, including via grant funding. Such plans are generally intended to help stakeholders develop actionable plans to address the impacts from wildfires through actions that may be taken both before and after wildfires.

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<sup>1</sup> In this Agreement, “include” signifies a list that is not necessarily exhaustive. *E.g., Lyman v. Town of Bow Mar*, 188 Colo. 216, 222, 533 P.2d 1129, 1133 (1975).

G. The Parties desire to develop a wildfire ready watershed action plan for the Watersheds (“Plan”), pursuant to the terms and conditions of this Agreement. Nothing in this Agreement shall be interpreted to impose any obligation on the Parties to implement any portions of the Plan to be developed hereunder.

H. The purpose of this Agreement is to coordinate the Parties’ joint efforts related to developing the Plan, including funding a consultant to assist with the development of the Plan.

I. As governmental entities, Fort Collins and Greeley are authorized to enter into the following intergovernmental agreement pursuant to their respective home rule charters, municipal codes, and C.R.S. §29-1-203.

### **AGREEMENT**

1. **Incorporation of Recitals.** The foregoing recitals are hereby incorporated as if fully restated in their entirety.

2. **Meetings and Schedule.**

2.1. **Meetings.** The Parties will meet at least quarterly at an agreed upon time and place. Each Party will designate at least one representative who will attend the meetings, either in person or by teleconference when available. Should the representative(s) be changed, a Party shall provide fourteen (14) calendar days written notice of the change to the other Parties. Party representatives will, when possible, be staff members and not members of the governing body of a Party. Persons associated with the Parties other than the representative may attend the meetings upon invitation by the appropriate Party. If a Party desires to not participate in a meeting and has no objection to the other Parties meeting under this Agreement, the non-attending Party may do so by notifying the other Parties of the same.

2.2. **Schedule.** The Parties currently intend to follow the schedule set forth in the Scope of Work, attached as Exhibit A. The Parties may modify the schedule of tasks as appropriate to effectuate the purposes of this Agreement.

2.3. **Consensus Decision-Making.** The Parties shall operate by consensus in making decisions for the purposes of this Agreement. To this end, the Parties shall make a good faith effort to reach consensus, propose alternative solutions, and otherwise work to resolve any issues that prevent consensus.

3. **Funding.** The Parties intend to budget \$200,000 for the retention of a consultant to assist with the development of the Plan.

3.1. **CWCB Grant.** Fort Collins will seek a grant from the CWCB for \$171,875 of the budgeted amount, which would be held by Fort Collins for the purposes of this Agreement. If such a grant is not acquired on or before December 30, 2024, any Party may terminate this Agreement and Fort Collins will return Greeley’s and WSSC’s monetary contributions

identified in Paragraph 3.2.2. The Parties may, in writing, extend the deadline included in this subparagraph.

**3.2. Matching Contributions.** The CWCB grant will require a match of 25% of the project cost from the Parties. The Parties will provide this match with monetary (12.5%) and in-kind (12.5%) contributions as stated below.

**3.2.1. Monetary Contributions.** On or before February 1<sup>st</sup>, 2025, Greeley and WSSC will contribute the following dollar amounts to Fort Collins for the purposes of Paragraph 3.2: Greeley, \$9,062.50; and WSSC, \$10,000. Fort Collins will contribute \$9,062.50 for purposes of Paragraph 3.2.

**3.2.2. In-Kind Contributions.** Fort Collins will provide in-kind contributions towards the CWCB grant of a total value of \$28,125 for purposes of Paragraph 3.2. Fort Collins will track and account the in-kind contributions.

**4. Fort Collins' Role.**

**4.1. Funds.** Fort Collins will hold the budgeted funds described in Paragraph 3 for purposes of this Agreement. If there are any unused funds, they will be returned to the Parties in amounts proportionate to their contributions (Fort Collins 30%, Greeley 30%, WSSC 40%).

**4.2. Consultant.** Fort Collins will retain the consultant to assist with the development of the Plan. The Parties will jointly select which consultant will be retained and managed the same, pursuant to Paragraph 2.3. The Parties acknowledge that Fort Collins will contract with and have sole responsibility for directing the selected consultant, consistent with the determination of the Parties pursuant to Paragraph 2.3 and the objectives of this Agreement.

**4.3. Sharing Consultant Work Product.** Fort Collins will provide to the other Parties copies of all reports, data, drawings, computer programs, or other reproducible, tangible things developed by the consultant in connection with this Agreement ("Consultant Work Product"). Each Party will be entitled to review and provide feedback on the Consultant Work Product, which Fort Collins will communicate to the consultant. Fort Collins will obtain the consultant's agreement for each Party to use Consultant Work Product for purposes connected to this Agreement.

**5. Term, Withdrawal, and Termination.**

**5.1. Term and Termination.** This Agreement will be in effect on the last date it is signed by the Parties until:

- (1) December 30, 2026;
- (2) Fort Collins withdraws;
- (3) all but one of the Parties withdraws;
- (4) the Parties otherwise agree in writing to terminate this Agreement; or

(5) The Plan is completed.

5.2. **Withdrawal.** Any Party may withdraw from this Agreement by providing written notice to the other Parties. Any Party may also withdraw from this Agreement for failure to appropriate funds pursuant to Paragraph 7. Withdrawal from this Agreement shall not: entitle the withdrawing Party to reimbursement for previously contributed funds; or relieve the withdrawing Party from any obligations resulting from the Party's previous participation, including responsibilities for costs, and shall not waive the withdrawing Party's right to the receipt of documents resulting from the Party's previous participation.

6. **Claimed Confidential Information.**

6.1. **CORA.** The Parties acknowledge that the majority of documents and communications created under this Agreement will be subject to the Colorado Open Records Act, C.R.S. §§24-72-101 *et seq.* ("CORA").

6.2. **Confidential Information Procedures.** If a Party ("Providing Party") desires to provide documents or information to the other Parties ("Receiving Parties") that the Providing Party claims to be confidential ("Confidential Information"), the Providing Party may invoke the terms and conditions of this Paragraph 6.2.

6.2.1. If the Providing Party intends to claim that certain information is confidential under this Paragraph 6.2 and desires to have the Receiving Parties take certain precautions under this Agreement with such claimed Confidential Information, then within three calendar days of when the Providing Party provides the claimed Confidential Information to the Receiving Parties, the Providing Party shall provide written notice to the Receiving Parties containing the following:

- (i) an identification of each piece of information that is claimed to be Confidential Information;
- (ii) for each piece of such information, an identification of the documents, files, or other forms of communication provided to the Receiving Parties in which the claimed Confidential Information is located; and
- (iii) for each piece of such information, a brief statement identifying the basis for which the Providing Party may claim the information to be confidential.

6.2.2. With respect to the claimed Confidential Information identified pursuant to Paragraph 6.2.1, the Receiving Parties hereby agree:

- (i) to hold the claimed Confidential Information in confidence and to take all reasonable precautions to protect such Confidential Information from inadvertent or accidental disclosure; and
- (ii) to not disclose any such claimed Confidential Information to any third person, except pursuant to Paragraph 0.



In the normal course of business, the Receiving Parties may also dispose of any documents containing claimed Confidential Information.

6.2.3. The obligations of the Receiving Parties with respect to claimed Confidential Information under this Paragraph 6.2 shall not apply to:

- (i) claimed Confidential Information that remains in the possession of a Receiving Party six months after the termination of this Agreement pursuant to Paragraph 5.1;
- (ii) claimed Confidential Information that the Receiving Party can document:
  - (A) is or has become (through no improper action or inaction by the Receiving Party or any affiliate, agent, consultant or employee) generally available to the public;
  - (B) was in its possession prior to receipt from the Providing Party under Paragraph 6.2.1, except to the extent that such information was unlawfully appropriated by the Receiving Party;
  - (C) was independently developed by the Receiving Party without use of any claimed Confidential Information of the Providing Party under Paragraph 6.2.1; or
  - (D) was disclosed pursuant to the requirements of law, subject to Paragraph 0.

6.2.4. Nothing herein shall affect the obligations of a Receiving Party to either make disclosures or preserve the confidentiality of claimed Confidential Information to the extent required by law or court order, including, but not limited to, requirements under the Colorado Open Records Act, CRS §24-72-201 *et seq.*, and other Colorado and federal statutes, court rules, and administrative rules and regulations. If a Receiving Party receives a request under law for the Providing Party's claimed Confidential Information, or if a Receiving Party would otherwise be required to disclose the Providing Party's claimed Confidential Information pursuant to law, the Receiving Party shall notify the Providing Party as soon as practicable of the request or pending disclosure, and in such event, upon the request of the Receiving Party, the Providing Party may take such timely action as may be required to obtain a declaratory judgment as to the confidential status of the Confidential Information, and, if the Providing Party elects not to do so, then the Receiving Party's obligation to preserve that Confidential Information shall have been waived hereunder, except as otherwise provided by law.

6.2.5. The Providing Party shall have the right to require the return and destruction of claimed Confidential Information in the possession of a Receiving Party as set forth in this paragraph. Such right shall exist from the effective date of this Agreement through six months after the date of termination of this Agreement pursuant to Paragraph 5.1. If claimed Confidential Information has been copied or transcribed into another document, such documents will be destroyed, erased, or modified to remove the claimed Confidential Information.

7. **Fiscal Contingency.** Notwithstanding any other provisions of this Agreement to the contrary, the obligations of Fort Collins and Greeley in fiscal years after the initial fiscal year of this Agreement shall be subject to appropriation of funds sufficient and intended therefor, with the Party having the sole discretion to determine whether the subject funds are sufficient and intended for use under this Agreement. The failure of a Party to appropriate such funds shall be grounds for termination of this Agreement as to such Party upon written notice pursuant to Paragraph 1111.

8. **No Third-Party Beneficiaries.** This Agreement is entered into between the Parties for the purposes set forth herein. It is the intent of the Parties that they are the only beneficiaries of this Agreement and that the Parties are benefitted only to the extent provided under the express terms and conditions of this Agreement.

9. **Governing Law and Enforceability.** This Agreement shall be construed in accordance with the laws of the State of Colorado. The Parties recognize that the constitutions, statutes, and rules and regulations of the State of Colorado and of the United States, as well as the Parties' respective bylaws, city charters and codes, and rules and regulations, impose certain legal constraints on each Party and that the Parties intend to carry out the terms and conditions of this Agreement subject to those constraints. Whenever possible, each provision of this Agreement shall be interpreted in such a manner so as to be effective and valid under applicable law.

10. **Waiver.** A waiver of a breach of any of the provisions of this Agreement shall not constitute a waiver of any subsequent breach of the same or another provision of this Agreement. Nothing in this Agreement shall be construed as any waiver of governmental immunity of the Parties who are governments or any other governmental provisions of State law. Specifically, by entering into this Agreement, no Party waives the monetary limitations on liability or any other rights, immunities, or protections provided by the Colorado Government Immunity Act, C.R.S. § 24-10-101, *et seq.*, or any successor or similar statutes of the State of Colorado.

11. **Notices.** All notices or other communications hereunder shall be sufficiently given and shall be deemed given (i) when personally delivered; (ii) on the date and at the time of delivery or refusal of acceptance of delivery if delivered or attempted to be delivered by an overnight courier service to the party to whom notice is given at the address specified below; (iii) on the date and at the time shown on the electronic mail if sent by electronic transmission at the email addresses set forth below and receipt of such electronic mail is acknowledged by the intended recipient thereof; or (iv) after the lapse of five business days following mailing by certified mail-return receipt requested, postage prepaid, addressed as follows:

To Fort Collins:

City Manager  
City Hall West  
300 LaPorte Avenue; P.O. Box 580  
Fort Collins, Colorado 80522-0580

With copy to:

Fort Collins City Attorney  
300 LaPorte Avenue; P.O. Box 580  
Fort Collins, Colorado 80522-0580

epotyondy@fcgov.com

and:

Fort Collins Utilities  
Attn: Sr. Director of Water Planning and Sciences  
4316 LaPorte Ave.  
Fort Collins, Colorado 80521

To Greeley:

City of Greeley  
Attn: Director of Water & Sewer  
1001 11<sup>th</sup> Ave, 2nd Floor,  
Greeley, Colorado 80631

With a copy to:  
City Attorney  
1100 10th Street, Suite 401  
Greeley, Colorado 80631  
daniel.biwer@greeleygov.com

To WSSC:

2319 E Mulberry Street (P.O. Box 2017)  
Fort Collins, CO 80524 (80524)

12. **Construction.** This Agreement shall be construed according to its fair meaning as it was prepared by the Parties. Headings in this Agreement are for convenience and reference only and shall in no way define, limit, or prescribe the scope or intent of any provision of this Agreement.

13. **Representations.** Each Party represents to the other parties that it has the power and authority to enter into this Agreement and the individual signing below on behalf of that Party has the authority to execute this Agreement on its behalf and legally bind that Party.

14. **Assignment.** No Party may assign any rights or delegate any duties under this Agreement without the written consent of all other Parties.

15. **Severability.** If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid, unenforceable or impossible of performance, the remainder of this Agreement shall remain in full force and effect.

**[Remainder of Page Left Blank Intentionally]**

**CITY OF FORT COLLINS, a municipal corporation**

By: \_\_\_\_\_  
Kelly DiMartino, City Manager

Date: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Name: \_\_\_\_\_

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
City Attorney's Office

COPY

**CITY OF GREELEY, a municipal corporation**

**APPROVED AS TO SUBSTANCE:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
City Manager

**AVAILABILITY OF FUNDS:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Director of Finance

**APPROVED AS TO LEGAL FORM**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
City Attorney's Office

COPY

**WATER SUPPLY AND STORAGE COMPANY, a Colorado mutual ditch and reservoir company**

By: \_\_\_\_\_  
Don Frick, General Manager

Date: \_\_\_\_\_

COPY

**File Attachments for Item:**

**22. First Reading of Ordinance No. 122, 2024, Designating the Chavez/Ambriz/Gonzales Property, 724 Martinez Street, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Fort Collins City Code Chapter 14.**

The purpose of this item is to request City landmark designation for the Chavez/Ambriz/Gonzales Property at 724 Martinez Street. In cooperation with the property owners, City staff and the Historic Preservation Commission (Commission) have determined the property to be eligible for designation. The property is significant under City Code 14-22(a) Standard 1, Events/Trends, for association with the early sugar beet industry in Fort Collins, its social history, and its Hispanic history, as well as under Standard 3, Design/Construction, as a rare example of adobe construction in Fort Collins and including a Community Development Block Grant (CDBG)-funded addition. The owners are requesting designation, which will provide protection of the property's exterior and access to financial incentives for owners to use for historic properties.

August 20, 2024

# AGENDA ITEM SUMMARY

City Council



## STAFF

Yani Jones, Historic Preservation Planner

## SUBJECT

**First Reading of Ordinance No. 122, 2024, Designating the Chavez/Ambriz/Gonzales Property, 724 Martinez Street, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Fort Collins City Code Chapter 14.**

## EXECUTIVE SUMMARY

The purpose of this item is to request City landmark designation for the Chavez/Ambriz/Gonzales Property at 724 Martinez Street. In cooperation with the property owners, City staff and the Historic Preservation Commission (Commission) have determined the property to be eligible for designation. The property is significant under City Code 14-22(a) Standard 1, Events/Trends, for association with the early sugar beet industry in Fort Collins, its social history, and its Hispanic history, as well as under Standard 3, Design/Construction, as a rare example of adobe construction in Fort Collins and including a Community Development Block Grant (CDBG)-funded addition. The owners are requesting designation, which will provide protection of the property's exterior and access to financial incentives for owners to use for historic properties.

## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

## BACKGROUND / DISCUSSION

The Chavez/Ambriz/Gonzales Property at 724 Martinez St. is eligible for Landmark designation under Standard 1, Events/Trends, for its association with the history of the sugar beet industry, Hispanic history, and social history.

Originally constructed in 1923 by the Great Western Sugar Company to house beet workers and their families, this site is closely associated with the sugar beet industry and industrial agriculture of the early twentieth century.

The property is also connected to Fort Collins's Hispanic community, extending to the present with the Gonzales family, who have lived in this home since the early 1960s. The location of this home in Alta Vista, formerly known as the "Spanish Colony," near Dry Creek and the former location of the sugar factory, also speak to the occupants' deep roots in Fort Collins and the legacy of geographic discrimination they faced.

Social history is defined by the State Historic Preservation Office as the history of efforts to promote the welfare of society and/or the history of society and lifeways of its social groups. This property is associated



with social history through its reflection of the evolving relationship of the City with the property owners and residents of the Tres Colonias neighborhoods. For instance, the home's location along a paved street with no sidewalk and the addition on the building's southeast corner speak to the beginning of the City's efforts to address the lack of infrastructure and outdated housing conditions in the neighborhood in the 1970s and 1980s as well as the tension between such objectives and the lived experiences of people in the neighborhood. CDBG rehabilitation funding led to the construction of the 1976 frame addition on this house to extend sewer service to this property, but, at the same time, the City demolished one of this house's adobe additions, which was built by the Gonzales family in the early 1960s. These conflicting examples of preservation and demolition suggest the complexity of the social history reflected here.

Finally, this property is also eligible for Landmark designation under Standard 3, Design/Construction. The house is one of the rare remaining examples of adobe construction in Fort Collins. In addition to the original 1923 two-room adobe house, it includes both an adobe addition built sometime before 1949 as well as the 1976 CDBG-associated frame addition.

Character defining features include the house's adobe brick material, its U-shaped plan and linear construction, limited ornamentation, its CDBG frame addition, and its location and setting within the Alta Vista neighborhood.

This property retains sufficient integrity under City Code 14-22(b) to reflect its significance under City Code 14-22(a)(1) and (3). Location and setting, key aspects of integrity for this property, are retained. Feeling and association, also important for conveying this property's historical associations, are similarly strong due to the house's retention of its primary materials, additions, and location, which all make it feel like an early twentieth-century residence and speak to the association of the house with its history. Integrity of workmanship, materials, and design are also retained through the original adobe construction and the later additions and alterations. Although the building has changed over the last hundred years, including some alteration of materials or changes to design, these changes support the property's significance under Standards 1 and 3, because they reflect the owners' investment of time, money, and labor to improve their living conditions within a historical context of discrimination and changing attitudes toward Hispanic people from others within the community and from the City as an organization.

## **CITY FINANCIAL IMPACTS**

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None.

## **BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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Designation as a Fort Collins landmark qualifies property owners for certain financial incentives funded by the City, as well as allows private property owners to leverage State tax incentives for repairs and modifications that meet national preservation standards. These include a 0% interest revolving loan program and a Design Assistance mini-grant program through the City and the Colorado State Historic Tax Credits.

## **PUBLIC OUTREACH**

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At its July 17, 2024, regular meeting, the Commission adopted a motion on a vote of 7-0 (1 absence) to recommend that Council designate the Chavez/Ambriz/Gonzales Property as a Fort Collins landmark in accordance with City Code Chapter 14, based on the property's significance under Standard 1, Events/Trends, and Standard 3, Design/Construction, and its integrity under all seven aspects: location, design, setting, materials, workmanship, feeling, and association. The Commission further recommended that designation of the property will advance the policies and purposes set forth in City Code Sections 14-1 and 14-2 in a manner and extent sufficient to justify the designation.

## ATTACHMENTS

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1. Ordinance for Consideration
2. Location Map
3. Landmark Nomination Form and Signed Acknowledgement
4. HPC Resolution 1, 2024
5. Presentation

ORDINANCE NO. 122, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
DESIGNATING THE CHAVEZ/AMBRIZ/GONZALES PROPERTY,  
724 MARTINEZ STREET, FORT COLLINS, COLORADO, AS A  
FORT COLLINS LANDMARK PURSUANT TO FORT COLLINS  
CITY CODE CHAPTER 14

A. Pursuant to City Code Section 14-1, the City Council has established a public policy encouraging the protection, enhancement and perpetuation of historic landmarks within the City.

B. On July 17, 2024, the Historic Preservation Commission (the "Commission") adopted a resolution determining that the Chavez/Ambriz/Gonzales Property, 724 Martinez Street, in Fort Collins, as more specifically described in the legal description below (the "Property"), is eligible for landmark designation pursuant to City Code Chapter 14, Article II, under Standard 1, Events, and Standard 3, Design/Construction, described in City Code Sections 14-22(a)(1) and (3).

C. The Commission found under Standard 1 that the Property is eligible: for its association with the early sugar beet industry in Fort Collins from 1923 to 1952; for its association with Hispanic history from 1923 until the present; and for its association from 1923 until the present with the social history that reflects the City's evolving relationship with the property owners and residents of the Tres Colonias neighborhoods and the application of social programs there, such as the housing rehabilitation grant program of the 1970s. The Commission found under Standard 3 that the Property is eligible as a rare example of adobe construction in Fort Collins and for its addition built with federal Community Development Block Grant monies.

D. The Commission determined eligibility also because the Property has historic integrity of Location, Setting, Design, Materials, Workmanship, Feeling, and Association under City Code Sections 14-22(b)(1) through (7).

E. The Commission further determined that designation of the Property will advance the policies and purposes set forth in City Code Sections 14-1 and 14-2 in a manner and extent sufficient to justify designation.

F. The Commission recommends that the City Council designate the Property as a Fort Collins landmark.

G. The owners of the Property nominated the Property, have consented to landmark designation, and desire to protect the Property.

H. Landmark designation will preserve the Property's significance to the community.

I. The City Council has reviewed the Commission's recommendation and desires to follow the Commission's recommendation, to adopt the Commission's findings, and to designate the Property as a Fort Collins landmark.

J. Designation of the Property as a landmark is necessary for the prosperity, civic pride, and welfare of the public.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The Property located in the City of Fort Collins, Larimer County, Colorado, described as follows:

LOT 18, ALTA VISTA, FORT COLLINS  
ALSO KNOWN BY STREET AND NUMBER AS: 724 MARTINEZ STREET,  
FORT COLLINS, COLORADO 80524  
ASSESSOR'S SCHEDULE OR PARCEL NUMBER: 9701405018

is hereby designated as a Fort Collins landmark in accordance with City Code Chapter 14.

Section 2. Alterations, additions, and other changes to the buildings and structures located upon the Property will be reviewed for compliance with City Code Chapter 14, Article IV, as currently enacted or hereafter amended.

Section 3. In compliance with City Code Section 14-36, the City shall, within fifteen days of the effective date of this Ordinance, record among the real estate records of the Larimer County Clerk and Recorder a certified copy of this Ordinance designating the Property.

Introduced, considered favorably on first reading on August 20, 2024, and approved on second reading for final passage on September 3, 2024.

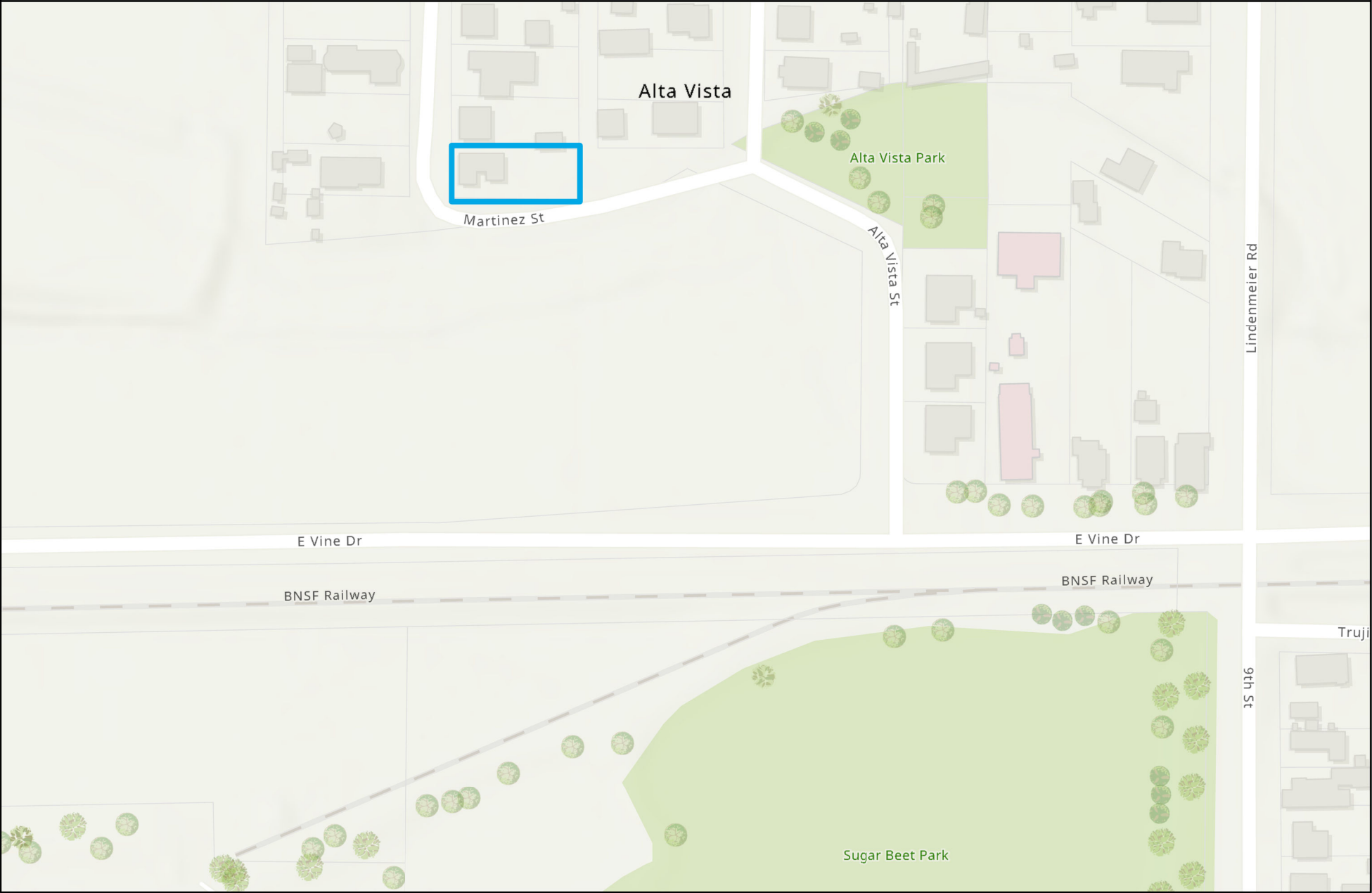
\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: September 13, 2024  
Approving Attorney: Heather N. Jarvis

# Chavez/Ambriz/Gonzales Property (724 Martinez St.)



0 70 140 280 US



Community Development & Neighborhood Services  
281 North College Avenue  
P.O. Box 580  
Fort Collins, CO 80522.0580  
970.224.6078  
[preservation@fcgov.com](mailto:preservation@fcgov.com)  
[fcgov.com/historicpreservation](http://fcgov.com/historicpreservation)

## Fort Collins Landmark Nomination

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### LOCATION INFORMATION

**Address:** 724 Martinez St.  
**Legal Description (<https://www.larimer.gov/assessor/search#/property/>):**  
LOT 18, ALTA VISTA, FTC  
**Property Name (historic and/or common):** Chavez/Ambriz/Gonzales Property

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### OWNER INFORMATION

**Name:** Santiago, Monica, and James Gonzales, and Celina Maldonado  
**Company/Organization (if applicable):**  
**Phone:** 970-426-3600  
**Email:** monica.gonzales2@uchealth.org  
**Mailing Address:** PO Box 927, Wellington, CO 80549

---

### FORM PREPARED BY

**Name and Title:** Same, with Yani Jones, City of Fort Collins Historic Preservation Services  
**Address:**  
**Phone:**  
**Email:**  
**Relationship to Owner:**  
**Date:** 4/24/2024

---

### ATTACHMENTS

**For owner-initiated Landmark nominations:**

- Completed Character-Defining Features Worksheet
- Signed and notarized Owner Landmark Agreement
- OPTIONAL: A Colorado Architectural Inventory Form 1403 for the nominated property with valid certification or re-certification from Historic Preservation Services staff (this documentation will otherwise be provided by staff)

**For nonowner-initiated Landmark nominations:**

- Completed Character-Defining Features Worksheet
- Signed and notarized Nonowner Landmark Petition
- A Colorado Architectural Inventory Form 1403 for the nominated property with valid certification or re-certification from Historic Preservation Services staff



## Historic Preservation Services

Item 22.

Community Development & Neighborhood Services  
281 North College Avenue  
P.O. Box 580  
Fort Collins, CO 80522.0580  
970.224.6078  
[preservation@fcgov.com](mailto:preservation@fcgov.com)  
[fcgov.com/historicpreservation](http://fcgov.com/historicpreservation)

### LANDMARK BOUNDARIES

Individual properties nominated for Landmark designation typically have boundaries that correspond to the legal description of the property.

If you are proposing a Landmark boundary that is different than the legal description of the property:

1. Specifically describe the proposed boundary or include a map.
  
2. Explain why you chose this boundary.

If there are multiple, related properties within a boundary, this is called a historic district. Please contact [preservation@fcgov.com](mailto:preservation@fcgov.com) for assistance with nomination.

### REASON(S) FOR LANDMARK NOMINATION

You may check more than one box, if relevant.

This place is important because of historic events or patterns that happened here or are reflected here.

1. Please describe below.  
Over the years, there have been changes to the scenery. It tells a story related to the history of the sugar factory. It shows Hispanic history in the area. 4 generations of the family in the house.

This place is important because of its cultural associations.

1. Please describe below.  
This property is associated with Hispanic history.

This place is important because it is associated with an important person or group of people.

1. Please describe below.  
Maria Celina Gonzales lived here with her 8 kids. She worked for the school district in the kitchen, Water Pik/Taledyne making toothbrushes, showerheads, etc., and Wendy's when she retired. Fidel Gonzales worked for the sugar factory as a laborer in the factory, then for the pickle factory, for the school district as a custodian.

This place is important because of its architecture or type of construction, or because of its association with an important architect or builder.

1. Please describe below.

This house is an adobe building, one of the oldest in the neighborhood. There are only a few other adobe houses in the neighborhood. There was once a garage, and a bedroom addition that was added in the early 60s – Those were removed in the 70s by the City for adding in sewer line.

This place is important because it has archaeological significance or is likely to yield other types of historical information.

1. Please describe below.

There was an outhouse on site, and there is consistent flooding bringing objects onto the property from the nearby fields.

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## HISTORICAL INFORMATION

What do you know about the history of this place and the people who lived or worked here? If possible, please state where you learned this information. If you have submitted a completed survey form, please include only information not found in that document.

If you have any historic photos or other related documents you would like to include, please either insert them in this section or attach them.

Maria worked hard to take care of this house, her dream house that she loved. It was her pride and joy. The yard, especially; you could hear music in the wind, crickets, like being up in the mountain. It should be preserved in her honor.

Santiago worked for the pickle factory, for Weber, Poudre, Leshner, Boltz, Academy on Mountain, the Forest Service during the Big Thompson flood. Working for the Forest Service, he helped build trails and cleared the trash. He lived in this house since he was five years old. He loved the neighborhood – It was a community, working together, and also keeping each other's privacy. People would have barbecues and get togethers.

The neighborhood was called the Spanish Colony once, the Colony, and Alta Vista after annexation. There was once another park on the northwest side of the neighborhood, on the other side of the houses behind the current park.

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## BUILDING INFORMATION

If you don't know the answer to a prompt, you can write "unknown."

**Construction Date:** unknown

**Architect/Builder:** unknown

**Building Materials:** Adobe with stucco, frame addition

**Architectural Style and/or Type:** Adobe residence



**What do you know about changes that have been made to this place over time?**

For instance, were there any additions? Were certain windows or other materials replaced? Are there any accessory buildings, like sheds or garages, and when were they built? Are there any important landscape or surrounding features? If you have submitted a completed survey form, please include only information not found in that document.

Adobe house, garage built before early 60s, then bedroom addition early 60s. Garage, bedroom, and kitchen demolished in the 70s, and bathroom/laundry also added. Fence also added in 80s. The trees on the fence-line were planted around the 60s.

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**ADDITIONAL INFORMATION**

Is there anything else you would like to add?

<b>FOR STAFF USE ONLY</b>	
<b>Reviewed By: HPS Staff</b>	<b>Date: 6/26/2024</b>
<b>Notes:</b> Staffs supports eligibility under Standard 1 (agriculture, social, and Hispanic history) and Standard 3 (architecture) based on the information above and the information in the attached historic survey.	



## Character-Defining Features Worksheet

**Address:** 724 Martinez St.

**Date:** April 24, 2024

**Completed By:** Monica, Santiago, and James Gonzales, and Celina Maldonado

What physical features are important to telling the story of this place and/or conveying its significant design/construction? These elements are “character-defining features.”

<b>Character-Defining Features</b>	
<p><b>From Afar</b>  <i>What is important to the character of this place when viewed at a distance?</i>            Consider elements such as the roof form (e.g., gabled, hipped, etc.), the building plan, or shape, and height (e.g., 2-story, square, asymmetrical, etc.), the type of materials (e.g., wood shingled roof, brick, wood siding, etc.), any important structural components (e.g., porches, carports, decks, etc.), site layout, etc.</p>	<p>The depth of the lot, the view on the corner (location), adobe material, gabled roof</p>
<p><b>From Up Close</b>  <i>What is important to the character of this place when viewed up close?</i>            Consider elements such as the window types and materials (e.g., double-hung wood windows, brick sills, stone lintels, etc.), the doors and their materials, any decorative features (e.g., types of molding, decorative brickwork, turned posts, gable-end shingles, etc.), any masonry patterns, siding style, etc.</p>	<p>Texture of the walls, locations of the windows</p>
<p><b>Associated Buildings/Structures/Landscape/Setting</b>  <i>Are there any associated buildings, structures, landscape features, or elements of the surrounding area that are related to the important story of this place and/or reflect its significant design/construction?</i>            If yes, list them here, and identify their character-defining features in the same manner as above.</p>	<p>Rich soil, the location is important in the Alta Vista neighborhood and sugar factory</p>

**FOR STAFF USE ONLY**

Reviewed By: HPS Staff

Date: 6/26/2024

**Notes:**

Staff concurs with the applicants. Character defining features include: adobe brick material, linear construction, limited ornamentation, 1976 frame addition, and its location and setting within the Alta Vista neighborhood. It should be noted that because the period of significance of this property extends to the present due to ongoing associations with the Hispanic community, flexibility should be extended when considering alterations to this property.

**ACKNOWLEDGEMENT**

Property: 724 Martinez Street Fort Collins CO 80524

The undersigned owner, or owners, of the Property hereby submit the Property for designation as a Fort Collins landmark pursuant to the Fort Collins Landmark Preservation Ordinance, Chapter 14 of the Code of the City of Fort Collins. The undersigned owner, or owners, certify that all signatures necessary to consent to the designation of the Property are affixed below.

I understand that upon designation, I or my successors will be required to receive approval from the City of Fort Collins Historic Preservation staff prior to the occurrence of any of the following:

- Preparation of plans for reconstruction or alteration of the exterior of the improvements on the Property or interior spaces readily visible from any public street, alley, park, or other public place; and/or
- Preparation of plans for construction of, addition to, or demolition of improvements on the Property.

DATED this April day of 24th, 2024

Monica Gonzales, Santiago Gonzales, Celina Maldonado, James Gonzales  
Owner Name (please print)

Monica Gonzales, Celina Maldonado, Santiago Gonzales  
Owner Signature

State of Colorado)

County of Larimer)

)ss.

CORINA HARTZOG
Notary Public
State of Colorado
Notary ID # 20174008848
My Commission Expires 02-27-2025

Subscribed and sworn before me this 24th day of April, 2024.

by Monica Gonzales, Santiago Gonzales, Celina Maldonado & James Gonzales

Witness my hand and official seal. My commission expires 2-27-2025.

Corina Hartzog  
Notary



## Historic Preservation Services

Community Development & Neighborhood Services

281 North College Avenue  
P.O. Box 580  
Fort Collins, CO 80522.0580

970.224.6078

[preservation@fcgov.com](mailto:preservation@fcgov.com)

[fcgov.com/historicpreservation](http://fcgov.com/historicpreservation)

Item 22.

