

Fort Collins City Council Agenda

Regular Meeting

6:00 p.m., Tuesday, July 16, 2024

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

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

NOTICE:

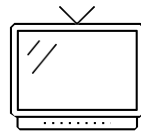
Regular meetings of the City Council are held on the 1st and 3rd Tuesdays of each month in the City Council Chambers. Meetings are conducted in a hybrid format, with a Zoom webinar in addition to the in person meeting in Council Chambers.

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

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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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. 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.

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

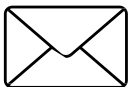
Meeting ID: 982 4141 6497

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



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

July 16, 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** - None.

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 **prior to 5:30 p.m.** using the online sign-up system available at 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 be able 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. The first 40 speakers will speak plus additional speakers that can be heard in a total of 90 minutes. If, at the end of 90 minutes of public comment, there are speakers who did not have the opportunity to speak, public comment will resume after Council has considered items scheduled for discussion.
- 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. **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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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

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.

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.

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.

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.

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

The purpose of this item it 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.

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.

P) RESUMED PUBLIC COMMENT (if applicable)

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.)

OB 2. Possible Consideration of a Combined Motion for Executive Session:

“I move 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.”

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.

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File Attachments for Item:

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.

July 16, 2024

AGENDA ITEM SUMMARY

City Council



STAFF

Carrie Daggett, City Attorney
 Jill Hueser, Chief Municipal Court Judge
 Dawn Downs, Managing Attorney, Public Safety and Prosecution Section

SUBJECT

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.

EXECUTIVE SUMMARY

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.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on the Second Reading.

BACKGROUND / DISCUSSION

The Municipal Court and City Attorney's Office Prosecution teams are committed to maintaining public safety, and fair and equitable treatment of all people who receive citations. The Court and Prosecution handle a weekly court docket that includes scheduling, court appearances, arraignments, pretrial conferences, trials, and hearings involving several different enforcement agencies.

In 2024, the Court's general enforcement caseload has increased by over 1,200 cases, an average of 33% in the first 4 months of the year. This is driven primarily by emphasis placed on traffic enforcement and traffic safety initiatives towards meeting the vision zero goal, and Fort Collins Police Service's (FCPS's) new e-citation technology which allows an officer to issue violations quickly and return to patrolling faster than using handwritten violations thus increasing their efficiency. In addition, a new shift of patrol officers was added in May, increasing the number of officers and citations that can be issued on those days. Additionally, the misdemeanor caseload is trending higher as well.

The number of enforcement cases cited in Municipal Court have been steadily increasing over the last year and an even more drastic increase in the first four months of 2024. This increase has led to critical staffing shortage to handle the influx of cases. The notable rise in enforcement programs is expected to continue

and has significantly impacted Court and Prosecution staffing. Accordingly, we are asking for FTE staffing increases so that we can continue to strive to provide excellent customer service to our community members in court.

The estimated costs associated with FTE staffing requests are:

- One new full-time Assistant City Attorney II and one new full-time Legal Assistant with related support including equipment and benefits, is \$142,774
- One new full-time Municipal Court Clerk, with related support including equipment and benefits is \$36,348.

The total cost for the remainder of 2024 for these positions (assuming positions are filled for the last 5 months of the year) is projected to total \$179,122. The ongoing annual cost of these positions is projected to total \$324,777.

The current fund balance in the reserves in the Redlight Camera Fund within the General Fund will be used to fund the additional FTE's requested for Municipal Court and the City Attorney's Office Prosecution Team to support the Traffic Safety initiative and the increased number of enforcement cases.

CITY FINANCIAL IMPACTS

This Ordinance will appropriate \$179,122 in reserves from the Redlight Camera Fund within the General Fund to add additional FTE's for Municipal Court and the City Attorney's Office Prosecution Team to support the Traffic Safety initiative and the increased number of enforcement cases.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

First Reading attachments not included.

1. Ordinance for Consideration

ORDINANCE NO. 083, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
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

A. The Municipal Court and City Attorney's Office Prosecution teams are committed to maintaining public safety, and fair and equitable treatment of all people who receive citations. The Court and Prosecution handle a weekly court docket that includes scheduling, court appearances, arraignments, pretrial conferences, trials, and hearings involving several different enforcement agencies.

B. In 2024, the Court's general enforcement caseload has increased by over 1,200 cases, an average of 33% in the first four months of the year. This is driven primarily by emphasis placed on traffic enforcement and traffic safety initiatives towards meeting the vision zero goal.

C. The number of enforcement cases cited in Municipal Court has been steadily increasing over the last year and an even more drastic increase in the first four months of 2024. This increase has led to a critical staffing shortage to handle the influx of cases.

D. The notable rise in enforcement cases is expected to continue and has significantly impacted staffing. Accordingly, immediate full time equivalent ("FTE") staffing increases of one new full-time prosecutor (Assistant City Attorney II); one new full-time Legal Assistant, and one new full-time Municipal Court Clerk are needed so the Court and Prosecution team can continue to strive to provide excellent customer service to our community members in court.

E. This appropriation benefits public health, safety and welfare of the community and serves a public purpose by promoting traffic safety through speed enforcement, and supports Vision Zero, the City Council's goal of eliminating Fort Collins roadway fatalities and reducing injury crashes.

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 such 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 Redlight Camera reserve within the General Fund and will not cause the total amount appropriated in the Redlight Camera fund with the General 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.

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 Redlight Camera fund within the General Fund the sum of ONE HUNDRED FORTY-TWO THOUSAND SEVEN HUNDRED SEVENTY-FOUR DOLLARS (\$142,774) to be expended in the General Fund for the increased staffing for the City Attorney’s Office to support the increased number of Police enforcement cases.

Section 2. There is hereby appropriated from prior year reserves in the Redlight Camera fund within the General Fund the sum of THIRTY-SIX THOUSAND THREE HUNDRED FORTY-EIGHT DOLLARS (\$36,348) to be expended in the General Fund for the increased staffing for the Municipal Court to support to support the increased number of Police enforcement cases.

Introduced, considered favorably on first reading on July 2, 2024, and approved on second reading for final passage on July 16, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: July 26, 2024
Approving Attorney: Dawn Downs

File Attachments for Item:

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.

July 16, 2024



AGENDA ITEM SUMMARY

City Council

STAFF

Nina Bodenhamer, City Give Director

SUBJECT

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

EXECUTIVE SUMMARY

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.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

The purpose of this item is to appropriate \$12,000 in philanthropic revenue received from Colorado-based Kentwood Real Estate designated by the donor as a sponsorship.

A sponsorship, also referred to as “underwriting,” is both a community partnership and charitable award. Local businesses sponsor events to invest in community engagement and expand the reach of both organization’s valuable audiences. Per IRS code, businesses can declare portions of a sponsorship as charitable giving. Therefore, the City’s fiduciary responsibility is to steward, track, and report sponsorships as philanthropic revenue.

Each year, the City enters into various sponsorships across departments for events ranging from Kids in the Park to Open Streets, from the Fourth of July festivities to Gardens of Lights.

Community partnerships and event sponsorships such as support from Kentwood Real Estate significantly enhance the City of Fort Collins’ service to the community and our residents.

CITY FINANCIAL IMPACTS

This Ordinance will appropriate \$12,000 in philanthropic revenue received through City Give for the Lincoln Center, Cultural Services.

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 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 other funds to be received in the Cultural Services and Facilities Fund during fiscal year 2024.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

First Reading attachments not included.

1. Ordinance for Consideration

ORDINANCE NO. 084, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING PHILANTHROPIC REVENUE RECEIVED THROUGH
CITY GIVE FOR THE LINCOLN CENTER, CULTURAL SERVICES

A. Kentwood Real Estate has generously donated \$12,000 to the City to support City events at the Lincoln Center.

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.

D. 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.

E. The City Council wishes to designate the appropriation herein for the Lincoln Center as an appropriation that shall not lapse until the earlier of the expiration of the grant or donation or the City’s expenditure of all funds received from such grant or donation.

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 philanthropic revenue in the Cultural Services and Facilities Fund the sum of TWELVE THOUSAND DOLLARS (\$12,000) to be expended in the Cultural Services and Facilities Fund for the Lincoln Center.

Section 2. The appropriation herein for the Lincoln Center 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 donation or the City's expenditure of all funds received from such grant or donation.

Introduced, considered favorably on first reading on July 2, 2024, and approved on second reading for final passage on July 16, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: July 26, 2024
Approving Attorney: Ted Hewitt

File Attachments for Item:

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.

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.

July 16, 2024

AGENDA ITEM SUMMARY

City Council



STAFF

Nina Bodenhamer, City Give Director

SUBJECT

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.

EXECUTIVE SUMMARY

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.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

American Association of Retired Persons (AARP) is the Nation's largest nonprofit, nonpartisan organization dedicated to empowering people to choose how they live as they age. AARP works to strengthen communities and advocate for what matters most to families—with a focus on health security, financial stability, and personal fulfillment.

The grant from the 2024 AARP Community Challenge will fund three, one-day Plumbing 101 Resident Workshops, each at a different mobile home community where adults aged 50 and older live. The mobile home park locations include Skyline, 2211 W Mulberry Street; North College, 1601 North College Avenue; and Harmony Village, 2500 East Harmony Road.

Neighborhood Services will also conduct hands-on training and distribute take-home educational materials to at least 750 homes across the three mobile home parks. Households that are unable to attend the event will still receive informational materials and access to city/partner resources.

The workshops will engage a minimum of 25 volunteers through the City's Adopt-A-Neighbor program for projects the residents are unable to complete on their own, especially those who are aged 50-plus.

The City Manager recommends 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 to be received in the General Fund during this fiscal year. The City Manager is also recommending the transfer described herein and has determined that the purpose for which the transferred funds are to be expended remains unchanged.

CITY FINANCIAL IMPACTS

Upon Adoption, this Ordinance will appropriate \$20,000 in philanthropic revenue for Neighborhood Services, Community Development and Neighborhood Services, Planning, Development and Transportation. 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 to exceed the current estimate of actual and anticipated revenues and all other funds to be received during fiscal year 2024.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

First Reading attachments not included.

- 1. Ordinance for Consideration

ORDINANCE NO. 085, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING PHILANTHROPIC REVENUE RECEIVED THROUGH
CITY GIVE FOR THE COMMUNITY DEVELOPMENT AND
NEIGHBORHOOD SERVICES 2024 AARP COMMUNITY CHALLENGE

- A. City Give has received a generous gift of \$20,000 from AARP.
- B. The designated purpose of the gift is to fund three, one day, homeowner workshops, each at a different mobile home community.
- C. The City's Adopt-A-Neighbor program provides volunteers for projects the residents are unable to complete on their own.
- D. This appropriation benefits the public health, safety, and welfare of the residents of Fort Collins and serves the public purpose of supporting healthy outcome for resident's homes.
- 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 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 new philanthropic revenue in the General Fund the sum of TWENTY THOUSAND DOLLARS (\$20,000) to be expended in the General Fund for the 2024 AARP Community Challenge.

Introduced, considered favorably on first reading on July 2, 2024, and approved on second reading for final passage on July 16, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: July 26, 2024
Approving Attorney: Yvette Lewis-Molock

File Attachments for Item:

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.

July 16, 2024



AGENDA ITEM SUMMARY

City Council

STAFF

Nina Bodenhamer, City Give Director

SUBJECT

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

EXECUTIVE SUMMARY

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.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

The Impact Fund, OtterCares Foundation provides grants to nonprofits and schools in Northern Colorado to support programs that directly teach the principles of entrepreneurship and/or philanthropy to K-12 students. The award to the City is designated to support Next Gen, Volunteer Services.

NextGen Serve is a City volunteer service club for youth ages 13-18 that focuses on growing leadership skills and service in the Fort Collins community. It is a free summer program designed to help teens explore careers they may not have considered, those in public service and philanthropy. Volunteers learn about a variety of career paths and work alongside City staff in various settings, including parks, natural areas, and gardens. NextGen also partners with non-profit organizations to introduce teens to philanthropy.

NextGen takes a holistic approach that builds job skills while creating community through team-building exercises. CSU interns are engaged as Crew Leaders and mentor teens throughout the summer. NextGen teens volunteer at a different City Department or non-profit each day of the program. Staff are present to talk about the mission of their program and how they found their career path. Volunteer work teaches teens the value of giving back and the joy that comes from teamwork.

Through NextGen, teens learn valuable job skills such as time management, good communication, and leadership. Teens begin their journey by completing an application and participating in interviews. For most, this is their first experience in an application process. At the end of the summer, teens are expected to give a short, capstone presentation in front of parents and City leaders to share their experiences.

CITY FINANCIAL IMPACTS

Upon adoption, this Ordinance will appropriate \$20,000 in philanthropic revenue for Volunteers Services. 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 to exceed the current estimate of actual and anticipated revenues and all other funds to be received during fiscal year 2024.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

First Reading attachments not included.

1. Ordinance for Consideration

ORDINANCE NO. 086, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING PHILANTHROPIC REVENUE RECEIVED
THROUGH CITY GIVE FOR NEXTGEN, VOLUNTEER SERVICES

A. The OtterCares Foundation has generously donated \$20,000 to the City to teach the principles of entrepreneurship and philanthropy to K-12 community youth. The City will use this funding to support NextGen, a City volunteer service club for youth ages 13-18 that focuses on growing leadership skills and service.

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 volunteer club for youth.

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 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 new philanthropic revenue in the General Fund the sum of TWENTY THOUSAND DOLLARS (\$20,000) to be expended in the General Fund for the NexGen, Volunteer Services.

Introduced, considered favorably on first reading on July 2, 2024, and approved on second reading for final passage on July 16, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: July 26, 2024
Approving Attorney: Ted Hewitt

File Attachments for Item:

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.

July 16, 2024

AGENDA ITEM SUMMARY

City Council



STAFF

Delynn Coldiron, City Clerk

SUBJECT

Items Relating to the Repeal and Reenactment of Certain Ordinances.