### OFFICIAL DETERMINATION: FORT COLLINS LANDMARK ELIGIBILITY

Resource Number: B3003 (City); 5LR.10643 (State)  
Historic Building Name: Spanish Colony #18 / Ambriz-Chavez-Gonzalez Property  
Property Address: 724 Martinez Street  
**Determination: ELIGIBLE**

Issued: July 2, 2024  
Expiration: July 2, 2029

Monica, Santiago, & James Gonzalez, & Celina Maldonado  
724 Martinez Street  
Fort Collins, CO 80524-2317

Dear Property Owner:

This letter provides you with confirmation that your property has been evaluated for Fort Collins landmark eligibility, following the requirements in Chapter 14, [Article II](#) of the Fort Collins Municipal Code, and has been found eligible for landmark designation.

An intensive-level Colorado Cultural Resource Survey Form was completed by a City staff historian in order to provide the information that serves as the basis for an evaluation of a property's historic and/or architectural significance and its integrity, both of which are required for landmark eligibility as per Article II, Section 14-22.

Staff has made the following findings regarding the information and evaluation of significance, integrity, and landmark eligibility provided by the historian in the attached form.

#### Significance

Historian's evaluation:

*This site has been evaluated against the City of Fort Collins Significance Standards and is found to be significant in the areas of Agriculture, Social History/Hispanic Ethnic History, and Architecture under Standards 1 and 3. Under Significance Standard 1, the site is significant for its association with early sugar beet agriculture and with the city's Hispanic residents. Originally constructed by Great Western Sugar to house beet workers and their families, this site is closely associated with the sugar beet industry and industrial agriculture of the early twentieth century....*

*The site is also significant under Standard 1 in the area of social history and Hispanic ethnic history for its association with Fort Collins' Hispanic community.*

*Under Standard 2, the site is associated with the Ambriz and Gonzales families. Although the members of these families are known and members of the Gonzales family played a part in addressing educational discrimination through the Poudre School District's Mexican American Parent Advisory Commission, none have made specific, documented contributions to the history of the community. The site is recommended not eligible for local landmarking under Standard 2.*

*Under Standard 3, the site is significant for its vernacular adobe construction and for its distinctive 1970s addition constructed with the support of HUD grant funds.*

Staff agrees with the historian's conclusions regarding the property's significance under Standards 1 and 3, based on the following findings.

- The property's statement of significance is supported by a discussion of historical context and a comparative analysis that is appropriate for the property. Relevant context reports have been referenced and cited.
- Each significance criterion is addressed in the statement of significance, even if not applicable.
- For eligible properties, a period of significance is provided and justified based on the available records.

### Integrity

Historian's evaluation:

*This site is significant in the areas of Agriculture, Social History, and Architecture for its association with early sugar beet agriculture, association with the city's Hispanic community, and as a rare remaining example of adobe-brick construction. As such, the site's character defining features are its adobe brick material, linear construction, limited ornamentation, 1976 frame addition, yard surrounded by chain link fence, and its location and setting within the Alta Vista neighborhood.*

*The site retains integrity of location and setting. The building remains in the spot where it was originally constructed within the Alta Vista neighborhood. Although the streets were paved and some nearby residences constructed in the 1980s and 1990s, the neighborhood retains its residential character and many elements of its origins as a Hispanic community constructed by the sugar factory, including narrow street right-of-ways, minimal street setbacks, and no sidewalks. Integrity of workmanship, materials, and design is retained through the original adobe construction and the later additions and alterations. Although the building has seen changes over the last 100 years (including an adobe addition between 1923-1949, the likely replacement of a flat roof with a side gable roof in the 1920s, a wood frame addition in 1976, and replacement of all windows in 1976) these changes support the site's significance under Standards 1 and 3 as they reflect the property owner's financial investment in improving living conditions over time as their budget allowed and the financial support provided by the City of Fort Collins as it grappled with changing attitudes towards Hispanic communities in the 1970s. Integrity of feeling and association remain intact; the size of the residence, its materials, additions, and location provide a direct connect to the site's history and association with Hispanic beet laborers. The site is clearly identifiable as an early*

*twentieth century residence. The site retains sufficient integrity to convey its historic associations.*

Staff agrees with the historian's conclusions regarding the property's integrity based on the following findings.

- Essential physical features are identified in the integrity analysis and related to period of significance.
- Discussion of integrity relates to the property's most relevant aspects of integrity per its significance.
- Discussion of integrity focuses on the property's essential physical features, and relates to period of significance.
- Discussion and conclusion responds directly to previous conclusions and assessments of the property, whether in opposition or in agreement.

Statement of Eligibility:

This property is considered Eligible for Landmark designation under City Standards 1 and 3 as outlined in Municipal Code 14-22 and is considered an "historic resource" as defined in Municipal Code 14-3.

Per Article II, Section 14-23 of the code, any determination made by staff regarding eligibility may be appealed to the Commission by the applicant, any resident of the City, or owner of property in the City. Such appeal shall be set forth in writing and filed with the Director within fourteen (14) days of the date of the staff's determination.

If you have any questions regarding this determination, or if I may be of any assistance, please do not hesitate to contact me. I may be reached at [preservation@fcgov.com](mailto:preservation@fcgov.com), or 970-224-6078.

Sincerely,

Jim Bertolini  
Senior Historic Preservation Planner

*Attachment: Colorado Cultural Resource Survey Architectural Inventory Form 1403, dated May 2024.*

Resource Number: 5LR.10643 (State); B3003 (City)  
Temporary Resource Number: [Click here to enter text.](#)

Address: 724 Martinez Street

OAHP1403  
Rev. 9/98

COLORADO CULTURAL RESOURCE SURVEY

# Architectural Inventory Form

Official eligibility determination  
(OAHP use only)

- Date \_\_\_\_\_ Initials \_\_\_\_\_
- \_\_\_\_\_ Determined Eligible- NR
  - \_\_\_\_\_ Determined Not Eligible- NR
  - \_\_\_\_\_ Determined Eligible- SR
  - \_\_\_\_\_ Determined Not Eligible- SR
  - \_\_\_\_\_ Need Data
  - \_\_\_\_\_ Contributes to eligible NR District
  - \_\_\_\_\_ Noncontributing to eligible NR District



## Field Evaluation of Fort Collins Landmark Eligibility

- Individually Eligible     Contributing to District     Not Eligible  
 Likely Eligible for State/National Register

General Recommendations: The site is recommended eligible for listing as a local landmark under Significance Standards 1 and 3 in the areas of Agriculture, Social History/Ethnic History-Hispanic, and Architecture for its association with early beet farming, the Hispanic community, and as a rare remaining example of adobe brick construction. The site is recommended eligible for listing on the National Register of Historic Places under Criteria A and C for the same reasons. If a historic district were established in the Alta Vista neighborhood, this site would be a contributing property.

## I. Identification

1. Resource number: 5LR.10643 (State); B3003 (City)

Resource Number: 5LR.10643 (State); B3003 (City)

Temporary Resource Number: [Click here to enter text.](#)

Address: 724 Martinez Street

2. Temporary resource number: [Click here to enter text.](#)
3. County: Larimer
4. City: Fort Collins
5. Historic building name: Spanish Colony #18 / Elizabeth Ambriz Property / Chavez Property
6. Current building name: Gonzales Property
7. Building address: 724 Martinez Street
8. Owner name and address: Monica Gonzales, Santiago Gonzales, James Gonzales, Celina Maldonado, 724 Martinez Street, Fort Collins, CO 80524

## II. Geographic Information

9. P.M. 6 Township 7 N Range 69 W  
SE ¼ of SW ¼ of SE ¼ of SE ¼ of section 1
10. UTM reference  
 Zone 13; 494895 mE 4494019 mN
11. USGS quad name: Fort Collins  
 Year: 2022 Map scale: 7.5'  15'  Attach photo copy of appropriate map section.
12. Lot(s): 18 Block: #  
 Addition: Alta Vista Year of Addition: 1974
13. Boundary Description and Justification:  
 The site boundary does not exceed the legal property boundary described by the Larimer County Tax Assessor as, "Lot 18, Alta Vista, Fort Collins."

## III. Architectural Description

14. Building plan (footprint, shape): U-plan
15. Dimensions in feet: Length 45 x Width 30
16. Number of stories: 1
17. Primary external wall material(s): Adobe, Stucco, Horizontal Wood Siding
18. Roof configuration: Cross Gabled
19. Primary external roof material: Asphalt
20. Special features:  
 Fence
21. General architectural description:  
 The site consists of a single-story, U-plan residence originally constructed in 1923, with an addition to the east end in 1976. The east portion of the house rests on a concrete foundation, the foundation was not visible on the remainder of the building. The majority of



the building is composed of adobe brick with stucco exterior cladding; the southeast leg of the U-shaped plan is clad in horizontal wood siding. The roof is cross-gabled and clad in asphalt shingles.

The façade faces east and the primary entrance is located at the south end of the elevation, within the 1976 addition. The entry is a paneled vinyl door with nine inset lites. To the north is a one-by-one lite sliding metal window set in a wood surround with a lipped lintel. Above, in the gable peak, is a louvered wood vent set in a wide, simple wood surround.

The north elevation has a one-by-one lite sliding metal window set in a simple wood surround. An open metal pipe emerges from the exterior cladding near the intersection of the east-west roof and north-south roof. An electrical box is attached to the exterior near the northwest corner.

The west elevation has a one-over-one lite hung metal window set in a wood surround at the north end of the elevation. It appears that another opening near the south end has been closed and covered over with stucco.

The south elevation of the west leg of the U-shaped plan has a one-over-one lite hung metal window set in a wood surround with a lipped lintel. Above, in the gable peak is a louvered wood vent set in a wide, simple wood surround.

The east elevation of the west leg of the U-shaped plan has no fenestration.

The central portion of the south elevation has a six-lite wood window set in a wood surround with a lipped lintel.

The west elevation of the east leg of the U-shaped plan has a small, one-by-one lite sliding metal window.

The south elevation of the east leg of the U-shaped plan has a one-by-one lite sliding metal window.

22. Architectural style/building type:

No Style / Cross Gabled

23. Landscaping or special setting features:

The site is located on a corner lot within the Alta Vista neighborhood of Fort Collins. Martinez Street extends along the south and west site boundaries and a gravel drive leads from the street to the east elevation of the building. A chain link fence surrounds a portion of the property and a concrete path leads from the fence gate to the primary entrance. Tall cottonwood trees shade the lot and small bushes are present along the north and south elevations.

The surrounding neighborhood is generally composed of 1 and 1½ story residences with shallow setbacks. Tall cottonwoods and willow trees are located throughout, and Dry Creek extends along the south boundary of the neighborhood. A small park is east of the site, near the neighborhood entrance.

24. Associated buildings, features, or objects:

N/A

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#### IV. Architectural History

25. Date of Construction: Estimate: ##### Actual: 1923

Source of information: City of Fort Collins, *Hang Your Wagon to a Star: Hispanics in Fort Collins, 1900-2000*, Historic Context by Adam Thomas, SWCA Environmental Consultants, 2003, p6.

26. Architect: Great Western Sugar Company

Source of information: City of Fort Collins, *Hang Your Wagon to a Star: Hispanics in Fort Collins, 1900-2000*, Historic Context by Adam Thomas, SWCA Environmental Consultants, 2003, p6.

27. Builder/Contractor: Felipe and Pedro Arellano

Source of information: City of Fort Collins, *Hang Your Wagon to a Star: Hispanics in Fort Collins, 1900-2000*, Historic Context by Adam Thomas, SWCA Environmental Consultants, p6.

28. Original owner: Great Western Sugar Company

Source of information: Quit Claim Deed, Book 942, Page 12, recorded December 20, 1952.

29. Construction history (include description and dates of major additions, alterations, or demolitions):

This site was constructed in 1923 as a two-room, rectangular, adobe brick residence. It is likely that the building was constructed with a flat roof and was probably modified with a gable roof to prevent excessive water damage soon after its construction; a side-gabled roof is visible in the Tax Assessor photograph taken in 1949. An addition to the northeast corner of the residence was constructed at an unknown date between 1923-1949. At this point, the original primary entrance on the west elevation was moved to the southeast corner of the addition. A garage was added to the site in 1959 and demolished in 1976. In the 1960s, an L-plan portion was added to the east elevation of the previous addition. Planning documents at the city list this addition as a kitchen, bedroom, and bathroom.

A significant remodel occurred in 1976 in association with a housing rehabilitation grant (see Figure 5). During this remodel, the secondary L-plan addition was demolished and the entrance to the addition at the north end of the east elevation was infilled with a

metal horizontal sliding window. A new addition encompassing a bathroom and utility room was added to the southeast corner, an existing window on the south elevation was infilled with drywall and an existing exterior opening was enlarged and the door removed. The addition supported two metal, horizontally sliding windows. Windows on the west and north elevation and on the west leg of the south elevation were replaced with one-over-one lite hung metal windows. The roof was repaired and reshingled; a chimney hole over the central portion of the house was patched and drip edges, rake rafters, fascia, and gutters were installed and painted. Cracks and holes in the exterior stucco were patched, larger repairs to the exterior included wire netting attached with ring shank nails.<sup>1</sup>

In addition to the exterior alterations, the interior also saw significant changes. A new sink and cabinets were added to the kitchen, new drywall was installed on the ceiling, the walls were painted, and new linoleum was added over the top of the older patched and repaired floor covering. Closets were added to the bedrooms and both bedrooms were painted.

30. Original location  Moved  Date of move(s): #####

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## V. Historical Associations

31. Original use(s): Domestic – Single Dwelling  
 32. Intermediate use(s): [Click here to enter text.](#)  
 33. Current use(s): Domestic – Single Dwelling  
 34. Site type(s): Residence  
 35. Historical background:

### Context

#### *Fort Collins' Hispanic/Mexican American History<sup>2</sup>*

The early history of Hispanic settlement in Fort Collins was closely tied to farming and ranching. Mariano Modena is known as the first European settler in Larimer County. In 1858, Modena moved his family to the Big Thompson River Valley to what is now the Loveland area in southern Larimer County. Other Hispanic families joined him and took advantage of the Homestead Act after its passage in 1862 to solidify land claims. Among the early arrivals to the Fort Collins area was José de Jesús Aragón and his family who arrived in Fort Collins with a group from New Mexico. Over the late-1800s and early-1900s, more Mexican Americans and new immigrants from Mexico lived as seasonal

<sup>1</sup> "Maria Gonzales Residence - 724 Martinez Street." Planning document and schematics, 1976. Document on-file with City of Fort Collins.

<sup>2</sup> The following section is excerpted from "Latinx History in Fort Collins," webpage, City of Fort Collins, <https://www.fcgov.com/historicpreservation/latinx>.

labors or as new settlers in the Fort Collins area, where they worked on farms, ranches, on railroad crews, in sandstone and limestone quarries, and in the sugar beet industry. By the 1900s, the Mexican American community was well-established with many businesses owned by, or catering to, the needs of these residents.

However, between 1910 and 1930, factors in both northern Colorado and in Mexico and the southwest United States compelled more Hispanic families to move to Fort Collins. A civil war in Mexico, known as the Mexican Revolution, between 1911-1920 destabilized the country and compelled many Mexican families to move north to the United States. Jobs in the United States, frequently in agriculture and manufacturing, provided the hope of a more peaceful and prosperous life. Nearly a tenth of Mexico's total population migrated to the United States and Canada during this period. Those that chose Fort Collins were drawn by available jobs for, and active recruitment by, the agricultural industry that was booming in northern Colorado at the time. One of the significant recruiters of Mexican Americans to Fort Collins was the Great Western Sugar Company which had purchased the beet sugar factory on East Vine Drive in 1904. Many Hispanic families initially found work in the factory's limestone operation at Ingleside, which became a sizeable lime quarrying facility for Great Western Sugar that supplied processing lime for most of the company's operations throughout the west. As the community grew, they found jobs working at the factory itself and on the sugar beet farms in the region that supplied Great Western Sugar. Other families worked on area farms that were growing livestock or produce for the surrounding region. Fort Collins' beet sugar industry had relied on labor from the ethnic Germans from Russia for most of the first decade of production, but the First World War cut off immigration from Europe, and the ethnic Germans moved on to less intensive and better paying work. This led to a labor shortage that Mexican immigrants filled. Approximately ninety percent of new migratory laborers Great Western Sugar brought to Larimer and Weld Counties between 1910-1930 were from Mexico.

Early Hispanic residents in Fort Collins were largely single men working as migrants on area farms and staying in farm shanties, bunkhouses, or hotels and boarding houses in town. However, as Mexican immigrants became a dominant source of labor for Great Western Sugar in the late-1910s, whole families moved to the area. The sugar beet work itself was intense, as sugar beet farming relied on hand laborers well into the 1950s, despite advances in agricultural equipment and technology. Similar to the Germans from Russia before them, Mexican families that relocated to Fort Collins to work in the sugar beet industry adapted to an economic system designed to exploit cheap immigrant labor. In order to keep the beet sugar industry profitable, companies like Great Western Sugar

paid farmers to grow beets – farmers who typically relied on contract labor at per-acre prices. To make a living wage, most laborers would commit to tending more acres of beets than they could possibly work themselves. This often meant that full families, including children, were expected to work the fields alongside their parents. It also meant that farm laborers frequently were provided very simple dwellings in order to save on costs.

### *Alta Vista Neighborhood*

In the 1920s, Great Western Sugar realized they needed to offer an incentive to migrant workers if they were to remain in Fort Collins year-round. The company planned to build affordable, comfortable housing for their workers and in 1922, thirteen adobe-brick homes were erected near the Fort Morgan sugar factory.<sup>3</sup> The following year, Great Western erected six, two-room adobe homes on company owned land in Fort Collins, within walking distance of the sugar factory. Hispanic laborers and their families could purchase one of these homes on a 50x85 foot lot through the company's installment plan: residents paid nothing the first year, \$40 per year over the next three years, and in the fifth year paid \$25-\$50 for the lot.<sup>4</sup> In addition, Great Western paid the property taxes for the first five years and did not charge interest on the loan.<sup>5</sup> Prospective residents were screened, "to select the best workers" and character references were required; because the homes were privately owned by the company, residents could be ejected if misconduct was perceived or illegal activities occurred.<sup>6</sup> Originally known as the "Spanish Colony", the subdivision was officially platted and named "Alta Vista" in 1927, residents referred to the area as "la Colonia Española" or "la Colonia". The plans submitted to Larimer County depict 41 lots organized along the north-south A and B Streets (now Alta Vista and Martinez Streets, respectively) and the east-west Main Street, Dry Creek forms the south boundary (see Figure 1).<sup>7</sup> Great Western Sugar continued to construct residences and sell them to local laborers through the 1940s, although later homes were not constructed with adobe.<sup>8</sup> As the Great Western Sugar plant in Fort Collins scaled

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<sup>3</sup> Thomas, *Hang Your Wagon to a Star*, 5; some homes were also relocated from urban redevelopment sites in downtown Fort Collins, such as 732 Alta Vista, relocated from 222 N. Meldrum in the mid-1970s to make way for a new City Hall Building.

<sup>4</sup> Evadene Burris Swanson, *Fort Collins Yesterdays*, George and Hildegard Morgan: Fort Collins, CO, 1975, 63.

<sup>5</sup> Thomas, *Hang Your Wagon to a Star*, 6.

<sup>6</sup> Swanson, *Fort Collins Yesterdays*, 63.

<sup>7</sup> "Map of Alta Vista Subdivision." Plat plan, 1927. Document on-file with Larimer County Recorder's Office.

<sup>8</sup> Alta Vista Neighborhood, Draft Historic Cultural Landscape Form, Colorado Cultural Resources Survey, 2017. Document on-file with City of Fort Collins.

back and closed in 1955, many Hispanic workers shifted to other agricultural and industrial work, service work, or joining the construction crews on the Colorado-Big Thompson Project, a massive project to divert Colorado River water to the Colorado Front Range, initiated in 1947 and lasting into the 1950s.

Alta Vista, along with its earlier counterparts of Buckingham and Andersonville that together are known as the *Tres Colonias*, is located on the east side of the Poudre River, which kept laborers within walking distance of the company factory and beet fields but was also designed with the intent of segregating foreign-born families from Anglo-American neighborhoods west of the river. Claimed by neither Larimer County nor the City of Fort Collins, the neighborhood lacked critical infrastructure like paved roads and sewer connections until the 1970s and 1980s. The City had operated sewers south of the Poudre River since the 1880s and began paving streets south of the river in the 1920s, but this investment in public infrastructure for wealthier whiter neighborhoods did not extend to Alta Vista. Local resident Elvira Ortega notes in an oral history interview in 1983, "When we first moved in there was no sewer system. I personally was raised with outside toilets and woodburning stoves until I was fourteen years old...There were no street names. We were just a colony, a cluster".<sup>9</sup> In order to improve their neighborhood, residents of Alta Vista took it upon themselves to advocate for and make the needed changes. As Adam Thomas notes in *Hang Your Wagon to a Star*, "A few years after the first adobe homes rose ... Alta Vista residents began electing "mayors" to one-year terms."<sup>10</sup> Although these grassroots leaders were not officially recognized by the City or County, they worked to maintain and improve their neighborhood. One such mayor, Charlie Martinez, collected a dollar from each family in the neighborhood to purchase gas for the trucks that brought in sand and gravel to level the dirt streets.<sup>11</sup>

In the 1970s, pressure and increased activism from the national Chicano political movement and local Hispanic leaders spurred city officials to improve conditions within Hispanic neighborhoods. Fort Collins' Housing Authority, established in 1971, submitted a grant request for housing rehabilitation to the Department of Housing and Urban Development (HUD) in 1975.<sup>12</sup> The city received a \$200,000 Community Development

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<sup>9</sup> Elvira Ortega, Oral History Interview with Ellen T. Ittelson, November 17, 1983. Fort Collins Museum of Discovery, <https://fchc.contentdm.oclc.org/digital/collection/oh/id/1420/rec/4>.

<sup>10</sup> Thomas, *Hang Your Wagon to a Star*, 9.

<sup>11</sup> *Ibid.*, 10.

<sup>12</sup> "Housing authority discussion planned." *Coloradoan*, February 25, 1971, pg 2. "Housing rehabilitation program moves forward." *Coloradoan*, November 20, 1975, pg 1.

Resource Number: 5LR.10643 (State); B3003 (City)

Temporary Resource Number: [Click here to enter text.](#)

Address: 724 Martinez Street

Block Grant (CDBG); as noted by City Council in November 1975, "The housing rehabilitation grant program is the first step in a multi-year plan [to] alleviate health, safety, and substandard housing problems, and to provide basic facilities and services to the neighborhoods of Andersonville, Atla Vista, and Buckingham."<sup>13</sup> A portion of the grant paid for sewer hookups after the City completed a related Capital Improvement Project to extend sanitary sewer service to Andersonville and Alta Vista; the remainder of the funding was used to rehabilitate individual homes.<sup>14</sup> Residents of these neighborhoods helped to devise disbursement guidelines alongside the Housing Authority and Human Relations Commission.<sup>15</sup> Only owner-occupied homes could be funded for rehabilitation and each home received \$4,000, up to \$5,000 for "extraordinary circumstances"; City Council later increased this amount to \$7,500.<sup>16</sup> According to Thomas, the City invested more than \$1.5 million in Alta Vista improvements and infrastructure between 1975-1980.<sup>17</sup>

Although the city had good intentions for its housing improvement program, some residents had negative experiences. Portions of homes deemed unsafe by city officials were demolished, removing the work residents had put into their properties during the previous decades.<sup>18</sup> In 1978, residents of nearby Buckingham were expected to cover the cost of sewer hookups and assessments when the city finally extended sewer service to the neighborhood.<sup>19</sup> Other unintended consequences of the program did not become clear until decades later. Increases in land and home values lead to an increase in property taxes which made it difficult for residents on fixed incomes to repair or upgrade their homes.<sup>20</sup>

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"City Council to hear reports on housing projects, finances." *Coloradoan*, November 19, 1975, pg 1.

<sup>13</sup> "Hearings slated on Community Development Fund." *Coloradoan*, November 17, 1975, pg 3.

"City planning task forces, NIA organizing, preparing for work." *Coloradoan*, October 23, 1975, pg. 3.

"Fort Collins Housing Rehabilitation Grant Program, Program Guidelines." City Council Minutes, November 18, 1975. Document on-file with City of Fort Collins.

<sup>14</sup> "Housing rehabilitation program moves forward." *Coloradoan*, November 20, 1975, pg 1.

<sup>15</sup> "First NIA meeting scheduled Wednesday." *Coloradoan*, October 21, 1975, pg 2.

<sup>16</sup> "Housing rehabilitation program." *Coloradoan*, November 20, 1975, pg 3.

"Street controversy tabled after criticism by residents." *Coloradoan*, January 21, 1976, pg 3.

<sup>17</sup> Thomas, *Hang Your Wagon to a Star*, 10.

<sup>18</sup> "Notice to Public," *Coloradoan*, July 11, 1976, pg 43.

<sup>19</sup> "City fees hardship for some Buckingham residents." *Coloradoan*, February 5, 1978, pg 11.

<sup>20</sup> Clayton A. Hurd, "Fort Collins Sustainability and Social Inclusion Research Project: Report of Phase I Preliminary Findings," Prepared for the City of Fort

### *Adobe Homes*

Adobe has been used as a building material for thousands of years across the world. Indigenous peoples of the American Southwest used adobe as a mortar between stones or shaped the material to form walls. Adobe is the ideal building material for hot, dry climates; during the day, it absorbs the heat of the sun, allowing the interior to remain cool and in the evening, it releases the stored heat, warming those sleeping inside.<sup>21</sup> In addition, adobe is made from naturally occurring resources that require no refinement and returns to the state in which it was found if the structure is abandoned. Spanish colonists to the Americas in the sixteenth and seventeenth centuries brought with them rectangular molds to form the adobe into standard sized bricks which could be used to construct bigger and more complex structures; the Spanish had learned this technique from the Moors who brought the technology from North Africa to Spain during their occupation of the territory in the eighth through fifteenth centuries.<sup>22</sup> Spanish colonists and their descendants made use of adobe construction, using both Spanish and indigenous methods, in a variety of ways, constructing homes, barns, commercial buildings, churches, and schools from the material. As Robert Adams describes in his book *The Architecture and Art of Early Hispanic Colorado*, "Adobe buildings were popular first because they were cheap and pleasant to live in. Fires which plagued wooden frontier towns were almost unknown, rats and mice found few hiding places in the solid walls and floors, and the sounds of neighbors...were modulated by the thick walls."<sup>23</sup>

Although the building material was versatile, it did limit the size and shape of structures. Timber for roof beams was in short supply in the dry American Southwest, so rooms had to remain narrow enough to be spanned by the shortened logs.<sup>24</sup> Because of this limitation, when families added new members by birth or marriage, they constructed additional rooms in a linear manner, end-to-end with previous rooms. These linear combinations of one-room units could form L- or U-plan homes or eventually, a

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Collins, 2015, 25. Document on-file with City of Fort Collins.

<sup>21</sup> Peter Nabokov, "Adobe: An Ancient Folk Technology," *Music and Crafts of the Southeastern United States*, Festival of American Folklife Program, (Smithsonian Institute, 1981), 25. [https://folklife-media.si.edu/docs/festival/program-book-articles/FESTBK1981\\_08.pdf](https://folklife-media.si.edu/docs/festival/program-book-articles/FESTBK1981_08.pdf)

<sup>22</sup> Robert Adams, *The Architecture and Art of Early Hispanic Colorado*, (Colorado Associated University Press and State Historical Society of Colorado, Denver, CO, 1974), 34-35.

<sup>23</sup> Adams, *Early Hispanic Colorado*, 34.

<sup>24</sup> *Ibid.*, 36.



completely enclosed square with a central courtyard, known as a *hacienda*.<sup>25</sup> In some locales, adobe structures included gabled roofs; this variation was due to differing climate conditions, availability of and access to materials, or interactions with neighboring cultures.<sup>26</sup> In northern climates, gable roofs were frequently added to shed rain and snow which is damaging to adobe bricks.

### Site History

As noted in previous site forms, this site was constructed in 1923 for use as a residence for sugar beet laborers. The first known occupants are the Chavez family; members of the family resided here from c. 1935-1959.

#### *Chavez Family*

Eulogio Chavez was born in the San Luis Valley in 1863.<sup>27</sup> He married Cleofás Carrillo in 1897 and the pair came to Fort Collins in 1903; by 1910, the family was residing on Cherry Street. Eulogio supported his large family through his work as a farm laborer, he and Cleofás had thirteen children together. It appears that the Chavez family moved into this residence c. 1935; Eulogio and his sons, Lloyd and Donald are noted in the newspaper as residing at #18 Spanish Colony in the late 1930s and 1940s.<sup>28</sup> Sadly, Cleofás and Eulogio both died in the late 1930s, they are buried near each other in Grandview Cemetery.

#### *Ambriz Family*

The 1940 census indicates Elizabeth Ambriz (née Chavez, born to Eulogio and Cleofás in 1916) lived here with her husband, Mike Ambriz, whom she had married in 1939. The census taker noted they had resided in the same house in 1935. In 1952, Great Western Sugar sold this site to Mrs. Elizabeth Ambriz. It appears that there was some issue with the property title – two additional deeds retrieved from the Larimer County Recorder's Office note the transfer of Lot 18 in Alta Vista to Elizabeth Ambriz, from her

<sup>25</sup> Thomas, *Hang Your Wagon to a Star*, 12.

<sup>26</sup> Chris Wilson, "Pitched Roofs Over Flat: The Emergence of a New Building Tradition in Hispanic New Mexico," *Perspectives in Vernacular Architecture*, Vol. 4, 1991.

<sup>27</sup> "Pneumonia Causes Death Of Eulogio Chavez, 76." *Express-Courier*, September 26, 1939, pg 2.

<sup>28</sup> "Passenger Hits, Kills Man Here." *Coloradoan*, August 23, 1948, pg 1.  
"1,561 Residents of County Draw Pension Checks." *Express-Courier*, March 22, 1940, pg 8.

brothers Donald S. Chavez and Lloyd A. Chavez. In addition, Elizabeth had Great Western Sugar summoned to civil court to adjudicate the property rights related to this site in January 1953.<sup>29</sup> A decree recorded with the Larimer County District Court in February 1953 declared Ambriz the true legal owner of Lot 18 and stated she had been, “in actual, open, exclusive and notorious adverse possession” of the property and paid all property taxes for the previous seven years.<sup>30</sup> Elizabeth retained ownership of the site through 1959, when she sold it to L. P. Starkey. The Ambriz’s then purchased a home at 214 N. Meldrum and continued to reside there through 1976 when that property was demolished for a new City Hall building; the 1960 city directory notes Mike’s employment at the Ideal Cement Plant.<sup>31</sup> Elizabeth passed in 1998 and Mike in 2000, they are buried beside each other at the Grandview Cemetery (see Figure 2).

### *Gonzales Family*

Fidel and Sally Gonzales first appear as residents in the 1963 city directory, where their occupations are listed as employee of the Dreher Pickle Company and employee at the Ideal Café (218 Linden), respectively. Fidel was born in Mesilla Park, New Mexico in 1929; Maria Celina (also Sally) was born in 1933 in Cimarron, New Mexico.<sup>32</sup> The pair married at an unknown date and came to Fort Collins together in 1960. For a time, the family lived at 117 Linden, but by 1963, Fidel, Sally, and their eight children were residing on this site.<sup>33</sup> Gonzales worked for several farms, the Dreher Pickle Company and later in life for the Poudre School District as a custodian while Sally worked for Teledyne/Waterpik. In his obituary, Fidel was described as a “responsible, hardworking man, who loved his family. He loved to take his family on Sunday drives, work on cars, dance, and shop the Flea Markets”.<sup>34</sup> The Gonzales children attended Fort Collins schools and in 1970, Fidel and Sally were appointed to a resource committee for the Poudre School District’s Mexican American Parent Advisory Commission.<sup>35</sup> The commission’s function was to, “advise the Poudre School District R1 ... of ways and means of providing maximum education

<sup>29</sup> “Summons in Civil Action.” *Coloradoan*, January 7, 1953, pg 4.

<sup>30</sup> Decree, Civil Action #11264. Book 944, Page 219, Larimer County Recorder’s Office. Recorded February 17, 1953.

<sup>31</sup> “Norbest Turkey Winners.” *Coloradoan*, March 17, 1976, pg 36.

“Realty Transfers.” *Coloradoan*, November 29, 1955, pg 5.

<sup>32</sup> ““Maria Gonzales.” *Coloradoan*, September 13, 2020, pg A11.

<sup>33</sup> “At the Hospital.” *Coloradoan*, August 8, 1961, pg 2.

<sup>34</sup> “Fidel Gonzales.” *Coloradoan*, February 25, 2015, pg C7.

<sup>35</sup> “Students get on-the-job- experience from DE program.” *Coloradoan*, June 6, 1973, pg 13.

opportunities for the Mexican-American youngsters".<sup>36</sup> Sally and Fidel divorced in 1974; Fidel later remarried Rosalia (Rosie) Maria and moved to Arizona.<sup>37</sup> In 1976, the property was transferred to Maria Celina Gonzales from the First National Bank.<sup>38</sup>

In 1976, property owner Maria Gonzales received a \$7,500 grant from the City of Fort Collins for rehabilitation work on the residence. The monies were a part of a Community Development Block Grant (CDBG) issued by the Department of Housing and Urban Development (HUD). Included within the description of work to be performed was repair to the east wall, construction of a new bathroom and utility addition, installation of new windows and screens, interior and exterior painting, repair of the exterior stucco, and re-shingling the entire roof.<sup>39</sup> In addition to this work, the entire neighborhood, including this residence, was connected to the city's sewer line for the first time. Also in 1976, residents of Alta Vista petitioned the Planning and Zoning Board to rename the neighborhood streets from A Street and B Street to Alta Vista and Martinez Streets, respectively.<sup>40</sup> Finally in 1979, Martinez Street was included in the city directory's street and avenue guide, although 724 Martinez was not listed.

In 1990, Maria added her son, Santiago Gonzales, to the title as a property owner; Santiago had resided in the house since the age of five. Maria Celina passed in 2020. Her obituary offers a heartfelt description of her life, "She was a strong independent person who worked hard to provide for her family... On special occasions, she would make her famous green or red chile with tortillas, beans, and fideo for her family. She enjoyed going to Rummage sales on Saturdays, spending time with her children and grandchildren at family gatherings and holidays".<sup>41</sup> After Maria's death the property passed to Santiago Gonzales and his children Monica Gonzales, Celina Maldonado, and James Fidel Gonzales. The site is currently owned and occupied by the Gonzales family.<sup>42</sup>

### 36. Sources of information:

<sup>36</sup> "Poudre R-1 board to set election date." *Coloradoan*, July 14, 1970, pg 1.

<sup>37</sup> "Public Notice." *Coloradoan*, September 30, 1974, pg 17.

"Rosalia "Rosie" Maria Gonzales." *Coloradoan*, September 20, 2008, pg 25.

<sup>38</sup> Quit Claim Deed, Book 1742, Pg 7. Reception #177495. Document retrieved from Larimer County Recorder's Office.

<sup>39</sup> Agreement, Book 1777, Page 900. Reception #200085. Document retrieved from Larimer County Recorder's Office.

<sup>40</sup> "Zoning board to weigh Alta Vista street names." *Coloradoan*, January 4, 1976, pg 4.

<sup>41</sup> "Maria Gonzales." *Coloradoan*, September 13, 2020, pg A11.

<sup>42</sup> Quit Claim Deed, Reception #20200078102. Recorded August 25, 2020.

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"Suit Asks Legal OK on Gas Pumps." *Coloradoan*, April 7, 1961, pg 1.

"Summons in Civil Action." *Coloradoan*, January 7, 1953, pg 4.

"Zoning board to weigh Alta Vista street names." *Coloradoan*, January 4, 1976, pg 4.

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USGS, Aerial Photo Single Frame Series, 1937, 1950, 1956, 1966, 1984. Images on-file with City of Fort Collins and geo-referenced by City of Fort Collins Geographic Information Services.

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## VI. Significance

37. Local landmark designation: Yes  No  Date of designation: #####  
Designating authority: N/A
38. Applicable Eligibility Criteria:
- |  |  |  |
|--|--|--|
| National Register                      | Fort Collins Register                  |  |
| <input checked="" type="checkbox"/> A. | <input checked="" type="checkbox"/> 1. | Associated with events that have made a significant contribution to the broad pattern of our history;  |
| <input type="checkbox"/> B.            | <input type="checkbox"/> 2.            | Associated with the lives of persons significant in our past;  |
| <input checked="" type="checkbox"/> C. | <input checked="" type="checkbox"/> 3. | Embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or that possess high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or |
| <input type="checkbox"/> D.            | <input type="checkbox"/> 4.            | Has yielded, or may be likely to yield, information important in history or prehistory.  |
- Qualifies under Criteria Considerations A through G (see Manual)  
 Does not meet any of the above criteria
- Needs additional research under standards:  A/1  B/2  C/3  D/4
39. Area(s) of significance:  
Agriculture; Social History/Ethnic History - Hispanic; Architecture
40. Period of significance: Agriculture: 1923-1952  
Social History / Hispanic Ethnic History: 1923-present  
Architecture: 1923 and 1976
41. Level of significance: National  State  Local
42. Statement of significance:

### *Previous Evaluations of Significance*

This site has been previously documented on two occasions, the first of which occurred in 2003. SWCA Environmental Consultants evaluated the site as eligible for listing as a local landmark noting,

"This property is significant under Criterion A for its association with the early development of the Alta Vista neighborhood, with the sugar beet industry, and with Hispanic settlement in Fort Collins. It is significant under Criterion C because it is an example of adobe brick construction – a component in one of the northernmost collection of these buildings in North American. However, the combined levels of historical significance, architectural importance, and physical integrity

are not to the extent that his property would qualify for Individual listing on the National Register of Historic Places or the Colorado State Register of Historic Properties. Nonetheless is should be considered individually eligible for Fort Collins landmark designation, and a contributing resource within any potential national, state, or Local Landmark historic district.”<sup>43</sup>

The site was documented again in 2017 by a group of three Colorado State University students, Poppie Gullett, Maggie Jones, and Ben Lee. They found the site to be eligible for listing on the National Register of Historic Places under Criterion A and C, on the State Register of Historic Properties under Standards A and C, and as a Fort Collins Landmark under Standards A and C. In their statement of significance, Gullett, Jones, and Lee stated,

“724 Martinez Street qualifies under Criterion A for Agriculture from 1923-1960, as well as for Social History from 1923-1967, in accordance with the National Register of Historic Places 50-year rule. As one of the adobe brick homes originally constructed to house field workers for the Great Western Sugar Company, the house is deeply connected to the history of industrial agriculture, specifically the cultivation of sugar beets, in Fort Collins. Beyond its association with agriculture, this residence is also tied to the social history of Fort Collins’s Hispanic population, due to the fact that “La Colonia,” (today, Alta Vista) was established to incentivize Hispanic field workers to reside permanently in the Fort Collins area in order to provide a stable, experienced pool of field labor for the beet industry.

As an example of Hispano adobe-brick construction, this residence is also significant under Criterion C for Architecture from 1923-1967, in accordance with the National Register of Historic Places 50-year rule. Adobe brick is a particularly Hispanic building material, and the organic growth of these homes (reflected in 724 Martinez Street’s additions), and their use of locally abundant, inexpensive materials in their expansions is typical of the

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<sup>43</sup> SWCA Environmental Consultants, Colorado Cultural Resource Survey, Architectural Inventory Form for 5LR.10643, 724 Martinez Street, 2003. Document on-file with City of Fort Collins and Colorado Office of Archaeology and Historic Preservation.

neighborhood's vernacular architecture. In the neighborhood, residents, including the owners of 724 Martinez Street, expanded their homes from a two room, hall-and-parlor plan with a wood frame addition in order to increase the home's interior space and reflect the community's changing stylistic preferences and architectural influences from the surrounding area."<sup>44</sup>

### *Current Evaluation of Local Landmark Significance*

The site was revisited in 2024 and additional research was conducted leading to a reevaluation of the site's significance as whole. This site has been evaluated against the City of Fort Collins Significance Standards and is found to be significant in the areas of Agriculture, Social History/Hispanic Ethnic History, and Architecture under Standards 1 and 3. Under Significance Standard 1, the site is significant for its association with early sugar beet agriculture and with the city's Hispanic residents. Originally constructed by Great Western Sugar to house beet workers and their families, this site is closely associated with the sugar beet industry and industrial agriculture of the early twentieth century. Discussion in both McWilliams and McWilliams' *Agriculture in the Fort Collins Urban Growth Area 1862-1994* and Adam Thomas' *Hang Your Wagon to a Star: Hispanics in Fort Collins, 1900-2000*, note the importance of Mexican American and Hispanic labor to the development and success of Northern Colorado's sugar beet industry. The period of significance for the site's association with agriculture extends from the date of construction in 1923 through 1952, when Great Western Sugar sold the property to the Ambriz family.

The site is also significant under Standard 1 in the area of social history and Hispanic ethnic history for its association with Fort Collins' Hispanic community. Although the earliest residents of this home have not been discovered as of 2024, it seems reasonable to assume they were Mexican-American or Hispanic based on the neighborhood's association with Great Western Sugar beet laborers. In addition, the site housed members of the Chavez, Ambriz, and Gonzales families from c. 1935 through the present day. The site's location within Alta Vista, near Dry Creek and the former location of the sugar factory speak to the occupants' deep roots within our city and the geographic discrimination that kept these families segregated on the east side of the Poudre River. In addition, the home's location along a paved street with no sidewalk and the addition to the southeast

<sup>44</sup> Poppie Gullett, Maggie Jones, and Ben Lee, Colorado Cultural Resource Survey, Architectural Inventory Form for 5LR.10643, 724 Martinez Street, 2017. Document on-file with City of Fort Collins.



corner speak to the beginning of the city's efforts to address the lack of infrastructure in the neighborhood in the 1970s and 1980s. The period of significance for the site's association with social history extends from 1923, when the home was constructed for occupation by a Hispanic beet worker family, through the present, as the residence continues to be occupied by a member of the Hispanic community and the site's significance and association with these historic themes is ongoing.

Under Standard 2, the site is associated with the Ambriz and Gonzales families. Although the members of these families are known and members of the Gonzales family played a part in addressing educational discrimination through the Poudre School District's Mexican American Parent Advisory Commission, none have made specific, documented contributions to the history of the community. The site is recommended not eligible for local landmarking under Standard 2.

Under Standard 3, the site is significant for its vernacular adobe construction and for its distinctive 1970s addition constructed with the support of HUD grant funds. The original portion of the residence was constructed from adobe brick in 1923 as part of Great Western Sugar's program to incentivize migrant Hispanic laborers to stay in Fort Collins year-round. As families expanded and their economic prospects increased, residents of some adobe homes in Alta Vista added one-room units reminiscent of traditional, linear adobe building techniques, while others added wood frame additions, representing a transition to Anglo building materials. Buildings constructed from traditional adobe bricks require frequent maintenance, the application of wood siding over adobe or wood frame additions to adobe buildings was both an example of cultural hybridization and a practical choice related to annual adobe repair requirements. This residence supports both types of additions: an adobe addition added to the original two-room portion between 1923-1949 and a frame addition added with CBDG funds in 1976.<sup>45</sup> As Thomas describes in *Hang Your Wagon to a Star*, "The results were structures that were not entirely Hispanic or entirely Anglo. These houses, then, represent in microcosm the evolution of the Fort Collins's Hispanic community".<sup>46</sup> The site is an expression of multiple building techniques that represent the span of Hispanic history in Fort Collins. In addition, this site is one of twelve identified adobe brick homes remaining within Alta Vista. Outside of Alta Vista, only

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<sup>45</sup> The Gonzales family also constructed an adobe brick bedroom and kitchen addition in the 1960s that was demolished by the City of Fort Collins in 1976. The addition was torn down without the family's permission.

<sup>46</sup> Thomas, *Hang Your Wagon to a Star*, 13.

one other residence in the city, the Romero House (425 10<sup>th</sup> Street, locally landmarked in 2001), is known to be constructed from adobe.

The site is also indicative of the changing attitudes of the City of Fort Collins in the 1960s and 1970s regarding Alta Vista and the city's Hispanic community. Only through the efforts of local and national advocates did the federal government and subsequently, the City of Fort Collins, begin to address the decades of racial disparity through infrastructure improvements and housing rehabilitation. It is worth noting that use of CDBG funds and alterations made by the 1976 housing rehabilitation program were viewed by previous architectural historians as detractions from the significance and integrity of the site. It is only within the last few years that the City of Fort Collins Historic Preservation Service has considered these elements to be contributing to the site's significance because they better capture the full history of the neighborhood's evolution to its characteristic hybrid state of original adobe design and wood frame modernization efforts.

The period of significance under Standard 3 is 1923, the date of original construction and 1976, the construction date of the CDBG addition. The site's architecture and design clearly exhibit the changing attitudes of the City of Fort Collins towards its Hispanic community over the course of the nineteenth century and the building's original portion is an exceedingly rare example of adobe construction. For these reasons the site is recommended eligible for listing as a local landmark under Standard 3.

The site is unlikely to yield information important to history or prehistory and is recommended not eligible for local landmarking under Standard 4.

#### *Current Evaluation of NRHP Significance*

This site has also been evaluated for eligibility against the National Register of Historic Places (NRHP) Criteria. Requirements for listing properties on the NRHP are set by the National Park Service and differ from those used to evaluate significance and eligibility at the local level; a property may be eligible under one set of criteria and not the other.

The site is recommended eligible for listing on the National Register of Historic Places under Criteria A and C for its association with sugar beet agriculture, Hispanic history, and for its rare adobe construction. Under Criterion A, the site is significant in the area of agriculture for its association with industrialized sugar beet farming and in the area of Hispanic Ethnic Heritage for its association with Fort Collins early Hispanic community. In the early twentieth century, Great Western Sugar required the labor of thousands of individuals to grow sugar beets; despite advances in agricultural equipment and technology, sugar beet farming relied on hand laborers well in the 1950s. Similar to the

Germans from Russia before them, Mexican families that relocated to Fort Collins to work in the sugar beet industry adapted to an economic system designed to exploit cheap immigrant labor. In order to keep migrant workers in Fort Collins year-round, Great Western Sugar constructed several two-room adobe buildings to house their workers. This site represents both the early agricultural history of Fort Collins and the early history of Hispanic residents, many who came to the city as beet workers for the sugar factory.

Research found no association with historically significant individuals under Criterion B and the site is recommended not eligible for listing in the NRHP under this Criterion.

Under Criterion C, the site is recommended eligible for listing on the NRHP in the area of architecture as an exceedingly rare remaining example of adobe brick construction in the Fort Collins area. Although the site has seen several additions over the last 100 years, these expansions are a reflection of the owner's financial investment in improving living conditions as budgets allowed and are reflective of the ongoing Hispanic-owned influence for this property and neighborhood. In addition, this site supports both an adobe and a wood frame addition, displaying a combination of Hispanic and Anglo building influences.

The site is unlikely to yield important information in reference to research questions under Criterion D.

43. Assessment of historic physical integrity related to significance:

This site is significant in the areas of Agriculture, Social History, and Architecture for its association with early sugar beet agriculture, association with the city's Hispanic community, and as a rare remaining example of adobe-brick construction. As such, the site's character defining features are its adobe brick material, linear construction, limited ornamentation, 1976 frame addition, yard surrounded by chain link fence, and its location and setting within the Alta Vista neighborhood.

The site retains integrity of location and setting. The building remains in the spot where it was originally constructed within the Alta Vista neighborhood. Although the streets were paved and some nearby residences constructed in the 1980s and 1990s, the neighborhood retains its residential character and many elements of its origins as a Hispanic community constructed by the sugar factory, including narrow street right-of-ways, minimal street setbacks, and no sidewalks. Integrity of workmanship, materials, and design is retained through the original adobe construction and the later additions and alterations. Although the building has seen changes over the last 100 years (including an adobe addition between 1923-1949, the likely replacement of a flat roof with a side gable roof in the 1920s, a wood frame addition in 1976, and replacement of all windows in 1976) these changes support the site's significance under Standards 1 and 3 as they reflect the

property owner's financial investment in improving living conditions over time as their budget allowed and the financial support provided by the City of Fort Collins as it grappled with changing attitudes towards Hispanic communities in the 1970s. Integrity of feeling and association remain intact; the size of the residence, its materials, additions, and location provide a direct connect to the site's history and association with Hispanic beet laborers. The site is clearly identifiable as an early twentieth century residence. The site retains sufficient integrity to convey its historic associations.

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## VII. National and Fort Collins Register Eligibility Assessment

## 44. Eligibility field assessment:

National:

Eligible Not Eligible Need Data 

Fort Collins:

Eligible Not Eligible Need Data 45. Is there district potential? Yes  No 

Discuss: Previous recorders of this site supported the possibility of a historic district within Alta Vista. In 2003, SWCA noted:

The Alta Vista neighborhood retains a high concentration and continuity of buildings and structures, linked historically and aesthetically, which collectively possess sufficient integrity and significance to qualify as a National Register Historic District, as well as a Fort Collins Landmark District. The neighborhood is significant for its association with the sugar beet industry and its labor practices in northern Colorado, and with the Hispanic community in Fort Collins. The neighborhood is also architecturally significant for its collection of vernacular dwellings. Of special note is Alta Vista's concentration of adobe-brick structures – one of the northernmost groupings of domestic adobe-brick architecture in North America – many built by Great Western Sugar Company and purchased under the company's employee installment plan. Alta Vista also contains a significant collection of historic outbuildings. These include barns, garages, chicken coops, summer kitchens, and privies, many of which cannot be found elsewhere in Fort Collins.<sup>47</sup>

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<sup>47</sup> SWCA Environmental Consultants, Colorado Cultural Resource Survey, Architectural Inventory Form for 5LR.10643, 724 Martinez Street, 2003. Document

In 2017, Colorado State University students, Poppie Gullett, Maggie Jones, and Ben Lee stated:

724 Martinez Street is a contributing property to the Alta Vista Historic Landscape District that is locally significant under Criterion A for Agriculture from 1923 to 1960 and Social History from 1923 to 1967. Great Western Sugar Company in Fort Collins, Colorado developed the Alta Vista neighborhood to house the company's permanently settled Hispanic workers. Because of its physical and social isolation from the City of Fort Collins, the community remained primarily Hispanic field workers until the closing of the factory in 1960. The neighborhood provides an excellent example of the insular and isolated history of Hispanic sugar beet workers in the region. This agricultural history spans from their permanent settlement near Fort Collins in 1923 to the closing of the sugar beet factory in 1960 while the community's social history spans from 1923 settlement to 1967 in accordance with the NRHP fifty-year rule. The Alta Vista Historic Landscape District is also locally significant under Criterion C from 1923 to 1967 as an excellent example of adobe-brick construction and newer forms of vernacular architecture. The organic growth of the district's vernacular structures is a key feature of traditional Hispanic building forms, and illustrates how Hispanic residents modified these buildings to suit their changing needs and stylistic preferences. The vernacular architecture here uses readily available and inexpensive local materials for modifications that often reflected the influence of styles popular throughout the United States. Alta Vista residents turned to hybrid building forms to accommodate changes in their living space needs. The period of significance under Criterion C is from 1923, when the first adobe-brick home was constructed in the neighborhood, to 1967 in accordance with the NRHP fifty-year rule.<sup>48</sup>

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on-file with City of Fort Collins and Colorado Office of Archaeology and Historic Preservation.

<sup>48</sup> Poppie Gullett, Maggie Jones, and Ben Lee, Colorado Cultural Resource Survey, Architectural Inventory Form for 5LR.10643, 724 Martinez Street, 2017. Document on-file with City of Fort Collins.

The Alta Vista neighborhood continues to exhibit its connections with Fort Collins' early agricultural history, Hispanic history, and vernacular architecture under local Significance Standards 1 and 3 and National Register of Historic Places Criterion A and C. If the area were to be evaluated as a historic district, it is recommended that the reviewer use a historic cultural landscape approach. A historic cultural landscape form would capture additional important information regarding the site's topography, vegetation, land use patterns, and cultural traditions in addition to information about the historic buildings and structures within the neighborhood.

- If there is district potential, is this building:      Contributing       Non-contributing
46. If the building is in existing district, is it:      Contributing       Non-contributing

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### VIII. Recording Information

- 47. Photograph numbers: 101120-102827  
Negatives filed at: City of Fort Collins
- 48. Report title: N/A
- 49. Date(s): May 2024
- 50. Recorder(s): Rebekah Schields, Historic Preservation Specialist
- 51. Organization: City of Fort Collins – Historic Preservation Services
- 52. Address: 281 N College, Fort Collins, CO 80524
- 53. Phone number(s): 970-224-6137

NOTE: Please include a sketch map, a photocopy of the USGS quad map indicating resource location, and photographs.

History Colorado - Office of Archaeology & Historic Preservation  
1200 Broadway, Denver, CO 80203 (303) 866-3395

### Site Photos and Maps

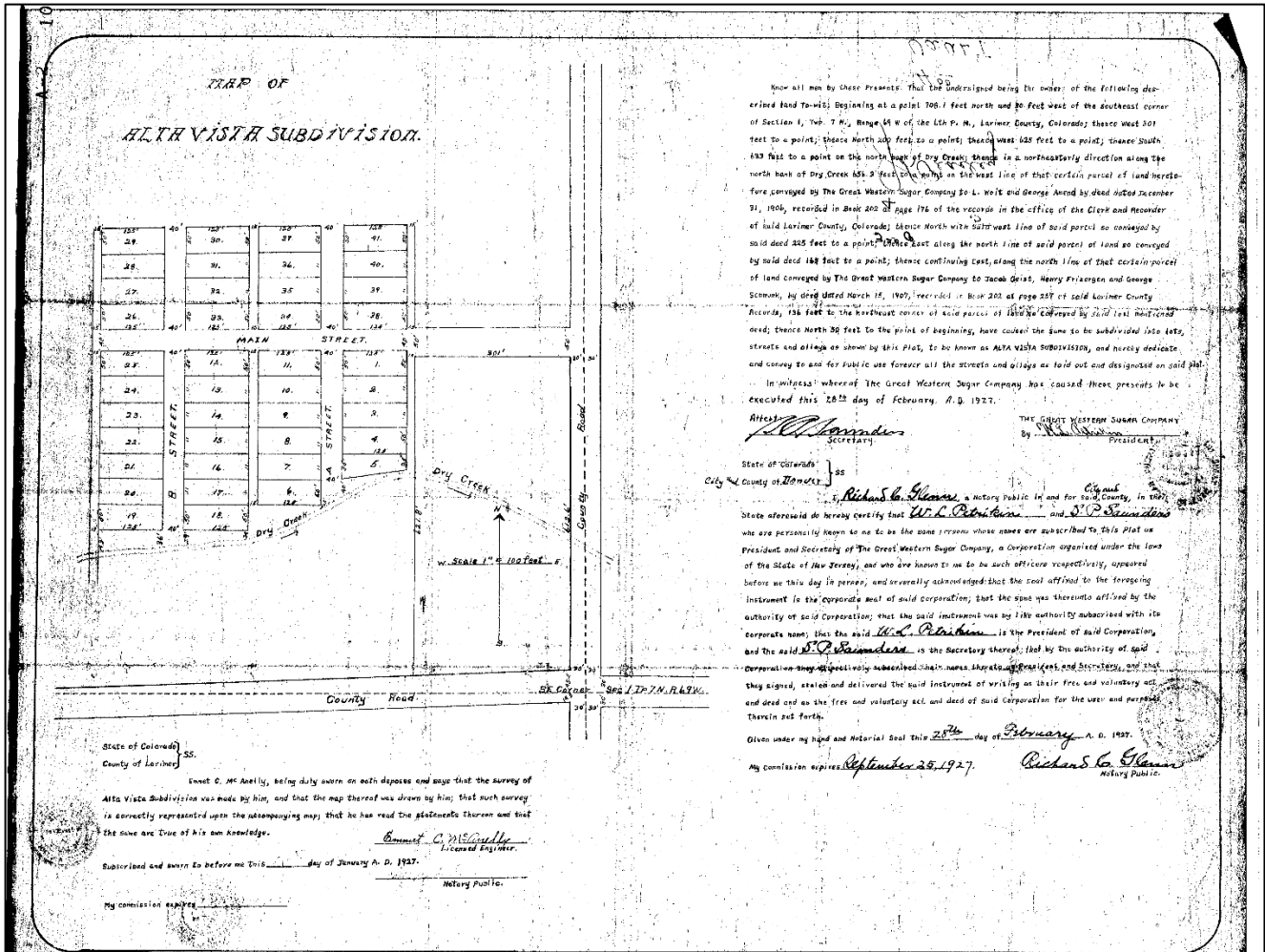


Figure 1: Alta Vista subdivision plat map, 1927. Image retrieved from Larimer County Recorder's Office.



**Figure 2:** Elizabeth Chavez Ambriz, photo uploaded by Robert Copeland. Retrieved from Find a Grave, Memorial ID#64938760. <https://www.findagrave.com/memorial/64938760/elizabeth-ambriz>

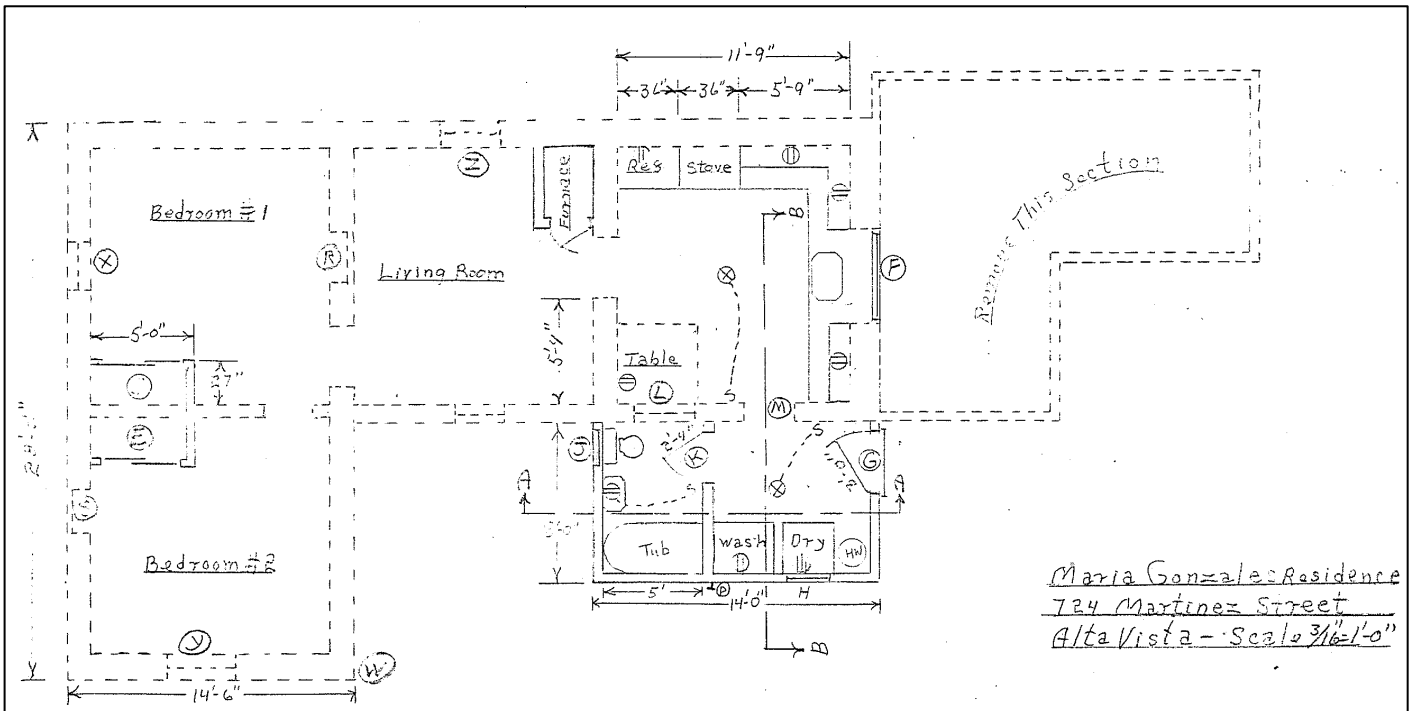


**Figure 3:** 724 Martinez, Larimer County Tax Assessor photograph, 1949. Image ID# 724MART49. Fort Collins Museum of Discovery, <https://fchc.contentdm.oclc.org/digital/collection/ph/id/52707/rec/3>.





**Figure 4:** 724 Martinez, Larimer County Tax Assessor photograph, 1977. Image ID# 724MART77. Fort Collins Museum of Discovery, <https://fchc.contentdm.oclc.org/digital/collection/ph/id/52711/rec/4>.



**Figure 5:** "Maria Gonzales Residence-724 Martinez Street." Schematic indicating the location of changes to be made during the 1976 remodel. Document on-file with City of Fort Collins.



**Figure 6:** 724 Martinez, unknown date (post-1976), unknown creator. Image on-file with City of Fort Collins.



**Figure 7:** 724 Martinez, site overview, view west (Image #102011, R. Schields, 5/14/2024).



Figure 8: 724 Martinez, east elevation, view west (Image #101921, R. Shields, 5/14/2024).



Figure 9: 724 Martinez, south and east elevations, view northwest (Image #101907, R. Shields, 5/14/2024).



**Figure 10:** 724 Martinez, east end of south elevation, view northeast (Image #101230, R. Schields, 5/14/2024).



**Figure 11:** 724 Martinez, central portion of south elevation, view north (Image #101234, R. Schields. 5/14/2024).



**Figure 12:** 724 Martinez, west end of south elevation, view northwest (Image #101251, R. Shields, 5/14/2024).



**Figure 13:** 724 Martinez, west and south elevations, view northeast (Image #101315, R. Shields, 5/14/2024).



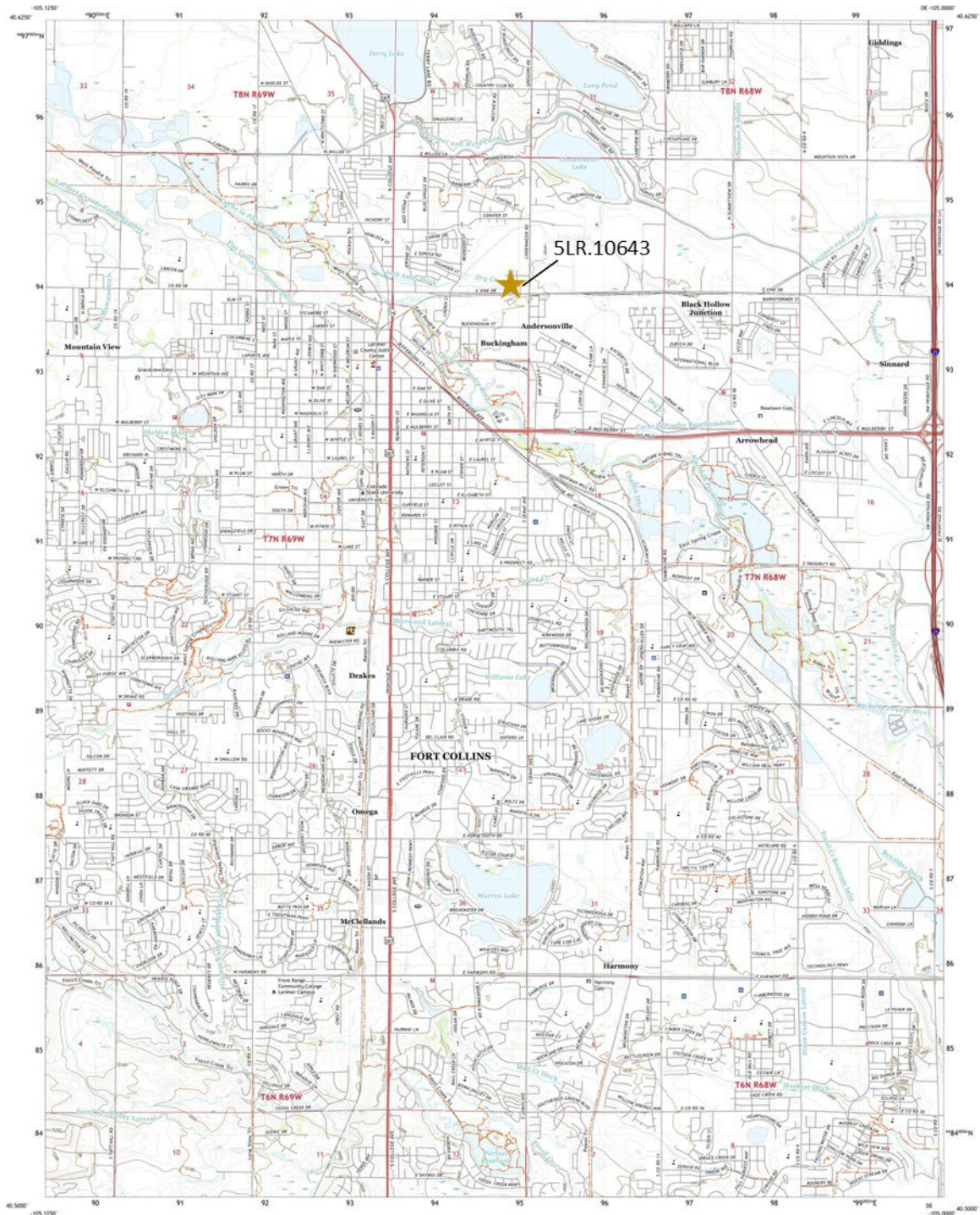
**Figure 14:** 724 Martinez, north and west elevations, view southeast (Image #102135, R. Shields, 5/14/2024).

Resource Number: 5LR.10643 (State); B3003 (City)

Temporary Resource Number: Click here to enter text.

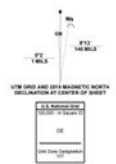
Address: 724 Martinez Street

Item 22.



Produced by the United States Geological Survey  
 North American Datum of 1983 (NAD83)  
 World Geodetic System of 1984 (WGS 84) Horizontal and  
 1 983 meter grid Universal Transverse Mercator, Zone 13T  
 This map is not a legal document. Boundary data for  
 generalization for this map scale. Private lands within government  
 boundaries may not be shown. Obtain permission before  
 entering private lands.

Source: NAD83 August 2017 - January 2018  
 Roads: U.S. Census Bureau, 2010  
 Hydrography: National Hydrography Dataset, 2010  
 Contours: National Elevation Dataset, 2011  
 Contours: Multiple sources, see metadata file  
 Public Land Survey System: see metadata file  
 Wetlands: FWS National Wetlands Inventory 2009



SCALE 1:24 000  
 0 1000 2000 3000 4000 5000 6000 7000 8000 9000 10000  
 FEET  
 0 100 200 300 400 500 600 700 800 900 1000  
 METERS

CONTOUR INTERVAL: 10 FEET  
 NORTH AMERICAN VERTICAL DATUM OF 1988  
 This map was produced to conform with the  
 National Geospatial Program (N) Topographic Standard.

ROAD CLASSIFICATION

Local Connector	Local Road	State Road
Secondary Hwy	Hwy	US Road
Route	US Road	State Road
Interstate Route	US Road	State Road

Legend for road types: Local Connector, Local Road, State Road, Secondary Hwy, Hwy, US Road, Interstate Route, US Road, State Road.

Legend for other features: Colorado, Wetland, 1 Riparian, 2 Wetland, 3 Shrub Lake, 4 Wetland/Barren, 5 Shrubland, 6 Wetland, 7 Wetland, 8 Wetland.

FORT COLLINS, CO  
2022



Maxar, Microsoft, Esri Community Maps Contributors, City of Fort Collins, County of Larimer, © OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS

724 Martinez Street - 5LR.10643

NAD 1983 - State Plane Northern Colorado  
June 3, 2024



Parcel Boundary

Feature Boundary

N



0 25 50 100 Feet







RESOLUTION 1, 2024  
OF THE CITY OF FORT COLLINS  
HISTORIC PRESERVATION COMMISSION  
RECOMMENDING LANDMARK DESIGNATION OF THE  
CHAVEZ/AMBRIZ/GONZALES PROPERTY  
724 MARTINEZ STREET, FORT COLLINS, COLORADO  
AS A FORT COLLINS LANDMARK PURSUANT TO CHAPTER 14 OF THE CODE OF  
THE CITY OF FORT COLLINS

WHEREAS, it is a matter of public policy that the protection, enhancement and perpetuation of sites, structures, objects, and districts of historic, architectural, archeological, or geographic significance, located within the city, are a public necessity and are required in the interest of the prosperity, civic pride and general welfare of the people; and

WHEREAS, it is the opinion of the City Council that the economic, cultural and aesthetic standing of this city cannot be maintained or enhanced by disregarding the historic, architectural, archeological and geographical heritage of the city or by ignoring the destruction or defacement of cultural assets; and

WHEREAS, the cultural, historic, architectural, archaeological, and geographic heritage of Fort Collins is recognized within, and in some instances helps to illuminate, a broad historical context that includes Native American use of and residence on this land as well as the systems that authorized their forced removal and permitted Euro-American acquisition of western lands, which preceded the establishment of the Fort Collins community; and

WHEREAS, the Historic Preservation Commission has determined that the Chavez/Ambriz/Gonzales Property, located at 724 Martinez Street in Fort Collins and as more specifically described in the legal description below (the "Property") meets the standards of significance and integrity required to be a Fort Collins landmark as set forth in City Code Section 14-22 and is therefore eligible for designation as a Fort Collins Landmark; and

WHEREAS, the owners of the Property nominated the Property and consent to landmark designation; and

WHEREAS, the Property is significant to Fort Collins under Standard 1 – Events and Standard 3 – Design/Construction, contained in City Code Section 14-22(a); and the Property retains sufficient historic integrity, as described in City Code Section 14-22(b).

NOW, THEREFORE, be it resolved by the Historic Preservation Commission of the City of Fort Collins as follows:

Section 1. That the Historic Preservation Commission adopts and incorporates the foregoing recitals as findings of fact and:

City of Fort Collins Historic Preservation Commission  
Resolution No. 1, 2024

1. That the designation of this Property will advance the City of Fort Collins’s Policies and Purposes for Historic Preservation; and

2. That the property is significant under Standard 1, Events/Trends, for its association with early sugar beet farming in Fort Collins from 1923-1952 and for its association with social/Hispanic history from 1923 until the present, and Standard 3, Design/Construction, as a rare example of adobe construction in Fort Collins and for its Community Development Block Grant addition; and

3. That the Property retains a preponderance of integrity to convey its significance under the following aspects: Location, Setting, Design, Materials, Workmanship, Feeling, and Association; and

4. That the owners’ desire to protect this historic Property and its resources will be furthered by the Property’s status as a Fort Collins Landmark and the accompanying protections and review mechanisms that designation confers.

Section 2. That the Property located in the City of Fort Collins, Larimer County, Colorado, described as follows, to wit:


Lot 18, Alta Vista, Fort Collins  
also known by street and number as: 724 Martinez Street, Fort Collins, Colorado 80524  
assessor's schedule or parcel number: 9701405018

be designated as a Fort Collins Landmark in accordance with Chapter 14 of the Code of the City of Fort Collins.

Section 3. That the criteria contained in Chapter 14, Article IV of the City Code will serve as the standards by which alterations, additions and other changes to buildings and structures located upon the above-described Property will be reviewed.

Passed and adopted at a regular meeting of the Historic Preservation Commission of the City of Fort Collins held on July 17, 2024.

ATTEST:

DocuSigned by:  
  
0D881243879D4DA...  
Jim Rose, Chair

DocuSigned by:  
  
33617E7A690E490...  
Secretary/Staff



8-20-2024

Item 22.

Application for Fort  
Collins Landmark  
Designation –  
Chavez/Ambriz/  
Gonzales Property  
(724 Martinez St.)