EXECUTIVE SUMMARY

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.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinances on Second Reading.

BACKGROUND / DISCUSSION

Following the adoption of an ordinance on second reading, the City Clerk's Office (CCO) is required by Article II, Section 7 of the City Charter to publish every ordinance in full on the City website and by number and title in a newspaper of general circulation both at least seven days prior to its final passage and within seven days after its final passage.

While all second reading ordinances adopted were published in full on the City website, the Coloradoan failed to publish the second reading ordinances by title as ordered by the Clerk’s office on June 20, 2024.

The Charter provides no mechanism to correct this type of omission. Therefore, to ensure the ordinances adopted on second reading on June 18 are fully perfected, it is necessary to repeal the original ordinances in two readings of new ordinances. Following adoption of First Reading, Second Reading will be scheduled for July 16, 2024. This is a purely procedural action. Background materials and information about each of the ordinances being repealed and reenacted is provided as part of the June 4, 2024, agenda as items 10-14 and the June 18, 2024, agenda as items 2-6, and are incorporated in this item by this reference.

For information on these items, please refer to the City’s [meeting portal](#).

CITY FINANCIAL IMPACTS

The delay of adoption of these ordinances may cause financial impacts that are not yet known.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

First Reading attachments not included.

- 1. Ordinance A for Consideration
- 2. Ordinance B for Consideration
- 3. Ordinance C for Consideration
- 4. Ordinance D for Consideration
- 5. Ordinance E for Consideration
- 6. Ordinance F for Consideration

ORDINANCE NO. 087, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
REPEALING ORDINANCE NO. 074, 2024,
AND MAKING SUPPLEMENTAL APPROPRIATIONS IN THE
COMMUNITY DEVELOPMENT BLOCK GRANT FUND

A. The City estimates it will receive in federal fiscal year 2024-2025 unanticipated revenue in the form of federal Community Development Block Grant (“CDBG”) funds from Housing and Urban Development (HUD) totaling \$1,107,934.

B. The City received unanticipated CDBG Program income in the amount of \$103,659.

C. Recommendations for the use of these funds were presented to City Council at its regular meeting on June 18, 2024.

D. This appropriation benefits the public health, safety and welfare of the residents of Fort Collins and serves the public purpose of providing affordable housing and human services for city residents.

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 Community Development Block Grant Fund and will not cause the total amount appropriated in the Community Development Block Grant 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 grant, 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 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 Community Development Block Grant Entitlement Program 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.

I. The City Council previously made these appropriations in Ordinance No. 074, 2024, ("Ordinance No. 074") adopted at final reading on June 18, 2024, but Ordinance No. 074 was not published after such adoption as required by Section 7 in City Charter Article II.

J. It is therefore necessary that the City Council adopt this Ordinance No. 087, 2024, to both repeal Ordinance No. 074 and to authorize and approve these appropriations again.

K. The City has not expended any of the appropriations approved in Ordinance No. 074.

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 from HUD in the Community Development Block Grant Fund, the sum of ONE MILLION ONE HUNDRED SEVEN THOUSAND NINE HUNDRED THIRTY-FOUR DOLLARS (\$1,107,934), to be expended in the Community Development Block Grant Fund upon receipt thereof for federal fiscal year 2024-2025 Community Development Block Grant projects.

Section 2. There is hereby appropriated from new revenue or other funds from program income in the Community Development Block Grant Fund, the sum of ONE HUNDRED THREE THOUSAND SIX HUNDRED FIFTY-NINE DOLLARS (\$103,659), to be expended in the Community Development Block Grant Fund for approved Community Development Block Grant projects.

Section 3. The appropriation herein for the Community Development Block Grant Entitlement Program 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 4. Ordinance No. 074, 2024, is hereby repealed.

Introduced, considered favorably on first reading on July 2, 2024, and approved on second reading for final passage on July 16, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: July 26, 2024
Approving Attorney: Jenny Lopez Filkins

ORDINANCE NO. 088, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
REPEALING ORDINANCE NO. 075, 2024,
AND MAKING SUPPLEMENTAL APPROPRIATIONS IN THE
HOME INVESTMENTS PARTNERSHIPS GRANT FUND

A. The Home Investment Partnerships Program (the “HOME Program”) was authorized by the National Affordable Housing Act of 1990 to provide funds in the form of Participating Jurisdiction Grants for a variety of housing-related activities that would increase the supply of decent, safe, and affordable housing.

B. On March 1, 1994, the City Council adopted Resolution 1994-092 authorizing the Mayor to submit to the Department of Housing and Urban Development (“HUD”) a notification of intent to participate in the HOME Program.

C. On May 26, 1994, HUD designated the City as a Participating Jurisdiction in the HOME Program, allowing the City to receive an allocation of HOME Program funds as long as Congress re-authorizes and continues to fund the program.

D. The City estimates it will receive in federal fiscal year 2024-2025 unanticipated revenue in the form of Home Investment Partnership Program (“HOME”) funds from Housing and Urban Development (HUD) totaling \$602,015.

E. The City received unanticipated HOME Program income in the amount of \$83,688.

F. Recommendations for the use of these funds were presented to City Council at its regular meeting on June 18, 2024.

G. This appropriation benefits the public health, safety and welfare of the residents of Fort Collins and serves the public purpose of providing affordable housing for city residents.

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 Home Investment Partnerships Grant Fund and will not cause the total amount appropriated in the Home Investment Partnerships Grant 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 federal grant, 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 grant or the City's expenditure of all funds received from such grant.

K. The City Council wishes to designate the appropriation herein for the Home Investment Partnerships Program 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.

L. The City Council previously made these appropriations in Ordinance No. 075, 2024 ("Ordinance No. 075") adopted at final reading on June 18, 2024, but Ordinance No. 075 was not published after such adoption as required by Section 7 in City Charter Article II.

M. It is therefore necessary that the City Council adopt this Ordinance No. 088, 2024, to both repeal Ordinance No. 075 and to authorize and approve these appropriations again.

N. The City has not expended any of the appropriations approved in Ordinance No. 075.

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 from HUD in the HOME Investment Partnerships Grant Fund the sum of SIX HUNDRED TWO THOUSAND FIFTEEN DOLLARS (\$602,015), to be expended in the HOME Investment Partnerships Grant Fund upon receipt from federal fiscal year 2024-2025 HOME Participating Jurisdiction Grant Funds.

Section 2. There is hereby appropriated from new revenue or other funds from program income in the HOME Investment Partnerships Grant Fund the sum of EIGHTY-THREE THOUSAND SIX HUNDRED EIGHTY-EIGHT DOLLARS (\$83,688), to be expended in the HOME Investment Partnerships Grant Fund for approved HOME Program projects.

Section 3. The appropriation herein for HOME Investment Partnerships Grant Entitlement Program 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 4. Ordinance No. 075, 2024, is hereby repealed.

Introduced, considered favorably on first reading on July 2, 2024, and approved on second reading for final passage on July 16, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: July 26, 2024
Approving Attorney: Jenny Lopez Filkins

ORDINANCE NO. 089, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
REPEALING ORDINANCE NO. 076, 2024,
AND MAKING A SUPPLEMENTAL APPROPRIATION FOR THE CHARTER
REVIEW COUNCIL PRIORITY FROM GENERAL FUND RESERVES

A. On February 27, 2024, the City Council adopted Resolution 2024-024, adopting a 2024-2026 Council Priority to modernize and update the City Charter.

B. The Resolution sets out the goals of this work as follows:

Modernize and Update the City Charter: Although small parts of the Charter get reviewed and updated on a regular basis, due to changes in state laws and election procedures, there is a need to modernize and update the City Charter, which has not been done in a comprehensive way in over 25 years.

C. The Council further discussed this Priority at the May 14 Council Work Session, identifying as the objectives for this work:

1. Comprehensive review of City Charter to align with state law and legal developments;
2. Update language in Charter to be inclusive;
3. Focus on cleanup and modernization rather than policy changes;
4. Evaluate form and timing options for presenting updates to voters; and
5. Fresh look at how Charter language is presented for ease of reading and clarity.

D. While staff continues to monitor for legal developments that impact Charter language and identify changes that may be needed or beneficial, retaining a special legal counsel with expertise and experience working with municipal charters throughout Colorado will add a new perspective to the review and focus resources more intentionally and systematically.

E. With this appropriation it is expected that initial work on the review would begin in July 2024.

F. Election-related Charter amendments have been considered by the Council Election Code Committee and are expected to be presented to Council for consideration and referred to the voters at a special election to be called for November 2024. Updating and modernizing the language of the provisions coming forward as part of that effort will be part of those proposed amendments.

G. This appropriation benefits public health, safety and welfare of the citizens of Fort Collins and serves the public purpose of improving and updating the City's Charter.

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 such 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 the General Fund and will not cause the total amount appropriated in the General 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. The City Council previously made these appropriations in Ordinance No. 076, 2024 (“Ordinance No. 076”) adopted at final reading on June 18, 2024, but Ordinance No. 075 was not published after such adoption as required by Section 7 in City Charter Article II.

K. It is therefore necessary that the City Council adopt this Ordinance No. 089, 2024, to both repeal Ordinance No. 076 and to authorize and approve these appropriations again.

L. The City has not expended any of the appropriations approved in Ordinance No. 076.

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 General Fund the sum of TWENTY-FIVE THOUSAND DOLLARS (\$25,000) to be expended in the General Fund for the Charter Review Council Priority.

Section 2. Ordinance No. 076, 2024, is hereby repealed.

Introduced, considered favorably on first reading on July 2, 2024, and approved on second reading for final passage on July 16, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: July 26, 2024
Approving Attorney: Carrie Daggett

ORDINANCE NO. 090, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
REPEALING ORDINANCE NO. 077, 2024,
AND APPROPRIATING PHILANTHROPIC REVENUE RECEIVED
THROUGH CITY GIVE FOR THE CULTURAL COMMUNITY
PROGRAM THROUGH CULTURAL SERVICES

A. The City was awarded \$30,000 from the Bohemian Foundation to underwrite live music as an aspect of the Cultural Community Program (the “Program”) which works to equitably integrate arts and culture into the Fort Collins community, especially in locations not typically programmed and beyond conventional cultural facilities.

B. The Program is part of the City’s Cultural Services Department, and since 2022, both staff wages and programming have been supported by funding from American Rescue Plan Act (ARPA) dollars.

C. The Program is committed to equitable opportunities for artists to reach and engage with diverse and often underserved community segments. The Program integrates art and culture across the community via pop-up performances, community co-creation, and supporting community initiatives by hiring local creatives to augment planned events.

D. This appropriation benefits the public health and welfare of the citizens and serves the public purpose of contributing to the vibrancy of Fort Collins and making live music fun and accessible for all.

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 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.

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 donation or the City’s expenditure of all funds received from such grant or donation.

H. The City Council wishes to designate the appropriation herein for Bohemian Foundation to underwrite live music donation as an appropriation that shall not lapse until the earlier of the expiration of the grant or donation or the City's expenditure of all funds received from such grant or donation.

I. The City Council previously made these appropriations in Ordinance No. 077, 2024 ("Ordinance No. 077") adopted at final reading on June 18, 2024, but Ordinance No. 075 was not published after such adoption as required by Section 7 in City Charter Article II.

J. It is therefore necessary that the City Council adopt this Ordinance No. 090, 2024, to both repeal Ordinance No. 077 and to authorize and approve these appropriations again.

K. The City has not expended any of the appropriations approved in Ordinance No. 077.

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 philanthropic revenue in the Cultural Services and Facilities Fund the sum of THIRTY THOUSAND DOLLARS (\$30,000) to be expended in the Cultural Services and Facilities Fund for the Bohemian Foundation to underwrite live music.

Section 2. The appropriation herein for the Cultural Community Program 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 donation or the City's expenditure of all funds received from such grant or donation.

Section 3. Ordinance No. 077, 2024, is hereby repealed.

Introduced, considered favorably on first reading on July 2, 2024, and approved on second reading for final passage on July 16, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: July 26, 2024
Approving Attorney: Jenny Lopez-Filkins

ORDINANCE NO. 091, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
REPEALING ORDINANCE NO. 078, 2024,
AND APPROPRIATING PRIOR YEAR PHILANTHROPIC
REVENUE RESERVES RECEIVED BY CITY GIVE FOR
THE 9/11 MEMORIAL AT SPRING PARK

A. The City of Fort Collins and Poudre Fire Authority have collaborated to construct a memorial to the events of September 11, 2001, at Spring Creek Park, adjacent to Poudre Fire Authority Station 3 (the "Memorial").

B. The Memorial will serve as the permanent home for a Steel World Trade Center I-beam and will honor firefighters, emergency medical technicians, law enforcement officers, and nearly 3,000 others who lost their lives on September 11, 2011.

C. Funding for the memorial is made possible by donations from generous community donors and efforts by Poudre Fire Authority and the City of Fort Collins staff members. This item appropriates \$12,500 in philanthropic gifts from UC Health and charitable proceeds from Canvas Credit Union's HeroFest. These gifts are appropriated for the sole purpose of the 9/11 Memorial at Spring Park.

D. This appropriation benefits the public health, safety and welfare of the residents of Fort Collins and serves the public purpose of facilitating the construction of a public memorial to the tragic events of September 11, 2001.

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 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.

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 donation or the City's expenditure of all funds received from such grant or donation.

H. The City Council wishes to designate the appropriation herein for 9/11 Memorial at Spring Park donation as an appropriation that shall not lapse until the earlier of the expiration of the grant or donation or the City's expenditure of all funds received from such grant or donation.

I. The City Council previously made these appropriations in Ordinance No. 078, 2024 (“Ordinance No. 078”) adopted at final reading on June 18, 2024, but Ordinance No. 075 was not published after such adoption as required by Section 7 in City Charter Article II.