Yani Jones

Historic Preservation Planner

Images (left to right):

- 1927 Alta Vista Subdivision Plat
- “Prize Beet Workers,” c. 1926, Eulogio Chavez top row, second from left (FCMOD)
- Elizabeth (Chavez) Ambriz (Robert Copeland)
- Maria Celina Gonzales (*Fort Collins Coloradoan*, 9/13/2020)



### Historic Preservation Commission Meeting (July 17, 2024)

- Application brought forward by owners: James, Monica, and Santiago Gonzales and Celina Maldonado
- Property significant under:
  - Standard 1, Events/Trends
    - Association with: The early sugar beet industry in Fort Collins; Hispanic history; social history
  - Standard 3, Design/Construction
    - Rare example of adobe construction in Fort Collins; Community Development Block Grant-funded addition
- Property has integrity under all 7 aspects: location, design, setting, materials, workmanship, feeling, and association
- HPC Resolution 1, 2024 adopted recommending City Council approve the Landmark designation of this property

**File Attachments for Item:**

**23. Resolution 2024-096 Approving Participation in the Settlement with An Additional Opioid Defendant, Kroger, and a Related Waiver of Claims.**

The purpose of this item is to consider a resolution to allow the City to participate in the Colorado Opioids Settlement with Kroger by granting approval to sign an additional participation agreement and waiver of claims for opioid-related damages. This is in follow-up to prior approvals of settlements with multiple other opioid defendants, negotiated through national settlement efforts coordinated through the State of Colorado.

August 20, 2024



## AGENDA ITEM SUMMARY

City Council

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### STAFF

Rupa Venkatesh, Assistant City Manager

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### SUBJECT

**Resolution 2024-096 Approving Participation in the Settlement with An Additional Opioid Defendant, Kroger, and a Related Waiver of Claims.**

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### EXECUTIVE SUMMARY

The purpose of this item is to consider a resolution to allow the City to participate in the Colorado Opioids Settlement with Kroger by granting approval to sign an additional participation agreement and waiver of claims for opioid-related damages. This is in follow-up to prior approvals of settlements with multiple other opioid defendants, negotiated through national settlement efforts coordinated through the State of Colorado.

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### STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

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### BACKGROUND / DISCUSSION

Through extensive negotiations, local governments and the Colorado Attorney General's Office negotiated a Memorandum of Understanding (MOU) to govern how opioid settlement funds will be allocated in Colorado, to maximize recovery from the variety of lawsuits filed by the state and local governments across the nation along with the Subdivision Settlement Participation Forms.

To date, Colorado is on track to receive over \$787 million in opioid settlement funds, including \$70 million from the proposed Kroger settlement. However, the amount the State recovers from the settlements is determined in part by the rate of participation of local governments, including both cities and counties, in the settlement agreement.

More information about the State of Colorado settlements and framework for distribution and use of the settlement funds can be found at: <https://coag.gov/opioids/> .

- The Colorado framework allocates to participating local governments 20% of the total settlement funds.
- The framework allocates 60% of the settlement funds to 19 regional opioid abatement councils to be distributed for eligible projects.
  - Larimer County is one of the regions that receives and then distributes the regional funds.

- The Larimer County Regional Opioid Abatement Council has received applications for and allocated approximately \$5.5 million for 2022-2024.
  - The City has designated Beth Yonce, Social Sustainability Director, to serve as its representative on the Council.
  - More on the Larimer County Regional Opioid Abatement Council can be found at: <https://www.larimer.gov/bocc/regional-opioid-abatement-council#/list/> .
- The framework allocates 10% of the settlement proceeds to an Infrastructure Fund that is allocated by the Colorado Opioid Abatement Council.
  - The framework allocates 10% of the settlement proceeds to the State of Colorado, managed by the Colorado Department of Law.

In 2021, Council adopted Resolution 2021-113, approving participation in the Colorado Opioids Settlement and authorizing execution of related agreements. In 2022, Council adopted Resolution 2022-055, authorizing the execution of an intergovernmental agreement (IGA) regarding regional opioid settlement implementation and designating a representative to the Larimer Regional Opioid Council.

Most recently, on March 21, 2023, Council adopted Resolution 2023-028, authorizing the execution of participation agreements and waivers of claims for the City to participating in the additional settlements negotiated on behalf of the State of Colorado and participating local governments with opioid defendants *Teva, Allergan, Walmart, CVS and Walgreens*.

An additional settlement has been negotiated with Kroger and the City may participate in the settlement and receive settlement payments by executing the Participation Form with the Kroger defendant, including an associated waiver of claims. The City desires to participate in this additional settlement to increase recoveries across Colorado governments.

**CITY FINANCIAL IMPACTS**

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By approving the settlements from this additional defendant (Koger) the City and the Larimer County region stand to receive an undetermined amount over a period of eleven years. The State will not know the full amount to be received by the State and allocated until all communities that choose to participate have formalized their participation. The total amount over the eleven-year period of the settlement with Kroger nationwide is \$1.2 billion and the total amount the State of Colorado is expected to receive from Kroger is around \$70 million.

**BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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None.

**PUBLIC OUTREACH**

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None.

**ATTACHMENTS**

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1. Resolution for Consideration
2. Resolution Exhibit A

RESOLUTION 2024-096  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROVING PARTICIPATION IN THE SETTLEMENT WITH AN  
ADDITIONAL OPIOID DEFENDANT, KROGER, AND A RELATED  
WAIVER OF CLAIMS

A. Communities throughout the State of Colorado, including the City of Fort Collins (“City), are suffering from an epidemic of opioid addiction.

B. The opioid epidemic has not only affected individuals and families across the country, but it has also burdened the local and state governments charged with providing the services needed to address the wave of addiction.

C. Local and state governments across the nation, including in Colorado, have filed lawsuits against opioid manufacturers, distributors, and pharmacies for creating the opioid epidemic.

D. The parties to the various opioid lawsuits have been negotiating settlement agreements to resolve the litigation which include incentive payments for maximizing participation by local governments.

E. Through extensive negotiations, local governments and the Colorado Attorney General’s Office negotiated a Memorandum of Understanding to govern how opioids settlement funds will be allocated in Colorado, to maximize recovery from the variety of lawsuits filed by the state and local governments across the nation (“MOU”), along with the Subdivision Settlement Participation Forms to address opioid defendants Johnson & Johnson, AmerisourceBergen, Cardinal Health, and McKesson.

F. On December 7, 2021, the City Council approved Resolution 2021-113, approving participation in the Colorado Opioids Settlement and authorizing execution of related agreements, which were signed and submitted to the Colorado Attorney General in December 2021.

G. On May 3, 2022, the City Council approved Resolution 2022-055, authorizing the execution of an intergovernmental agreement regarding regional opioid settlement implementation (“IGA”) and designating a City representative to the Larimer Regional Opioid Council.

H. The City entered into the IGA and it has since been amended to add participation by the Town of Estes Park, pursuant to City Council’s Resolution 2023-011, adopted on January 17, 2023.

I. On March 21, 2023, the City Council adopted Resolution 2023-028, approving additional settlements with opioid defendants Teva, Allergan, Walmart, CVS and Walgreens.



J. A national settlement has now been negotiated on behalf of the State of Colorado and participating local governments with an additional opioid defendant, Kroger, and the City may participate in this settlement and receive settlement payments by executing the Participation Form for this opioid defendant, including an associated waiver of claims.

K. The City desires to participate in the Colorado opioids settlement to increase recoveries for Colorado government entities and so the City is eligible to receive settlement funds to be used for approved purposes to abate the opioid epidemic as defined in the MOU for the benefit of the residents of the City.

L. Accordingly, the City Council desires to approve and authorize execution of the Kroger Participation Form attached to this Resolution.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The City Council approves the Participation Form attached hereto as Exhibit A and incorporated herein by this reference

Section 2. The Mayor is authorized and directed to execute on behalf of the City the attached Participation Form.

Passed and adopted on August 20, 2024.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: August 20, 2024  
Approving Attorney: Carrie M. Daggett

**EXHIBIT K**

**Subdivision Participation and Release Form**

Governmental Entity: City of Fort Collins	State: Colorado
Authorized Official: Mayor Jeni Arndt	
Address 1: PO Box 580	
Address 2:	
City, State, Zip: Fort Collins, CO 80522	
Phone: 970-221-6520	
Email: cdaggett@fcgov.com (Carrie Daggett)	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated March 22, 2024 (“*Kroger Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the Kroger Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Kroger Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Kroger Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall promptly, and in any event no later than 14 days after the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in *In re National Prescription Opiate Litigation*, MDL No. 2804, the Governmental Entity authorizes the Plaintiffs’ Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal with Prejudice substantially in the form found at <https://nationalopioidsettlement.com/>.
3. The Governmental Entity agrees to the terms of the Kroger Settlement pertaining to Participating Subdivisions as defined therein.
4. By agreeing to the terms of the Kroger Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Kroger Settlement solely for the purposes provided therein.
6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity’s state where the Consent Judgment is filed for purposes limited to that court’s role as provided in, and for resolving disputes to the extent provided in, the Kroger Settlement. The Governmental Entity likewise agrees to arbitrate before the National Arbitration Panel

as provided in, and for resolving disputes to the extent otherwise provided in, the Kroger Settlement.

7. The Governmental Entity has the right to enforce the Kroger Settlement as provided therein.
8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Kroger Settlement, including without limitation all provisions of Section XI (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Kroger Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Kroger Settlement shall be a complete bar to any Released Claim.
9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Kroger Settlement.
10. In connection with the releases provided for in the Kroger Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

**General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Kroger Settlement.

11. Nothing herein is intended to modify in any way the terms of the Kroger Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Kroger Settlement in any respect, the Kroger Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: \_\_\_\_\_

Name: Jeni Arndt

Title: Mayor

Date: \_\_\_\_\_

**File Attachments for Item:**

**24. Resolution 2024-100 Authorizing a Second Amendment to the Intergovernmental Agreement Between the Poudre River Public Library District, the City of Fort Collins, and Larimer County.**

The purpose of this item is to amend the Intergovernmental Agreement (IGA) between the Poudre River Public Library District, the City and Larimer County to change the selection process when there are vacancies on the District board. This amendment would allow the District Trustees to interview applicants and recommend appointments for ratification by Council and the County Board of Commissioners.

August 20, 2024

# AGENDA ITEM SUMMARY

City Council




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## STAFF

Rupa Venkatesh, Assistant City Manager

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## SUBJECT

**Resolution 2024-100 Authorizing a Second Amendment to the Intergovernmental Agreement Between the Poudre River Public Library District, the City of Fort Collins, and Larimer County.**

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## EXECUTIVE SUMMARY

The purpose of this item is to amend the Intergovernmental Agreement (IGA) between the Poudre River Public Library District, the City and Larimer County to change the selection process when there are vacancies on the District board. This amendment would allow the District Trustees to interview applicants and recommend appointments for ratification by Council and the County Board of Commissioners.

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## STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

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## BACKGROUND / DISCUSSION

The Fort Collins Regional Library District was approved by the voters in November of 2006 and funded with three mills of property tax. The District, County and City entered into an interim IGA in July 2007 in which the City continued to operate the libraries on behalf of the District at the District expense until January 1, 2008. On December 4, 2007, Council adopted Ordinance No. 139, 2007 approving a final IGA regarding the City's and County's roles in the management and operation of the Library District. The IGA was signed, and operation of the Fort Collins public libraries was turned over to the District on December 31, 2007.

An amendment to the IGA (the "First Amendment") was approved in June 2012, to expand the list of services provided by the City to the District and simplify the process for changing the list of services in the future, and making other clarifying changes.

The state library statutes say that the legislative bodies of the local governments that form a library district (in this case the City and County) shall appoint two members each to a committee that appoints the **initial** trustees. After that, they can either continue to appoint trustees that way, or they can delegate to the board of trustees of the district the authority to recommend new trustees. Either way, the appointments still must be ratified by the legislative bodies of the governments.

The 2007 IGA stated that the City and County would continue to select new trustees and that process has been followed since 2008. The Library District and the County have expressed interest in changing the way that trustees are appointed because the current process is time-consuming and administratively

burdensome for both the City and County since there are often more than 30 candidates that apply for the position and trying to coordinate schedules is very difficult.

Again, under the state library law, the City and County ultimately are the final decision makers on the appointments. The amendment only makes changes to the selection process which would be run by the District, and the City and County would ratify the appointments, rather than having a committee of City Councilmembers and County Commissioners review applications, interview candidates and recommend the trustees.

The Library District Board will consider the proposed second amendment at their meeting on August 12 and the County Board of Commissioners will consider the amendment during their August 20 meeting.

**CITY FINANCIAL IMPACTS**

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None.

**BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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None

**PUBLIC OUTREACH**

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None.

**ATTACHMENTS**

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- 1. Resolution for Consideration
- 2. Exhibit A to Resolution

RESOLUTION 2024-100  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING A SECOND AMENDMENT TO THE  
INTERGOVERNMENTAL AGREEMENT BETWEEN THE  
POUDRE RIVER PUBLIC LIBRARY DISTRICT, THE CITY OF  
FORT COLLINS, AND LARIMER COUNTY

A. Pursuant to Section 24-90-107(3)(h) of the Colorado Revised Statutes, the Poudre River Public Library District (“District”), the City and Larimer County (“County”) entered into an Intergovernmental Agreement dated December 18, 2007, which sets forth the rights, obligations, and responsibilities, financial and otherwise, of the City, the County and the District (the “IGA”).

B. The parties amended the IGA through a First Amendment to Intergovernmental Agreement dated June 4, 2012, to expand the list of services provided by the City as stated in Exhibit B to the IGA and simplify the process for changing Exhibit B in the future, as well as to provide that the District will reimburse the City for any City-approved refunds of the City Impact Fee.

C. The IGA requires that the City and County appoint trustees to the District’s Board of Trustees through a committee made up of two members of each legislative body, with both legislative bodies ratifying such appointments. This is one process allowed by Colorado law; the other option is that the legislative bodies that form a library district can delegate to the district’s board of trustees the authority to appoint new trustees, with ratification by the legislative bodies still required.

D. The District and the County have expressed interest in changing the way trustees are appointed because the current process is time-consuming and administratively burdensome for the County and the City.

E. City staff recommends that the City Council authorize a Second Amendment to the IGA to allow the District Board of Trustees to appoint new trustees, subject to approval by the City Council and County Commissioners. A draft of the proposed Second Amendment is attached and incorporated herein as Exhibit “A”.

F. The District Board of Trustees was scheduled to consider the Second Amendment at its meeting on August 12, 2024, and the County Commissioners are scheduled to consider it at their regular meeting on August 20, 2024.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The Mayor is hereby authorized to execute the Second Amendment to Intergovernmental Agreement in substantially the form attached hereto as Exhibit “A”,



with such additional terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the interests of the City.

Section 2. The City’s execution of the Second Amendment is contingent upon the Library District Board of Trustees and the Larimer County Commissioners taking appropriate action to approve the execution of the Second Amendment by their respective entities.

Passed and adopted on August 20, 2024.

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Mayor Pro Tem

ATTEST:

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City Clerk

Effective Date: August 20, 2024  
Approving Attorney: Ingrid Decker

**SECOND AMENDMENT TO INTERGOVERNMENTAL AGREEMENT**

**THIS SECOND AMENDMENT TO INTERGOVERNMENTAL AGREEMENT** (“Amendment”) is made and entered into by and between THE Poudre River Public Library District, formerly known as the Fort Collins Regional Library District (“District”), the CITY OF FORT COLLINS, COLORADO (“City”), and LARIMER COUNTY, COLORADO (“County”) and is effective on the date last signed below.

**RECITALS**

1. Pursuant to § 24-90-107(3)(h), C.R.S., the District, City and County entered into an Intergovernmental Agreement dated December 18, 2007, which sets forth the rights, obligations, and responsibilities, financial and otherwise, of the City, the County and the District (the “IGA”).

2. The parties amended the IGA through a First Amendment to Intergovernmental Agreement dated June 4, 2012 (the “First Amendment”), to expand the list of services in Exhibit B to the IGA and simplify the process for changing Exhibit B in the future, as well as to provide that the District will reimburse the City for any City-approved refunds of the City Impact Fee.

3. The parties now wish to further amend the IGA to modify the process for appointing trustees to the District’s Board of Trustees.

NOW, THEREFORE, the parties hereto agree as follows:

1. That Article I of the IGA is amended by the addition of a new Section 1.7, as follows:

**Section 1.7 Appointment of Trustees** The City and County hereby delegate to the Board of Trustees of the District the authority to recommend new trustees for ratification by a two-thirds majority of the legislative bodies of both the City and County as provided in §24-90-108, C.R.S., as amended.

2. That Section 2.4 of the IGA is hereby amended to read as follows:

**Section 2.4 Appointment of Trustees.** The City, in cooperation with the County, shall be responsible for ratifying the appointment of trustees recommended by the District to the Board of Trustees pursuant to §24-90-108, C.R.S., as amended. Upon receipt of a recommendation for appointment by the Board of Trustees of the District, the City Council shall vote on the appointment at a regularly scheduled meeting, either approving the appointment or rejecting the appointment. If the appointment is approved by both the City and County, the individual shall be deemed appointed to the Board of Trustees for the District. If the appointment is rejected by either the City or County, the Board of Trustees for the District shall provide a recommendation for a new individual to fill the vacancy. If more than one

vacancy is open, the Board of Trustees for the District shall provide a recommendation for each vacancy and the City Council shall approve or reject each recommendation separately.

3. That Section 7.1 of the IGA is hereby amended to read as follows:

**Section 7.1 Appointment of Trustees.** The County, in cooperation with the City, shall be responsible for ratifying the appointment of trustees recommended by the District to the Board of Trustees pursuant to §24-90-108, C.R.S., as amended, and for any additional responsibilities mandated under the Colorado Library Law, as amended. Upon receipt of a recommendation for appointment by the Board of Trustees of the District, the County shall vote on the appointment at a regularly scheduled meeting, either approving the appointment or rejecting the appointment. If the appointment is approved by both the City and County, the individual shall be deemed appointed to the Board of Trustees for the District. If the appointment is rejected by either the City or County, the Board of Trustees for the District shall provide a recommendation for a new individual to fill the vacancy. If more than one vacancy is open, the Board of Trustees for the District shall provide a recommendation for each vacancy and the County shall approve or reject each recommendation separately.

4. All terms and conditions of the IGA remain in full force and effect except as modified by this Amendment and the First Amendment.

**BOARD OF COUNTY COMMISSIONERS  
LARIMER COUNTY, COLORADO**

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Date

ATTEST:  
  
\_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Larimer County Attorney

**POUDRE RIVER PUBLIC LIBRARY DISTRICT  
BOARD OF TRUSTEES**

\_\_\_\_\_  
President

\_\_\_\_\_  
Date

ATTEST:

Approved as to Form:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Setzer & Vander Wall, P.C.

**CITY OF FORT COLLINS, COLORADO**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

ATTEST:

Approved as to Form:

\_\_\_\_\_  
Name: \_\_\_\_\_

\_\_\_\_\_  
Sr. Assistant City Attorney

Title: \_\_\_\_\_

**File Attachments for Item:**

**25. Items Relating to FLEX Route Regional Transit Services Intergovernmental Agreements.**

A. Resolution 2024-101 Authorizing the Execution of an Intergovernmental Agreement between the City of Fort Collins, Colorado and the City of Loveland for FLEX Route Regional Transit Services.

B. Resolution 2024-102 Authorizing the Execution of an Intergovernmental Agreement between the City of Fort Collins, Colorado and the Town of Berthoud for FLEX Route Regional Transit Services.

C. Resolution 2024-103 Authorizing the Execution of an Intergovernmental Agreement between the City of Fort Collins, Colorado and the County of Boulder for FLEX Route Regional Transit Services.

D. Resolution 2024-104 Authorizing the Execution of an Intergovernmental Agreement between the City of Fort Collins, Colorado and the City of Boulder for FLEX Route Regional Transit Services.

E. Resolution 2024-105 Authorizing the Execution of an Intergovernmental Agreement between the City of Fort Collins, Colorado and the City of Longmont for FLEX Route Regional Transit Services.

The purpose of these items is to authorize the City Manager to sign separate Intergovernmental Agreements (“IGAs”) with the City of Loveland, the Town of Berthoud, the City of Boulder, the County of Boulder, and the City of Longmont (collectively, the “FLEX Partners”) by which the FLEX Partners will contribute funds toward the operating cost of the FLEX Route Regional Transit Service bus route to further the goals of regional connectivity through transit.

August 20, 2024

# AGENDA ITEM SUMMARY

City Council



## STAFF

Kaley Zeisel, Transfort, Director  
Annabelle Phillips, Assistant Director, Transfort

## SUBJECT

**Items Relating to FLEX Route Regional Transit Services Intergovernmental Agreements.**

## EXECUTIVE SUMMARY

A. Resolution 2024-101 Authorizing the Execution of an Intergovernmental Agreement between the City of Fort Collins, Colorado and the City of Loveland for FLEX Route Regional Transit Services.

B. Resolution 2024-102 Authorizing the Execution of an Intergovernmental Agreement between the City of Fort Collins, Colorado and the Town of Berthoud for FLEX Route Regional Transit Services.

C. Resolution 2024-103 Authorizing the Execution of an Intergovernmental Agreement between the City of Fort Collins, Colorado and the County of Boulder for FLEX Route Regional Transit Services.

D. Resolution 2024-104 Authorizing the Execution of an Intergovernmental Agreement between the City of Fort Collins, Colorado and the City of Boulder for FLEX Route Regional Transit Services.

E. Resolution 2024-105 Authorizing the Execution of an Intergovernmental Agreement between the City of Fort Collins, Colorado and the City of Longmont for FLEX Route Regional Transit Services.

The purpose of these items is to authorize the City Manager to sign separate Intergovernmental Agreements (“IGAs”) with the City of Loveland, the Town of Berthoud, the City of Boulder, the County of Boulder, and the City of Longmont (collectively, the “FLEX Partners”) by which the FLEX Partners will contribute funds toward the operating cost of the FLEX Route Regional Transit Service bus route to further the goals of regional connectivity through transit.

## STAFF RECOMMENDATION

Staff recommends adoption of the Resolutions.

## BACKGROUND / DISCUSSION

Since 2016, the City has entered into separate agreements with the City of Loveland, the Town of Berthoud, the City of Longmont, the City of Boulder, and the County of Boulder that allow the City of Fort Collins to operate the FLEX regional route with partner contributions from all five entities. Notably, Colorado State University also contributes financially to the operation of the FLEX regional bus route through a separate IGA that previously was executed between the City of Fort Collins and Colorado State University.

Additional financial contributions toward the operation of the FLEX route includes grant funding from state and federal sources. The total breakdown of contributions is as follows:

<b>Contributor</b>	<b>% Passenger Activity</b>	<b>Partner Contribution</b>
<b>Grants &amp; CSU</b>	N/A	\$ 265,089
<b>City of Fort Collins</b>	46.69%	\$ 926,002
<b>City of Loveland</b>	32.32%	\$ 641,031
<b>City of Longmont</b>	7.28%	\$ 144,439
<b>Boulder County</b>	6.25%	\$ 124,043
<b>City of Boulder</b>	5.23%	\$ 103,648
<b>Town of Berthoud</b>	2.22%	\$ 44,026
<b>Totals</b>		\$ 2,248,278

These Resolutions would authorize the City Manager to execute the IGAs with the FLEX Partners, which are intended to be effective retroactively on January 1, 2024. The extended delay in executing this year's IGAs is the result of unanticipated changes in the availability of federal funding, particularly the FASTER funding.

### **CITY FINANCIAL IMPACTS**

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There are no financial impacts as these agreements provide for expenditures on services to be reimbursed by the FLEX Partners.

### **BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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No board or commission recommendations are associated with this item.

### **PUBLIC OUTREACH**

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No public outreach was conducted as part of this item.

### **ATTACHMENTS**

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1. Resolution A for Consideration
2. Exhibit A to Resolution A - Loveland FLEX Agreement
3. Resolution B for Consideration
4. Exhibit A to Resolution B - Berthoud FLEX Agreement
5. Resolution C for Consideration
6. Exhibit A to Resolution C - Boulder (County of) FLEX Agreement
7. Resolution D for Consideration
8. Exhibit A to Resolution D - Boulder (City) FLEX Agreement
9. Resolution E for Consideration
10. Exhibit A to Resolution E - Longmont FLEX Agreement

RESOLUTION 2024-101  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING THE EXECUTION OF AN  
INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF  
FORT COLLINS, COLORADO AND THE CITY OF LOVELAND  
FOR THE FLEX ROUTE REGIONAL TRANSIT SERVICES

A. Each year since 2016, the City has entered into an intergovernmental agreement (“IGA”) with the City of Loveland (“Loveland”) to provide FLEX Route Regional Transit Services.

B. Both the City and Loveland contribute a percentage of funds based on the ridership of each jurisdiction.

C. This partnership has contributed toward regional connectivity transit goals, and City Council wishes to continue offering these services.

D. The funds for the City’s expenditure and reimbursement for these transit services were appropriated previously through the Budgeting for Outcomes Process; thus, no appropriation action is required with this item.

E. This Resolution comes before City Council to authorize the attached IGA for Bus Service between the City of Fort Collins and City of Loveland substantially in the form attached hereto as Exhibit “A” and incorporated herein by this reference (the “IGA”).

F. The attached IGA for Bus Service with the City of Loveland is intended to be effective retroactively on January 1, 2024. The extended delay in executing this IGA is the result of unanticipated changes in the availability of federal funding.

G. City Council has determined that the IGA is in the best interests of the City and that the City Manager be authorized to execute the IGA between the City and Loveland in support thereof.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. City Council hereby authorizes the City Manager to execute the IGA in substantially the form attached hereto as Exhibit “A,” together with such modifications and additions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City or effectuate the purposes of this Resolution as set forth above.

Section 2. During the term of the IGA the City Manager, in consultation with the City Attorney, also is authorized to approve and execute amendments to the IGA consistent with this Resolution so long as the City Manager determines such



amendments: (a) are reasonably necessary and appropriate to protect the City's interests or provide a benefit to the City; (b) effectuate the purposes of this Resolution; and (c) limit the City's financial obligation to expenditure of funds already appropriated and approved by Council or conditioned upon such appropriation.

Passed and adopted on August 20, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: August 20, 2024  
Approving Attorney: Madelene Shehan

**INTERGOVERNMENTAL AGREEMENT  
FOR BUS SERVICE BETWEEN THE CITY OF FORT COLLINS AND  
CITY OF LOVELAND**

This Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 2024 between the **City of Fort Collins, Colorado**, a municipal corporation (hereinafter “Fort Collins”), and the **City of Loveland, Colorado**, a municipal corporation (hereinafter “Loveland”) (Fort Collins and Loveland collectively may be referred to as the “Parties” or individually, as a “Party”).

**RECITALS**

WHEREAS, the Parties desire to provide regional connector bus service between Fort Collins and Loveland; and

WHEREAS, Fort Collins has its own fixed-route bus system (hereinafter “Transfort”);

WHEREAS, FLEX is a regional connector bus service operated by Transfort in partnership with Loveland, Berthoud, Longmont, City of Boulder, and Boulder County (hereinafter “Partners”) to provide services to said communities pursuant to separate Intergovernmental Agreements; and

WHEREAS, Transfort is willing and able to extend FLEX services along the U.S. Highway 287 and Highway 119 corridors between Fort Collins and Boulder (hereinafter “FLEX”) with stops in Fort Collins, Loveland, Longmont, and Boulder; and

WHEREAS, Fort Collins intends to execute agreements with the other Partners to address such Partners’ obligations regarding the FLEX bus service; and

WHEREAS, the Parties have determined that significant economic and efficiency benefits result for each Party through the provision of FLEX by Transfort.

**NOW, THEREFORE**, in consideration of the mutual promises herein and other good and valuable consideration, receipt and adequacy of which is acknowledged, the Parties agree as follows:

**AGREEMENT**

1. The foregoing recitals are hereby incorporated as though fully set forth herein.
2. Fort Collins shall provide regional connector bus service, FLEX, in accordance with the terms of this Agreement and as specifically identified and described in **Exhibit A**, attached hereto and incorporated herein by this reference, throughout the term of this Agreement. The services identified and described in **Exhibit A** are subject to increase, modification, reduction, and termination pursuant to this **Section 2** and **Section 6** of this Agreement.

- a. Increased service beyond that described in **Exhibit A** may be provided by Fort Collins, at its sole discretion, to the extent Fort Collins determines appropriate given the demand for service and available resources. Prior to providing additional service at Fort Collins' expense, Fort Collins shall provide advance written notice to Loveland. If Fort Collins desires to increase service with contribution from Loveland, Loveland's prior written agreement to such increased service shall be required. If the Parties agree to the increased service, Fort Collins and Loveland will amend **Exhibit A** and **Exhibit B** and the respective cost share associated with the change. If the Partners do not agree to increase contribution and service, then Fort Collins reserves the right to modify the service pursuant to paragraph (b) below to accommodate demand. Any such additional service that exceeds the services described in **Exhibit A** may be reduced or stopped by Fort Collins, at its sole discretion. Prior to reducing or stopping any such additional service, Fort Collins will make reasonable efforts to provide 30 days of advance written notice to the Partners.
  - b. In the event Fort Collins determines that circumstances require modification of FLEX services as described in **Exhibit A** to better accommodate the demand for service or the efficient provision of service, Fort Collins shall be entitled to implement such modification at its sole discretion. Fort Collins will make reasonable efforts to provide 30 days of advance written notice of any such modification to the Partners.
3. This Agreement shall commence on January 1, 2024 and shall continue in full force and effect until December 31, 2024, unless sooner terminated as herein provided.
4. Fort Collins agrees that all services provided under this Agreement shall be consistent with Transfort system operating policies and procedures, as the same may be amended in Fort Collins' sole discretion, and that all such services shall be consistent with the Transfort operation schedule.
5. In consideration of the services provided by Fort Collins under this Agreement, and the mutual financial commitments herein made, Loveland agrees to contribute to the direct and indirect costs of operating FLEX, as supplemented by such additional federal or state grant funds as may be available therefor. The Parties agree to use ridership data to formulate the cost share associated with each Partner. Based on average ridership data from 2019, 2021 and 2022, for each term of this Agreement, Loveland shall pay to Fort Collins the amount of \$641,031, for the year 2024 for its share of direct and indirect costs of operating FLEX subject to any cost share adjustment pursuant to **Section 7** or need for additional service pursuant to **Section 1**. Fort Collins currently maintains and administers Loveland's portion of the Urbanized Area Formula Funding (49 U.S.C. § 5307) grant funds (the "5307 Funds"). Loveland will allow Fort Collins to withhold \$372,341 from its balance of 5307 Funds from the Fiscal Year 2024. Loveland will remain responsible for the remaining amounts owed under this IGA after deduction of the 5307 Funds, in the amount of \$268,689. Fort Collins will invoice Partners in the first quarter of 2024 for the FLEX service provided in 2024. Such payment shall be made within 60 days after receipt of an invoice.
6. Any additional revenues collected by Loveland from the operation of FLEX, shall be remitted to Fort Collins. Such revenue, and any additional revenues collected by Fort Collins from the operation of FLEX, shall be used to supplement FLEX operation expenses and will equally benefit the Parties.

7. The Parties agree to run a ridership analysis on a triennial basis and adjust cost shares according to ridership quantities relative to each Partner. Ridership data will be an average of the previous year of service.
8. The Parties acknowledge and agree that the budget proposal for operation of FLEX for the term of this Agreement includes projected FLEX Fare Revenue and anticipated revenues from bus fares pursuant to **Section 10** (“FLEX Fare Revenue”). If FLEX Revenue and FLEX Fare Revenue for the term of this Agreement is insufficient to meet the budget for operation of FLEX, the Parties may elect to appropriate and pay their pro rata share of any shortage. If either Party does not appropriate and pay its pro rata share of the shortage in FLEX Revenue and FLEX Fare Revenue, Fort Collins in its sole discretion may reduce FLEX services as necessary to reduce operating expenses in an amount sufficient to address such a shortage or terminate FLEX service. Prior to any reduction in service or termination, Fort Collins shall provide advance written notice to the Partners.
9. Fort Collins Transfort buses will utilize existing Regional Transportation District (hereafter “RTD”) stops in Boulder, or as otherwise agreed by the Parties.
10. The basic cash fare to be charged for FLEX shall be One Dollar and Twenty-Five Cents (\$1.25) per ride; however, Fort Collins currently is not charging fares for the Transfort bus system. Notwithstanding, Fort Collins in its sole discretion shall be entitled to modify the fare to be charged as necessary for the efficient and cost-effective operation of FLEX, provided that advance written notice of any such modification is provided to Loveland. All Fort Collins discounted fare categories for Transfort bus service will apply to FLEX. Fort Collins shall collect any fares due from passengers and accurately record and account for such fare receipts and ridership levels. Fort Collins shall prepare quarterly reports of such receipts and ridership levels and shall provide such quarterly reports to Loveland.
11. All Fort Collins and City of Loveland bus pass programs will be accepted as full fare to ride FLEX. Transfers from FLEX to the Transfort or COLT bus systems will be honored. The RTD Eco Pass will be accepted as full fare to ride FLEX; however, free transfers from FLEX to RTD will not be honored.
12. Each Party shall designate a representative, who shall be responsible for managing such Party’s performance of the terms of this Agreement and shall provide the other Party with written notice thereof, along with address, telephone, and email information. All notices to be provided under this Agreement shall be provided to such designated representatives and to the parties listed below. Any notice pursuant to this Agreement shall be hand-delivered or sent by certified mail, return receipt requested, and addressed to the designated representative. Any such notice shall be deemed given upon hand-delivery to the designated representative or their address or three (3) days after mailing.

If to Fort Collins:

City of Fort Collins

Transport & Parking Services Director  
City of Fort Collins  
250 N. Mason Street  
Fort Collins, CO 80522

With a copy to:

City Attorney  
City of Fort Collins  
P.O. Box 580  
Fort Collins, CO 80522

If to Loveland:

Public Works Director  
City of Loveland  
2525 West 1<sup>st</sup> Street  
Loveland, CO 80537

With a copy to:

City Attorney  
City of Loveland  
500 E. Third Street, Suite 300  
Loveland, CO 80537

13. The Parties agree to cooperate fully, to a reasonable extent, in the development and implementation of any surveys or studies undertaken by the other Party to evaluate demand, usage, cost, effectiveness, efficiency, or any other factor relating to the success or performance of FLEX or the need for such service. However, such cooperation shall not require the expenditure of funds more than the specific amounts set forth in **Section 5** and **Exhibit B**, unless approved in writing and duly appropriated by the Parties.

The Parties acknowledge that their obligations under this Agreement are subject to annual appropriation by the governing body of each respective Party and shall not constitute or give rise to a general obligation or other indebtedness of either Party within the meaning of any constitutional or statutory provision or limitation of the State of Colorado nor a mandatory charge or requirement against either Party in any ensuing fiscal year beyond the current fiscal year. If the governing body of either Party shall fail to budget and appropriate funds for its share of expenses as described in this Agreement, then this Agreement shall terminate as of the end of the fiscal year for which such funds were last budgeted and appropriated.