J. It is therefore necessary that the City Council adopt this Ordinance No. 091, 2024, to both repeal Ordinance No. 078 and to authorize and approve these appropriations again.

K. The City has not expended any of the appropriations approved in Ordinance No. 078.

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 Capital Project Fund the sum of TWELVE THOUSAND FIVE HUNDRED DOLLARS (\$12,500) to be expended in the Capital Project Fund for the 9/11 Memorial at Spring Park.

Section 2. The appropriation herein for the 9/11 Memorial at Spring Creek 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 donation or the City’s expenditure of all funds received from such grant or donation.

Section 3. Ordinance No. 078, 2024, is hereby repealed.

Introduced, considered favorably on first reading on July 2, 2024, and approved on second reading for final passage on July 16, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: July 26, 2024
Approving Attorney: Jenny Lopez Filkins

ORDINANCE NO. 092, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
REPEALING ORDINANCE NO. 079, 2024,
AND MAKING A SUPPLEMENTAL APPROPRIATION AND
AUTHORIZING TRANSFER OF APPROPRIATIONS FOR THE
GARDENS ON SPRING CREEK INTERNSHIP PROGRAM

A. The Colorado Department of Agriculture's (CDA) Agricultural Workforce Development Program (AWDP) provides financial incentives to farms, ranches, and agricultural businesses to hire interns and provide them with hands-on training needed to begin a career in agriculture.

B. The Gardens on Spring Creek applied for funding to continue to provide paid internship opportunities for learners. By creating paid opportunities for students to support career readiness, the City expects to increase students' skillsets to better prepare them for quality jobs, while decreasing the financial burden an unpaid internship can cause.

C. The Gardens was awarded one horticulture internship of \$4,200 for the summer of 2024. This internship will work directly in the Garden of Eatin', an acre garden dedicated to food production where all produce is donated to the Food Bank of Larimer County, as well as with the Community Gardens Program, which allows residents to grow their own fruits, vegetables, herbs and annual flowers in one of the City's eight community gardens.

D. This appropriation benefits public health, safety and welfare of the citizens of Fort Collins and the intern's work serves the public purpose of improving a public cultural facility.

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 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.

G. 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

H. The City Manager has recommended the transfer of \$4,200 from the Cultural Services and Facilities Fund Operating Budget to Cultural Services and Facilities Fund Grant Project Budget and determined that the purpose for which the transferred funds are to be expended remains unchanged.

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 for the Gardens on Spring Creek Internship Program 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.

K. The City Council previously made these appropriations in Ordinance No. 079, 2024 ("Ordinance No. 079") adopted at final reading on June 18, 2024, but Ordinance No. 075 was not published after such adoption as required by Section 7 in City Charter Article II.

L. It is therefore necessary that the City Council adopt this Ordinance No. 092, 2024, to both repeal Ordinance No. 079 and to authorize and approve these appropriations again.

M. The City has not expended any of the appropriations approved in Ordinance No. 079.

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 Cultural Services and Facilities Fund the sum of FOUR THOUSAND TWO HUNDRED DOLLARS (\$4,200) to be expended in the Cultural Services and Facilities Fund for Gardens on Spring Creek Internship Program.

Section 2. The unexpended and unencumbered appropriated amount of FOUR THOUSAND TWO HUNDRED DOLLARS (\$4,200) is authorized for transfer from the Cultural Services and Facilities Fund Operating Budget to Cultural Services and Facilities

Fund Grant Project Budget and appropriated therein to be expended for Gardens on Spring Creek Internship Program.

Section 3. The appropriation herein for the Gardens on Spring Creek Internship Program 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 4. Ordinance No. 079, 2024, is hereby repealed.

Introduced, considered favorably on first reading on July 2, 2024, and approved on second reading for final passage on July 16, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: July 26, 2024
Approving Attorney: Jenny Lopez Filkins

File Attachments for Item:

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.

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.

July 16, 2024

AGENDA ITEM SUMMARY

City Council



STAFF

Delynn Coldiron, City Clerk

SUBJECT

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.

EXECUTIVE SUMMARY

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.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

If Council decides to place any measures on the ballot relating to Charter amendments, it will need to do so no later than August 20 to meet statutory requirements for publication. If Council does not take action by ordinance or resolution before the statutory deadline (September 6) to certify ballot language to Larimer County, the election will be cancelled, and the provisions of this Ordinance will be of no further force and effect.

This Ordinance does not submit a specific measure to the November 5, 2024, ballot. Adoption of this Ordinance is a required step in preserving the option for Council to submit any ballot measures that Council may desire, at the November 5, 2024, Coordinated Election.

CITY FINANCIAL IMPACTS

The cost of the special election will not be known until the County has been notified of the number of municipalities that will be on the ballot.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

First Reading attachments not included.

1. Ordinance for Consideration.

ORDINANCE NO. 093, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
CALLING A SPECIAL MUNICIPAL ELECTION TO BE
HELD IN CONJUNCTION WITH THE NOVEMBER 5, 2024,
LARIMER COUNTY GENERAL ELECTION

A. Section 31-2-210, Colorado Revised Statutes, provides that Charter amendments may be initiated by the adoption of an ordinance by the City Council submitting a proposed amendment to a vote of the registered electors of the City of Fort Collins.

B. The decision to call a special election must be made by ordinance sooner than the deadline to place measures on the ballot.

C. City staff is presenting to the City Council for consideration proposed Charter amendments related to City elections and possibly other measures for voter approval.

D. For the foregoing reasons, the City Council wishes to call a special municipal election on November 5, 2024, to be held in conjunction with the Larimer County General Election, for the purpose of submitting to the electorate of the City any ballot issues approved by the City Council prior to the deadline for certifying ballot content to the Larimer County Clerk and Recorder.

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. A Special Municipal Election in the City is hereby called for Tuesday, November 5, 2024, to be held in conjunction with the Larimer County General Election and conducted in such manner as shall be determined by the Larimer County Clerk and Recorder.

Section 2. The provisions of the Uniform Election Code, as amended, are hereby adopted with respect to the conduct of said election in lieu of the provisions of the Municipal Election Code.

Section 3. Subject to any applicable provision in Colorado statute to the contrary, the City Council may, by resolution or ordinance, submit to the voters at said election any citizen-initiated or City-initiated measure that complies with the requirements of the City Charter, irrespective of the nature of such measure.

Section 4. The City Clerk is hereby directed to certify the ballot content for the Special Municipal Election to the Larimer County Clerk no later than September 6, 2024, for any ballot titles set by the City Council prior to said date.

Section 5. The City Manager is hereby authorized to enter into an intergovernmental agreement with Larimer County for conduct of the election, pursuant to Section 1-7-116(2) of the Colorado Revised Statutes.

Section 6. In the event that the City Council does not take action by ordinance or resolution prior to September 6, 2024, to submit any ballot measures to the voters at the November 5, 2024, Larimer County General Election, the election provided for herein shall be cancelled and the provisions of this Ordinance shall be of no further force and effect.

Introduced, considered favorably on first reading on July 2, 2024, and approved on second reading for final passage on July 16, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: July 26, 2024
Approving Attorney: Carrie Daggett

File Attachments for Item:

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.

July 16, 2024

AGENDA ITEM SUMMARY

City Council



STAFF

Delynn Coldiron, City Clerk
 Heather Walls, Deputy City Clerk
 Rupa Venkatesh, Assistant City Manager

SUBJECT

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.

EXECUTIVE SUMMARY

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.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

The City of Fort Collins Charter is the governing document that defines the City organization and the powers and functions of the City. The Charter can only be amended by a vote of the people and was first created by a vote in 1954. Over time, Charter provisions may become obsolete, contradictory, or desired to be changed to address current needs or trends. From time to time, the City submits Charter revisions, both large and small, to the voters for approval. If Council votes to adopt the proposed charter amendments, they will be placed on the November 5, 2024, ballot.

Election Code Committee met several times during 2024 to receive information and consider potential City Charter amendment proposals related to the election and petition processes that are governed by the Charter. The revisions outlined below relating to the election provisions in Article VIII are requested by the City Clerk's Office to address ambiguities, inconsistencies, and process complexity. The Committee expressed support for these changes, which also include language modernization such as gender inclusive language and substituting active and direct terminology.

- In addition to modernizing language, staff proposes to revise the timeframe for a candidate to qualify from 60 days (2 months) to 30 business days (6 weeks) after certification of election has been issued. Shortening the time frame will ensure the candidate has qualified prior to them being sworn in on the second Wednesday in January.
- A computation of time section has been added to this Article. This clarifies how deadlines are affected by holidays, weekends, and emergency closures, which currently is an issue that can cause confusion and disagreement. When the overall Charter update process is completed, we anticipate that a general

time computation provision will be added for the Charter overall and the time computation provision in this Article will be removed.

- Deadlines for actions to be taken by the City are stated in “business days” in increments of five, except where particulars dictate otherwise.
- Deadlines for actions to be taken by the public are stated in “days” (defined to mean calendar days) in increments of seven, except where particulars dictate otherwise.
- Deadlines will be at the end of the regular business day.
- Generally, the deadline will shift forward to the first business day where a deadline falls on a weekend, holiday, or emergency closure day.
- Where a requirement is stated as “no later than” or “at least X days before”, the deadline will shift to the closest earlier business day.
- Many of the timing provisions are slightly modified to reflect this shift to make more consistent how timeframes will run in these processes.

CITY FINANCIAL IMPACTS

There is no direct financial impact by these Charter amendments however with the provisions relating to scheduling of elections, the City may see a decrease in costs when the election is coordinated with the County.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

The Election Code Committee unanimously supported the proposed Charter amendments.

PUBLIC OUTREACH

None.

ATTACHMENTS

First Reading attachments not included.

1. Ordinance for Consideration

ORDINANCE NO. 094, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS OF
THE CITY OF FORT COLLINS PROPOSED CHARTER
AMENDMENT NO. 1, AMENDING ARTICLE VIII OF THE CITY
CHARTER RELATING TO ELECTIONS

A. The City of Fort Collins Charter is the governing document that defines the City organization and the powers and functions of the City. The Charter was first created by a vote of the people of Fort Collins in 1954 and can only be amended by a vote of the people.

B. Over time, Charter provisions may become obsolete, contradictory, or warrant change to address current needs or trends.

C. Article IV, Section 8 of the Charter provides the Charter may be amended as provided by the laws of the State of Colorado. Colorado Revised Statutes Section 31-2-210 provides that charter amendments may be initiated by the adoption of an ordinance by the City Council submitting a proposed amendment to a vote of the registered electors of the City.

D. The Council's Election Code Committee met several times during 2024 to receive information and consider potential City Charter amendment proposals related to the election and petition processes that are governed by the Charter. Article VIII of the Charter governs the City's processes for elections generally.

E. The proposed amendments to Article VIII include the following:

1. Clarify the usage of the term "shall" by replacing with "will," "must" or other appropriate language;
2. modernize the language to be more inclusive by removing he/she language;
3. remove requirement that Chief Deputy City Clerk serve on the Board of Election and allow the City Clerk to designate the lead election expert;
4. eliminate vague language for challenging nominations and qualifications of candidates (substituting the Municipal Election Code process); and
5. add rules for computation of time and add consistent deadline timeframes.

F. The Election Code Committee considered and supported similar revisions to Article IX, regarding recall, and Article X, regarding initiative and referendum, which are also under consideration by the Council.

G. The Council finds that these proposed revisions to Article VIII of the City Charter, regarding City elections generally, update, simplify and improve these provisions and are for the benefit of the people of Fort Collins, and the Council desires to present

the amendments to Article VIII set forth below to the voters for approval at the November 5, 2024, special municipal election.

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. That the following proposed changes to Article VIII of the Charter of the City of Fort Collins shall be submitted to the registered electors of the City as "Proposed Charter Amendment No. 1" at the special municipal election to be held on Tuesday, November 5, 2024:

ARTICLE VIII. ELECTIONS

Section 1. Applicability of state constitution.

The Council will provide by ordinance for the manner of holding city elections. All ordinances regarding elections must be consistent with the provisions of this Charter and the state Constitution. For any matter regarding elections not covered by the state Constitution, this Charter or ordinance of the Council will be governed by the laws of the State of Colorado relating to municipal elections, or coordinated municipal elections, as applicable.

Section 2. City elections.

A regular city election will be held on the first Tuesday in November of every odd-numbered year. All other municipal elections will be known as special city elections and will be called by ordinance and must be held in accordance with the provisions of this Charter and any ordinances adopted pursuant thereto. All municipal elections must be nonpartisan.

In order to implement a change of regular city elections from April of each odd-numbered year to November of each odd-numbered year, the term of the Mayor and each Councilmember will be extended to such time as a successor elected in November of the appropriate odd-numbered year (consistent with Article II, Section 1(b)) takes office, unless otherwise ended due to an event of vacancy or recall. Such change in term length will have no effect on the number of terms any such officer may be elected under the applicable term limits.

Section 3. Nomination; withdrawal from nomination.

Any person who is qualified at the time of nomination for the office to be filled may be nominated for the elective office by petition. A nominating petition for the office of Mayor must be signed by not less than twenty-five (25) registered electors. A nominating petition for District Council office must be signed by not less than twenty-five (25) registered electors residing in that District. A registered elector may sign one (1) petition for each

office for which the elector is entitled to vote at the election. If an elector should sign more petitions than entitled, said elector's signature will be void as to all petitions which the elector signed.

Nominating petitions must be filed with the City Clerk. The Council will enact an ordinance specifying the time frame for circulation and submittal of nominating petitions and the deadline for withdrawal from candidacy for municipal office. Such time frame must not be changed within one hundred eighty (180) days immediately prior to the election. No nominating petition may be accepted unless the candidate completes a verified acceptance of the nomination certifying that they are not a candidate, directly or indirectly, of any political party, and that they meet the qualifications for office and will serve if elected.

A person who has been nominated may withdraw from candidacy by filing a written request to do so with the City Clerk before the deadline established by Council ordinance for such withdrawal, and no name so withdrawn may be placed upon the ballot.

Section 4. Petitions.

(a) Form; circulation. The Council will prescribe by ordinance, upon recommendation of the City Clerk, the form for a nominating petition which must include such warnings and notices to signers as may be deemed appropriate by the Council, as well as the candidate's verified acceptance of nomination. The signatures on a nominating petition need not all be subscribed on one (1) page, but to each separate section of the petition there will be attached a signed statement of the circulator thereof, stating the number of signers on that section of the petition, and that each signature thereon was made in the circulator's presence and is the genuine signature of the person whose name it purports to be. When executed, such statement must be accepted as true until it may be proved false. If any portion is proved false, that portion of any petition must be disregarded. Following each signature on the petition of nomination must be written the printed name and the residence address of the signer, and the date of signing. All nominating papers comprising a petition must be filed as one (1) instrument.

(b) Sufficiency of petition. Upon receipt of a nominating petition, the City Clerk will forthwith examine the petition, and within five (5) business days after the filing of the petition, notify the candidate in writing of the results of the examination, specifying the particulars of insufficiency, if any. Within the regular time for filing petitions, an insufficient petition may be amended and filed again as a new petition, in which case the time of the first filing will be disregarded in determining the validity of signatures thereon, or a different petition may be filed for the same candidate. The petition for each candidate elected to office must be preserved by the City Clerk until the expiration of the terms of office for such person.

(c) No person may receive any compensation whatever for signing a nominating petition.

(d) The City adopts the applicable requirements and procedures outlined in the Colorado Municipal Election Code of 1965, as amended, for objections to officer nominations.

Section 5. Board of Elections for City-administered elections.

There is hereby created a Board of Elections consisting of the City Clerk, the lead election expert in the City Clerk's Office, as determined by the City Clerk, and Chief Judge. The Board will be responsible for any election duties specified in this Charter and for such additional duties related to the conduct of elections by the City as may be established by the Council by ordinance.

Section 6. Appearance of names on ballot.

Every ballot must contain the names of all duly nominated candidates for offices to be voted for at that election, except those who have died or withdrawn. The names will be arranged in alphabetical order of surname for each office, and may not contain any title or degree designating the business or profession of the candidate. The candidate's name may be a nickname, but may not include any punctuation marks setting out the nickname.

Section 7. Certification of election results.

(a) No later than the date specified by Council by ordinance and, after verifying the total number of legal votes cast for each candidate and measure voted upon, the Board of Elections must complete a certificate declaring the results of the election. The candidate receiving the highest number of votes for a particular office, as determined pursuant to this Section 7, will be declared elected to that office. In event of a tie, the selection will be made by the Board of Elections by lot after notice to the candidates affected. The City adopts the applicable requirements and procedures outlined in the Colorado Municipal Election Code of 1965, as amended, for contests to officers declared duly elected. In case the candidate elected is disqualified by court order after the date of issuance of the certificate of election, tabulation of results in that contest shall be rerun with the disqualified candidate being eliminated prior to any tabulation and the candidate with the resulting highest vote shall be elected. If there is no other elected successor who qualifies or if the vote tabulation can no longer be rerun, the office will be deemed vacant, and will be filled by appointment by the remaining members of the council, as provided in Article II, Section 18. In the event of a mandatory recount or recount by request in a City-administered election, the Board of Elections must complete an amended certificate declaring the results of the election by no later than five (5) business days after the completion of the recount.

(b) For coordinated city elections (which are not administered by the City), the election will be determined and certified, and any tie vote or recount will be administered, as provided in the applicable state law. The candidate receiving the highest number of votes for a particular office, as determined pursuant to Section 7(c), will be declared elected to that office.

(c) Ranked voting methods. Beginning in 2025, the candidate receiving the highest number of votes for a particular office will be determined using a ranked voting method.

(1) For a City-administered election, the ranked voting method will be in accordance with specifications adopted by the City Council by ordinance.

(2) For a coordinated election, the ranked voting method will be in accordance with, and as provided by, applicable state law.

Section 8. Campaign contributions.

The Council will act by ordinance to establish a limit on the amount that any person or entity may contribute in support of a candidate for Council on the ballot at any city election.

No political party or city employee, directly or indirectly, and no public service corporation, nor any other person, firm or corporation, owning, interested in, or intending to apply for any franchise or contract with the city may contribute or expend any money or other valuable thing, directly or indirectly, to assist in the election or defeat of any candidate.

Section 9. Corrupt practices.

Any person who violates at a city election any state law, provision of this Charter or ordinance of the city will, upon conviction thereof, be disqualified from holding any city position or employment for two (2) years, or any elective city office for four (4) years.

Section 10. Validity of City-administered elections.

No City-administered election may be invalidated if it has been conducted fairly and in substantial conformity with the requirements of this Charter.

Section 11. Computation of time.

(a) Except when business days are specified, all computations of time made under the provisions of this article will be based on calendar days.

(b) Except when computing business days, Saturdays, Sundays, City holidays and days City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances will be included, but, if the time for any act to be done or the last day of any period is a Saturday, Sunday, City holiday or day City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances, the period is extended to include the next day that is not a Saturday, Sunday, or City holiday.

(c) In computing time for any act to be done before any regular or special election, the first day will be included, and the last or election day will be excluded.

(d) If the time for an act to be done under this article is referred to in business days, the time will be computed by excluding Saturdays, Sundays, City holidays, and any day City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances.

(e) If a provision requires doing an act in "not less than" or "no later than" or "at least" a certain number of days or "prior to" a certain number of days or a certain number of months "before" the date of an election, or any phrase that suggests a similar meaning, if that period would end on a Saturday, Sunday or City holiday, it will instead shift to end on the prior business day that is not a Saturday, Sunday, or City holiday. If the period ends on a day City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances, the period will end on the next business day on which City Hall is open for business.

(f) Except when otherwise specified, an act must be completed by 5:00 p.m. Mountain time on the last day for that action.

Section 12. Further regulations.

The Council may, by ordinance, make such further rules and regulations as are consistent with this Charter and the Colorado Constitution in order to carry out the provisions of this Article.

Section 2. That the following ballot title and submission clause are hereby adopted for submitting Proposed Charter Amendment No. 1 to the voters at said election:

**CITY-INITIATED
PROPOSED CHARTER AMENDMENT NO. 1**

Shall Article VII of the Charter of the City of Fort Collins, regarding City elections, be amended to:

- Clarify the usage of the term "shall" by replacing with "will," "must" or other appropriate language;
- modernize the language to be more inclusive by removing he/she language;
- remove requirement that Chief Deputy City Clerk serve on the Board of Election and allow the City Clerk to designate the lead election expert;
- eliminate vague language for challenging nominations and qualifications of candidates (substituting the Municipal Election Code process); and
- add rules for computation of time and consistent deadline timeframes?

_____ Yes/For
_____ No/Against

Introduced, considered favorably on first reading on July 2, 2024, and approved on second reading for final passage on July 16, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: July 26, 2024
Approving Attorney: Carrie Daggett

File Attachments for Item:

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.

July 16, 2024

AGENDA ITEM SUMMARY

City Council



STAFF

Delynn Coldiron, City Clerk
 Heather Walls, Deputy City Clerk
 Rupa Venkatesh, Assistant City Manager

SUBJECT

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.

EXECUTIVE SUMMARY

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.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

The City of Fort Collins Charter is the governing document that defines the City organization and the powers and functions of the City. The Charter can only be amended by a vote of the people and was first created by a vote in 1954. Over time, Charter provisions may become obsolete, contradictory, or desired to be changed to address current needs or trends. From time to time, the City submits Charter revisions, both large and small, for voter approval. If Council votes to adopt the proposed charter amendments, they will be placed on the November 5, 2024, ballot.

Election Code Committee met several times during 2024 to receive information and consider potential City Charter amendment proposals related to the election and petition processes that are governed by the Charter. The revisions outlined below relating to the recall provisions in Article IX are requested by the City Clerk's Office to address ambiguities, inconsistencies, and process complexity. The Committee expressed support for these changes, which also include language modernization such as gender inclusive language and substituting active and direct terminology.

- **Reorganization for Clarity:** Article IX has been reorganized to make the description of the process and requirements flow better so they are easier to follow. The full recall process is outlined in chronological order. This will make the process simpler and easier to follow. The significant shifting of information within these Articles has made repealing and reenacting the appropriate method for revising them, rather than showing the extensive individual wording amendments.

- **Updates to Review Periods for the City Clerk:** The timeframe allowed for the City Clerk to examine petitions has been updated because volumes (such as numbers of petition signatures to review) have increased since these current provisions were adopted and are more in line with the examination periods in state statutes.

Note: There has been no change to the signature requirements for a recall petition.
- **Simplification of the Petition Review Process (“Cure” Provisions):** The current process for *recall petitions* allows for “cure” meaning the petition may be withdrawn if determined insufficient and an additional 15 days is allowed for amending the petition. Under municipal election law this is used not to add signatures but to add or clarify information and correct affidavits. This cure mechanism has not been used and adds confusion to the process. Because these “cure” periods create confusion, are not well utilized or understood and generally are inconsistent with municipal election code, staff has proposed that they be removed.
- **Updates to Petition Review Protest Process:** The process for protesting a Clerk determination of sufficiency for petitions has been updated and made consistent for each of the three (recall, initiative and referendum) major petition processes. Time frames have been tightened except a slightly longer time frame for arranging, setting and providing notice of the protest hearing is included. This will allow more time for preparation in advance of the hearing by all involved.
- **Updates to the time for to conduct an election:** A significant challenge that has developed over time is the lead time required to place an item on a ballot and the overall time for the conduct of an election. Current timeframes are unworkable under current election requirements and limitations. For a successful recall petition, the proposed language states that upon the City Clerk’s presentation of a petition certified as sufficient for recall:
 - Council must set the date for the election to be held on a Tuesday at the earliest possible election date and that the City Clerk will advise Council on the date that will allow sufficient time to meet all applicable requirements to hold such an election.
 - If the earliest possible election date determined by the City Clerk is less than 77 days prior to an upcoming November election (regular municipal or general election), the recall election must be consolidated with such election.
 - If the election will be consolidated with the November election and the office subject to recall is already on the upcoming November ballot, the recall process terminates.
 - If the officer subject to the recall petition resigns before ballots are mailed to the voters, the recall process would end, and the vacancy must be filled by appointment.
 - This version also to removes language about qualification of candidates and instead refers to statutory procedures for challenging candidate qualifications.
- **A computation of time section** has been added to this Article. This clarifies how deadlines are affected by holidays, weekends, and emergency closures, which currently is an issue that can cause confusion and disagreement. When the overall Charter update process is completed, we anticipate that a general time computation provision will be added for the Charter overall and the time computation provision in this Article will be removed.
 - Deadlines for actions to be taken by the City are stated in “business days” in increments of five, except where particulars dictate otherwise.
 - Deadlines for actions to be taken by the public are stated in “days” (defined to mean calendar days) in increments of seven, except where particulars dictate otherwise.
 - Deadlines will be at the end of the regular business day.
 - Generally, the deadline will shift forward to the first business day where a deadline falls on a weekend, holiday, or emergency closure day.

- Where a requirement is stated as “no later than” or “at least X days before”, the deadline will shift to the closest earlier business day.
- Many of the timing provisions are slightly modified to reflect this shift to make more consistent how timeframes will run in these processes.

CITY FINANCIAL IMPACTS

None.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

The Election Code Committee unanimously supported the proposed Charter amendments.

PUBLIC OUTREACH

None.

ATTACHMENTS

First Reading attachments not included.

1. Ordinance for Consideration

ORDINANCE NO. 095, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS OF
THE CITY OF FORT COLLINS PROPOSED CHARTER
AMENDMENT NO. 2, REPEALING AND REENACTING ARTICLE IX
OF THE CITY CHARTER RELATING TO RECALL

A. The City of Fort Collins Charter is the governing document that defines the City organization and the powers and functions of the City. The Charter was first created by a vote of the people of Fort Collins in 1954 and can only be amended by a vote of the people.

B. Over time, Charter provisions may become obsolete, contradictory, or warrant change to address current needs or trends.

C. Article IV, Section 8 of the Charter provides the Charter may be amended as provided by the laws of the State of Colorado. Colorado Revised Statutes Section 31-2-210 provides that charter amendments may be initiated by the adoption of an ordinance by the city council submitting a proposed amendment to a vote of the registered electors of the city.

D. The Council's Election Code Committee met several times during 2024 to receive information and consider potential City Charter amendment proposals related to the election and petition processes that are governed by the Charter. Article IX of the Charter governs the City's processes for recall of elected officials.

E. A thorough review of Article IX has highlighted confusing and unnecessarily complicated language, and the improvement of these provisions would assist members of the public in exercising their rights regarding recall of elected officials and would reduce confusion and ambiguity for those involved in this process.

F. Incorporated in the revised Article IX are the following:

1. Clarified the usage of the term "shall" by replacing with "will," "must" or other appropriate language.
2. Modernized the language to be more inclusive by removing he/she language.
3. Revised and reorganized to make the description of the process and requirements flow better so they are easier to follow. The process for a recall petition is set out chronologically and is consistent with the other Charter petition processes.
4. Retained the same percentage requirements for signatures (based on first-choice votes with ranked choice voting) and increased timeframes for circulation of a recall petition, including an additional increase in the time to circulate a petition to recall the mayor.