14. In the event a Party has been declared in default, such defaulting Party shall be allowed a period of thirty (30) days within which to cure said default. In the event the default remains uncorrected, the Party declaring default may elect to terminate the Agreement and so notify the defaulting Party in writing. Any amounts due to the non-defaulting Party shall be paid within fifteen (15) days of the date of notice of termination is received.
15. Liability of the Parties shall be apportioned as follows:
- a. Fort Collins shall be responsible for all claims, damages, liability, and court awards, including costs, expenses, and attorney fees incurred, should Fort Collins be found liable as a result of any action or omission of Fort Collins or its officers, employees, and agents, in connection with the performance of this Agreement.
  - b. Loveland shall be responsible for all claims, damages, liability, and court awards, including costs, expenses, and attorney fees incurred, should Loveland be found liable as a result of any action or omission of Loveland or its officers, employees, and agents, in connection with the performance of this Agreement.
  - c. Nothing in this **Section 16** or any other provision of this Agreement shall be construed as a waiver of the notice requirements, defenses, immunities, and limitations the Parties may have under the Colorado Governmental Immunity Act (Section 24-10-101, C.R.S. *et seq.*) or any other defenses, immunities, or limitations of liability available to any Party by law.
  - d. Any liability of the Parties under this Agreement shall be subject to appropriation of funds by their respective governing bodies sufficient to satisfy such liability as required by their Charter provisions.
  - e. No elected official, director, officer, agent, or employee of the Parties shall be charged personally or held contractually liable under any term or provision of this Agreement, or because of any breach thereof or because of its or their execution, approval or attempted execution of this Agreement.
16. This Agreement embodies the entire agreement of the Parties about the FLEX program. The Parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein.
17. The Parties hereto may not assign this Agreement or parts hereof or its rights hereunder without the express written consent of all of the Parties. Any attempt to assign this Agreement in the absence of such written consent shall be null and void *ab initio*.
18. No changes, amendments, or modifications of any of the terms or conditions of this Agreement shall be valid unless reduced to writing and signed by the Parties, except as provided herein.
19. The laws of the State of Colorado shall be applied to the interpretation, execution, and enforcement of this Agreement. The Parties recognize the legal constraints imposed upon them by the constitutions,

statutes, and regulations of the State of Colorado and the United States, and imposed upon the Parties by their respective charters, municipal codes, and other similar documents and, subject to such constraints, the Parties intend to carry out the terms and conditions of this Agreement. Notwithstanding any other provision in this Agreement to the contrary, in no event shall any party exercise any power or take any action which shall be prohibited by applicable law.

20. Any provision rendered null and void by operation of law shall not invalidate the remainder of this Agreement to the extent that this Agreement is capable of execution.
21. Either Party's failure to enforce any provision of this Agreement shall not in any way be construed as a waiver of any such provision or prevent that Party thereafter from enforcing each and every other provision of this Agreement.
22. This Agreement does not and is not intended to confer any rights or remedies upon any entity or person other than the Parties.
23. This Agreement may be executed in multiple counterparts; all counterparts so executed shall constitute one agreement binding upon all parties, notwithstanding that all parties are not signatories to the original or the same counterpart.
24. This Agreement may be executed by electronic signature in accordance with C.R.S. 24-71.3-101 *et seq.* Documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

**CITY OF FORT COLLINS, COLORADO**  
a municipal corporation

By: \_\_\_\_\_  
Kelly DiMartino, City Manager

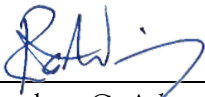
ATTEST:

\_\_\_\_\_  
Name, Title

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney

**CITY OF LOVELAND, COLORADO**  
a municipal corporation

By:   
\_\_\_\_\_  
Stephen C. Adams, City Manager  
Rod Wensing, Acting City Manager

ATTEST:

  
\_\_\_\_\_  
Assistant City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Assistant City Attorney





**EXHIBIT A**

FLEX service will be provided within the following parameters:

- Days of Service: Monday – Friday (between the cities of Fort Collins and Boulder) and Monday – Saturday (between the cities of Fort Collins and Longmont). No service is provided on New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.
- Hours of Service: 5AM – 8 PM
- Frequency of Service: 60 Minutes

Service Area Maps:

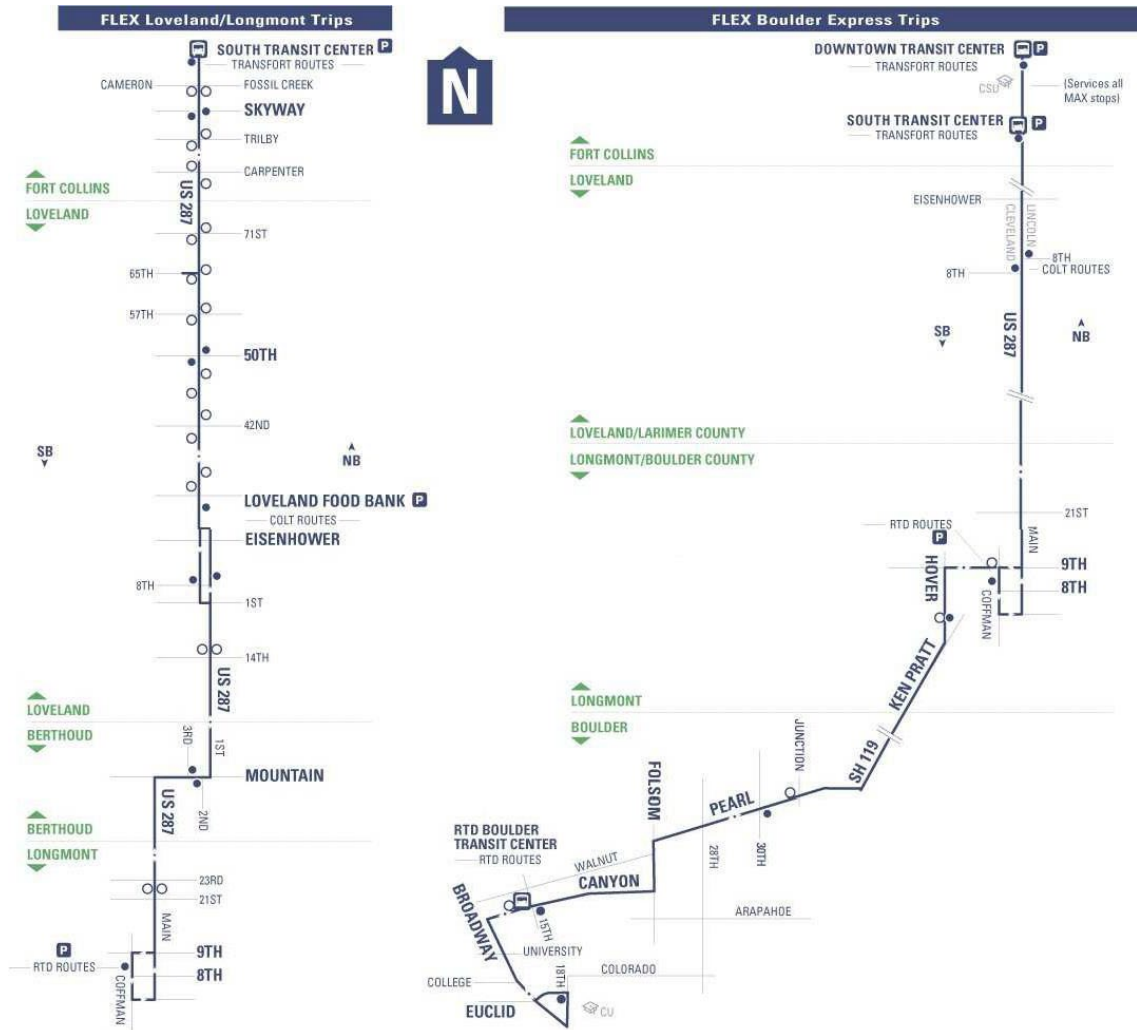


EXHIBIT B

	2022	2023	2024		
Operating Cost	\$2,001,672	\$2,161,806	\$2,248,278		
Fares	\$40,000	N/A	N/A		
CMAQ Flex to Boulder Enhancement	\$218,545	\$225,102	N/A		
EcoPass Reimbursement	\$5,000	\$5,000	N/A		
FASTER Funding	\$200,000	\$200,000	\$200,000		
CSU Contribution	\$63,193	\$63,193	\$65,089		
<b>Remainder to be split among partners</b>	<b>\$1,474,934</b>	<b>\$1,668,511</b>	<b>\$1,983,189</b>		
	% Passenger Activity (2019, 2021, 2022)	Amount Owed	Less 5307 Contribution	Loveland's Additional 5307 Withheld Amount	Loveland's Amount Owed
Fort Collins	46.69%	\$926,002	\$695,555		
Loveland	32.32%	\$641,031	\$537,379	\$268,689	\$268,689
Longmont	7.28%	\$144,439			
Boulder County	6.25%	\$124,043			
City of Boulder	5.23%	\$103,648			
Berthoud	2.22%	\$44,026	\$28,125		
<b>Total</b>		<b>\$1,983,189</b>			
<b>Fort Collins UZA 5307 Breakdown</b>	<b>% TMA Service Area Population</b>	<b>\$350,000</b>			
Fort Collins	65.84%	\$230,447			
Loveland	29.61%	\$103,652			
Berthoud	4.54%	\$15,901			
*highlighted = total owed by partner					

RESOLUTION 2024-102  
 OF THE COUNCIL OF THE CITY OF FORT COLLINS  
 AUTHORIZING THE EXECUTION OF AN  
 INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF  
 FORT COLLINS, COLORADO AND THE TOWN OF BERTHOUD  
 FOR THE FLEX ROUTE REGIONAL TRANSIT SERVICES

A. Each year since 2016, the City has entered into an intergovernmental agreement (“IGA”) with the Town of Berthoud (“Berthoud”) to provide FLEX Route Regional Transit Services.

B. Both the City and Berthoud contribute a percentage of funds based on the ridership of each jurisdiction.

C. This partnership has contributed toward regional connectivity transit goals, and City Council wishes to continue offering these services.

D. The funds for the City’s expenditure and reimbursement for these transit services were appropriated previously through the Budgeting for Outcomes Process; thus, no appropriation action is required with this item.

E. This Resolution comes before City Council to authorize the attached IGA for Bus Service between the City of Fort Collins and the Town of Berthoud substantially in the form attached hereto as Exhibit “A” and incorporated herein by this reference (the “IGA”).

F. The attached IGA for Bus Service with the Town of Berthoud is intended to be effective retroactively on January 1, 2024. The extended delay in executing this IGA is the result of unanticipated changes in the availability of federal funding.

G. City Council has determined that the IGA is in the best interests of the City and that the City Manager be authorized to execute the IGA between the City and Berthoud in support thereof.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. City Council hereby authorizes the City Manager to execute the IGA in substantially the form attached hereto as Exhibit “A,” together with such modifications and additions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City or effectuate the purposes of this Resolution as set forth above.

Section 2. During the term of the IGA the City Manager, in consultation with the City Attorney, also is authorized to approve and execute amendments to the IGA

consistent with this Resolution so long as the City Manager determines such amendments: (a) are reasonably necessary and appropriate to protect the City's interests or provide a benefit to the City; (b) effectuate the purposes of this Resolution; and (c) limit the City's financial obligation to expenditure of funds already appropriated and approved by Council or conditioned upon such appropriation.

Passed and adopted on August 20, 2024.

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Mayor Pro Tem

ATTEST:

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City Clerk

Effective Date: August 20, 2024  
Approving Attorney: Madelene Shehan

**INTERGOVERNMENTAL AGREEMENT  
FOR BUS SERVICE BETWEEN THE CITY OF FORT COLLINS AND  
THE TOWN OF BERTHOUD**

This Agreement is made this 28<sup>th</sup> day of MAY, 2024, between the **City of Fort Collins, Colorado**, a municipal corporation (hereinafter "Fort Collins"), and the **Town of Berthoud**, a public body corporate and politic (hereinafter "Berthoud") (Fort Collins and Berthoud collectively may be referred to as the "Parties" or, individually, as a "Party").

**RECITALS**

WHEREAS, the Parties desire to provide regional connector bus service between Fort Collins and Berthoud; and

WHEREAS, Fort Collins has its own fixed-route bus system (hereinafter "Transfort");

WHEREAS, FLEX is a regional connector bus service operated by Transfort in partnership with Loveland, Berthoud, Longmont, City of Boulder, and Boulder County (hereinafter "Partners") to provide services to said communities pursuant to separate Intergovernmental Agreements; and

WHEREAS, Transfort is willing and able to extend FLEX services along the U.S. Highway 287 and Highway 119 corridors between Fort Collins and Boulder (hereinafter "FLEX") with stops in Fort Collins, Loveland, Berthoud, Longmont, and Boulder; and

WHEREAS, the Parties have determined that significant economic and efficiency benefits result for each Party through the provision of FLEX by Transfort.

**NOW, THEREFORE**, in consideration of the mutual promises herein and other good and valuable consideration, receipt and adequacy of which is acknowledged, the Parties agree as follows:

**AGREEMENT**

1. The foregoing recitals are hereby incorporated as though fully set forth herein.
2. Fort Collins shall provide connector bus service, FLEX, in accordance with the terms of this Agreement and as specifically identified and described in **Exhibit A**, attached hereto and incorporated herein by this reference, throughout the term of this Agreement. The services identified and described in **Exhibit A** are subject to increase, modification, reduction, termination, and pursuant to this **Section 2** and **Section 4** of this Agreement.
  - a. Increased service beyond that described in **Exhibit A** may be provided by Fort Collins, at its sole discretion, to the extent Fort Collins determines appropriate given the demand for service and available resources. Prior to providing additional service at Fort Collins' expense, Fort Collins shall provide advance written notice to the Partners. Prior to providing additional service with Partner

contribution, Fort Collins and the Partners will amend Exhibit A and the respective cost share associated with the change. If the Partners and Fort Collins cannot agree to amend Exhibit A for the additional service then any such additional service that exceeds the services described in **Exhibit A** may be reduced or stopped by Fort Collins, at its sole discretion. Prior to reducing or stopping any such additional service, Fort Collins will make reasonable efforts to provide 30 days of advance written notice to the Partners.

- b. In the event Fort Collins determines that circumstances require modification of FLEX services as described in **Exhibit A** to better accommodate the demand for service or the efficient provision of service, Fort Collins shall be entitled to implement such modification at its sole discretion. Fort Collins will make reasonable efforts to provide 30 days of advance written notice of any such modification to the Partners.
3. This Agreement shall commence on January 1, 2024 and shall continue in full force and effect until December 31, 2024 unless sooner terminated as herein provided.
  4. Fort Collins agrees that all services provided under this Agreement shall be consistent with Transfort system operating policies and procedures, as the same may be amended, from time to time, in Fort Collins' sole discretion, and that all such services shall be consistent with the Transfort operation schedule.
  5. In consideration of the services provided by Fort Collins under this Agreement, and the mutual financial commitments herein made, Town of Berthoud agrees to contribute to the direct and indirect costs of operating FLEX, as supplemented by such additional federal or state grant funds as may be available therefor. The Parties agree to use ridership data to formulate the cost share associated with each Partner. Based on average ridership data from 2019, 2021 and 2022 for each term of this Agreement, Berthoud shall pay to Fort Collins the amount of \$44,026 for the year 2024 for its share of direct and indirect costs of operating FLEX subject to any cost share adjustment pursuant to **Section 7** or need for additional service pursuant to **Section 1**. Fort Collins currently maintains and administers Berthoud's portion of the Urbanized Area Formula Funding (49 U.S.C. § 5307) grant funds (the "5307 Funds"). Berthoud will allow Fort Collins to withhold \$15,901 from its balance of 5307 Funds from the Fiscal Year 2024. Town of Berthoud will remain responsible for the remaining amounts owed under this IGA after deduction of the 5307 Funds, in the amount of \$28,125. Fort Collins will invoice Partners in the first quarter of 2024 for the FLEX service provided in 2024. Such payment shall be made within 60 days after receipt of an invoice.
  6. Any additional revenues collected by Berthoud from the operation of FLEX, shall be remitted to Fort Collins. Such revenue, and any additional revenues collected by Fort Collins from the operation of FLEX, shall be used to supplement FLEX operation expenses to equally benefit the Parties.
  7. The Parties agree to run a ridership analysis on a triennial basis and adjust cost shares according to ridership quantities relative to each Partner. Ridership data will be an average of the previous year of service.
  8. The Parties acknowledge and agree that the budget proposal for operation of FLEX for 2024 (or any subsequent term of this Agreement if extended pursuant to **Section 2**) includes projected FLEX Revenue and anticipated revenues from bus fares pursuant to **Section 10** ("FLEX Fare Revenue"). If FLEX Revenue

and FLEX Fare Revenue for 2024 (or any subsequent term of this Agreement if extended pursuant to Section 2) is insufficient to meet the budget for operation of FLEX, the Parties may elect to appropriate and pay their pro rata share of any shortage. If either Party does not appropriate and pay its pro rata share of the shortage in FLEX Revenue and FLEX Fare Revenue, Fort Collins in its sole discretion may reduce FLEX services as necessary to reduce operating expenses in an amount sufficient to address such a shortage or terminate FLEX service. Prior to any reduction in service or termination, Fort Collins shall provide advance written notice to the Partners.

9. Fort Collins Transfort buses will utilize Regional Transportation District (hereafter "RTD") stops in Boulder, or as otherwise agreed upon by the Parties.
10. The basic cash fare to be charged for FLEX shall be One Dollar and Twenty-Five Cents (\$1.25) per ride; however, Fort Collins currently is not charging fares for the Transfort bus system. Notwithstanding, Fort Collins in its sole discretion shall be entitled to modify the fare to be charged as necessary for the efficient and cost-effective operation of FLEX, provided that advance written notice of any such modification is provided to the Partners. All Fort Collins discounted fare categories for Transfort bus service will apply to FLEX. Fort Collins shall collect any fares due from passengers and accurately record and account for such fare receipts and ridership levels. Fort Collins shall prepare quarterly reports of such receipts and ridership levels and shall provide such quarterly reports to the Partners.
11. All Fort Collins and City of Loveland bus pass programs will be accepted as full fare to ride FLEX. Transfers from FLEX to the Transfort or COLT bus systems will be honored. RTD Eco Pass will be accepted as full fare to ride FLEX; however, free transfers from FLEX to RTD will not be honored.
12. Each Party shall designate a representative, who shall be responsible for managing such Party's performance of the terms of this Agreement and shall provide the other Party with written notice thereof, along with address, telephone, and email information. All notices to be provided under this Agreement shall be provided to such designated representatives. Any notice pursuant to this Agreement shall be hand-delivered or sent by certified mail, return receipt requested, and addressed to the designated representative. Any such notice shall be deemed given upon hand-delivery to the designated representative or their address, or three (3) days after mailing.

If to Fort Collins:

City of Fort Collins

Transfort & Parking Services Director  
City of Fort Collins  
250 N. Mason Street  
Fort Collins, CO 80522

With a copy to:

City Attorney  
City of Fort Collins  
P.O. Box 580  
Fort Collins, CO 80522

If to Berthoud:

Town of Berthoud  
Assistant to the Town Administrator  
807 Mountain Ave  
Berthoud, CO 80513

13. The Parties agree to cooperate fully, to a reasonable extent, in the development and implementation of any surveys or studies undertaken by the other Party to evaluate demand, usage, cost, effectiveness, efficiency, or any other factor relating to the success or performance of FLEX or the need for such service. Such cooperation shall not require the expenditure of funds more than the specific amounts set forth in **Section 5** and **Exhibit B**, however, unless approved in writing and duly appropriated by the Parties.
14. The Parties acknowledge that their obligations under this Agreement are subject to annual appropriation by the governing body of each respective Party and shall not constitute or give rise to a general obligation or other indebtedness of either Party within the meaning of any constitutional or statutory provision or limitation of the State of Colorado, nor a mandatory charge or requirement against either Party in any ensuing fiscal year beyond the current fiscal year. If the governing body of either Party shall fail to budget and appropriate funds for its share of expenses as described in this Agreement, then this Agreement shall terminate as of the end of the fiscal year for which such funds were last budgeted and appropriated.
15. In the event a Party has been declared in default, such defaulting Party shall be allowed notice thereof from the Party declaring default and a period of thirty (30) days within which to cure said default. In the event the default remains uncorrected, the Party declaring default may elect to terminate the Agreement and so notify the defaulting Party in writing. Any amounts due to the non-defaulting Party shall be paid within fifteen (15) days of the date of notice of termination is received.
16. Liability of the Parties shall be apportioned as follows:
  - a. Fort Collins shall be responsible for all claims, damages, liability and court awards, including costs, expenses, and attorney fees incurred, should Fort Collins be found liable as a result of any action or omission of Fort Collins or its officers, employees, and agents, in connection with the performance of this Agreement.
  - b. Berthoud shall be responsible for all claims, damages, liability and court awards, including costs, expenses, and attorney fees incurred, should Berthoud be found liable as a result of any action or omission of Berthoud or its officers, employees, and agents, in connection with the performance of this Agreement.



- c. Nothing in this **Section 16** or any other provision of this Agreement shall be construed as a waiver of the notice requirements, defenses, immunities, and limitations the Parties may have under the Colorado Governmental Immunity Act (Section 24-10-101, *et seq.*, C.R.S.) or any other defenses, immunities, or limitations of liability available to any Party by law.
  - d. Any liability of the Parties under this Agreement shall be subject to appropriation of funds by their respective governing bodies.
  - e. No elected official, director, officer, agent or employee of the Parties shall be charged personally or held contractually liable under any term or provision of this Agreement, or because of any breach thereof or because of its or their execution, approval or attempted execution of this Agreement.
17. This Agreement embodies the entire agreement of the Parties about the FLEX program. The Parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein.
18. The Parties hereto may not assign this Agreement or parts hereof or its rights hereunder without the express written consent of all of the Parties. Any attempt to assign this Agreement in the absence of such written consent shall be null and void *ab initio*.
19. No changes, amendments or modifications of any of the terms or conditions of this Agreement shall be valid unless reduced to writing and signed by the Parties, except as provided herein.
20. The laws of the State of Colorado shall be applied to the interpretation, execution and enforcement of this Agreement. The Parties recognize the legal constraints imposed upon them by the constitutions, statutes, and regulations of the State of Colorado and the United States, and imposed upon the Parties by their respective charters, municipal codes and other similar documents and, subject to such constraints, the Parties intend to carry out the terms and conditions of this Agreement. Notwithstanding any other provision in this Agreement to the contrary, in no event shall any party exercise any power or take any action which shall be prohibited by applicable law.
21. Any provision rendered null and void by operation of law shall not invalidate the remainder of this Agreement to the extent that this Agreement is capable of execution.
22. Either Party's failure to enforce any provision of this Agreement shall not in any way be construed as a waiver of any such provision or prevent that Party thereafter from enforcing each and every other provision of this Agreement.
23. This Agreement does not and is not intended to confer any rights or remedies upon any entity or person other than the Parties.

24. This Agreement may be executed in multiple counterparts; all counterparts so executed shall constitute one agreement binding upon all parties, notwithstanding that all parties are not signatories to the original or the same counterpart.
25. This Agreement may be executed by electronic signature in accordance with C.R.S. § 24-71.3-101, et seq. Documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.

26. IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

**CITY OF FORT COLLINS, COLORADO**  
a municipal corporation

By: \_\_\_\_\_  
Kelly DiMartino, City Manager

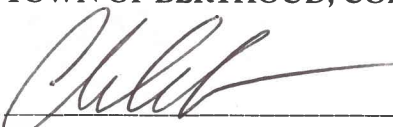
ATTEST:

\_\_\_\_\_  
Name, Title


APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney

**TOWN OF BERTHOUD, COLORADO**

By:   
Town Administrator

ATTEST:   
Town Clerk

APPROVED AS TO FORM:  
  
Town Attorney



**EXHIBIT A**

FLEX service will be provided within the following parameters:

- Days of Service: Monday - Friday (between the cities of Fort Collins and Boulder) and Monday
- Saturday (between the cities of Fort Collins and Longmont). No service is provided on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.
- Hours of Service: 5AM - 8 PM
- Frequency of Service: 60 Minutes

Service Area Maps:

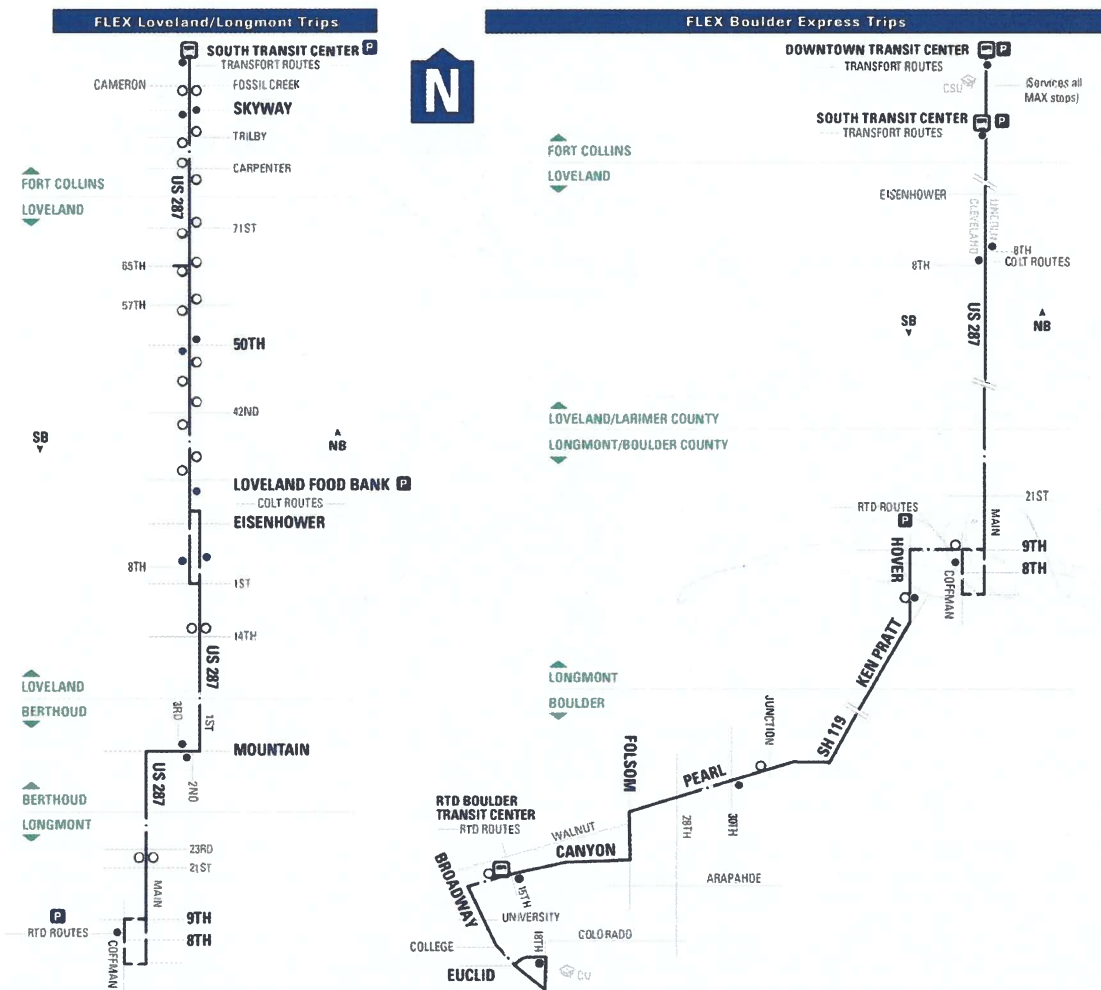


EXHIBIT B

	2022	2023	2024			
Operating Cost	\$2,001,672	\$2,161,806	\$2,248,278			
Fares	\$40,000	N/A	N/A			
CMAQ Flex to Boulder Enhancement	\$218,545	\$225,102	N/A			
EcoPass Reimbursement	\$5,000	\$5,000	N/A			
FASTER Funding	\$200,000	\$200,000	\$200,000			
CSU Contribution	\$63,193	\$63,193	\$65,089			
<b>Remainder to be split among partners</b>	<b>\$1,474,934</b>	<b>\$1,668,511</b>	<b>\$1,983,189</b>			
	% Passenger Activity (2019, 2021, 2022)	Amount Owed	Less 5307 Contribution	Loveland's Additional 5307 Withheld Amount	Loveland's Amount Owed	
Fort Collins	46.69%	\$926,002	\$695,555			
Loveland	32.32%	\$641,031	\$537,379	\$268,689	\$268,689	
Longmont	7.28%	\$144,439				
Boulder County	6.25%	\$124,043				
City of Boulder	5.23%	\$103,648				
Berthoud	2.22%	\$44,026	\$28,125			
<b>Total</b>		<b>\$1,983,189</b>				
Fort Collins UZA 5307 Breakdown	% TMA Service Area Population					
Fort Collins	65.84%	\$230,447				
Loveland	29.61%	\$103,652				
Berthoud	4.54%	\$15,901				
*highlighted = total owed by partner						



RESOLUTION 2024-103  
 OF THE COUNCIL OF THE CITY OF FORT COLLINS  
 AUTHORIZING THE EXECUTION OF AN  
 INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF  
 FORT COLLINS, COLORADO AND THE COUNTY OF BOULDER  
 FOR THE FLEX ROUTE REGIONAL TRANSIT SERVICES

A. Each year since 2016, the City has entered into an intergovernmental agreement (“IGA”) with the County of Boulder (“Boulder County”) to provide FLEX Route Regional Transit Services.

B. Both the City and Boulder County contribute a percentage of funds based on the ridership of each jurisdiction.

C. This partnership has contributed toward regional connectivity transit goals, and City Council wishes to continue offering these services.

D. The funds for the City’s expenditure and reimbursement for these transit services were appropriated previously through the Budgeting for Outcomes Process; thus, no appropriation action is required with this item.

E. This Resolution comes before City Council to authorize the attached IGA for Bus Service between the City of Fort Collins and Boulder County substantially in the form attached hereto as Exhibit “A” and incorporated herein by this reference (the “IGA”).

F. The attached IGA for Bus Service with Boulder County is intended to be effective retroactively on January 1, 2024. The extended delay in executing this IGA is the result of unanticipated changes in the availability of federal funding.

G. City Council has determined that the IGA is in the best interests of the City and that the City Manager be authorized to execute the IGA between the City and Boulder County in support thereof.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that the as follows:

Section 1. City Council hereby authorizes the City Manager to execute the IGA in substantially the form attached hereto as Exhibit “A,” together with such modifications and additions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City or effectuate the purposes of this Resolution as set forth above.

Section 2. During the term of the IGA the City Manager, in consultation with the City Attorney, also is authorized to approve and execute amendments to the IGA

consistent with this Resolution so long as the City Manager determines such amendments: (a) are reasonably necessary and appropriate to protect the City's interests or provide a benefit to the City; (b) effectuate the purposes of this Resolution; and (c) limit the City's financial obligation to expenditure of funds already appropriated and approved by Council or conditioned upon such appropriation.

Passed and adopted on August 20, 2024.

---

Mayor Pro Tem

ATTEST:

---

City Clerk

Effective Date: August 20, 2024  
Approving Attorney: Madelene Shehan



**INTERGOVERNMENTAL AGREEMENT  
FOR BUS SERVICE BETWEEN THE CITY OF FORT COLLINS AND  
BOULDER COUNTY**

This Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 2024 between the **City of Fort Collins, Colorado**, a municipal corporation (hereinafter “Fort Collins”), and the **Board of County Commissioners on behalf of the County of Boulder, State of Colorado**, a public body corporate and politic, for the benefit of the Community Planning & Permitting Department (hereinafter “Boulder County”) (Fort Collins and Boulder County collectively may be referred to as the “Parties” or individually, as a “Party”).

**RECITALS**

WHEREAS, the Parties desire to provide regional connector bus service between Fort Collins and Boulder County; and

WHEREAS, Fort Collins has its own fixed-route bus system (hereinafter “Transfort”);

WHEREAS, FLEX is a regional connector bus service operated by Transfort (hereinafter “FLEX”) in partnership with Loveland, Berthoud, Longmont, City of Boulder, and Boulder County (hereinafter “Partners”) to provide services to said communities pursuant to separate Intergovernmental Agreements; and

WHEREAS, Transfort is willing and able to provide FLEX services along the U.S. Highway 287 and Highway 119 corridors between Fort Collins and Boulder (hereinafter “FLEX”) with stops in Fort Collins, Loveland, Longmont, and Boulder; and

WHEREAS, the Parties have determined that significant economic and efficiency benefits result for each Party through the provision of FLEX by Transfort.

**NOW, THEREFORE**, in consideration of the mutual promises herein and other good and valuable consideration, receipt and adequacy of which is acknowledged, the Parties agree as follows:

**AGREEMENT**

1. The foregoing recitals are hereby incorporated as though fully set forth herein.
2. Fort Collins shall provide connector bus service, FLEX, in accordance with the terms of this Agreement and as specifically identified and described in **Exhibit A**, attached hereto and incorporated herein by this reference, throughout the term of this Agreement. The services identified and described in **Exhibit A** are subject to increase, modification, reduction, and termination pursuant to this **Section 2** and **Section 15** of this Agreement.
  - a. Increased service beyond that described in **Exhibit A** may be provided by Fort Collins, at its sole discretion, to the extent Fort Collins determines appropriate given the demand for service and available resources. Prior to providing additional service at Fort Collins’ expense, Fort Collins shall

provide advance written notice to the Partners. Prior to providing additional service with Partner contribution, Fort Collins and the Partners will amend **Exhibit A** and the respective cost share associated with the change. If the Partners and Fort Collins cannot agree to amend **Exhibit A** for the additional service then any such additional service that exceeds the services described in **Exhibit A** may be reduced or stopped by Fort Collins, at its sole discretion. Prior to reducing or stopping any such additional service, Fort Collins will make reasonable efforts to provide 30 days of advance written notice to the Partners.

- b. In the event Fort Collins determines that circumstances require modification of FLEX services as described in **Exhibit A** to better accommodate the demand for service or the efficient provision of service, Fort Collins shall be entitled to implement such modification at its sole discretion. Fort Collins will make reasonable efforts to provide 30 days of advance written notice of any such modification to the Partners.
3. This Agreement shall commence on January 1, 2024 and shall continue in full force and effect until December 31, 2024, unless extended or sooner terminated as herein provided.
4. Fort Collins agrees that all services provided under this Agreement shall be consistent with Transfort system operating policies and procedures, as the same may be amended, from time to time, in Fort Collins' sole discretion, and that all such services shall be consistent with the Transfort operation schedule.
5. In consideration of the services provided by Fort Collins under this Agreement, and the mutual financial commitments herein made, Boulder County agrees to contribute to the direct and indirect costs of operating FLEX, as supplemented by such additional federal or state grant funds as may be available therefor. The Parties agree to use ridership data to formulate the cost share associated with each Partner. Based on average ridership data from 2019, 2021 and 2022 for each term of this Agreement, Boulder County shall pay to Fort Collins \$124,043 for the year 2024 for its share of direct and indirect costs of operating FLEX subject to any cost share adjustment pursuant to **Section 7** or need for additional service pursuant to Section 1. Fort Collins will invoice Partners in the first quarter of 2024 for the FLEX service provided in 2024. Such payment shall be made within 60 days after receipt of an invoice.
6. Any additional revenues collected by Boulder County from the operation of FLEX shall be remitted to Fort Collins. Such revenue, and any additional revenues collected by Fort Collins from the operation of FLEX, shall be used to supplement FLEX operation expenses to equally benefit the Parties.
7. The Parties agree to run a ridership analysis on a triennial basis and adjust cost shares according to ridership quantities relative to each Partner. Ridership data will be an average of the previous year of service.
8. The Parties acknowledge and agree that the budget proposal for operation of FLEX for 2024 (or any subsequent term of this Agreement if extended pursuant to **Section 2**) includes projected FLEX Revenue and anticipated revenues from bus fares pursuant to **Section 10** ("FLEX Fare Revenue"). If FLEX Revenue and FLEX Fare Revenue for 2024 (or any subsequent term of this Agreement if extended pursuant to **Section 2**) is insufficient to meet the budget for operation of FLEX, the Parties may elect to appropriate

and pay their pro rata share of any shortage. If either Party does not appropriate and pay its pro rata share of the shortage in FLEX Revenue and FLEX Fare Revenue, Fort Collins in its sole discretion may reduce FLEX services as necessary to reduce operating expenses in an amount sufficient to address such a shortage or terminate FLEX service. Prior to any reduction in service or termination, Fort Collins shall provide advance written notice to the Partners.