5. Updated the timeframe allowed for the City Clerk to examine petitions because volumes (such as numbers of petition signatures to review) have increased since these current provisions were adopted. The new timeframes are more in line with the examination periods in state statutes.
6. Simplified the Petition Review Process (“Cure” Provisions) to eliminate the time for correction of technical deficiencies after submission of a petition.
7. Updated the Protest process for consistency with the process for filing and deciding protests of other types of petitions, allowing more time for setting of the protest hearing and tightening timeframes for completion of the hearing and decision.
8. Updated time for conduct of an election on a successful petition so they work with new election process timing and requirements. For a successful recall petition, the measure would be set for the next Tuesday for which all election deadlines can be met. If the earliest meetable date is less than 77 days before an upcoming November election, the recall issue must go to that election. However, if the recall election will be on the upcoming November ballot or later, and the office held by the subject of the recall is on that November election, the recall process terminates.
9. Added computation of time provisions to clarify how deadlines are interpreted and setting updated deadlines based on business days (in increments of five) for actions the City must complete and calendar days (in increments of seven) for actions to be completed by others.

G. The Election Code Committee considered and supported similar revisions to Article VIII, regarding elections generally, and Article X, regarding initiative and referendum, which are also under consideration by the Council.

H. The Council finds that these proposed revisions to Article IX of the City Charter, regarding the Recall process, update, simplify and improve that process and are for the benefit of the people of Fort Collins, and the Council desires to present the repealed and reenacted Article IX set forth below to the voters for approval at the November 5, 2024, special municipal election.

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. That the repeal of Article IX of the City Charter and the reenactment of Article IX of the City Charter as set forth below, shall be submitted to the registered electors of the City as “Proposed Charter Amendment No. 2” at the special municipal election to be held on Tuesday, November 5, 2024:

ARTICLE IX. RECALL

Section 1. The recall.

(a) Power. Any elective officer of the city may be recalled from office, through the procedure and in the manner provided herein, by the registered electors entitled to vote for a successor of such incumbent officer. The procedure to affect a recall will be as provided in this Article.

- (1) For purposes of this Article, in the case of recall of the Mayor, the words "registered elector" will be construed to mean persons residing within the city who are registered to vote as of the date they signed the petition for recall.
- (2) For purposes of this Article, in the case of a proposed recall of District Council representatives, the words "registered elector" will be construed to mean persons who are registered to vote within the particular affected Council District of the city as of the date they signed the petition for recall of the District Council representative.
- (3) No recall petition may be circulated or filed against any officer until the officer has actually held office for at least one (1) year in the officer's current term, nor within six (6) months of the end of such term.

(b) Commencement of proceedings; affidavit. One (1) or more registered electors may commence recall proceedings by filing with the City Clerk an affidavit of not more than two hundred (200) words stating the reasons for the recall of the officer sought to be removed. A separate affidavit must be filed for each officer sought to be recalled.

- (1) Within two (2) business days after the filing of the affidavit, the City Clerk will mail a copy by certified mail to the affected officer. The City Clerk will also promptly provide the affidavit to the City Council by electronic mail.
- (2) No later than seven (7) days after the date of the City Clerk's mailing, the affected officer may file with the City Clerk a sworn statement of not more than three hundred (300) words in defense of the charges.
- (3) The affidavit and the response are intended for the information of the registered electors, who will be the sole and exclusive judges of the sufficiency of the ground or grounds assigned for the recall, and said ground or grounds will not be open to judicial review.
- (4) Within seven (7) days after the date by which any statement in defense must be filed, the petitioner must submit to the City Clerk a petition for recall of the officer for City Clerk review in accordance with Section 2(b) of this

Article. The petition must be circulated, signed, verified and filed in the manner provided in Section 2 of this Article.

- (5) If no petition for recall has been submitted to the City Clerk for approval of its form within the time period specified above, the recall proceedings will be terminated.

Section 2. Petitions.

(a) Separate petitions required. A separate petition must be circulated and filed for each officer sought to be recalled.

(b) Form and content.

(1) Adoption of form. The Council must prescribe by ordinance, upon recommendation of the City Clerk, a general form of petition which will contain warnings and notices to signers as necessary and meet the requirements of this Article.

(2) Approval of form. No petition may be circulated until the City Clerk has approved the form for circulation. The City Clerk must determine whether to approve the form of petition no later than five (5) business days after submittal. The City Clerk must first determine that the petition form contains all matters required under this Article and only the matters required by this Article.

(3) Scope of approval. The City Clerk's approval under this Section does not constitute an approval of the content of the petition or its legality, but rather, starts the running of the time periods provided for circulation and filing of petitions for recall.

(4) Statement of purpose. The petition must contain or have attached to each section throughout its circulation a copy of the charges set forth in the affidavit on file with the City Clerk, and if requested by the person sought to be recalled, a copy of the statement in defense.

(5) Petition representatives. Each petition must designate by name and address three (3) registered electors who will represent the signers of the petition in all matters affecting the petition.

(6) Signatures. Only registered electors may sign the petitions authorized under this Article. Each signer must sign their own signature and each signature must be followed by the printed name of the signer, the street and number address of their residence, and the date of signing.

(7) Petition sections. Each section of the petition must be individually numbered and must contain no less than thirty (30), and no more than one hundred (100) signature lines.

(c) Circulation of petition.

(1) To be valid, the petition must be circulated and signed in sections with each section consisting of one (1) or more sheets securely fastened at the top, and each section must contain a full and accurate copy of the text of the petition and the names and addresses of the designated representatives for the petition.

(2) All sections must be filed with the City Clerk as one (1) instrument.

(3) Only persons eighteen (18) years of age or older may circulate the petition for signatures.

(4) The circulation of any petition by any medium other than personally by a circulator is prohibited.

(5) No person may receive any compensation whatever for signing a recall petition.

(6) No person may knowingly sign an initiative petition more than once.

(7) In the event that the signature of any person appears more than once on a petition authorized under this Article, the first signature verified will be counted and all other signatures of that person will be rejected.

(d) Affidavit of circulator. For each petition section, the circulator of the petition section must sign under oath before a notary public the affidavit of circulator attached at the end of the petition section. The affidavit must state the following:

(1) the circulator's address of residence;

(2) that the circulator is eighteen (18) years of age or older;

(3) that they personally circulated the section;

(4) that each signature was affixed in the circulator's presence on the date stated with such signature;

(5) that to the best of the circulator's knowledge and belief each signer was at the time of signing a registered elector of the city;

(6) that to the best of the circulator's knowledge and belief each signature is the genuine signature of the person whose name it purports to be;

(7) that each signer had an opportunity before signing to read the full text of the petition; and

(8) that the circulator has not paid or offered to pay any money or other thing of value to any signer for the purpose of inducing or causing the signer to affix their signature to the petition.

A petition verified by the valid affidavits of its circulators in each of its sections will be prima facie evidence that the signatures thereon are genuine and true.

(e) Number of signatures required.

(1) First recall attempt. The petition must be signed by registered electors equal in number to at least twenty-five (25) percent of the total of votes cast at the last preceding regular city election for the office to which the incumbent sought to be recalled was elected.

(2) Subsequent recall attempts. After one (1) recall petition and election, a recall petition filed against the same officer during the same term for which elected must be signed by registered electors equal in number to at least fifty (50) percent of the total of first choice votes cast at the last preceding regular city election for the office to which the incumbent sought to be recalled was elected.

(f) Petition deadlines; submittal.

(1) For the recall process to proceed, petitions for recall must be filed with the City Clerk as follows:

a. For a District Council representative, no later than thirty-five (35) days after the City Clerk's approval of the form for circulation;

b. For a Mayor, no later than forty-nine (49) days after the City Clerk's approval of the form for circulation.

(2) All petition sections must be filed with the City Clerk together at the same time and will collectively constitute the petition.

(3) A recall petition must be filed with the City Clerk within the requisite time or it will be deemed null and void.

(g) Examination of petition.

(1) Within fifteen (15) business days of the filing of a petition the City Clerk will ascertain by examination of the petition and the registration books whether the

petition is signed by the requisite number of registered electors and contains the required particulars and affidavits.

(2) Any petition section the City Clerk reasonably determines has been disassembled, whether or not it has been reassembled, will be deemed invalid.

(3) Upon submittal of a petition, the Clerk shall not remove the signature of an elector from the petition.

(4) The Clerk will issue publicly and provide to the petition representatives the Clerk's initial determination of petition sufficiency. If the petition is insufficient, the City Clerk will so certify and forthwith notify all of the designated petition representatives in writing, specifying the particulars of insufficiency.

(h) Protests.

(1) Registered electors desiring to protest a determination by the City Clerk that a petition is either sufficient or insufficient may file a written protest, under oath, in the office of the City Clerk within seven (7) days of the City Clerk's initial determination as to sufficiency of the petition. The protest must set forth with particularity the grounds of protest and any signatures and related defects in form protested.

(2) Upon the filing of a protest, the City Clerk will send a copy of the protest to the designated petition representatives, the City Council and the City Manager. The City Manager will appoint a hearing officer, who, in conjunction with the City Clerk, will set a time for hearing such protest, which must be no more than ten (10) business days after the filing of a protest.

(3) At least five (5) business days prior to the hearing, the City Clerk will send a notice of the date, time and location for the hearing and a copy of the protest to all of the designated petition representatives, the person(s) who filed the protest, and the City Council.

(4) All protest hearings will be before a hearing officer appointed by the City Manager. The hearing officer will have the power to issue subpoenas to compel the attendance of witnesses and the production of documents.

(5) All records and hearings will be public, and all testimony must be under oath.

(6) The hearing will be summary in nature and concluded no later than twenty (20) business days after the protest was filed.

(7) The hearing officer must decide and certify the results of the hearing no later than five (5) business days after the hearing is concluded, and no further protest regarding the petition may be filed.

(8) The City Clerk will make any final determination regarding the sufficiency or insufficiency of a petition and must base such determination on the protest hearing results issued by the hearing officer.

(9) A petition for recall that has been deemed insufficient after protest may not be amended or circulated further and no further protest regarding the petition may be filed.

(i) Certification and presentation to Council. When and if a petition is deemed sufficient, whether following the initial sufficiency determination by the City Clerk in the absence of a protest, or following protest proceedings, the City Clerk will so certify and present the certified petition to the Council at the next regularly scheduled meeting or special meeting called for this purpose. The City Clerk's certificate constitutes the final determination as to the sufficiency of the petition.

Section 3. Action by Council.

(a) A recall election will be for the dual purposes of voting on the recall of the officer sought to be removed and the election of a successor.

(b) Upon the City Clerk's presentation of a petition certified as sufficient for recall, the Council must set a date for the election to be held on a Tuesday at the earliest possible election date that allows the City Clerk sufficient time to meet all legal, logistical and technical requirements applicable to the conduct of an election. The City Clerk will advise the Council of said election date in connection with Council's call of the recall election.

(c) If the earliest possible election date determined by the City Clerk is less than seventy-seven (77) days prior to an upcoming November regular municipal election or November General Election conducted by the Larimer County Clerk and Recorder, the recall election must be consolidated with such other election date.

(d) If a recall election must be consolidated with a November regular municipal election pursuant to subsection (c) or cannot be set until a date after a November regular election, and if the Council office held by the officer for whom a recall is sought will be on such November ballot, the recall process must be deemed terminated and the regular election for that Council office will proceed as part of the November regular municipal election.

(e) If the officer subject to a recall petition resigns before ballots for the recall election are mailed to the voters, the recall process must be deemed terminated and the vacancy must be filled by appointment. If a vacancy occurs after the ballots for the recall election have been mailed to the voters, the election to fill the vacancy under Section 4, below, must nevertheless proceed.

Section 4. Recall elections.

(a) Generally. Recall elections must be conducted in the same manner as provided generally for regular or special city elections in this Charter. All Charter provisions related to nomination and qualification of candidates apply to recall elections.

(b) Nominations on recall. Anyone desiring to become a candidate at the recall election must do so by nominating petition as required in Article VIII of this Charter. The deadline for filing a nominating petition for a recall election will be as established by ordinance of the Council. If more than one (1) officer is sought to be recalled, then the nominating petition must specify which incumbent the candidate seeks to succeed. The name of the person against whom the recall petition is filed is barred from appearing on the ballot as a candidate for the office.

(c) Ballots. The official ballot must include, as to every officer whose recall is to be voted on, the statement of grounds and, if requested by the affected officer, the officer's statement in defense followed by the words, "Shall (name of person against whom the recall petition is filed) be recalled from the office of (_____)?" Following such question must appear the words, "Yes" indicating a vote in favor of the recall and "No" indicating a vote against such recall. On such ballots, under each question, there must also be printed the names of those persons who have been nominated as candidates to succeed the person sought to be recalled. (d) Election results. If a majority of those voting on the question of the recall of any incumbent from office votes "No," the incumbent continues in office. If a majority votes "Yes" for the incumbent's removal, the incumbent will thereupon be deemed removed from their office upon the taking of the oath of office by their successor. If the officer is recalled, the candidate for succession receiving the highest number of votes at the election determined in accordance with Article VIII, will be declared elected for the remainder of the incumbent's term.

(e) Elected replacement. The candidate elected will take office upon taking the oath of office, which must occur as the first order of business at the next regular or special Council meeting after certification of the election results.

(f) Disqualification from office. No person who has been recalled or has resigned after the City Clerk's presentation to Council of a certified, sufficient petition for recall of such person may serve the city in any elected or Council-appointed capacity within two (2) years after such removal or resignation.

Section 5. Computation of time.

(a) Except when business days are specified, all computations of time made under the provisions of this article will be based on calendar days.

(b) Except when computing business days, Saturdays, Sundays, City holidays and days City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances will be included, but, if the time for any act to be done or the

last day of any period is a Saturday, Sunday, City holiday or day City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances, the period is extended to include the next day that is not a Saturday, Sunday, or City holiday.

(c) In computing time for any act to be done before any regular or special election, the first day will be included, and the last or election day will be excluded.

(d) If the time for an act to be done under this article is referred to in business days, the time will be computed by excluding Saturdays, Sundays, City holidays, and any day City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances.

(e) If a provision requires doing an act in "not less than" or "no later than" or "at least" a certain number of days or "prior to" a certain number of days or a certain number of months "before" the date of an election, or any phrase that suggests a similar meaning, if that period would end on a Saturday, Sunday or City holiday, it will instead shift to end on the prior business day that is not a Saturday, Sunday, or City holiday. If the period ends on a day City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances, the period will end on the next business day on which City Hall is open for business.

(f) Except when otherwise specified, an act must be completed by 5:00 p.m. Mountain time on the last day for that action.

Section 6. Further regulations.

The Council may, by ordinance, make such further rules and regulations as are consistent with this Charter and the Colorado Constitution in order to carry out the provisions of this Article.

Section 2. That the following ballot title and submission clause are hereby adopted for submitting Proposed Charter Amendment No. 2 to the voters at said election:

CITY-INITIATED PROPOSED CHARTER AMENDMENT NO. 2

Shall Article IX of the Charter of the City of Fort Collins, regarding the recall process, be repealed and reenacted in the form set forth in Ordinance No. 095, 2024, which makes edits for clarity and consistency and:

- Clarifies the usage of the term "shall" by replacing with "will," "must" or other appropriate language;
- modernizes the language to be more inclusive by removing he/she language;
- revises and reorganizes Article IX to be simpler, easier to follow and clearer;

- retains the same percentage requirements for signatures (based on first-choice votes with ranked choice voting) and increases timeframes for circulation of a recall petition, with an additional increase in the time to circulate a petition to recall the mayor;
- simplifies review process and removes the allowance for time for “cure” of technical errors and omissions;
- tightens timeframe for protest hearing and decision;
- requires Council to set recall measure for vote for the next Tuesday for which all election deadlines can be met and if that earliest meetable date is within 77 days of a November election, it must go on that ballot.
- clarifies that if the office held by the subject of the recall is on the next November election ballot and the election on the recall would be at that election or later, the recall process terminates; and
- adds rules for computation of time and consistent deadline timeframes?

_____ Yes/For
 _____ No/Against

Introduced, considered favorably on first reading on July 2, 2024, and approved on second reading for final passage on July 16, 2024.

 Mayor

ATTEST:

 City Clerk

Effective Date: July 26, 2024
 Approving Attorney: Carrie Daggett

File Attachments for Item:

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.

July 16, 2024

AGENDA ITEM SUMMARY

City Council



STAFF

Delynn Coldiron, City Clerk
 Heather Walls, Deputy City Clerk
 Rupa Venkatesh, Assistant City Manager

SUBJECT

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.

EXECUTIVE SUMMARY

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.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

The City of Fort Collins Charter is the governing document that defines the City organization and the powers and functions of the City. The Charter can only be amended by a vote of the people and was first created by a vote in 1954. Over time, Charter provisions may become obsolete, contradictory, or desired to be changed to address current needs or trends. From time to time, the City submits Charter revisions, both large and small, to the voters for approval. If Council votes to submit the proposed Charter amendments to the voters, they will be placed on the November 5, 2024, ballot.

Election Code Committee met several times during 2024 to receive information and consider potential City Charter amendment proposals related to the election and petition processes that are governed by the Charter. The revisions outlined below relating to the initiative and referendum provisions in Article X are requested by the City Clerk's Office to address ambiguities, inconsistencies, and process complexity. The Committee expressed support for these changes, which also include language modernization such as gender inclusive language and substituting active and direct terminology.

- **Reorganization for Clarity:** Article X has been reorganized to make the description of the process and requirements flow better so they are easier to follow. The full process for initiatives and the full process for referenda are set out chronologically, rather than having a third section that combined some of the process requirements. This will make the process simpler and easier to follow. The significant shifting of information within the Article has made repealing and reenacting the appropriate method for rescission, rather than showing the extensive individual wording amendments.

- **Updates to Petition Form Approval by the City Clerk:** The proposed revisions change the method for setting the form of initiative and referendum petitions so that the Clerk is responsible for preparing a general statement of purpose, in consultation with the City Attorney, to fairly and accurately summarize the initiated measure or ordinance to be referred.
 - Where the referred ordinance exceeds two pages in length, the Clerk will similarly prepare a summary of it, rather than the current requirement that the entire ordinance be presented with each section of the petition.
 - This will reduce the iterative process that often takes place at the beginning of the petition approval process and reduce the amount of paper material required for petition circulation.
- **Updates to Review Periods for the City Clerk:** The timeframe allowed for the City Clerk to examine petitions has been updated because volumes (such as numbers of petition signatures to review) have increased since these current provisions were adopted and are more in line with the examination periods in state statutes.

Note: There has been no change to the signature requirements for a recall petition, except that the requirements are stated in terms of first choice votes cast in a ranked choice voting election, rather than total of votes cast.

- **Simplification of the Petition Review Process (“Cure” Provisions):**
 - The current process for *initiative petitions* allows for “cure” by the submission of additional signatures after a determination of insufficiency, but only within the time originally allowed for submission of signatures. Municipal election law does not allow a “cure.” This cure mechanism has not been used as a general rule and adds confusion to the process.
 - The current process for *referendum petitions* allows for “cure” by the submission of additional signatures after a determination of insufficiency, but only within the time originally allowed for submission of signatures. Municipal election law does not allow a “cure.” This cure mechanism has not been used as a general rule and adds confusion to the process.
 - Because these “cure” periods create confusion, are not well utilized or understood, and generally are inconsistent with municipal election law, staff has proposed that they be removed.
- **Updates to Petition Review Protest Process:** The process for protesting a Clerk determination of sufficiency for petitions has been updated and made consistent for each of the three (recall, initiative and referendum) major petition processes. Time frames have been tightened except a slightly longer time frame for arranging, setting and providing notice of the protest hearing is included. This will allow more time for preparation in advance of the hearing by all involved.
- **Updates to the time for to conduct an election:** A significant challenge that has developed over time is the lead time required to place an item on a ballot and the overall time to schedule an election. Current timeframes are unworkable under current election requirements and limitations. For a successful petition, the proposed language states that upon the City Clerk’s presentation of a petition certified as sufficient:
 - For a successful initiative petition, the proposed language changes **FROM** the current requirement that if a special election is requested it must be called by Council within 120 days **TO** a requirement that Council submit the measure at the next November election the City is able to coordinate with the County, whether that is a special election or a regular City election.
 - For a successful referendum petition, the proposed language clarifies that the Council must refer the item to the earliest regular or already called election date for which all election process requirements can be met. Council may opt to call an earlier special election for the matter so long as all election process requirements can be met.
- A **computation of time** section has been added to this Article. This clarifies how deadlines are affected by holidays, weekends, and emergency closures, which currently is an issue that can cause confusion

and disagreement. When the overall Charter update process is completed, we anticipate that a general time computation provision will be added for the Charter overall and the time computation provision in this Article will be removed.

- Deadlines for actions to be taken by the City are stated in “business days” in increments of five, except where particulars dictate otherwise.
- Deadlines for actions to be taken by the public are stated in “days” (defined to mean calendar days) in increments of seven, except where particulars dictate otherwise.
- Deadlines will be at the end of the regular business day.
- Generally, the deadline will shift forward to the first business day where a deadline falls on a weekend, holiday, or emergency closure day.
- Where a requirement is stated as “no later than” or “at least X days before”, the deadline will shift to the closest earlier business day.
- Many of the timing provisions are slightly modified to reflect this shift to make more consistent how timeframes will run in these processes.

CITY FINANCIAL IMPACTS

None.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

The Election Code Committee unanimously supported the proposed Charter amendments.

PUBLIC OUTREACH

None.

ATTACHMENTS

First Reading attachments not included.

1. Ordinance for Consideration

ORDINANCE NO. 096, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS OF THE
CITY OF FORT COLLINS PROPOSED CHARTER AMENDMENT NO. 3,
REPEALING AND REENACTING ARTICLE X OF THE CITY CHARTER
RELATING TO INITIATIVE AND REFERENDUM

A. The City of Fort Collins Charter is the governing document that defines the City organization and the powers and functions of the City. The Charter was first created by a vote of the people of Fort Collins in 1954 and can only be amended by a vote of the people.

B. Over time, Charter provisions may become obsolete, contradictory, or warrant change to address current needs or trends.

C. Article IV, Section 8 of the Charter provides the Charter may be amended as provided by the laws of the State of Colorado. Colorado Revised Statutes Section 31-2-210 provides that charter amendments may be initiated by the adoption of an ordinance by the city council submitting a proposed amendment to a vote of the registered electors of the city.

D. The Council's Election Code Committee met several times during 2024 to receive information and consider potential City Charter amendment proposals related to the election and petition processes that are governed by the Charter. Article X of the Charter governs the City's initiative and referendum processes.

E. Recent experience with initiative and referendum processes have highlighted confusing and unnecessarily complicated language in Article X, and the improvement of these provisions would assist members of the public in exercising their rights of initiative and referendum and would reduce confusion and ambiguity for those involved in these processes.

F. Incorporated in the revised Article X, which does not reduce the time for circulation of petitions nor change the signature percentages required, are the following:

1. Clarified the usage of the term "shall" by replacing with "will," "must" or other appropriate language.
2. Modernized the language to be more inclusive by removing he/she language.
3. Revised and reorganized to make the description of the process and requirements flow better so they are easier to follow. The full process for initiatives and the full process for referenda are set out chronologically, rather than having a third section that combined some of the process requirements.

4. Updated method for setting the form of initiative and referendum petitions so that the Clerk is responsible for preparing a general statement of purpose, in consultation with the City Attorney, to fairly and accurately summarize the initiated measure or ordinance to be referred.
5. Removed the requirement that the entire ordinance be presented with each section of the petition when the referred ordinance exceeds two pages in length, instead the Clerk will prepare a summary of it.
6. Updated the timeframe allowed for the City Clerk to examine petitions because volumes (such as numbers of petition signatures to review) have increased since these current provisions were adopted. The new timeframes are more in line with the examination periods in state statutes.
7. Simplified the Petition Review Process (“Cure” Provisions) to conform to the Municipal Election Code, which does not allow for correction of technical deficiencies after submission of a petition.
8. Updated the Protest process for consistency between the two types of petitions, allowing more time for setting of the protest hearing and tightening timeframes for completion of the hearing and decision.
9. Updated the time for conduct of an election on a successful petition so they work with new election process timing and requirements. For a successful initiative petition, the measure would be set for the next November election the City is able to coordinate with the County. For a successful referendum petition, the measure would be set for the earliest regular or already called special election for which election deadlines can be met, unless Council opts to call an earlier special election.
10. Added computation of time provisions to clarify how deadlines are interpreted and setting updated deadlines based on business days (in increments of five) for actions the City must complete and calendar days (in increments of seven) for actions to be completed by others.

G. The Election Code Committee considered and supported similar revisions to Article VIII, regarding elections generally, and Article IX, regarding recall, which are also under consideration by the Council.

H. The Council finds that these proposed revisions to Article X of the City Charter, regarding the Initiative and Referendum processes, update, simplify and improve these processes and are for the benefit of the people of Fort Collins, and the Council desires to present the repealed and reenacted Article X set forth below to the voters for approval at the November 5, 2024, special municipal election.

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. That the repeal of Article X of the City Charter and the reenactment of Article X of the City Charter as set forth below, shall be submitted to the registered electors of the City as “Proposed Charter Amendment No. 3” at the special municipal election to be held on Tuesday, November 5, 2024:

ARTICLE X. INITIATIVE AND REFERENDUM

Part I Initiative

Section 1. The initiative.

(a) Power. The registered electors of the city have the power at their option to propose ordinances or resolutions to the Council, and, if the Council fails to adopt a measure so proposed, to adopt or reject such ordinance or resolution at the polls. The procedure for initiative must be as provided in this Article.

(b) Commencement of proceedings; notice. One (1) or more registered electors may commence initiative proceedings by filing with the City Clerk a written notice of intent to circulate an initiative petition. The notice commencing proceedings must contain the full text of the proposed ordinance or resolution and state whether a special election is requested.

Section 2. Petitions.

(a) Separate petitions required. A separate petition must be circulated and filed for each measure sought to be initiated.

(b) Form and content.

(1) Adoption of form. The Council will prescribe by ordinance, upon recommendation of the City Clerk, a general form of petition which will contain warnings and notices to signers as necessary.

(2) Petition content.

a. The petition must be addressed to Council.

b. An initiative petition must contain a general statement of purpose prepared by the City Clerk in consultation with the City Attorney to fairly and accurately summarize the proposed ordinance or resolution, without argument or prejudice, and indicating that the petition is to be circulated in support of the initiated ordinance or resolution and specifying whether a special election is requested.

- c. The petition must designate by name and address three (3) registered electors who will represent the signers of the petition in all matters affecting the petition.
 - d. The petition must contain a full and accurate copy of the text of the initiative.
 - e. Each section of the petition must be individually numbered and contain no less than thirty (30), and no more than one hundred (100) signature lines.
 - f. For each petition section, the circulator of the petition section must sign under oath before a notary public the affidavit of circulator attached at the end of the petition section. The affidavit must state the following:
 - (i) the circulator's address of residence;
 - (ii) that the circulator is eighteen (18) years of age or older;
 - (iii) that they personally circulated the section;
 - (iv) that each signature was affixed in the circulator's presence on the date stated with such signature;
 - (v) that to the best of the circulator's knowledge and belief each signer was at the time of signing a registered elector of the city;
 - (vi) that to the best of the circulator's knowledge and belief each signature is the genuine signature of the person whose name it purports to be;
 - (vii) that each signer had an opportunity before signing to read the full text of the petition; and
 - (viii) that the circulator has not paid or offered to pay any money or other thing of value to any signer for the purpose of inducing or causing the signer to affix his or her signature to the petition.
- (3) Approval of form for circulation.
- a. No petition may be circulated until the City Clerk has approved the form for circulation.
 - b. In considering whether to approve the form of a petition, the City Clerk will evaluate whether the petition form contains all matters required under this Article and only the matters required by this Article.

c. The City Clerk's approval under this Section does not constitute an approval of the content of the petition or its legality, but rather, starts the running of the time periods provided for circulation and filing of petitions.