9. Fort Collins Transfort buses will utilize Regional Transportation District (hereinafter "RTD") stops in Boulder, or as otherwise agreed upon by the Parties.
10. The basic cash fare to be charged for FLEX shall be One Dollar and Twenty-Five Cents (\$1.25) per ride; however, Fort Collins currently is not charging fares for the Transfort bus system. Notwithstanding, Fort Collins in its sole discretion shall be entitled to modify the fare to be charged as necessary for the efficient and cost-effective operation of FLEX, provided that advance written notice of any such modification is provided to the Partners. All Fort Collins discounted fare categories for Transfort bus service will apply to FLEX. Fort Collins shall collect any fares due from passengers and accurately record and account for such fare receipts and ridership levels. Fort Collins shall prepare quarterly reports of such receipts and ridership levels and shall provide such quarterly reports to the Partners.
11. All Fort Collins and City of Loveland bus pass programs will be accepted as full fare to ride FLEX. Transfers from FLEX to the Transfort or COLT bus systems will be honored. RTD Eco Pass will be accepted as full fare to ride FLEX, but free transfers from FLEX to RTD will not be honored.
12. Boulder County will reimburse Fort Collins for all Eco Pass boardings on the FLEX route. Patrons using an Eco Pass must show the Eco Pass with the patron's photo to the FLEX operators. FLEX operators should make a reasonable attempt to confirm that the photo on the Eco Pass is the patron's photo. FLEX operators will count each boarding made by Eco Pass via the farebox keypad or some other method. Boulder County will pay Fort Collins \$1.25 for each Eco Pass boarding. Fort Collins will invoice Boulder County not more often than quarterly for the Eco Pass boardings.
13. Each Party shall designate a representative, who shall be responsible for managing such Party's performance of the terms of this Agreement and shall provide the other Party with written notice thereof, along with address, telephone, and email information. All notices to be provided under this Agreement shall be provided to such designated representatives. Any notice pursuant to this Agreement shall be hand-delivered or sent by certified mail, return receipt requested, and addressed to the designated representative. Any such notice shall be deemed given upon hand-delivery to the designated representative or their address or three (3) days after mailing.

If to Fort Collins:

City of Fort Collins

Transport & Parking Services Director  
City of Fort Collins  
250 N. Mason Street  
Fort Collins, CO 80522

With a copy to:

City Attorney  
City of Fort Collins  
P.O. Box 580  
Fort Collins, CO 80522

If to Boulder County:

Dale Case, Director- Community Planning & Permitting  
PO Box 471  
Boulder, CO 80306

14. The Parties agree to cooperate fully, to a reasonable extent, in the development and implementation of any surveys or studies undertaken by the other Party to evaluate demand, usage, cost, effectiveness, efficiency, or any other factor relating to the success or performance of FLEX or the need for such service. Such cooperation shall not require the expenditure of funds more than the specific amounts set forth in **Section 5** and **Exhibit B**, however, unless approved in writing and appropriated by the Parties.
15. The Parties acknowledge that their obligations under this Agreement are subject to annual appropriation by the governing body of each respective Party and shall not constitute or give rise to a general obligation or other indebtedness of either Party within the meaning of any constitutional or statutory provision or limitation of the State of Colorado nor a mandatory charge or requirement against either Party in any ensuing fiscal year beyond the current fiscal year. If the governing body of either Party shall fail to budget and appropriate funds for its share of expenses as described in this Agreement, then this Agreement shall terminate as of the end of the fiscal year for which such funds were last budgeted and appropriated.
16. In the event a Party has been declared in default, such defaulting Party shall be allowed notice thereof from the Party declaring default and a period of thirty (30) days within which to cure said default. In the event the default remains uncorrected, the Party declaring default may elect to terminate the Agreement and so notify the defaulting Party in writing. Any amounts due to the non-defaulting Party shall be paid within fifteen (15) days of the date of notice of termination is received.

17. Liability of the Parties shall be apportioned as follows:
- a. Fort Collins shall be responsible for all claims, damages, liability and court awards, including costs, expenses, and attorney fees incurred, should Fort Collins be found liable as a result of any action or omission of Fort Collins or its officers, employees, and agents, in connection with the performance of this Agreement.
  - b. Boulder County shall be responsible for all claims, damages, liability and court awards, including costs, expenses, and attorney fees incurred, should Boulder County be found liable as a result of any action or omission of Boulder County or its officers, employees, and agents, in connection with the performance of this Agreement.
  - c. Nothing in this Section 17 or any other provision of this Agreement shall be construed as a waiver of the notice requirements, defenses, immunities, and limitations the Parties may have under the Colorado Governmental Immunity Act (Sections 24-10-101, C.R.S. *et seq.*) or any other defenses, immunities, or limitations of liability available to any Party by law.
  - d. Any liability of the Parties under this Agreement shall be subject to appropriation of funds by their respective governing bodies sufficient to satisfy such liability as required by their Charter provisions.
  - e. No elected official, director, officer, agent or employee of the Parties shall be charged personally or held contractually liable under any term or provision of this Agreement, or because of any breach thereof or because of its or their execution, approval or attempted execution of this Agreement.
18. This Agreement embodies the entire agreement of the Parties about the FLEX program. The Parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein.
19. The Parties hereto may not assign this Agreement or parts hereof or its rights hereunder without the express written consent of all of the Parties. Any attempt to assign this Agreement in the absence of such written consent shall be null and void *ab initio*.
20. No changes, amendments or modifications of any of the terms or conditions of this Agreement shall be valid unless reduced to writing and signed by the Parties, except as provided herein.
21. The laws of the State of Colorado shall be applied to the interpretation, execution and enforcement of this Agreement. The Parties recognize the legal constraints imposed upon them by the constitutions, statutes, and regulations of the State of Colorado and the United States, and imposed upon the Parties by their respective charters, municipal codes and other similar documents and, subject to such constraints, the Parties intend to carry out the terms and conditions of this Agreement. Notwithstanding any other provision in this Agreement to the contrary, in no event shall any party exercise any power or take any action which shall be prohibited by applicable law.

22. Any provision rendered null and void by operation of law shall not invalidate the remainder of this Agreement to the extent that this Agreement is capable of execution.
23. Either Party's failure to enforce any provision of this Agreement shall not in any way be construed as a waiver of any such provision or prevent that Party thereafter from enforcing each and every other provision of this Agreement.
24. This Agreement does not and is not intended to confer any rights or remedies upon any entity or person other than the Parties.
25. This Agreement may be executed in multiple counterparts; all counterparts so executed shall constitute one agreement binding upon all parties, notwithstanding that all parties are not signatories to the original or the same counterpart.
26. This Agreement may be executed by electronic signature in accordance with C.R.S. § 24-71.3-101, et seq. Documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.
27. Each Party is a “public entity” under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended, and shall always during the terms of this Agreement maintain such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Act. This insurance shall have minimum limits, which shall match or exceed the maximum governmental liability limits set forth in C.R.S. § 24-10-114, as amended.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

CITY OF FORT COLLINS, COLORADO  
a municipal corporation

By: \_\_\_\_\_  
Kelly DiMartino, City Manager

ATTEST:

\_\_\_\_\_  
Name, Title

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney

THE COUNTY OF BOULDER,  
a body corporate and politic

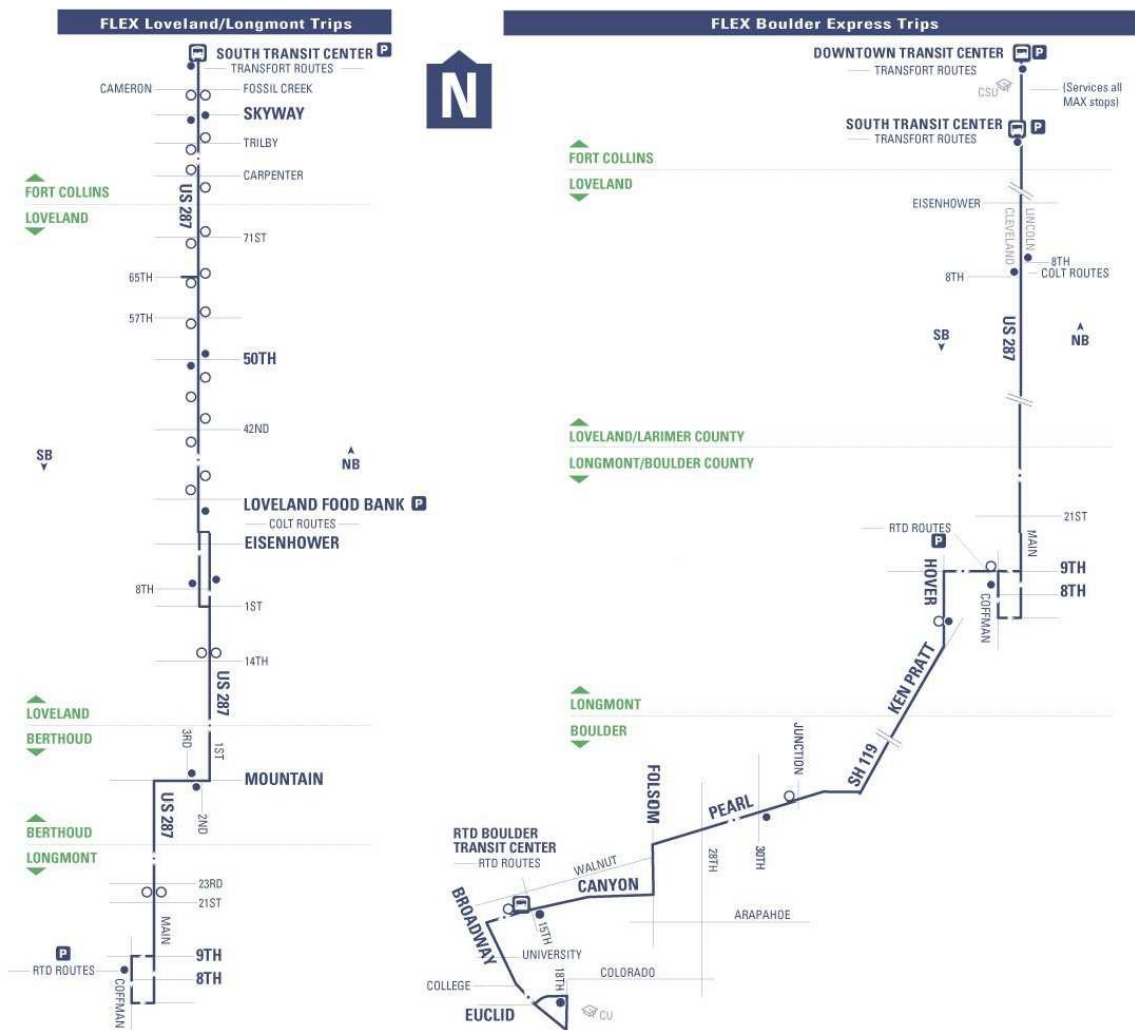
By: *Jana Petersen*  
\_\_\_\_\_  
Jana Petersen, County Administrator

**EXHIBIT A**

FLEX service will be provided within the following parameters:

- Days of Service: Monday – Saturday (between the cities of Fort Collins and Boulder). No service is provided on New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.
- Hours of Service: 5AM – 8 PM
- Frequency of Service: 60 Minutes

Service Area Maps:





**EXHIBIT B**

	2022	2023	2024		
Operating Cost	\$ 2,001,672	\$ 2,161,806	\$ 2,248,278		
Fares	\$ 40,000	N/A	N/A		
CMAQ Flex to Boulder Enhancement	\$ 218,545	\$ 225,102	N/A		
EcoPass Reimbursement	\$ 5,000	\$ 5,000	N/A		
FASTER Funding	\$ 200,000	\$ 200,000	\$ 200,000		
CSU Contribution	\$ 63,193	\$ 63,193	\$ 65,089		
<b>Remainder to be split among partners</b>	<b>\$ 1,474,934</b>	<b>\$ 1,668,511</b>	<b>\$ 1,983,189</b>		
	<b>% Passenger Activity (2019, 2021, 2022)</b>	<b>Amount Owed</b>	<b>Less 5307 Contribution</b>	<b>Loveland's Additional 5307 Withheld Amount</b>	<b>Loveland's Amount Owed</b>
Fort Collins	46.69%	\$ 926,002	\$ 695,555		
Loveland	32.32%	\$ 641,031	\$ 537,379	\$ 268,689	\$ 268,689
Longmont	7.28%	\$ 144,439			
Boulder County	6.25%	\$ 124,043			
City of Boulder	5.23%	\$ 103,648			
Berthoud	2.22%	\$ 44,026	\$ 28,125		
<b>Total</b>		<b>\$ 1,983,189</b>			
<b>Fort Collins UZA 5307 Breakdown</b>	<b>% TMA Service Area Population</b>	<b>\$</b>	<b>350,000</b>		
Fort Collins	65.84%	\$	230,447		
Loveland	29.61%	\$	103,652		
Berthoud	4.54%	\$	15,901		
<b>*highlighted = total owed by partner</b>					

RESOLUTION 2024-104  
 OF THE COUNCIL OF THE CITY OF FORT COLLINS  
 AUTHORIZING THE EXECUTION OF AN  
 INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF  
 FORT COLLINS, COLORADO AND THE CITY OF BOULDER FOR  
 THE FLEX ROUTE REGIONAL TRANSIT SERVICES

A. Each year since 2016, the City has entered into an intergovernmental agreement (“IGA”) with the City of Boulder (“Boulder”) to provide FLEX Route Regional Transit Services.

B. Both the City and Boulder contribute a percentage of funds based on the ridership of each jurisdiction.

C. This partnership has contributed toward regional connectivity transit goals, and City Council wishes to continue offering these services.

D. The funds for the City’s expenditure and reimbursement for these transit services were appropriated previously through the Budgeting for Outcomes Process; thus, no appropriation action is required with this item.

E. This Resolution comes before City Council to authorize the attached IGA for Bus Service between the City of Fort Collins and City of Boulder substantially in the form attached hereto as Exhibit “A” and incorporated herein by this reference (the “IGA”).

F. The attached IGA for Bus Service with the City of Boulder is intended to be effective retroactively on January 1, 2024. The extended delay in executing this IGA is the result of unanticipated changes in the availability of federal funding.

G. City Council has determined that the IGA is in the best interests of the City and that the City Manager be authorized to execute the IGA between the City and Boulder in support thereof.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. City Council hereby authorizes the City Manager to execute the IGA in substantially the form attached hereto as Exhibit “A,” together with such modifications and additions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City or effectuate the purposes of this Resolution as set forth above.

Section 2. During the term of the IGA the City Manager, in consultation with the City Attorney, also is authorized to approve and execute amendments to the IGA

consistent with this Resolution so long as the City Manager determines such amendments: (a) are reasonably necessary and appropriate to protect the City's interests or provide a benefit to the City; (b) effectuate the purposes of this Resolution; and (c) limit the City's financial obligation to expenditure of funds already appropriated and approved by Council or conditioned upon such appropriation.

Passed and adopted on August 20, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: August 20, 2024  
Approving Attorney: Madelene Shehan

**INTERGOVERNMENTAL AGREEMENT  
FOR BUS SERVICE BETWEEN THE CITY OF FORT COLLINS AND  
CITY OF BOULDER**

This Agreement is made this 14th day of May, 2024, between the **City of Fort Collins, Colorado**, a home rule municipal corporation (hereinafter “Fort Collins”), and the **City of Boulder**, a home rule city (hereinafter “Boulder”) (Fort Collins and Boulder collectively may be referred to as the “Parties” or, individually, as a “Party”).

**RECITALS**

WHEREAS, the Parties desire to provide regional connector bus service between Fort Collins and Boulder; and

WHEREAS, Fort Collins has its own fixed-route bus system (hereinafter “Transfort”);

WHEREAS, FLEX is a regional connector bus service operated by Transfort in partnership with Loveland, Berthoud, Longmont, City of Boulder, and Boulder County (hereinafter “Partners”) to provide services to said communities pursuant to separate Intergovernmental Agreements; and

WHEREAS, Transfort is willing and able to extend FLEX services along the U.S. Highway 287 and Highway 119 corridors between Fort Collins and Boulder (hereinafter “FLEX”) with stops in Fort Collins, Loveland, Berthoud, Longmont, and Boulder; and

WHEREAS, the Parties have determined that significant economic and efficiency benefits result for each Party through the provision of FLEX by Transfort.

**NOW, THEREFORE**, in consideration of the mutual promises herein and other good and valuable consideration, receipt and adequacy of which is acknowledged, the Parties agree as follows:

**AGREEMENT**

1. The foregoing recitals are hereby incorporated as though fully set forth herein.
2. Fort Collins shall provide connector bus service, FLEX, in accordance with the terms of this Agreement and as specifically identified and described in **Exhibit A**, attached hereto and incorporated herein by this reference, throughout the term of this Agreement. The services identified and described in **Exhibit A** are subject to increase, modification, reduction, and termination, pursuant to this **Section 2** and **Section 14** of this Agreement.
  - a. Increased service beyond that described in **Exhibit A** may be provided by Fort Collins, at its sole discretion, to the extent Fort Collins determines appropriate given the demand for service and available resources. Prior to providing additional service at Fort Collins’ expense, Fort Collins shall provide advance written notice to the Partners. Prior to providing additional service with Partner contribution, Fort Collins and the Partners will amend Exhibit A and the respective cost share

associated with the change if the Partners all agree to such additional service and respective cost share. If the Partners and Fort Collins cannot agree to amend Exhibit A for the additional service then any such additional service that exceeds the services described in **Exhibit A** may be reduced or stopped by Fort Collins, at its sole discretion. Prior to reducing or stopping any such additional service, Fort Collins will make reasonable efforts to provide 30 days of advance written notice to the Partners.

- b. In the event Fort Collins determines that circumstances require modification of FLEX services as described in **Exhibit A** to better accommodate the demand for service or the efficient provision of service, Fort Collins shall be entitled to implement such modification at its sole discretion. Fort Collins will make reasonable efforts to provide 30 days of advance written notice of any such modification to the Partners.
3. This Agreement shall commence on January 1, 2024, and shall continue in full force and effect until December 31, 2024, unless sooner terminated as herein provided.
4. Fort Collins agrees that all services provided under this Agreement shall be consistent with Transfort system operating policies and procedures, as the same may be amended, from time to time, in Fort Collins' sole discretion, and that all such services shall be consistent with the Transfort operation schedule.
5. In consideration of the services provided by Fort Collins under this Agreement, and the mutual financial commitments herein made, Boulder agrees to contribute to the direct and indirect costs of operating FLEX, as supplemented by such additional federal or state grant funds as may be available therefor. The Parties agree to use ridership data to formulate the cost share associated with each Partner. Based on average ridership data from 2019, 2021 and 2022 for each term of this Agreement, Boulder shall pay to Fort Collins the amount of \$103,648 for the year 2024 as its share of direct and indirect costs of operating FLEX subject to **Section 7**. Fort Collins will invoice Partners in the first quarter of 2024 for the FLEX service provided in 2024 and the first quarter of each subsequent year. Such payment shall be made within 60 days after receipt of an invoice.
6. Any additional revenues collected by Boulder from the operation of FLEX, shall be remitted to Fort Collins. Such revenue, and any additional revenues collected by Fort Collins from the operation of FLEX, shall be used to supplement FLEX operation expenses to equally benefit the Parties.
7. The Parties agree to run a ridership analysis on a triennial basis and adjust cost shares according to ridership quantities relative to each Partner. Ridership data will be an average of the previous year of service.
8. The Parties acknowledge and agree that the budget proposal for operation of FLEX for 2024 includes projected FLEX Revenue and anticipated revenues from bus fares pursuant to **Section 10** ("FLEX Fare Revenue"). If FLEX Revenue and FLEX Fare Revenue for 2024 is insufficient to meet the budget for operation of FLEX, the Parties may elect to appropriate and pay their pro rata share of any shortage. If either Party does not appropriate and pay its pro rata share of the shortage in FLEX Revenue and FLEX Fare Revenue, Fort Collins in its sole discretion may reduce FLEX services as necessary to reduce operating

expenses in an amount sufficient to address such a shortage or terminate FLEX service. Prior to any reduction in service or termination, Fort Collins shall provide advance written notice to the Partners.

9. Fort Collins Transfort buses will utilize existing Regional Transportation District (hereinafter "RTD") stops in Boulder, or as otherwise agreed upon by the Parties.
10. The basic cash fare to be charged for FLEX shall be One Dollar and Twenty-Five Cents (\$1.25) per ride; however, Fort Collins currently is not charging fares for the Transfort bus system. Notwithstanding, Fort Collins in its sole discretion shall be entitled to modify the fare to be charged as necessary for the efficient and cost-effective operation of FLEX, provided that advance written notice of any such modification is provided to the Partners. All Fort Collins discounted fare categories for Transfort bus service will apply to FLEX. Fort Collins shall collect any fares due from passengers and accurately record and account for such fare receipts and ridership levels. Fort Collins shall prepare quarterly reports of such receipts and ridership levels and shall provide such quarterly reports to the Partners.
11. All Fort Collins and City of Loveland bus pass programs will be accepted as full fare to ride FLEX. Transfers from FLEX to the Transfort or COLT bus systems will be honored. RTD Eco Pass will be accepted as full fare to ride FLEX, but free transfers from FLEX to RTD will not be honored.
12. Each Party shall designate a representative, who shall be responsible for managing such Party's performance of the terms of this Agreement and shall provide the other Party with written notice thereof, along with address, telephone, and email information. All notices to be provided under this Agreement shall be provided to such designated representatives. Any notice pursuant to this Agreement shall be hand-delivered or sent by certified mail, return receipt requested, and addressed to the designated representative. Any such notice shall be deemed given upon hand-delivery to the designated representative or their address or three (3) days after mailing.

If to Fort Collins:

City of Fort Collins

Transfort & Parking Services Director  
City of Fort Collins  
250 N. Mason Street  
Fort Collins, CO 80522

With a copy to:

City Attorney  
City of Fort Collins  
P.O. Box 580  
Fort Collins, CO 80522

If to City of Boulder:

Transit Program Manager  
City of Boulder  
1777 Broadway  
Boulder, CO 80302

With a copy to:  
City Attorney  
City of Boulder  
P. O. Box 791  
Boulder, CO 80306

13. The Parties agree to cooperate fully, to a reasonable extent, in the development and implementation of any surveys or studies undertaken by the other Party to evaluate demand, usage, cost, effectiveness, efficiency, or any other factor relating to the success or performance of FLEX or the need for such service. Such cooperation shall not require the expenditure of funds more than the specific amounts set forth in **Section 5** and **Exhibit B**, however, unless approved in writing and appropriated by the Parties.
14. The Parties acknowledge that their obligations under this Agreement are subject to annual appropriation by the governing body of each respective Party and shall not constitute or give rise to a general obligation or other indebtedness of either Party within the meaning of any constitutional or statutory provision or limitation of the State of Colorado nor a mandatory charge or requirement against either Party in any ensuing fiscal year beyond the current fiscal year. If the governing body of either Party shall fail to budget and appropriate funds for its share of expenses as described in this Agreement, then this Agreement shall terminate as of the end of the fiscal year for which such funds were last budgeted and appropriated.
15. In the event a Party has been declared in default, such defaulting Party shall be allowed a period of thirty (30) days within which to cure said default. In the event the default remains uncorrected, the Party declaring default may elect to terminate the Agreement and so notify the defaulting Party in writing. Any amounts due to the non-defaulting Party shall be paid within fifteen (15) days of the date of notice of termination is received.
16. Liability of the Parties shall be apportioned as follows:
  - a. Nothing in this **Section 16** or any other provision of this Agreement shall be construed as a waiver of the notice requirements, defenses, immunities, and limitations the Parties may have under the Colorado Governmental Immunity Act (Section 24-10-101, C.R.S. *et seq.*) or any other defenses, immunities, or limitations of liability available to any Party by law.
  - b. Any liability of the Parties under this Agreement shall be subject to appropriation of funds by their respective governing bodies sufficient to satisfy such liability as required by their Charter provisions.

- c. No elected official, director, officer, agent or employee of the Parties shall be charged personally or held contractually liable under any term or provision of this Agreement, or because of any breach thereof or because of its or their execution, approval or attempted execution of this Agreement.
17. This Agreement embodies the entire agreement of the Parties about the FLEX program. The Parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein.
18. The Parties hereto may not assign this Agreement or parts hereof or its rights hereunder without the express written consent of all of the Parties. Any attempt to assign this Agreement in the absence of such written consent shall be null and void *ab initio*.
19. No changes, amendments or modifications of any of the terms or conditions of this Agreement shall be valid unless reduced to writing and signed by the Parties, except as provided herein.
20. The laws of the State of Colorado shall be applied to the interpretation, execution and enforcement of this Agreement. The Parties recognize the legal constraints imposed upon them by the constitutions, statutes, and regulations of the State of Colorado and the United States, and imposed upon the Parties by their respective charters, municipal codes and other similar documents and, subject to such constraints, the Parties intend to carry out the terms and conditions of this Agreement. Notwithstanding any other provision in this Agreement to the contrary, in no event shall any party exercise any power or take any action which shall be prohibited by applicable law.
21. Any provision rendered null and void by operation of law shall not invalidate the remainder of this Agreement to the extent that this Agreement is capable of execution.
22. Either Party's failure to enforce any provision of this Agreement shall not in any way be construed as a waiver of any such provision or prevent that Party thereafter from enforcing each and every other provision of this Agreement.
23. This Agreement does not and is not intended to confer any rights or remedies upon any entity or person other than the Parties.
24. This Agreement may be executed in multiple counterparts; all counterparts so executed shall constitute one agreement binding upon all parties, notwithstanding that all parties are not signatories to the original or the same counterpart.
25. This Agreement may be executed by electronic signature in accordance with C.R.S. § 24-71.3-101, et seq. Documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.



[THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

**CITY OF FORT COLLINS, COLORADO**  
a municipal corporation

By: \_\_\_\_\_  
Kelly DiMartino, City Manager


ATTEST:

\_\_\_\_\_  
Name, Title

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney

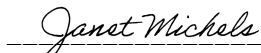
**CITY OF BOULDER, COLORADO**  
a Colorado home rule city

By:  \_\_\_\_\_  
Nuria Rivera-Vandermyde, City Manager

ATTEST:

 \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

 \_\_\_\_\_  
City Attorney

**EXHIBIT A**

FLEX service will be provided within the following parameters:

- Days of Service: Monday – Friday (between the cities of Fort Collins and Boulder) and Monday – Saturday (between the cities of Fort Collins and Longmont). No service is provided on New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.
- Hours of Service: 5AM – 8 PM
- Frequency of Service: 60 Minutes

Service Area Maps:

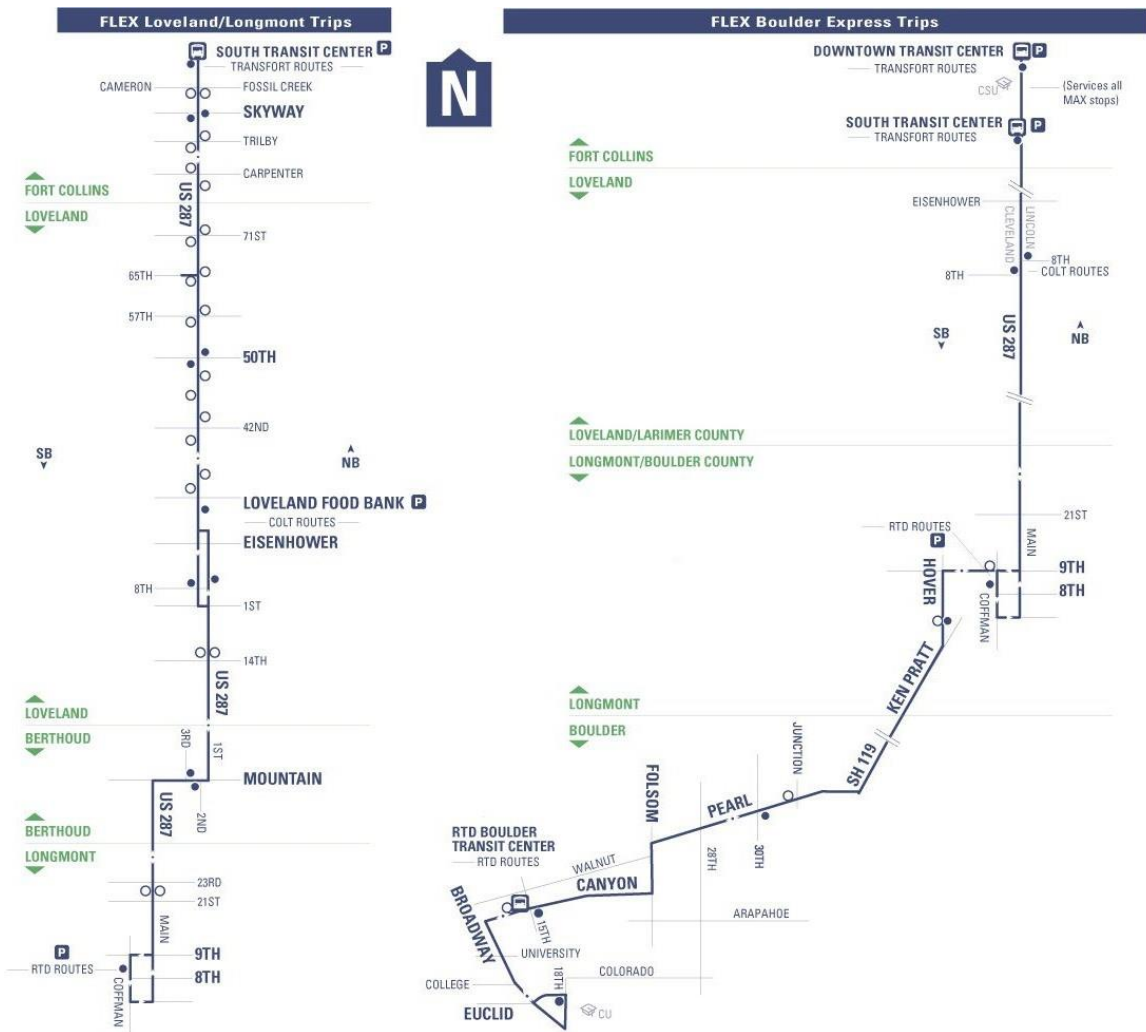


EXHIBIT B

	2022	2023	2024
Operating Cost	\$ 2,001,672	\$ 2,161,806	\$ 2,248,278
Fares	\$ 40,000	N/A	N/A
CMAQ Flex to Boulder Enhancement	\$ 218,545	\$ 225,102	N/A
EcoPass Reimbursement	\$ 5,000	\$ 5,000	N/A
FASTER Funding	\$ 200,000	\$ 200,000	\$ 200,000
CSU Contribution	\$ 63,193	\$ 63,193	\$ 65,089
<b>Remainder to be split among partners</b>	<b>\$ 1,474,934</b>	<b>\$ 1,668,511</b>	<b>\$ 1,983,189</b>

	% Passenger Activity (2019, 2021, 2022)	Amount Owed	Less 5307 Contribution	Loveland's Additional 5307 Withheld Amount	Loveland's Amount Owed
Fort Collins	46.69%	\$ 926,002	\$ 695,555		
Loveland	32.32%	\$ 641,031	\$ 537,379	\$ 268,689	\$ 268,689
Longmont	7.28%	\$ 144,439			
Boulder County	6.25%	\$ 124,043			
City of Boulder	5.23%	\$ 103,648			
Berthoud	2.22%	\$ 44,026	\$ 28,125		
<b>Total</b>		<b>\$ 1,983,189</b>			

Fort Collins UZA 5307 Breakdown	% TMA Service Area Population	\$
		\$ 350,000
Fort Collins	65.84%	\$ 230,447
Loveland	29.61%	\$ 103,652
Berthoud	4.54%	\$ 15,901
<b>*highlighted = total owed by partner</b>		

RESOLUTION 2024-105  
 OF THE COUNCIL OF THE CITY OF FORT COLLINS  
 AUTHORIZING THE EXECUTION OF AN  
 INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF  
 FORT COLLINS, COLORADO AND THE CITY OF LONGMONT  
 FOR THE FLEX ROUTE REGIONAL TRANSIT SERVICES

A. Each year since 2016, the City has entered into an intergovernmental agreement (“IGA”) with the City of Longmont (“Longmont”) to provide FLEX Route Regional Transit Services.

B. Both the City and Longmont contribute a percentage of funds based on the ridership of each jurisdiction.

C. This partnership has contributed toward regional connectivity transit goals, and City Council wishes to continue offering these services.

D. The funds for the City’s expenditure and reimbursement for these transit services were appropriated previously through the Budgeting for Outcomes Process; thus, no appropriation action is required with this item.

E. This Resolution comes before City Council to authorize the attached IGA for Bus Service between the City of Fort Collins and the City of Longmont substantially in the form attached hereto as Exhibit “A” and incorporated herein by this reference (the “IGA”).

F. The attached IGA for Bus Service with the City of Longmont is intended to be effective retroactively on January 1, 2024. The extended delay in executing this IGA is the result of unanticipated changes in the availability of federal funding.

G. City Council has determined that the IGA is in the best interests of the City and that the City Manager be authorized to execute the IGA between the City and Longmont in support thereof.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. City Council hereby authorizes the City Manager to execute the IGA in substantially the form attached hereto as Exhibit “A,” together with such modifications and additions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City or effectuate the purposes of this Resolution as set forth above.

Section 2. During the term of the IGA the City Manager, in consultation with the City Attorney, also is authorized to approve and execute amendments to the IGA consistent with this Resolution so long as the City Manager determines such amendments: (a) are reasonably necessary and appropriate to protect the City’s interests or provide a benefit to the City; (b) effectuate the purposes of this Resolution; and (c) limit the City’s financial obligation to expenditure of funds already appropriated and approved by Council or conditioned upon such appropriation.

Passed and adopted on August 20, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: August 20, 2024  
Approving Attorney: Madelene Shehan

**INTERGOVERNMENTAL AGREEMENT  
FOR BUS SERVICE BETWEEN THE CITY OF FORT COLLINS AND THE CITY OF  
LONGMONT**

This Agreement is made this 10<sup>th</sup> day of July, 2024 between the City of Fort Collins, Colorado, a municipal corporation (hereinafter "Fort Collins"), and the City of Longmont, a municipal corporation (hereafter "Longmont") (Fort Collins and Longmont collectively may be referred to as the "Parties" or individually as a "Party").

**RECITALS**

WHEREAS, the Parties desire to provide regional connector bus service between Fort Collins and City of Longmont; and

WHEREAS, Fort Collins has its own fixed-route bus system (hereinafter "Transfort");

WHEREAS, FLEX is a regional connector bus service operated by Transfort in partnership with Loveland, Berthoud, Longmont, City of Boulder, Boulder County and Colorado State University (hereinafter "Partners") to provide services to said communities pursuant to separate Intergovernmental Agreements; and

WHEREAS, Transfort is willing and able to extend FLEX services along the U.S. Highway 287 and Highway 119 corridors between Fort Collins and Boulder (hereinafter "FLEX") with stops in Fort Collins, Loveland, Longmont, and Boulder; and

WHEREAS, the Parties have determined that significant economic and efficiency benefits result for each Party through the provision of FLEX by Transfort.

NOW, THEREFORE, in consideration of the mutual promises herein and other good and valuable consideration, receipt and adequacy of which is acknowledged, the Parties agree as follows:

**AGREEMENT**

1. The forgoing recitals are hereby incorporated as though fully set forth herein.
2. Fort Collins shall provide connector bus service, FLEX, in accordance with the terms of this Agreement and as specifically identified and described in **Exhibit A**, attached hereto and incorporated herein by this reference, throughout the term of this Agreement. The services identified and described in **Exhibit A** are subject to increase, modification, reduction, termination, and pursuant to this **Section 2** and **Section 4** of this Agreement.
  - a. Increased service beyond that described in **Exhibit A** may be provided by Fort Collins, at its sole discretion, to the extent Fort Collins determines appropriate given the demand for service and available resources. Prior to providing additional service at Fort Collins' expense, Fort Collins shall provide advance written notice to the Partners. Prior to

providing additional service with Partner contribution, Fort Collins and the Partners will amend Exhibit A and the respective cost share associated with the change. If the Partners and Fort Collins cannot agree to amend Exhibit A for the additional service then any such additional service that exceeds the services described in Exhibit A may be reduced or stopped by Fort Collins, at its sole discretion. Prior to reducing or stopping any such additional service, Fort Collins will make reasonable efforts to provide 30 days of advance written notice to the Partners.