(c) Circulation of petition.

(1) To be valid, the petition must be circulated and signed in sections with each section consisting of one (1) or more sheets securely fastened at the top, and containing all required elements as described in Section 2(b)(2) of this Article.

(2) Only persons eighteen (18) years of age or older may circulate the petition for signatures.

(3) The circulation of any petition by any medium other than personally by a circulator is prohibited. No person may receive any compensation whatever for signing an initiative petition.

(4) Only registered electors may sign the petitions authorized under this Article.

(5) Each signer must sign his or her own signature and each signature must be followed by the printed name of the signer, the street and number address of his or her residence, and the date of signing.

(6) No person may knowingly sign an initiative petition more than once.

(7) In the event that the signature of any person appears more than once on a petition authorized under this Article, the first signature verified will be counted and all other signatures of that person will be rejected.

(d) Number of signatures required.

(1) The petition must be signed by registered electors of the city equal in number to at least ten (10) percent of the total ballots cast in the last regular city election.

(2) If a special election is requested by the petitioners, the petition must be signed by registered electors equal in number to at least fifteen (15) percent of the total ballots cast in the last regular city election.

(e) Petition deadlines and submittal.

(1) To be valid, the initiative petition must be filed no more than sixty-three (63) days after the City Clerk's approval of the form for circulation.

(2) To be valid, all petition sections must be filed with the City Clerk together at the same time and those sections submitted together will collectively constitute the petition.

- (3) Any petition section the City Clerk reasonably determines has been disassembled, whether or not it has been reassembled, will be deemed invalid.
 - (4) Upon submittal of a petition, the Clerk must not remove the signature of an elector from the petition.
 - (5) An initiative petition must be filed with the City Clerk within the requisite time or it will be deemed null and void.
- (f) Examination of petition; protest; presentation.
- (1) Within fifteen (15) business days of the filing of a petition the City Clerk will ascertain by examination of the petition and the registration books whether the petition is signed by the requisite number of registered electors and contains the required particulars and affidavits.
 - (2) Any petition section the City Clerk reasonably determines has been disassembled, whether or not it has been reassembled, will be deemed invalid.
 - (3) Upon submittal of a petition, the Clerk must not remove the signature of an elector from the petition.
 - (4) The Clerk will issue publicly and provide to the petition representatives the Clerk's initial determination of petition sufficiency. If the petition is insufficient, the City Clerk will so certify and forthwith notify all of the designated petition representatives in writing, specifying the particulars of insufficiency.
 - (5) Protests.
 - a. Registered electors desiring to protest a determination by the City Clerk that a petition is either sufficient or insufficient may file a written protest, under oath, in the office of the City Clerk within seven (7) days of the City Clerk's initial determination as to petition sufficiency. The protest must set forth with particularity the grounds of protest and any signatures and related defects in form protested.
 - b. Upon the filing of a protest, the City Clerk will send a copy of the protest to the designated petition representatives, the City Council and the City Manager. The City Manager will appoint a hearing officer, who, in conjunction with the City Clerk, will set a time for hearing such protest, which must be no more than ten (10) business days after the filing of a protest.
 - c. At least five (5) business days prior to the hearing, the City Clerk will send a notice of the date, time and location for the hearing and a copy of the protest

to all of the designated petition representatives, the person(s) who filed the protest, and the City Council.

d. All protest hearings will be before a hearing officer appointed by the City Manager. The hearing officer will have the power to issue subpoenas to compel the attendance of witnesses and the production of documents.

e. All records and hearings will be public, and all testimony must be under oath.

f. The hearing will be summary in nature and concluded no later than twenty (20) business days after the protest was filed.

g. The hearing officer must decide and certify the results of the hearing no later than ten (10) business days after the hearing is concluded, and no further protest regarding the petition may be filed.

h. The City Clerk will make any final determination regarding the sufficiency or insufficiency of a petition and must base such determination on the protest hearing results issued by the hearing officer.

(6) Certification and presentation to Council. When and if a petition is deemed sufficient, whether following the sufficiency determination by the City Clerk in the absence of a protest, or following protest proceedings, the City Clerk must so certify and then present the certified petition to the Council at the next regularly scheduled meeting or special meeting called for this purpose. The City Clerk's certificate will be the final determination as to the sufficiency of the petition.

Section 3. Action by Council.

(a) Upon presentation of an initiative petition certified as sufficient by the City Clerk, the Council must within twenty-five (25) business days either (1) adopt the proposed ordinance or resolution without alteration, or (2) submit such proposed measure, in the form petitioned for, to the registered electors of the city as provided in this subsection.

(1) For a proposed measure that requires voter approval in advance under Article X, Section 20 of the Colorado Constitution, the Council must submit the measure to a vote of the registered electors. If the initiative petition proposing such a measure requests a special election, the proposed measure must be submitted to a vote of the registered electors on the first possible date permitted by Article X, Section 20 of the Colorado Constitution. If a special election is not requested, the proposed measure must be submitted to a vote of the registered electors at the next regular city election or at the Council's option, may be submitted to a vote at an earlier special election that meets the constitutional requirements.

(2) For a proposed measure that does not require voter approval in advance under Article X, Section 20 of the Colorado Constitution, if not adopted by the Council under alternative (1) above, the Council must submit the measure to a vote of the registered electors at no later than the next regular or special city election scheduled for any other purpose for which election process requirements can be met. Alternatively, the Council may opt to call an earlier special election for the specific purpose of submitting the initiated measure to the voters.

(3) If the initiative petition proposing such measure requests a special election, the Council must submit the proposed measure to a vote of the registered electors at the next November election for which the City is able to coordinate an election with the Larimer County Clerk and Recorder, whether a special election or regular City election.

(b) All ordinances submitted to the Council by initiative petition and adopted by Council without the vote of the electors are subject to the referendum in the same manner as other ordinances.

Section 4. Council use of initiative.

The Council may submit any question or proposed ordinance or resolution to the vote of the people at a regular or special election to be conducted in accordance with the provisions of Article VIII, Section 2 of the Charter.

Section 5. Repeal or amendment of initiated measure.

An initiated measure submitted to the registered electors of the city by the Council, with or without a petition therefore, and adopted by electoral vote cannot be repealed or amended except by a subsequent electoral vote. This provision does not apply to ordinances or resolutions adopted by the City Council and referred to the voters.

Part II Referendum

Section 6. The referendum.

(a) Power. The registered electors of the city have the power at their option to approve or reject at the polls, any ordinance, or portion of ordinance, adopted by the Council, except ordinances making the annual property tax levy, making the annual appropriation, calling a special election, or ordering improvements initiated by petition and to be paid for by special assessments.

(b) Commencement of proceedings.

(1) One (1) or more registered electors may commence referendum proceedings by filing with the City Clerk no later than ten (10) days after final passage of the

ordinance in question, a notice of protest against the going into effect of the ordinance. The notice must be brief and need not state any reasons, but must identify the ordinance or part thereof, or code section it proposes to have repealed.

(2) Within ten (10) days after the filing of the notice, the proponents must present to the City Clerk the final form for the referendum petition conforming to the requirements of the Article.

Section 7. Petitions.

(a) Separate petitions required. A separate petition will be circulated and filed for each measure sought to be initiated.

(b) Form and content.

(1) Adoption of form. The Council will prescribe by ordinance, upon recommendation of the City Clerk, a general form of petition which must contain warnings and notices to signers as necessary.

(2) Petition content.

a. The petition must be addressed to Council.

b. A referendum petition must contain a general statement of purpose prepared by the City Clerk in consultation with the City Attorney to fairly and accurately summarize the ordinance or part thereof sought to be referred, without argument or prejudice, and indicating that the petition is to be circulated in support of the referendum.

c. The petition must designate by name and address three (3) registered electors who will represent the signers of the petition in all matters affecting the petition.

d. The petition must contain a full and accurate copy of the of the ordinance sought to referred, without any exhibits that may be a part of said ordinance, clearly identifying the protested portions if only a partial repeal is sought. In the case of an ordinance exceeding two (2) pages in length, a fair and accurate summary of the ordinance, prepared by the City Clerk in consultation with the City Attorney will replace said ordinance.

e. Each section of the petition must be individually numbered and must contain no less than thirty (30), and no more than one hundred (100), signature lines.

f. For each petition section, the circulator of the petition section must sign under oath before a notary public the affidavit of circulator attached at the end of the petition section. The affidavit must state the following:

- (i) the circulator's address of residence;
- (ii) that the circulator is eighteen (18) years of age or older;
- (iii) that they personally circulated the section;
- (iv) that each signature was affixed in the circulator's presence on the date stated with such signature;
- (v) that to the best of the circulator's knowledge and belief each signer was at the time of signing a registered elector of the city;
- (vi) that to the best of the circulator's knowledge and belief each signature is the genuine signature of the person whose name it purports to be;
- (vii) that each signer had an opportunity before signing to read the full text of the petition; and
- (viii) that the circulator has not paid or offered to pay any money or other thing of value to any signer for the purpose of inducing or causing the signer to affix his or her signature to the petition.

(3) Approval of form for circulation.

- a. A petition must not be circulated until the City Clerk has approved the form for circulation.
- b. The City Clerk will first determine that the petition form contains all matters required by this Article and only the matters required by this Article.
- c. The City Clerk's approval under this Section does not constitute an approval of the content of the petition or its legality, but rather, will start the running of the time periods provided for circulation and filing of a referendum petition.

(c) Circulation of petition.

(1) The petition may be circulated and signed in sections with each section consisting of one (1) or more sheets securely fastened at the top, and containing all required elements as described in Section 2(b)(2) of this Article.

- (2) Only persons eighteen (18) years of age or older may circulate the petition for signatures.
 - (3) The circulation of any petition by any medium other than personally by a circulator is prohibited. No person may receive any compensation whatever for signing a referendum petition.
 - (4) Only registered electors may sign the petitions authorized under this Article.
 - (5) Each signer must sign his or her own signature and each signature must be followed by the printed name of the signer, the street and number address of his or her residence, and the date of signing.
 - (6) No person may knowingly sign a referendum petition more than once.
 - (7) In the event that the signature of any person appears more than once on a petition authorized under this Article, the first signature verified will be counted and all other signatures of that person will be rejected.
- (d) Number of signatures required. The petition must be signed by registered electors of the city equal in number to at least ten (10) percent of the total ballots cast in the last regular city election.
- (e) Petition deadlines and submittal.
- (1) The petition must be filed no more than twenty-one (21) days after the City Clerk's approval of the form for circulation.
 - (2) All petition sections must be filed with the City Clerk together at the same time and will collectively constitute the petition.
 - (3) Any petition section the City Clerk reasonably determines has been disassembled, whether or not it has been reassembled, will be deemed invalid.
 - (4) Upon submittal of a petition, the Clerk must not remove the signature of an elector from the petition.
 - (5) A referendum petition must be filed with the City Clerk within the requisite time or it will be deemed null and void.
- (f) Examination of petition; protest; presentation.
- (1) Within fifteen (15) business days of the filing of a petition the City Clerk will ascertain by examination of the petition and the registration books whether the petition is signed by the requisite number of registered electors and contains the required particulars and affidavits.

- (2) Any petition section the City Clerk reasonably determines has been disassembled, whether or not it has been reassembled, will be deemed invalid.
- (3) Upon submittal of a petition, the Clerk must not remove the signature of an elector from the petition.
- (4) The Clerk will issue publicly and provide to the petition representatives the Clerk's initial determination of petition sufficiency. If the petition is insufficient, the City Clerk will so certify and forthwith notify all of the designated petition representatives in writing, specifying the particulars of insufficiency.
- (5) Protests.
- a. Registered electors desiring to protest a determination by the City Clerk that a petition is either sufficient or insufficient may file a written protest, under oath, in the office of the City Clerk within seven (7) days of the City Clerk's initial determination as to sufficiency of the petition. The protest must set forth with particularity the grounds of protest and any signatures and related defects in form protested.
 - b. Upon the filing of a protest, the City Clerk will send a copy of the protest to the designated petition representatives, the City Council and the City Manager. The City Manager will appoint a hearing officer, who, in conjunction with the City Clerk, will set a time for hearing such protest, which must be no more than ten (10) business days after the filing of a protest.
 - c. At least five (5) business days prior to the hearing, the City Clerk will send a notice of the date, time and location for the hearing and a copy of the protest to all of the designated petition representatives, the person(s) who filed the protest, and the City Council.
 - d. All protest hearings will be before a hearing officer appointed by the City Manager. The hearing officer will have the power to issue subpoenas to compel the attendance of witnesses and the production of documents.
 - e. All records and hearings will be public, and all testimony must be under oath.
 - f. The hearing will be summary in nature and concluded no later than twenty (20) business days after the protest was filed.
 - g. The hearing officer must decide and certify the results of the hearing no later than ten (10) business days after the hearing is concluded, and no further protest regarding the petition may be filed.

h. The City Clerk will make any final determination regarding the sufficiency or insufficiency of a petition and must base such determination on the protest hearing results issued by the hearing officer.

(6) Certification and presentation to Council. When and if a petition is deemed sufficient, whether following the sufficiency determination by the City Clerk in the absence of a protest, or following protest proceedings, the City Clerk must so certify and then present the certified petition to the Council at the next regularly scheduled meeting or special meeting called for this purpose. The City Clerk's certificate will be the final determination as to the sufficiency of the petition.

Section 8. Action by Council.

(a) The City Clerk's certification of a petition as sufficient for referendum automatically suspends the operation of the ordinance in question, or portion sought to be repealed, pending repeal by Council or final determination by the electors.