- b. In the event Fort Collins determines that circumstances require modification of FLEX services as described in Exhibit A to better accommodate the demand for service or the efficient provision of service, Fort Collins shall be entitled to implement such modification at its sole discretion. Fort Collins will make reasonable efforts to provide 30 days of advance written notice of any such modification to the Partners.
3. This Agreement shall commence on January 1, 2024 and shall continue in full force and effect until December 31, 2024, unless sooner terminated as herein provided.
4. Fort Collins agrees that all services provided under this Agreement shall be consistent with Transfort system operating policies and procedures, as the same may be amended, from time to time, in Fort Collins' sole discretion, and that all such services shall be consistent with the Transfort operation schedule.
5. In consideration of the services provided by Fort Collins under this Agreement, and the mutual financial commitments herein made, Longmont agrees to contribute to the direct and indirect costs of operating FLEX, as supplemented by such additional federal or state grant funds as may be available therefor. The Parties agree to use ridership data to formulate the cost share associated with each entity. Based on average ridership data from 2019, 2021 and 2022, Longmont shall pay to Fort Collins the amount of \$144,439 for the year 2024 and its share of direct and indirect costs of operating FLEX subject to Section 7. Fort Collins will invoice Partners in the first quarter of 2024 for the FLEX service provided in 2024 and the first quarter of each subsequent year. Such payment shall be made within 60 days after receipt of an invoice.
6. Any additional revenues collected by Longmont from the operation of FLEX, shall be remitted to Fort Collins. Such revenue, and any additional revenues collected by Fort Collins from the operation of FLEX, shall be used to supplement FLEX operation expenses and will equally benefit the Parties.
7. The Parties agree to run a ridership analysis on a triennial basis and adjust cost shares according to ridership quantities relative to each Partner. Ridership data will be an average of the previous year of service.
8. The Parties acknowledge and agree that the budget proposal for operation of FLEX for 2024 includes projected FLEX Revenue and anticipated revenues from bus fares pursuant to Section 9 ("FLEX Fare Revenue"). If FLEX Revenue and FLEX Fare Revenue for 2024 is insufficient to meet the budget for operation of FLEX, the Parties may elect to appropriate and pay their pro



rata share of any shortage. If either Party does not appropriate and pay its pro rata share of the shortage in FLEX Revenue and FLEX Fare Revenue, Fort Collins in its sole discretion may reduce FLEX services as necessary to reduce operating expenses in an amount sufficient to address such a shortage or terminate FLEX service. Prior to any reduction in service or termination, Fort Collins shall provide advance written notice to the Partners.

9. Fort Collins Transfort buses will utilize existing Regional Transportation District (hereafter "RTD") stops in Boulder, or as otherwise agreed by the Parties.
10. The basic cash fare to be charged for FLEX shall be One Dollar and Twenty-Five Cents (\$1.25) per ride; however, Fort Collins currently is not charging fares for the Transfort bus system. Notwithstanding, Fort Collins in its sole discretion shall be entitled to modify the fare to be charged as necessary for the efficient and cost-effective operation of FLEX, provided that advance written notice of any such modification is provided to the Partners. All Fort Collins discounted fare categories for Transfort bus service will apply to FLEX. Fort Collins shall collect any fares due from passengers and accurately record and account for such fare receipts and ridership levels. Fort Collins shall prepare quarterly reports of such receipts and ridership levels and shall provide such quarterly reports to the Partners.
11. All Fort Collins and City of Loveland bus pass programs will be accepted as full fare to ride FLEX. Transfers from FLEX to the Transfort or COLT bus systems will be honored. The RTD Eco Pass will be accepted as full fare to ride FLEX, but free transfers from FLEX to RTD will not be honored.
12. Each Party shall designate a representative, who shall be responsible for managing such Party's performance of the terms of this Agreement and shall provide the other Party with written notice thereof, along with address, telephone, and email information. All notices to be provided under this Agreement shall be provided to such designated representatives. Any notice pursuant to this Agreement shall be hand-delivered or sent by certified mail, return receipt requested, and addressed to the designated representative. Any such notice shall be deemed given upon hand-delivery to the designated representative or their address or three (3) days after mailing.

If to Fort Collins:

City of Fort Collins  
 Transfort & Parking Services  
 Director City of Fort Collins  
 250 N. Mason Street  
 Fort Collins, CO 80522

With a copy to:

City Attorney  
 City of Fort Collins  
 P.O. Box 580  
 Fort Collins, CO 80522

If to City of Longmont:

Transportation Planning Manager  
City of Longmont  
385 Kimbark Street  
Longmont, CO 80501

With a copy to:

City Attorney  
City of Longmont  
350 Kimbark Street  
Longmont, CO 80501

- 13. The Parties agree to cooperate fully, to a reasonable extent, in the development and implementation of any surveys or studies undertaken by the other Party to evaluate demand, usage, cost, effectiveness, efficiency, or any other factor relating to the success or performance of FLEX or the need for such service. However, such cooperation shall not require the expenditure of funds more than the specific amounts set forth in Exhibit B, however, unless approved in writing and appropriated by the Parties.
- 14. The Parties acknowledge that their obligations under this Agreement are subject to annual appropriation by the governing body of each respective Party and shall not constitute or give rise to a general obligation or other indebtedness of either Party within the meaning of any constitutional or statutory provision or limitation of the State of Colorado nor a mandatory charge or requirement against either Party in any ensuing fiscal year beyond the current fiscal year. If the governing body of either Party shall fail to budget and appropriate funds for its share of expenses as described in this Agreement, then this Agreement shall terminate as of the end of the fiscal year for which such funds were last budgeted and appropriated.
- 15. In the event a Party has been declared in default, such defaulting Party shall be allowed a period of thirty (30) days within which to cure said default. In the event the default remains uncorrected, the Party declaring default may elect to terminate the Agreement and so notify the defaulting Party in writing. Any amounts due to the non-defaulting Party shall be paid within fifteen (15) days of the date of notice of termination is received.
- 16. Liability of the Parties shall be apportioned as follows:
  - a. Fort Collins shall be responsible for all claims, damages, liability and court awards, including costs, expenses, and attorney fees incurred, should Fort Collins be found liable as a result of any action or omission of Fort Collins or its officers, employees, and agents, in connection with the performance of this Agreement.
  - b. Longmont shall be responsible for all claims, damages, liability and court awards, including costs, expenses, and attorney fees incurred, should Longmont be found liable as a result of

- any action or omission of Longmont or its officers, employees, and agents, in connection with the performance of this Agreement.
- c. Nothing in this Section 16 or any other provision of this Agreement shall be construed as a waiver of the notice requirements, defenses, immunities, and limitations the Parties may have under the Colorado Governmental Immunity Act (Section 24-10-101, C.R.S. *et seq.*) or any other defenses, immunities, or limitations of liability available to any Party by law.
  - d. Any liability of the Parties under this Agreement shall be subject to appropriation of funds by their respective governing bodies sufficient to satisfy such liability as required by their Charter provisions.
  - e. No elected official, director, officer, agent or employee of the Parties shall be charged personally or held contractually liable under any term or provision of this Agreement, or because of any breach thereof or because of its or their execution, approval or attempted execution of this Agreement.
17. This Agreement embodies the entire agreement of the Parties about the FLEX program. The Parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein.
18. The Parties hereto may not assign this Agreement or parts hereof or its rights hereunder without the express written consent of all of the Parties. Any attempt to assign this Agreement in the absence of such written consent shall be null and void *ab initio*.
19. No changes, amendments or modifications of any of the terms or conditions of this Agreement shall be valid unless reduced to writing and signed by the Parties, except as provided herein.
20. The laws of the State of Colorado shall be applied to the interpretation, execution and enforcement of this Agreement. The Parties recognize the legal constraints imposed upon them by the constitutions, statutes, and regulations of the State of Colorado and the United States, and imposed upon the Parties by their respective charters, municipal codes and other similar documents and, subject to such constraints, the Parties intend to carry out the terms and conditions of this Agreement. Notwithstanding any other provision in this Agreement to the contrary, in no event shall any party exercise any power or take any action which shall be prohibited by applicable law.
21. Any provision rendered null and void by operation of law shall not invalidate the remainder of this Agreement to the extent that this Agreement is capable of execution.
22. Either Party's failure to enforce any provision of this Agreement shall not in any way be construed as a waiver of any such provision or prevent that Party thereafter from enforcing each and every other provision of this Agreement.

23. This Agreement does not and is not intended to confer any rights or remedies upon any entity or person other than the Parties.
24. This Agreement may be executed in multiple counterparts; all counterparts so executed shall constitute one agreement binding upon all parties, notwithstanding that all parties are not signatories to the original or the same counterpart.
25. This Agreement may be executed by electronic signature in accordance with C.R.S. § 24-71.3-101, et seq. Documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

**CITY OF FORT COLLINS, COLORADO**  
a municipal corporation

\_\_\_\_\_  
Kelly DiMartino, City Manager

ATTEST

\_\_\_\_\_  
Name, Title

APPROVED AS TO FORM

\_\_\_\_\_  
Assistant City Attorney

CITY OF LONGMONT:

DocuSigned by:  
*Joan Peck*  
61A53AA1F9B14E3...  
MAYOR

ATTEST:

DocuSigned by:  
*David Out*  
4657F252E8E84CC...  
CITY CLERK



7/10/2024  
DATE

APPROVED AS TO FORM:

DocuSigned by:  
*Christopher Robbie*  
CB4E17998922419...  
ASSISTANT CITY ATTORNEY

7/8/2024  
DATE

DocuSigned by:  
*Katy Kubier*  
66802E828B9D4DE...  
PROOFREAD

7/5/2024  
DATE

APPROVED AS TO FORM AND SUBSTANCE:

DocuSigned by:  
*Joni Marsle*  
954EAC218A98461...  
ORIGINATING DEPARTMENT

7/8/2024  
DATE

CA File No. 24-002977

### EXHIBIT A

FLEX service will be provided within the following parameters:

- Days of Service: Monday – Friday (between the cities of Fort Collins and Boulder) and Monday through Saturday (between the cities of Fort Collins and Longmont). No service is provided on New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.
- Hours of Service: 5AM – 8 PM
- Frequency of Service: 60 Minutes

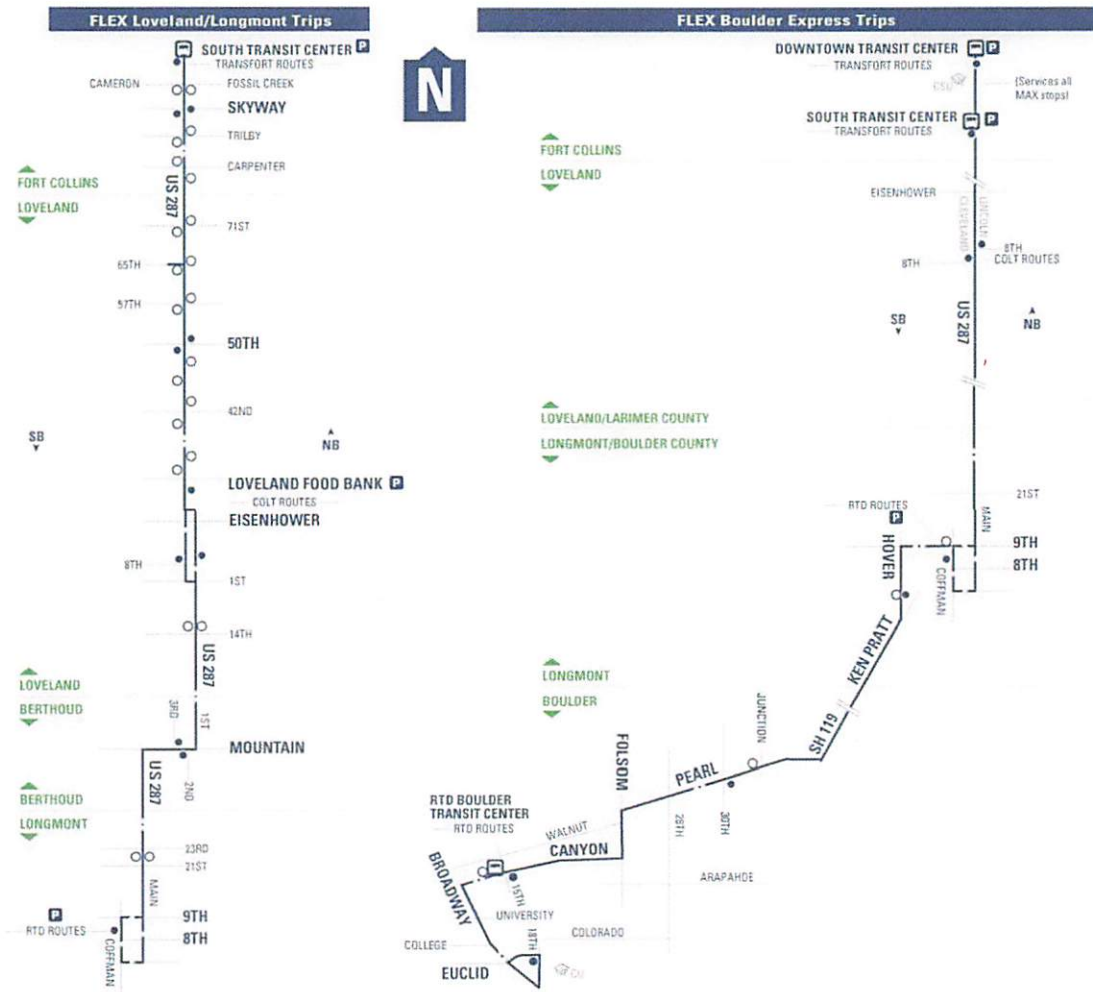


EXHIBIT B

	2022	2023	2024		
Operating Cost	\$2,001,672	\$2,161,806	\$2,248,278		
Fares	\$40,000	N/A	N/A		
CMAQ Flex to Boulder Enhancement	\$218,545	\$225,102	N/A		
EcoPass Reimbursement	\$5,000	\$5,000	N/A		
FASTER Funding	\$200,000	\$200,000	\$200,000		
CSU Contribution	\$63,193	\$63,193	\$65,089		
<b>Remainder to be split among partners</b>	<b>\$1,474,934</b>	<b>\$1,668,511</b>	<b>\$1,983,189</b>		
	% Passenger Activity (2019, 2021, 2022)	Amount Owed	Less 5307 Contribution	Loveland's Additional 5307 Withheld Amount	Loveland's Amount Owed
Fort Collins	46.69%	\$926,002	\$695,555		
Loveland	32.32%	\$641,031	\$537,379	\$268,689	\$268,689
Longmont	7.28%	\$144,439			
Boulder County	6.25%	\$124,043			
City of Boulder	5.23%	\$103,648			
Berthoud	2.22%	\$44,026	\$28,125		
<b>Total</b>		<b>\$1,983,189</b>			
Fort Collins UZA 5307 Breakdown	% TMA Service Area Population				
Fort Collins	65.84%	\$230,447			
Loveland	29.61%	\$103,652			
Berthoud	4.54%	\$15,901			
*highlighted = total owed by partner					



**File Attachments for Item:**

**26. Resolution 2024-106 Approving Fort Fund Special Events Grant Disbursements.**

The purpose of this item is to approve Fort Fund grants from the Cultural Development and Programming Account and the Tourism Programming Account for the selected community events in the Special Event Grant – July Deadline category, based upon the recommendations of the Cultural Resources Board.

August 20, 2024



## AGENDA ITEM SUMMARY

City Council

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### STAFF

Solara Clark, Project Coordinator  
Eileen May, Cultural Services Director  
Ted Hewitt, Legal

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### SUBJECT

**Resolution 2024-106 Approving Fort Fund Special Events Grant Disbursements.**

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### EXECUTIVE SUMMARY

The purpose of this item is to approve Fort Fund grants from the Cultural Development and Programming Account and the Tourism Programming Account for the selected community events in the Special Event Grant – July Deadline category, based upon the recommendations of the Cultural Resources Board.

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### STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

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### BACKGROUND / DISCUSSION

The Fort Fund grant program, established in 1989, disburses lodging tax revenues deposited in the City's Cultural Development and Programming Account and the Tourism Programming Account in accordance with the provisions of Section 25-244 of the City Code, where 25% of the revenue from the lodging tax fund is applied to the Cultural Development and Programming Account and 5% of revenue from lodging tax is dedicated to the Tourism Programming Account. Local non-profit organizations may apply to Fort Fund for cultural and/or tourism event support. The Cultural Resources Board is authorized to review grant applications based on approved guidelines and make recommendations for Fort Fund disbursements to Council, pursuant to Section 2-145 (b) of the City Code. There are three funding categories available and a total of five deadlines: Special Event Grant (January and July deadlines), Program Support Grant (March and September deadlines), and Cross-Sector Impact Grant (October deadline).

Fort Fund grants support arts and cultural events that enrich the creative vitality of the community, promote local heritage and diversity, and provide opportunities for arts and cultural participation. The grants help promote Fort Collins as a creative center and tourist destination and promote the health and well-being of all residents and visitors.

#### **July 25, 2024 Funding Session**

At their July 25th, 2024 funding session, the Cultural Resources Board reviewed four (4) Special Event Grant – July Deadline applications with total requests equaling \$24,000. Four (4) applications were found eligible and recommended for funding for \$17,000.

The following table summarizes the Special Event Grant – July Deadline requests, available funds and grant award amounts:

<b>Grant Requests</b>	<b>Available Funds</b>	<b>Grant Awards</b>
\$24,000	\$17,000	\$17,000

The Cultural Resources Board scored each application using the funding criteria outlined in the Fort Fund Guidelines and discussed the applications at its July 25, 2024 meeting. The Board’s approval and discussion is outlined in the draft minutes. (Attachment 1) The Board is recommending disbursement of \$17,000 to the eligible applicants as outlined in Exhibit A to the Resolution.

**CITY FINANCIAL IMPACTS**

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The Fort Fund grant program, established in 1989, disburses lodging tax revenues deposited in the City’s Cultural Development and Programming Account and Tourism Programming Account in accordance with the provisions of Section 25-244 of the City Code. This Resolution would distribute \$17,000 from the Cultural Development and Programming Account and Tourism Programming Account to local non-profit organizations. Each grantee organization must provide funds to match the grant amount. These funds were budgeted and appropriated in the 2024 budget. Lodging tax is collected pursuant to Section 25-242 of the City Code.

**BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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The Cultural Resources Board is presenting these recommendations to Council for programs and organizations to receive funding at the recommended grant amounts from the Cultural Development and Programming Account and Tourism Programming Account.

Exhibit A to the Resolution presents the allocations recommended by the Cultural Resources Board to the Council for Special Event Grant – July Deadline funding.

**PUBLIC OUTREACH**

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None.

**ATTACHMENTS**

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1. Ordinance for Consideration
2. Exhibit A to the Ordinance
3. Cultural Resources Board Minutes, July 25, 2024

RESOLUTION 2024-106  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROVING FORT FUND SPECIAL EVENTS GRANT  
DISBURSEMENTS

A. Providers of lodging accommodations in the City are required by Section 25-242 of the City Code to pay three percent of all revenues derived from such lodging accommodations to the City as a lodging tax.

B. The Fort Fund Grant Program (“Fort Fund”) supports projects and activities that provide arts and cultural programming to the Fort Collins community and visitors. Established in 1989, Fort Fund distributes lodging tax revenues deposited in the City’s Cultural Development and Programming Account and the Tourism Programming Account in accordance with the provisions of Section 25-244 of the City Code.

C. Local organizations may apply to Fort Fund for cultural and tourism event support. There are three Fort Fund funding programs available for applicants: Special Events; Program Support; and Cross-Sector Impact.

D. The City’s Cultural Resources Board reviews applications from the community for Fort Fund monies and makes recommendations to the City Council in accordance with Section 2-145(b) of the City Code and the administrative guidelines for Fort Fund (the “Fort Fund Guidelines”).

E. At its meeting on July 25, 2024, the Cultural Resources Board recommended funding for various proposals in the Special Events category based on the criteria and considerations set forth in Section 2-145(b) of the City Code and the Fort Fund Guidelines.

F. The use of lodging tax revenues will provide a public benefit to the Fort Collins community by supporting cultural development and public programming activities within the City.

G. The City Council has determined it will advance these purposes to approve Fort Fund grant disbursements as set forth in Exhibit “A,” which is attached hereto.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The City Council hereby finds that the distribution of funds through the Fort Fund program as set forth on Exhibit “A” will promote the cultural and economic health of the community and in doing so will serve a recognized and valuable public purpose.

Section 2. Funds in the total amount of Seventeen Thousand Dollars (\$17,000), comprised of Ten Thousand Seven Hundred Fifty Dollars (\$10,750) from the City's Cultural Development and Programming Account and Six Thousand Two-Hundred Fifty Dollars (\$6,250) from the Tourism Programming Account, are hereby approved for distribution as set forth in Exhibit "A".

Passed and adopted on August 20, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: August 20, 2024  
Approving Attorney: Ted Hewitt

**FORT FUND GRANT PROGRAM**  
**2024 Special Event Grant - July Deadline**

APPLICANT	PROPOSED EVENT/DATE	Approved Funding			UNFUNDED BALANCE	PERCENT OF REQUEST FUNDED
		FUNDING REQUESTS	CULTURAL DEVELOPMENT & PROGRAMMING	TOURISM PROGRAMMING		
CSU Dance	Body/Speak 2025 2/7-8/2025	\$5,000		\$3,384	\$1,616	68%
Friends of the Symphony	The Family Concert 1/19/2025	\$7,500	\$5,375		\$2,125	72%
Soda Shop Movement Company	My Vintage Valentine: Macabre Movements for a Deadful Date Night 2/1/2025	\$7,500	\$5,375		\$2,125	71%
The YAY! Foundation	YAY! Day Fort Collins 10/5/2024	\$4,000		\$2,866	\$1,134	72%
<b>Totals</b>		<b>\$24,000</b>	<b>\$17,000</b>		<b>\$7,000</b>	<b>71%</b>

Scores are based on application materials and Fort Fund's "Criteria for Funding."

# MINUTES

CITY OF FORT COLLINS • BOARDS AND COMMISSIONS

## Cultural Resources Board REGULAR MEETING



Item 26.

Thursday, July 25, 2024 – 5:30 PM, White Pine Room, The Center for Creativity

### CALL TO ORDER: 5:38 PM

### ROLL CALL

- Board Members Present – Sheri Emerick, Conner Horak-Flood, Jessica MacMillan, Kelly Mosher, Leslie Walker (Chair)
- Board Members Remote – Vicki Fogel Mykles (Vice-Chair)
- Board Members Absent – Audra Vaisbort
- Staff Members Present – Solara Clark, Eileen May
- Guest(s) – Michael Gormley, Blast N Scrap

### AGENDA REVIEW

- Katy Schneider was unable to attend the meeting. Her agenda item will be removed from New Business.

### CITIZEN PARTICIPATION

- Nancy Zola (a member of the Art in Public Places Board) attended the meeting to observe. She briefly introduced herself.

### APPROVAL OF MINUTES

- Approval of June 2024 minutes. Jessica MacMillan made a motion to accept the corrected minutes. Sheri Emerick seconded the motion. The motion passed unanimously. Approved by roll call, Ayes: Sheri Emerick, Conner Horak-Flood, Jessica MacMillan, Kelly Mosher, Vicki Fogel Mykles, Leslie Walker.

### UNFINISHED BUSINESS

### NEW BUSINESS

- 2024 Special Event Grant: July Deadline – Discussion and Funding Recommendations
  - Solara Clark reviewed the 2024 Special Event Grant: July Deadline Funding Results.
    - The Board discussed and reviewed four 2024 Special Event Grant: July Deadline applications and funding recommendations.
  - Sheri Emerick made a motion to accept the funding recommendations. Conner Horak-Flood seconded the motion. The motion passed unanimously. Approved by roll call, Ayes: Sheri Emerick, Conner Horak-Flood, Jessica MacMillan, Kelly

# MINUTES

CITY OF FORT COLLINS • BOARDS AND COMMISSIONS

## Cultural Resources Board

### REGULAR MEETING



Item 26.

Thursday, July 25, 2024 – 5:30 PM, White Pine Room, The Center for Creativity

- Mosher, Vicki Fogel Mykles, Leslie Walker.
- The Board discussed each application including what impacted their scores.
- Grantee Presentation – Blast N Scrap
  - Michael Gormley from Blast N Scrap discussed the history, overview, and upcoming programs for the organization.
  - The Board asked some questions about Blast N Scrap.
- Capacity Building Workshop – Discussion
  - Leslie Walker informed the Board that the upcoming workshop for grantees on grant writing will be Monday, October 21, 2024 from 3-5 in the Golden Aspen room at the Center for Creativity.
  - Solara Clark will be sending a calendar invite to Board members for the workshop.
  - There will be co-facilitators at this workshop. Leslie Walker gave the Board an overview of the qualifications of the two facilitators.
- Eileen May – Cultural Services Overview – Presentation
  - Eileen May presented to the Board an overview of the Cultural Services department with special attention to the budget.
    - Eileen answered questions asked by the Board.

#### DIRECTOR'S REPORT

- There is no Director's Report.

#### BOARD MEMBER REPORTS

- Conner Horak-Flood attended the Museum of Art Fort Collins' current exhibit.
- Jessica MacMillan met with Jephtha Bernstein from Off the Hook Arts.
- Leslie Walker attended the Old Fashioned Fourth of July put on by the Poudre Landmarks Foundation, Lincoln Center Support League's Children's Summer Series.

#### OTHER BUSINESS

- Solara Clark informed the Board of the upcoming Human Library event on August 4 from 2-5 pm at the Fort Collins Museum of Discovery.
- Leslie Walker informed the Board that she will not longer be attending Art in Public Places Board meeting as the CuRB liaison. The Board agreed that it was unnecessary to appoint someone else to that position. Board members are encouraged to attend an APP Board meeting. Solara Clark will send out the information to the Board.
- Eileen May reminded the Board that the Center for Creativity will have its Creative Industry Night opening on Friday, July 26 from 6-8 pm and that the public opening is Saturday, July 27 from 10 am to 2 pm.



# MINUTES

CITY OF FORT COLLINS • BOARDS AND COMMISSIONS

## Cultural Resources Board

### REGULAR MEETING



Item 26.

Thursday, July 25, 2043 – 5:30 PM, White Pine Room, The Center for Creativity

- There is interest in holding a meeting at the new Visit Fort Collins location. Solara Clark and Eileen May will discuss with Visit Fort Collins.

#### ADJOURNMENT:

- Sheri Emerick made a motion to adjourn at 7:25 PM. Jessica MacMillan seconded the motion. The motion passed unanimously. Approved by roll call, Ayes: Sheri Emerick, Conner Horak-Flood, Jessica MacMillan, Kelly Mosher, Vicki Fogel Mykles, Leslie Walker.

Respectfully submitted,  
Solara Clark  
Project Coordinator

DRAFT

**File Attachments for Item:**

**27. Second Reading of Ordinance No. 106, 2024, Appropriating Prior Year Reserves in the General Fund for a Civic Assembly Process in Relation to the Hughes Stadium Site.**

This Ordinance, adopted on First Reading by a vote of 4-2 (Nays: Ohlson, Gutowsky; Absent: Pignataro) appropriates one-time dollars in the amount of \$150,000 to be used for a Civic Assembly engagement process in relation to the Hughes Site Plan work. Staff is also requesting that City Council approve a sole source exception for Healthy Democracy Fund to provide services related to the design, coordination and implementation of a civic assembly should grant revenue bring the project above \$200,000.

August 20, 2024

# AGENDA ITEM SUMMARY

City Council




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## STAFF

Rupa Venkatesh, Assistant City Manager  
Ginny Sawyer, Sr. Project Manager

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## SUBJECT

**Second Reading of Ordinance No. 106, 2024, Appropriating Prior Year Reserves in the General Fund for a Civic Assembly Process in Relation to the Hughes Stadium Site.**

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## EXECUTIVE SUMMARY

This Ordinance, adopted on First Reading by a vote of 4-2 (Nays: Ohlson, Gutowsky; Absent: Pignataro) appropriates one-time dollars in the amount of \$150,000 to be used for a Civic Assembly engagement process in relation to the Hughes Site Plan work. Staff is also requesting that City Council approve a sole source exception for Healthy Democracy Fund to provide services related to the design, coordination and implementation of a civic assembly should grant revenue bring the project above \$200,000.

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## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

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## BACKGROUND / DISCUSSION

City Council has expressed a desire to engage the public in a manner that ensures all voices are heard. Civic Assemblies are a method that utilizes both random selection, demographic representation, and compensation to engage diverse residents in learning about a topic, hearing ideas from a variety of interest groups, and ultimately producing well-informed recommendations to City Council on the topic through deliberations. In considering this method, City staff have proposed the Council priority of developing a use plan for the Hughes site as a topic. This also relates to the Council priority to make government more accessible, approachable and fun.

Staff have started collaborating with the American Public Trust (APT), CSU's Center for Public Deliberation, the Strayer Center, Healthy Democracy Fund, and the Local Policy Lab regarding this idea. If funded, 2024 money would be used, through a contract with Healthy Democracy Fund, to raise awareness in the community, send random mailings to seek participants and develop logistical materials and secure meeting locations. 2025 would likely be when the event would actually occur and those dollars would be used for participant compensation, matching grant commitments, and consultant help.

Parallel to a civic assembly, the broader public will still be offered the traditional methods of engagement. The civic assembly tool is being proposed as an addition because of the variety of interest groups, complexity of the project, and potential for polarization in the community. This will also be a learning

opportunity to see how the community responds to this new model of local democracy.

In addition to the \$150,000 appropriation, APT is working on securing funding sources from philanthropic organizations to support even more robust public engagement, outreach efforts, and inclusion support for assembly members. In accordance with Code Section 8-161(d)(3), City Council approval is required for exceptions to the procurement process for anything \$200,000 or more.

Healthy Democracy Fund is a unique nonpartisan, nonprofit organization in the United States that works with local governments to design, coordinate and implement civic assemblies through a lottery selected panel. Their processes are topic-agnostic and moderators only ask non-content questions to help guide the process not the outcome. Healthy Democracy Fund has worked in California on land-use projects, specifically in Petaluma, CA related to a 55-acre City owned property that was formerly a fairground and in Santa Monica related to an anticipated closure of their airport.

### **Engagement with Native Community**

Council requested for information regarding discussions between the Native community and the Equity & Inclusion Office pertaining to the Hughes site. Below is a short summary as well as potential future engagement,

- **Feb 2023-** During a Native Community meeting, the Hughes site was discussed, and information provided was provided about the ballot language. Discussion occurred around what this could mean for the native community and tribal interests.
- **May 2023-** City staff hosted a Zoom call with the Native Community to inform them about the Hughes site and create space for the community to voice their interests. Prior to the City officially purchasing the land in June 2023, a small group of Native community members had organized to produce Land Back project proposal for native use on the property.
- **Proposed for Fall 2024- Informal Consultation:** This would include Local Native community members and Tribal Representatives that have indicated a connection to the area / Hughes site. This would be a step to prepare the community to work with Healthy Democracy Fund and American Public Trust. This informal consultation would create space for the Native community and Tribal representatives to speak freely and gather their thoughts and ideas working towards consensus on potential Native uses of the land in preparation to work alongside a civic assembly.

During this item discussion, American Public Trust and Healthy Democracy Fund will be joining remotely to present to Council more information about the process of selecting a civic assembly and answer any questions.

### **CITY FINANCIAL IMPACTS**

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One-time dollars of \$150,000 would come from the General Fund. Any supplemental revenue received in the form of grants would be brought to Council for appropriation at that time.

### **BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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None.

### **PUBLIC OUTREACH**

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None.

## ATTACHMENTS

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First Reading attachments not included.

1. Ordinance for Consideration

ORDINANCE NO. 106, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROPRIATING PRIOR YEAR RESERVES IN THE GENERAL  
FUND FOR A CIVIC ASSEMBLY PROCESS IN RELATION TO  
THE HUGHES STADIUM SITE

A. In 2021, a citizen-initiated ballot initiative passed, requiring the City to purchase the Hughes Stadium Site (the "Site"), rezone the 164.56 acre Site to Public Open Lands District (POL) and use the Site for "parks, recreation, and open lands, natural areas, and wildlife rescue and restoration." The City and the Board of Governors of the CSU System signed a contract on March 2, 2023, regarding the sale of the Site to the City. The total cost of the purchase, including closing costs, was \$12,700,000.

B. City Council has expressed a desire to engage the public about the use of the Site in a manner that ensures all voices are heard. Civic assemblies are a method that utilizes both random selection, demographic representation, and compensation to engage diverse residents in learning about a topic, hearing ideas from a variety of interest groups, and ultimately producing well-informed recommendations to City Council on the topic through deliberations. City staff have proposed that the Council priority of developing a use plan for the Site be a topic for consideration by a civic assembly.

C. Healthy Democracy Fund is a unique nonpartisan, nonprofit organization in the United States that works with local governments to design, coordinate and implement civic assemblies through a lottery selected panel. Their processes are topic-agnostic and moderators only ask non-content questions to help guide the process, not the outcome. Healthy Democracy Fund has a track record of convening civic assemblies on local government land use issues.

D. Healthy Democracy Fund has created a proposal to engage a civic assembly to advise the City Council on the future uses of the Site. The proposal would cost \$150,000 to implement, with the potential to provide more public engagement, outreach efforts and inclusion support for an additional \$100,000. This ordinance appropriates \$150,000 in prior year reserves and if grant funds are secured, City staff would bring an additional appropriation ordinance to appropriate those grant funds.

E. This appropriation benefits the public health, safety, and welfare of the residents of Fort Collins and serves the public purpose of contracting for a public engagement process relating to the use of public property.

F. Article V, Section 9 of the City Charter permits the City Council, upon the recommendation of the City Manager, to make supplemental appropriations by ordinance at any time during the fiscal year from such revenues and funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated.

G. The City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from

the General Fund and will not cause the total amount appropriated in the General Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that there is hereby appropriated from Prior Year Reserves in the General Fund the sum of ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000) to be expended in the General Fund for a Civic Assembly Process in Relation to the Hughes Stadium Site.

Introduced, considered favorably on first reading on July 16, 2024, and approved on second reading for final passage on August 20, 2024.

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Mayor Pro Tem

ATTEST:

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City Clerk

Effective Date: August 30, 2024  
Approving Attorney: Carrie Daggett

**File Attachments for Item:**

**28. First Reading of Ordinance No. 123, 2024, Amending Chapter 4 of the Code of the City of Fort Collins to Ban the Retail Sale of Dogs and Cats.**

The purpose of this item is to ban the retail sale of dogs and cats from stores within Fort Collins city limits.



August 20, 2024

# AGENDA ITEM SUMMARY

City Council




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## STAFF

Ginny Sawyer, Project Manager  
Sylvia Tatman-Burruss, Project Manager

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## SUBJECT

**First Reading of Ordinance No. 123, 2024, Amending Chapter 4 of the Code of the City of Fort Collins to Ban the Retail Sale of Dogs and Cats.**

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## EXECUTIVE SUMMARY

The purpose of this item is to ban the retail sale of dogs and cats from stores within Fort Collins city limits.

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## STAFF RECOMMENDATION

None.

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## BACKGROUND / DISCUSSION

Many in the community have been asking Council to address concerns related to animals sourced from puppy and kitten mills by adopting a ban on the retail sale of dogs and cats. At the June 18, 2024, regular meeting a formal request was made to bring such an ordinance to Council at the August 20, 2024, regular meeting.

The Ordinance presented is modeled from other ordinances adopted in other communities. To date, 14 other Colorado municipalities have adopted similar ordinances. Only one of those communities had an existing pet store and that business was allowed to continue. Fort Collins has one pet store that does sell puppies.

Should Council adopt the ordinance as written, the implementation date would be May 20, 2025. Alternatively, if Council wishes to create an exception for the existing pet store that currently sells dogs and cats, the following language could be added at the beginning of Section 4-122(a):

Except for retail stores engaged in such activities within the City limits prior to the effective date of Ordinance No. 123, 2024.

Staff has confirmed that NOCO Humane could enforce this Ordinance as part of their contract with the City.

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## CITY FINANCIAL IMPACTS

None.

**BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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None.

**PUBLIC OUTREACH**

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None.

**ATTACHMENTS**

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1. Ordinance for Consideration
2. Presentation

ORDINANCE NO. 123, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING CHAPTER 4 OF THE CODE OF THE CITY OF FORT  
COLLINS TO BAN THE RETAIL SALE OF DOGS AND CATS

A. The City of Fort Collins has an interest in maintaining the public safety and welfare of the community.

B. In addition to state and federal laws, the City has a local responsibility to promote animal welfare and encourage best practices in the breeding and purchasing of dogs and cats. City Council believes that a community that promotes animal welfare is a healthier community.

C. The sale of dogs and cats sourced from large-scale commercial breeding facilities where the health and welfare of the animals is disregarded to maximize profits (“puppy mills” and “kitten mills,” respectively) is a business practice that is not in the best interest of the public welfare of the City.

D. While City Council recognizes that not all dogs and cats retailed in stores are products of inhumane breeding conditions and would not classify every commercial breeder selling dogs or cats to retail stores as a puppy or kitten mill, puppy and kitten mills continue to exist in large part because of public demand and the sale of dogs and cats in stores.

E. The retail sale of dogs and cats in the City is inconsistent with the City’s desire to be a community that is committed to its pets and animal welfare.

F. Section 35-80-108.5(3) of the Colorado Revised Statutes recognizes the authority of the City, as a Colorado home rule municipality, to prohibit the sale or offer for sale of dogs and cats.

G. A ban on the retail sale of dogs and cats will promote community awareness of animal welfare and, in turn, will foster a more humane environment in the City.

H. Most pet stores, both large chains and small, family-owned shops, are already in compliance with the proposed Ordinance as they already do not sell dogs and cats but rather profit from selling products, offering services, and in some cases, collaborating with local animal shelters and rescues to host charitable adoption events.

I. This Ordinance sets an implementation date of May 20, 2025, to allow sufficient time for any stores within the City that sell dogs and cats at retail to bring their operations into compliance.

J. This Ordinance would not affect a consumer’s ability to obtain a dog or cat of their choice from an animal rescue, animal shelter, or the City’s small, reputable, in-home breeders.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. Section 4-1 of the Code of the City of Fort Collins is hereby amended by the addition of the following new definitions, which read in their entirety as follows:

**Sec. 4-1. Definitions.**

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section:

...

*Animal rescue organization* shall mean any not-for-profit organization which has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or in significant part, the rescue and placement of animals in permanent homes. This term does not include an entity that is a breeder or broker or one that obtains animals from a breeder or broker for profit or compensation.

...

*Breeder* shall mean a person that maintains a dog or cat for the purpose of breeding and selling their offspring.

*Broker* shall mean a person that transfers a dog or cat from a breeder for resale by another person.

*Cat* shall mean any animal of the species *Felis catus* or any hybrid thereof.

...

*Dog* shall mean any animal of the family *Canidae* including, without limitation, those related to the wolf, fox, coyote, or any other domestic canid hybrid thereof.

...

*Hobby breeder* shall mean a person who lawfully delivers, offers for sale, barter, auctions, gives away, or otherwise transfers directly to the public only dogs or cats that were bred and reared on the premises of the person, on which premises a consumer may view the conditions where the dogs or cats were bred and reared, and speak with the breeder directly.

...

*Offer for sale* shall mean to sell, offer for sale or adoption, advertise for sale of, barter, auction, give away, or otherwise dispose of a dog or cat.

...  
 Section 2. Chapter 4, Division 6 of the Code of the City of Fort Collins is hereby amended by the addition of a new Section 4-122 which reads in its entirety as follows:

**Sec. 4-122. Retail sale of dogs and cats prohibited.**

(a) No retail store or its owner, operator or employees shall sell, deliver, offer for sale or adoption, advertise for sale of, barter, auction, give away, or otherwise transfer or dispose of cats or dogs.

(b) This prohibition shall not apply to lawfully operated hobby breeders, animal rescue organizations, and animal shelters.

(c) Nothing in this section shall prevent a retail store or its owner, operator or employees from transferring any cats or dogs to a lawfully operated animal rescue organization or animal shelter.

(d) Nothing in this section shall prevent a retail store or its owner, operator or employees from providing space and appropriate care for dogs and cats owned by a lawfully operated animal rescue organization or animal shelter for the purpose of the lawfully operated animal rescue organization or animal shelter adopting those animals to the public, provided that the following requirements are met:

(1) The retail store shall not have any ownership interest in the animals offered for adoption and shall not receive a fee for the animals adopted, or for providing space or appropriate care.

(2) A retail store that lawfully offers space for the adoption of dogs or cats must post, in a conspicuous location on the enclosure of each such animal, a sign listing the name and address of the animal rescue organization or animal shelter from which the retail store acquired that dog or cat.

Section 3. Only violations of Section 4-122 as of May 20, 2025, or after are subject to enforcement.

Introduced, considered favorably on first reading on August 20, 2024, and approved on second reading for final passage on September 3, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: September 13, 2024  
Approving Attorney: Madelene Shehan



# Prohibit Retail Sale of Puppies and Kittens

## City Council Regular Meeting

Ginny Sawyer, Lead Policy & Project Manager  
Sylvia Tatman-Burruss, Sr. Policy & Project Manager  
Madelene Shehan, Legal

August 20, 2024

## Purpose

The purpose of this item is to ban the retail sale of dogs and cats from stores in Fort Collins City limits.

## Background

- Many in the community have been asking City Council to address concerns related to animals sourced from puppy and kitten mills by adopting a ban on the retail sale of dogs and cats.
- At the June 18, 2024, regular meeting a formal request was made to bring such an ordinance to City Council at the August 20, 2024, regular meeting.



## Other Policy Options for Further Consideration

- Modify the Proposed Ordinance to fully exempt existing retail sales in stores.
- Consider potential interest in new Ordinance to enact additional Code amendments to ban sales of dogs and cats (or any live animals) from parking lots/roadside areas, outdoor markets or sales events.

## Implementation

- Should Council adopt the ordinance as written the implementation date would be May 20, 2025.
- Staff has confirmed that NOCO Humane could enforce this Ordinance as part of their contract with the City.



**File Attachments for Item:**

**29. Resolution 2024-107 Making an Appointment to the Affordable Housing Board.**

The purpose of this item is to fill an existing vacancy on the Affordable Housing Board.

Pursuant to Council policy, the recommended appointee has completed or will complete the required acknowledgement and acceptance of the Code of Conduct and the applicable laws and policies that govern service on City of Fort Collins boards and commissions.

August 20, 2024

# AGENDA ITEM SUMMARY

City Council



## STAFF

Davina Lau, Public Engagement Specialist

## SUBJECT

**Resolution 2024-107 Making an Appointment to the Affordable Housing Board.**

## EXECUTIVE SUMMARY

The purpose of this item is to fill an existing vacancy on the Affordable Housing Board.

Pursuant to Council policy, the recommended appointee has completed or will complete the required acknowledgement and acceptance of the Code of Conduct and the applicable laws and policies that govern service on City of Fort Collins boards and commissions.

## STAFF RECOMMENDATION

Staff recommends adoption of this Resolution.

## BACKGROUND / DISCUSSION

In 2023, the City Council adopted a Code of Conduct and updated Boards and Commissions Policy, along with other policies and procedures that apply to service on City boards and commissions. Each board and commission appointee is required to acknowledge and accept these requirements in order to take appointed office.

This Resolution appoints one individual to fill a vacancy left by a previous board member. The appointment will begin and expire as noted next to the recommended name shown below and in the individual resolution.

### Affordable Housing Board

Appointments	Term Effective Date	Expiration of Term
(Seat G)	August 21, 2024	June 30, 2026

## CITY FINANCIAL IMPACTS

None.

**BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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None.

**PUBLIC OUTREACH**

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Public outreach to seek applicants for boards and commissions included a spotlight and press release on the City of Fort Collins website, media releases for earned coverage in local media sources, and social media promotion of opportunities.

**ATTACHMENTS**

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1. Resolution for Consideration
2. Application

RESOLUTION 2024-107  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
MAKING AN APPOINTMENT TO THE AFFORDABLE HOUSING  
BOARD

A. The Affordable Housing Board has a vacancy due to the resignation of Vanessa Montoya.

B. Councilmembers interviewed candidates for this appointment on August 16, 2024.

C. The City Council desires to make an appointment to fill this vacancy on the Affordable Housing Board.

D. In 2023, the City Council adopted a Code of Conduct and updated Boards and Commissions Policy, along with other policies and procedures that apply to service on City boards and commissions. Each board and commission appointee is required to acknowledge and accept these requirements in order to take appointed office.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The following named person is hereby appointed to fill the open vacancy on the Affordable Housing Board with a term to begin and expire as noted below next to the appointee's name:

**Affordable Housing Board**

Appointments	Term Effective Date	Expiration of Term
_____ (Seat G)	August 21, 2024	June 30, 2026

Section 2. That no person appointed in this Resolution may take office until they have completed the required acknowledgement and acceptance of the Code of Conduct and the applicable laws and policies that govern service on City of Fort Collins boards and commissions.

Passed and adopted on August 20, 2024.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Effective Date: August 20, 2024  
Approving Attorney: Carrie Daggett

# VOLUNTEER APPLICATION

Nina Clark

7/24/2024 10:29 AM

Application: **AHB - Affordable Housing Board**

### Applicant Information

Birthdate: [REDACTED] Gender: Female Education Level: Masters degree

Address: [REDACTED] Phone: [REDACTED] <<

### Volunteer Groups Applied For

Affordable Housing Board

### Skills & Interests

Additional Skills / Interests: only a very small amount of Spanish

### Job Description

I have read the job description

### Questions

Which Council District do you live in? Please refer to the map at: <a href="https://gisweb.fcgov.com/HTML5Viewer/Index.html?Viewer=FCMaps&amp;layerTheme=Council%20Districts">https://gisweb.fcgov.com/HTML5Viewer/Index.html?Viewer=FCMaps&amp;layerTheme=Council%20Districts</a>	5
I acknowledge and understand it is recommended to apply for no more than (3) Board/Commission volunteer positions in any one recruitment cycle.	YES
If applying for more than (1) board/commission please list all boards in order of preference (the most important board to you should be listed first). Please enter N/A if you have not applied to more than one board/commission.	n/a
I acknowledge I am available when the Affordable Housing Board meets: 1st Thursday of each month 4 p.m.	YES
How many hours per month are you willing to put in (including research, work, and meeting time) as a board member?	10
Current Occupation:	Affordable Housing and Community Development Credit Analyst
Current Employer:	Enterprise Community Partners
Prior work experience (please include dates):	Enterprise Community Partners Denver, CO Credit Analyst June 2024-Present • Asset managed a portfolio of \$25 million in predevelopment, acquisition, and construction loans to affordable housing developers.



- Supported Loan Officer by performing financial analyses, third party review assessments, and various asset management tasks including but not limited to covenant compliance, financial reporting, loan modifications, and annual reviews.

Enterprise Community Partners  
 Silver Spring, MD  
 Affordable Housing Real Estate  
 Development Intern June  
 2023-August 2023

- Developed a financial sustainability-mission matrix to measure the portfolio's adherence to Enterprise Community Development's dual bottom line of achieving both profitability and mission impact.

City of Columbia  
 Columbia, MO  
 City Management Fellow  
 February 2022-May 2022

- Conducted research and statistical analysis to provide the City Manager's Office with municipal reports and policy recommendations, primarily concerning homelessness.

- Analyzed census data in order to create a report for the Public Health Department on the state of poverty and racial inequality in the City of Columbia.

USPS Office of Inspector General  
 Washington D.C.  
 Auditing Co-op  
 July 2020-December 2021

- Analyzed Postal Service volume and revenue data, Integrated Financial Plans, and a range of financial documents to ensure the accuracy and validity of Postal Service financial projection methodologies.

Columbia Housing Authority  
 Columbia, MO  
 Finance Intern  
 June 2021-August 2021

- Drafted the Columbia Housing Authority's 2022 budget based on historical trends, contract and loan agreements, and the anticipated consumer price index in order to support the finance department's revenue and expense estimates for the upcoming year.

- Updated the Columbia Housing Authority's policies regarding Section 3 housing in accordance with new rules imposed by the Department of Housing and Urban Development.

Office of US Representative Emanuel  
 Cleaver (MO-5)  
 Washington D.C.  
 Legislative Intern  
 January 2020-March 2020

- Crafted and edited

sponsorship memos, constituent letters and public testimony to support the efficiency of the Congressman's legislative team.

I have worked extensively with people experiencing homelessness through various organizations in St. Louis, Missouri (2013-2018) and Washington DC (2018-2021).

Since moving to Fort Collins in May, I have begun volunteering with the Murphy Center for Hope (May 2024-present)

I am in the process of applying to be a mentor with Partners.

No

No

I have extensive expertise in affordable housing. I have completed a masters in city and regional planning with a specialization in affordable housing. I have worked in local and federal government positions in addition to nonprofit affordable housing development. I am deeply passionate about reducing homelessness and working to ensure all members of my community have their basic needs met. Access to high quality affordable housing is an essential pillar in a person's financial, emotional, and physical wellbeing. I am excited about the possibility to aid the City of Fort Collins in its mission to expand affordable housing in our community.

Yes; I have read through recent past meeting minutes, met with the board President, and will attend the upcoming board meeting.

None

I have worked with and studied Affordable housing. Though I have personally never lived in subsidized housing, many close friends have lived in subsidized housing and I have personal relationships with many people who have been housing insecure, homeless, or lived in affordable housing through my volunteer work.

Rent that is less than 30% of your income. Government subsidy or naturally occurring. Necessary for robust local economy.

no

no

YES

Volunteer experience (please include dates):

Are you currently serving on a City board or Commission If so, which one

Have you applied for this board before If yes, please explain.

Why do you want to become a member of this particular board or commission

Have you had any exposure to the board or commission you are applying for If yes, please explain:

Specify any activities which might create a serious conflict of interest if you are appointed:

What is your experience with Affordable Housing Have you or anyone you know well lived in subsidized affordable housing

Describe what you think of when you hear the words "affordable housing".

Have you ever been the subject of a code of conduct or ethics complaint If yes, please explain.

Have you ever been found in violation of the code of conduct or ethics rule If yes, please explain.

Are you willing to complete the required training if appointed

Nina Clark

7/24/2024 10:00 AM

Item 29.

[Redacted]

How did you learn of a vacancy on this board or commission

Other (please specify);  
Contacted board chair

## Nina Clark

### **EDUCATION**

**UNIVERSITY OF NORTH CAROLINA.** Chapel Hill, NC  
**Masters of City and Regional Planning,** Housing and Community Development *May 2024*  
**THE GEORGE WASHINGTON UNIVERSITY, School of Business.** Washington D.C.  
**Bachelor of Business Administration,** Business Economics and Public Policy *Dec 2021*

### **EXPERIENCE**

**Enterprise Community Partners** Denver, CO  
**Credit Analyst** *June 2023-Present*

- Asset managed a portfolio of \$25 million in predevelopment, acquisition, and construction loans to affordable housing developers.
- Supported Loan Officers by performing financial analyses, third party review assessments, and various asset management tasks including but not limited to covenant compliance, financial reporting, loan modifications, and annual reviews.

**Enterprise Community Partners** Silver Spring, MD  
**Affordable Housing Real Estate Development Intern** *June 2023-August 2023*

- Developed a financial sustainability-mission matrix to measure the portfolio's adherence to Enterprise Community Development's dual bottom line of achieving both profitability and mission impact.

**City of Columbia** Columbia, MO  
**City Management Fellow** *February 2022-May 2022*

- Conducted research and statistical analysis to provide the City Manager's Office with municipal reports and policy recommendations, primarily concerning homelessness.
- Analyzed census data in order to create a report for the Public Health Department on the state of poverty and racial inequality in the City of Columbia.

**USPS Office of Inspector General** Washington D.C.  
**Auditing Co-op** *July 2020-December 2021*

- Analyzed Postal Service volume and revenue data, Integrated Financial Plans, and a range of financial documents to ensure the accuracy and validity of Postal Service financial projection methodologies.

**Columbia Housing Authority** Columbia, MO  
**Finance Intern** *June 2021-August 2021*

- Drafted the Columbia Housing Authority's 2022 budget based on historical trends, contract and loan agreements, and the anticipated consumer price index in order to support the finance department's revenue and expense estimates for the upcoming year.
- Updated the Columbia Housing Authority's policies regarding Section 3 housing in accordance with new rules imposed by the Department of Housing and Urban Development.

**Office of US Representative Emanuel Cleaver (MO-5)** Washington D.C.  
**Legislative Intern** *January 2020-March 2020*

- Crafted and edited sponsorship memos, constituent letters, and public testimony to support the efficiency of the Congressman's legislative team.

### **TECHNICAL SKILLS**

R, Excel, ArcGIS Pro, SPSS, Power BI, Microsoft Office

# VOLUNTEER APPLICATION

vanessa jones

8/5/2024 10:48 AM

Application: **AHB - Affordable Housing Board**

### Applicant Information

Birthday: [REDACTED] Gender: Female Education Level: High School

Address: [REDACTED] Phone: [REDACTED] <<

### Volunteer Groups Applied For

Affordable Housing Board

### Job Description

I have read the job description

### Questions

Which Council District do you live in? Please refer to the map at: <a href="https://gisweb.fcgov.com/HTML5Viewer/Index.html?Viewer=FCMaps&amp;layerTheme=Council%20Districts">https://gisweb.fcgov.com/HTML5Viewer/Index.html?Viewer=FCMaps&amp;layerTheme=Council%20Districts</a>	1
I acknowledge and understand it is recommended to apply for no more than (3) Board/Commission volunteer positions in any one recruitment cycle.	YES
If applying for more than (1) board/commission please list all boards in order of preference (the most important board to you should be listed first). Please enter N/A if you have not applied to more than one board/commission.	N/A
I acknowledge I am available when the Affordable Housing Board meets: 1st Thursday of each month 4 p.m.	YES
How many hours per month are you willing to put in (including research, work, and meeting time) as a board member?	4
Current Occupation:	Dollar Tree Cashier
Current Employer:	Dollar Tree
Prior work experience (please include dates):	N/A
Volunteer experience (please include dates):	Larimer Food Bank - 2023 for 2 months N2N Resident Committee - 2 years (2022-present)
Are you currently serving on a City board or Commission? If so, which one?	No
Have you applied for this board before? If yes, please explain.	No
Why do you want to become a member of this particular board or commission?	I want to be on this board to make a difference for affordable housing as someone currently living in affordable housing in the city of fort collins. Also, I am a person who has disabilities and I would like to work on helping make affordable housing more available for people like me.

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Have you had any exposure to the board or commission you are applying for? If yes, please explain: No

Specify any activities which might create a serious conflict of interest if you are appointed: Nothing that I can think of at the moment.

What is your experience with Affordable Housing? Have you or anyone you know well lived in subsidized affordable housing? I currently live in an affordable housing unit and community with my son since 2020. I have also lived in affordable housing units at other periods in my life.

Describe what you think of when you hear the words "affordable housing".

Have you ever been the subject of a code of conduct or ethics complaint? If yes, please explain. No

Have you ever been found in violation of the code of conduct or ethics rule? If yes, please explain. No

Are you willing to complete the required training if appointed? YES

How did you learn of a vacancy on this board or commission? Other (please specify); Kelly Evan from Neighbor to Neighbor

# VOLUNTEER APPLICATION

Anna Navarro

7/30/2024 10:27 PM

Application: **AHB - Affordable Housing Board**

### Applicant Information

Birthday: [REDACTED]      Gender: Female      Education Level: Some College  
 Address: [REDACTED]      Phone: [REDACTED] <<

### Volunteer Groups Applied For

Affordable Housing Board

### Job Description

I have read the job description

### Questions

Which Council District do you live in? Please refer to the map at: <a href="https://gisweb.fcgov.com/HTML5Viewer/Index.html?Viewer=FCMaps&amp;layerTheme=Council%20Districts">https://gisweb.fcgov.com/HTML5Viewer/Index.html?Viewer=FCMaps&amp;layerTheme=Council%20Districts</a>	2
I acknowledge and understand it is recommended to apply for no more than (3) Board/Commission volunteer positions in any one recruitment cycle.	YES
If applying for more than (1) board/commission please list all boards in order of preference (the most important board to you should be listed first). Please enter N/A if you have not applied to more than one board/commission.	N/A
I acknowledge I am available when the Affordable Housing Board meets: 1st Thursday of each month 4 p.m.	YES
How many hours per month are you willing to put in (including research, work, and meeting time) as a board member?	10
Current Occupation:	Office Assistant, temporary
Current Employer:	Larimer County Clerk & Recorder's Administrative Office (via Express Employment Professionals)
Prior work experience (please include dates):	2021 - Present Executive Assistant, Washington Tiny House Association 2004 - 2017 Los Angeles County Program Director, Reach Out and Read, a nonprofit 2003 - 2004 Onsite Coordinator, Reach Out and Read, a nonprofit 1993 - 2003 Volunteer Services Assistant Director and Payroll Coordinator, Kaiser Permanente 2018 - 2020 English Instructor, Jazmin's Escuelita, Mexico
Volunteer experience (please include dates):	2023 - Present Housing Priority Group Member, Partnership for Age-Friendly Communities in Larimer County (PAFC)

2020 - 2024 Volunteer Conversational English Instructor, CSU Fort Collins International Center

Are you currently serving on a City board or Commission If so, which one

No

Have you applied for this board before If yes, please explain.

N/A

Why do you want to become a member of this particular board or commission

I am eager to join this board because I am deeply committed to addressing the challenges of affordable housing. Having experienced firsthand the difficulties of securing housing at market rates, I am passionate about contributing to solutions that enhance access and affordability for individuals in similar situations. I believe that my personal experiences and dedication can help make a meaningful difference in our community.

Have you had any exposure to the board or commission you are applying for If yes, please explain:

Yes; I volunteer alongside Sue Beck-Ferkiss on the PAFC Housing Priority Group

Specify any activities which might create a serious conflict of interest if you are appointed:

I will make every attempt to fit the monthly meeting into my schedule. I am actively searching for a full-time job. If my work hours conflict with Board meetings, I would step down to allow someone else to fill the position.

What is your experience with Affordable Housing Have you or anyone you know well lived in subsidized affordable housing

Because I wanted to be closer to my family, I made the decision to move to CO and got on the waitlist for senior affordable housing in Fort Collins. In the final week of Dec 2022, I moved into a 1B/1b HUD-subsidized apartment. Although I'm grateful for an affordable unit, the periodic issue of mice and bed bugs has me questioning if congregant housing is healthy for me to stay in.

Describe what you think of when you hear the words "affordable housing".

When I hear "affordable housing," I think of housing that costs less than 30% of a family's income and provides stability for those facing various challenges, such as job loss, underemployment, or financial strain.

I believe that everyone in Fort Collins deserves the security and peace of mind that comes from having access to safe, affordable housing, which I see as a fundamental human right.

Have you ever been the subject of a code of conduct or ethics complaint If yes, please explain.

N/A

Have you ever been found in violation of the code of conduct or ethics rule If yes, please explain.

N/A

Are you willing to complete the required training if appointed

YES



Anna Navarro

7/30/2024 10:00 AM

Item 29.

How did you learn of a vacancy on this board or commission

Other (please specify);  
Sue Beck-Ferkiss

# VOLUNTEER APPLICATION

Jorja Whyte

7/26/2024 11:40 PM

Application: **AHB - Affordable Housing Board**

### Applicant Information

Birthday: [REDACTED]      Gender: Female      Education Level: Some College  
 Address: [REDACTED]      Phone: [REDACTED] <<

### Volunteer Groups Applied For

Affordable Housing Board

### Job Description

I have read the job description

### Questions

Which Council District do you live in? Please refer to the map at: <a href="https://gisweb.fcgov.com/HTML5Viewer/Index.html?Viewer=FCMaps&amp;layerTheme=Council%20Districts">https://gisweb.fcgov.com/HTML5Viewer/Index.html?Viewer=FCMaps&amp;layerTheme=Council%20Districts</a>	5
I acknowledge and understand it is recommended to apply for no more than (3) Board/Commission volunteer positions in any one recruitment cycle.	YES
If applying for more than (1) board/commission please list all boards in order of preference (the most important board to you should be listed first). Please enter N/A if you have not applied to more than one board/commission.	N/A
I acknowledge I am available when the Affordable Housing Board meets: 1st Thursday of each month 4 p.m.	YES
How many hours per month are you willing to put in (including research, work, and meeting time) as a board member?	20
Current Occupation:	Director of Basic Needs, Associated Students of Colorado State University 2024 Affordable Housing Advocate, Housing Colorado Co-Curricular Leadership Specialist, CSU Student Leadership, Involvement, and Community Engagement Office Full Time Student at Colorado State University
Current Employer:	Colorado State University Housing Colorado
Prior work experience (please include dates):	2024 Affordable Housing Advocate and Zoning Specialist, Housing Colorado, May 2024 - October 2024  Director of Health and Basic Needs, Associated Students of Colorado State University, May 2023 - Current  Co-Curricular Leadership Specialist, CSU

Office of Student Leadership, Involvement and Community Engagement, July 2022 - Current

Undergraduate Research Assistant, Vice President for Student Affairs, CSU, May 2023 - June 2024

Programming and Community Outreach President, Gateway High School Basic Needs Programming, Aurora CO, August 2018 - May 2021

See attached resume for more information on each!

Leadership Field Experience, Affordable Housing Concentration, President's Leadership Program at CSU, May 2021 - Present ( 100 Hours Completed)

Growing Food Security at Colorado State University, Volunteer, August 2021-Current ( 30 Hours Completed)

No

No

I am compelled and passionate about applying to become a member of the Affordable Housing Board for the City of Fort Collins for several reasons. Affordable housing is a cause close to my heart, and I believe it is crucial to include youth voices in this discussion at the local, state, and national levels. As a college student and a young person, I bring a unique and valuable perspective to the board. This position offers the perfect opportunity to get involved and make the change I wish to see in my community.

Over the past few years, I have delved deeply into the worlds of affordable housing, basic needs, and social equity work. My personal mission, "To spread love and kindness in my contextual environment through the power of authentic connection and community building," drives my efforts. I believe advocacy, education, and practical application in basic needs and affordable housing are fitting and powerful ways to embody this vision.

I have developed the necessary knowledge and built an extensive network around affordable housing issues and sustainable community development solutions across Fort Collins and the Northern Colorado region. Additionally, serving on this board will facilitate a deep and meaningful partnership between Colorado State University and the City of

Volunteer experience (please include dates):

Are you currently serving on a City board or Commission If so, which one

Have you applied for this board before If yes, please explain.

Why do you want to become a member of this particular board or commission

Fort Collins that I believe is currently missing from much of our local government. I believe in connection as a facilitator of effective and efficient work and solutions.

This role is also a significant way for me to give back to a community that has given so much to me. Without Fort Collins, I would not be the person I am today; the uniqueness and strong values of this community have shaped me in such a profound way. I am excited to channel my ambition, knowledge, and passion into tangible action and meaningful work on the Affordable Housing Board.

Have you had any exposure to the board or commission you are applying for? If yes, please explain:

Yes; I have had some exposure to the Fort Collins Affordable Housing Board through my work with the Associated Students of Colorado State University and Housing Colorado. Over the past year, I have had the pleasure of serving as the Director of Health and Basic Needs and will continue in that position for the upcoming school year. Through my work, I have gained insight into the board's activities, particularly while navigating the U 2 Housing Ordinance and Colorado State House Bill 24-1007, which bans housing ordinances based on relations, effectively ending U 2 and housing ordinances like it across the state. Additionally, we have collaborated with board members through our recently established Housing Caucus at Colorado State University, where we discuss housing-related issues both on campus and in the broader Fort Collins community.

Specify any activities which might create a serious conflict of interest if you are appointed:

N/A

What is your experience with Affordable Housing? Have you or anyone you know well lived in subsidized affordable housing?

My experience with affordable housing is extensive and wide-ranging, deeply rooted in my personal background and professional endeavors. My passion for affordable housing and sustainable community development began in my early education at Gateway High School in Aurora, Colorado, a vibrant, beautiful and diverse community that also faces pervasive poverty and basic needs insecurity. I have been awarded the amazing opportunity of being a Boettcher Scholar but without it, I would not have had the economic resources to live in Fort Collins or attend Colorado State University.

Here at CSU my passion for Affordable Housing has continued to blossom. In my first year at the university, I learned that housing and food insecurity, which are inextricably linked, are pervasive issues in the CSU community with one-third of

the CSU community, with one third of students experiencing food insecurity and 50% experiencing housing insecurity. As the Director of Health and Basic Needs I have spent the past year working to do my part to rectify those disheartening statistics and real experiences for our students. Through my position, I have assisted many of my peers in navigating the resources available within our community and the larger Fort Collins area. I have also provided a support system for partner organizations working to offer subsidized housing specifically for CSU students.

This summer, I am serving as an Affordable Housing Advocate for Housing Colorado, representing the Northern Colorado region and working broadly across the state. In this role, I have collected extensive qualitative and quantitative data on community perspectives and response efforts across various industries. Our team has engaged personally with over 100 stakeholders within the span of two and a half months, including housing and development authorities, public and private sector developers, non-profits such as Housing Catalyst and Homeward Alliance, community advocacy groups like YIMBY Fort Collins, and governmental entities including Larimer County Commissioners, the Department of Social Sustainability, City Planning, and several city council members.

I am extremely passionate about affordable housing in Fort Collins and across Colorado. As a young person, I have worked diligently to develop an informed and nuanced perspective on this pervasive issue. My personal experiences, combined with my professional work, have equipped me with a deep understanding and commitment to addressing affordable housing challenges in our community.

Describe what you think of when you hear the words "affordable housing".

Through my experience as the Director of Basic Needs and as an Affordable Housing Advocate this summer, I have learned that "affordable housing" is a multifaceted concept. The term evokes polarizing reactions and encompasses a wide range of definitions. We can talk about the technical aspect of affordable housing, the idea that it can be defined by the percentage of gross annual income that an individual or family spends on rent or mortgage, based on the annual median income of an area, aiming to provide options for those within the 30% to 80% income benchmark.

However, when I think of affordable

however, when I think of affordable housing in a broader, more abstract sense, I think about community. People across the spectrum, with diverse identities, deserve housing and a sense of belonging in their local communities. Affordable housing is a crucial way to ensure this. It plays an integral role in meeting our community members' basic needs, enabling them to thrive, achieve success, and contribute meaningfully to their communities.

When I think about affordable housing, I think about opportunity, security, and meaningful community relationships. Affordable housing is not just about providing shelter; it is about creating a foundation for a vibrant, inclusive, and resilient community. It is about ensuring that every individual has the chance to live with dignity and contribute to the collective well-being of our city and Fort Collins community.

Have you ever been the subject of a code of conduct or ethics complaint  
If yes, please explain.

No

Have you ever been found in violation of the code of conduct or ethics  
rule If yes, please explain.

No

Are you willing to complete the required training if appointed

YES

How did you learn of a vacancy on this board or commission

Other (please specify);  
Reference from Stefanie Berganini

# Jorja Whyte

Pronouns: She/Hers Pronunciation: (Georgia)

**Transformational Change Maker | Analyzer | Social Justice Advocate**

Applying for: **Fort Collins Affordable Housing Board**

## QUALIFICATIONS

- Extensive background and experience in high demand leadership, communication, and management positions related to public health and equity research, education, and practice
- Demonstrated passion and knowledge for equitable community development through direct experience with community organizing, coalition building, event planning, sustainable community partnerships, & fundraising efforts on a large scale
- Advocated for equitable housing policy reform at the state and local levels, contributing to the passage of legislation that successfully eliminated discriminatory housing ordinances, promoting access to affordable housing across the state of Colorado
- Successfully implemented a substantial inventory of course knowledge and data backed research into professional programing and daily work to critically deconstruct barriers to accessibility for basic needs related resources

## EDUCATION

**Bachelor of Arts in Sociology & Psychology, Minor in Inter-Disciplinary Leadership Studies**

**GPA:** 3.71/4.0

Expected May 2025

**Relevant Coursework:** *Sociology of Bureaucracy and Modern Organizations, Sociology of Environment, Food, and Social Justice, Sociology of Race and Racism, Psychology of the Individual in Context, Organizational/Industrial Psychology, Interdisciplinary Leadership: A Call to Lead, Leadership Theory, Leadership Styles, Effective Leadership I and II*

## RELEVANT EXPERIENCE

**Youth Affordable Housing Advocate** | Colorado Housing and BuildStrong Foundation | Fort Collins, CO

May 2024 – Present

- Collaborated with a team of four on the development and implementation of the Colorado Zoning Atlas project, performing in-depth data analysis to inform affordable housing policies and zoning regulations.
- Facilitated over 100 stakeholder engagement meetings across various industries, educating community members statewide on innovative tools and technologies for sustainable community development.
- Developed and conducted a comprehensive statewide survey to assess the utility of the Colorado Zoning Atlas, gather valuable insights from members across Colorado communities.
- Coordinated clear and consistent communication with funders and executives, providing comprehensive updates on project progress and outcomes.

**Leadership Field Experience** | President's Leadership Program, CSU | Fort Collins, CO

May 2021 – Present

- Developed an in-depth exploration of housing insecurity through the arrangement of qualitative interviews to understand Fort Collins specific barriers to basic need security and effective response efforts.
- Cultivated and maintained sustainable relationships with primary actors in basic needs and housing security in Fort Collins across Non-profits, municipal government, and other social institutions for universal application.

- Collaborated with state and local affordable housing advocates like YIMBY Fort Collins and NewEra Colorado to organize student testimony against discriminatory housing policy, successfully ending housing ordinances on the basis of relations in the state of Colorado.

***Director of Health and Basic Needs*** | Associated Students of Colorado State University, CSU / Fort Collins, CO  
May 2023 - Present

- Prioritized affordable housing initiatives across campus by engaging with local organizations, CSU administration, various campus offices, and developing the ASCSU Housing Caucus to foster collaborative discussions and solutions for pervasive housing issues on and off campus.
- Spearheaded the Multicultural Counseling Services and SDPS Embedded Counselors project, fostering partnerships with key stakeholders including the CSU Health Network to expand access to mental health resources for marginalized communities, resulting in the establishment of multi-cultural drop-in counseling hours in strategic locations including the Lory Student Center.
- Developed and executed the Ram's Against Hunger "Break the Stigma" Multi-Media Marketing Campaign, collaborating with local partners and organizations to create comprehensive messaging and marketing materials aimed at increasing awareness and reducing stigma around food insecurity, resulting in enhanced access to existing resources.
- Organized Mental Health Tabling and Outreach events, providing students with vital information and support regarding mental health resources on campus, while also demonstrating ASCSU's commitment to addressing student needs and fostering a supportive community.

***Co-Curricular Leadership Specialist*** | Student Leadership, Involvement, and Community Engagement Office, CSU | Fort Collins, CO  
Present

- Effectively collaborated with a team of six to offer a vast array of leadership opportunities, resources, and programming for individuals with historically marginalized identities.
- Consistently strived to partner and uplift campus DEI Offices and Cultural Resource Centers to dismantle normative conceptions of leadership and intentionally target historically underrepresented groups.
- Engaged diverse, independent students with empathy, compassion, and shared life experience to construct and foster belonging within purposeful communities through intentional allyship

***Undergraduate Research Assistant*** | Vice President for Student Affairs, CSU / Fort Collins, CO  
May 2023 – Present

- Employed advanced analytical techniques to extract relevant insights from qualitative data, informing strategic decision-making and future program development for undergraduate success, recruitment, and retention.
- Led a team of three in transcribing and meticulously preparing raw data, ensuring accuracy and completeness throughout the process from collection to final presentation and application.
- Analyzed the content of a wealth of qualitative focus group data to extract relevant themes including basic needs and community support systems to understand factors for long term undergraduate success.

***Programing and Community Outreach President*** | Gateway Highschool Basic Needs Programing | Aurora, CO  
August 2018 – May 2021

- Managed a team of over 60 constituents and appropriately delegated tasks with little oversight to achieve successful funding raising events amassing over \$15,000 for basic needs programming.
- Executed macrolevel organizational missions and goals while completing daily tasks and responsibilities with tact, warmth, and organization to maintain a strong and congruent vision to ensure basic needs security for *all*