(b) Following receipt of the City Clerk's certification of a petition as sufficient for referendum, the Council must either refer the ordinance or portion thereof that is the subject of the petition to the voters, as set forth below, or reconsider the ordinance at the next regular meeting of the Council, or at an earlier special meeting of the Council called for this purpose, and adopt an ordinance to repeal the ordinance in question, or part sought to be repealed, on first reading, with second reading at the next regular meeting.

(c) If the ordinance, or that part sought to be repealed, is not repealed, the Council must refer the same to a vote of the registered electors at no later than the next regular or special city election scheduled for any other purpose for which election process requirements can be met. Alternatively, the Council may opt to call an earlier special election for the specific purpose of submitting the referred measure to the voters.

Section 9. Council use of referendum.

The Council may refer any adopted ordinance or resolution, to the vote of the people at a regular or special election to be conducted in accordance with the provisions of Article VIII of the Charter.

Part III In General

Section 10. Elections.

(a) Generally. Elections on initiative and referendum measures must be conducted in the same manner as provided generally for regular or special city elections in this Charter.

(b) Ballot text. Upon ordering an election on any initiative or referendum measure, the Council must, after public hearing, adopt by resolution a ballot title and submission clause for each measure. The ballot title must contain information identifying the measure as a city initiated or referred measure or a citizen initiated or referred measure. The submission clause must be brief, must not conflict with those selected for any petition previously filed for the same election, and must unambiguously state the principle of the provision sought to be considered. The official ballot used when voting upon each proposed or referred measure must have printed on it the ballot title and submission clause and contain the words, "Yes/For" and "No/Against" in response to each measure.

(c) Publication; notice of election.

(1) Initiative. An initiated measure being considered for adoption by Council must be published as part of the appropriate Council meeting agenda in like manner as other proposed ordinances and resolutions. If the initiated measure is submitted to a vote of the people, the City Clerk must publish a notice of election in conformity with the laws of the State of Colorado relating to municipal elections, together with the ballot title, submission clause and full text of the proposed ordinance or resolution. The text of a successful initiative measure need not be published in full after the election.

(2) Referendum. If the referred measure is to be submitted to a vote of the people, the City Clerk must publish a notice of election in conformity with the laws of the State of Colorado relating to municipal elections, together with the ballot title, submission clause and full text of the referred ordinance, specifying the portion to be referred if only a portion of the ordinance has been referred. If the ordinance in question exceeds two (2) pages in length, the summary from the petition may be published in place of the full text. The City Clerk will make the full text of a referred ordinance, together with all exhibits, generally available to the public. The full text of an ordinance passed on referendum need not be published after the election.

(d) Election results. If a majority of the registered electors voting on the initiated measure vote in favor, the measure is adopted as an ordinance or resolution of the city upon certification of the election results. If a majority of the registered electors voting on a referred ordinance, vote in favor of the referred ordinance, or referred portion of the ordinance, such referred ordinance or portion thereof will go into effect without further publication upon certification of the election results, or at such later date as may be set forth in the ordinance itself. If the provisions of two (2) or more proposed or referred measures adopted or approved at the same election conflict, the measure receiving the highest affirmative vote will become effective.

(e) Frequency of elections. Any number of proposed ordinances or resolutions or referred ordinances may be submitted at the same election.

Section 11. Computation of time.

(a) Except when business days are specified, all computations of time made under the provisions of this article will be based on calendar days.

(b) Except when computing business days, Saturdays, Sundays, City holidays and days City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances will be included, but, if the time for any act to be done or the last day of any period is a Saturday, Sunday, City holiday or day City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances, the period is extended to include the next day that is not a Saturday, Sunday, or City holiday.

(c) In computing time for any act to be done before any regular or special election, the first day will be included, and the last or election day will be excluded.

(d) If the time for an act to be done under this article is referred to in business days, the time will be computed by excluding Saturdays, Sundays, City holidays, and any day City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances.

(e) If a provision requires doing an act in "not less than" or "no later than" or "at least" a certain number of days or "prior to" a certain number of days or a certain number of months "before" the date of an election, or any phrase that suggests a similar meaning, if that period would end on a Saturday, Sunday or City holiday, it will instead shift to end on the prior business day that is not a Saturday, Sunday, or City holiday. If the period ends on a day City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances, the period will end on the next business day on which City Hall is open for business.

(f) Except when otherwise specified, an act must be completed by 5:00 p.m. Mountain time on the last day for that action.

Section 12. Further regulations.

The Council may, by ordinance, make such further rules and regulations as are consistent with this Charter and the Colorado Constitution in order to carry out the provisions of this Article.

Section 2. That the following ballot title and submission clause are hereby adopted for submitting Proposed Charter Amendment No. 3 to the voters at said election:

**CITY-INITIATED
PROPOSED CHARTER AMENDMENT NO. 3**

Shall Article X of the Charter of the City of Fort Collins, regarding the initiative process and referendum process, be repealed and reenacted in the form set forth in Ordinance No. 096, 2024, which makes edits for clarity and consistency and:

- Clarifies the usage of the term “shall” by replacing with “will,” “must” or other appropriate language;
- modernizes the language to be more inclusive by removing he/she language;
- revises and reorganizes Article X to be simpler and easier to follow;
- makes the City Clerk responsible for preparing a general statement for inclusion in a petition and limits requirement to include entire ordinance in each petition section;
- increases time for City Clerk petition review and scheduling protests;
- simplifies review process and removes technical “cure” provision to conform to Municipal Election Code;
- tightens timeframe for protest hearing and decision;
- requires Council to set initiative measures for vote at next timely November election;
- requires Council to set referendum measure for vote no later than next regular or special municipal election; and
- adds rules for computation of time and consistent deadline timeframes?

_____ Yes/For
_____ No/Against

Introduced, considered favorably on first reading on July 2, 2024, and approved on second reading for final passage on July 16, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: July 26, 2024
Approving Attorney: Carrie Daggett

File Attachments for Item:

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.

July 16, 2024

AGENDA ITEM SUMMARY

City Council



STAFF

Jerrod Kinsman, Lieutenant, Police Services Special Operations Division
 Mike Avrech, Sergeant, Police Services Traffic Unit
 Tyler Stamey, City Traffic Engineer
 Dylan Lewan, Analyst I, GIS, Information Services
 Dawn Downs, Managing Attorney
 Patty Netherton, Municipal Court Administrator

SUBJECT

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

EXECUTIVE SUMMARY

- 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.
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STAFF RECOMMENDATION

Staff recommends adoption of all Ordinances on Second Reading.

BACKGROUND / DISCUSSION

This initiative is a joint effort by Police Services and PDT, and is supported by the City Attorney's Office, and Municipal Court. It results from recent changes to Colorado law related to the expanded use of photo speed enforcement tools on sections of roadways designated by Council. 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.

A fundamental portion of the initiative is to adopt changes to Municipal Traffic Code 615 and 1106. Designated "speed corridors" will be identified based on vehicle speed and crash data provided by City staff. Once the Council identifies speed corridors, Police Services can utilize photo speed enforcement in these areas. Without a speed corridor designation, State law limits the use of photo radar to school zones, neighborhoods, construction zones, and streets that are adjacent to parks.

Based on preliminary data collected for the proposed corridors and expansion to allow current red-light cameras to begin capturing speed data, the system will increase the number of citations issued. This increase will significantly increase the workload for the City Attorney's office and the Municipal Court. To offset this impact, Council will need to appropriate funds to increase personnel at the CAO and Municipal Court starting in 2024 and continuing through 2025 and for PDT starting in 2025.

Background

Traffic speed is a concerning problem facing the City. Last year, the City experienced a record-high number of fatal and injury collisions, many of which were associated with people driving beyond posted speed limits.

In 2023, the State passed legislation to allow local governments to conduct unmanned speed enforcement with AVIS (Automated Vehicle Identification System). With this change in state law, the City of Fort Collins has the opportunity to impact traffic speed compliance through the expanded use of automated speed enforcement—to reduce the number of injury accidents and traffic-related fatalities on our roadways.

As part of the City's current traffic enforcement program, six intersections are outfitted with red-light cameras (two cameras per intersection) that detect red stop-light violations. Those twelve red-light-camera approaches have the capability to also detect, validate, and generate speeding violations where vehicle speed exceeds the posted limit of more than eleven miles per hour, if those intersections are designated within a speed corridor. Additionally, this initiative adds the contracted use of two transportable units that can be placed temporarily in problematic locations to address speed compliance between intersections.

The appropriation will fund essential full time equivalents (FTE's) in Municipal Court and the City Attorney's Office along with temporary positions to help manage the initial extreme influx of cases. in 2024. This appropriation will be fully funded through traffic safety revenue in the Redlight Camera Fund within the General Fund collected from existing AVIS. The projected future equipment, operating costs, and personnel will be supported by the additional AVIS and Speed Corridor Ordinance items that are being considered by Council to support the Traffic Safety Initiative.

<https://www.cpr.org/2023/06/06/police-signs-bill-allowing-more-speed-cameras-across-colorado/>

<https://www.cochranelibrary.com/cdsr/doi/10.1002/14651858.CD004607.pub4/abstract>



It is estimated that by 2020, road traffic crashes will have moved from ninth to third in the world ranking of burden of disease, as measured in disability adjusted life years. The prevention of road traffic injuries is of global public health importance. Measures aimed at reducing traffic speed are considered essential to preventing road injuries; the use of speed cameras is one such measure.

Thirty five studies met the inclusion criteria. Compared with controls, the relative reduction in average speed ranged from 1% to 15% and the reduction in proportion of vehicles speeding ranged from 14% to 65%. In the vicinity of camera sites, the pre/post reductions ranged from 8% to 49% for all crashes and 11% to 44% for fatal and serious injury crashes. Compared with controls, the relative improvement in pre/post injury crash proportions ranged from 8% to 50%.

Ordinance update

To establish the use of unmanned speed enforcement or AVIS, an update to existing ordinance is required. Changes to City Ordinance 615 and 1106 will align with state law updates signed into law from Senate Bill 23-200 which updated CRS 42-4-110.5 permitting local and State governments to implement AVIS within their jurisdictions along designated speed corridors. Additionally, Council is being asked to adopt designated speed corridors through an ordinance based on data collected within the past five years but not to exceed five years. Staff has provided the past three years of data to support corridor designation. Data beyond three was not utilized as it was not geocoded for locations.

Corridor Designation

Police Services and PDT are asking Council to designate by ordinance speed corridors to address dangerous driving on the community roadways. Data supports identifying corridors in accordance with state law CRS 42-4-110.5, utilizing crashes, citations, and complaints. Two tiers of corridors have been identified by city staff responsible for responding to and addressing roadway safety. The two tiers being recommended represent the most common locations for injury/fatal crashes, citations involving speeding, careless driving, reckless driving, and racing. In addition, complaint data was used to support the empirical data but not used to weigh the decision as complaints are relative to the opinion of the complainant and vary widely. The Traffic Safety Initiative group is asking Council to adopt both tier 1 and tier 2 corridors as they support the need for additional speed enforcement due to higher volumes of driving behaviors which contribute to injury and fatal crashes.

| Road | From | To |
|---------------------|-------------------|---------------------|
| Suniga Road | College Ave | Lemay Ave |
| Riverside Drive | College Ave | Pitkin St |
| Prospect Road | Taft Hill Road | I25 |
| Drake Road | Overland Tr | Lemay Ave |
| Horsetooth Road | College Ave | Ziegler Rd |
| Harmony Road | Chokecherry Tr | I25 |
| Trilby Road | Wainwright Dr | College Ave/287 |
| Taft Hill Road | Mulberry St | Trilby St |
| Shields Street | Elizabeth St | Carpenter Rd |
| College Ave/HWY 287 | Laurel St | Carpenter Rd |
| Lemay Avenue | Prospect Rd | Trilby Rd |
| Timberline Road | Prospect Rd | Drake Rd |
| Timberline Road | Harmony Rd | Trilby Rd |
| Ziegler Road | William Neal Pkwy | Kechter Rd |
| Conifer Street | College Ave | Lemay Ave |
| Mulberry Street | Taft Hill Rd | 12 th St |
| Stuart Street | College Avenue | Lemay Avenue |
| Elizabeth Street | Overland Tr | Shields St |
| Drake Road | Lemay Ave | Miles House Ave |
| Overland Trail | Mulberry St | Drake Rd |
| Timberline Road | Drake Rd | Harmony Rd |

| Intersection (+300 feet) | Directions |
|---------------------------------|-------------------|
| Mulberry and Shields | West and East |
| Prospect and Shields | North and South |
| Harmony and Shields | North and South |
| Drake and College | North and South |
| Drake and Lemay | North and East |
| Harmony and Timberline | East and West |

Automated Vehicle Identification System (AVIS) Upgrade

Upgrading existing red-light camera locations to issue speed violations would cost \$2,500 per month, per approach (12) totaling \$30,000 per month to activate all approaches.

Adding transportable solutions which could be moved periodically, likely every thirty days in areas where speed is most concerning would cost \$8,500 per month per unit (2). It is recommended two transportable systems are added to traffic safety operations totaling \$17,000 a month with total systems additions being \$564,000 annually. The systems specifications include:

- Dual radar - Lane-specific tracking radar (primary radar) measures the speed and position of vehicles in beam, while the speed radar (secondary radar) provides high precision speed measurement of vehicle in beam. This enables the system to precisely track each vehicle and accurately trigger speed events, even in high-traffic locations. This also enables hardware-based edge SSV (secondary speed verification), which Verra Mobility uniquely provides.
- High-Definition Video - Capture high-definition digital video including a configurable video clip (up to 12-seconds) of the event and video of each speed-enforced location. This footage has been used to successfully assist law enforcement in solving both traffic and non-traffic related crimes.
- High-Efficiency LED (light-emitting diode) Strobe - The purpose-built LED strobe allows for the ideal level of illumination to capture evidence of speed violations, while reducing the amount of light pollution typically associated with regular strobes.

- Ultra-High-Resolution Images - The camera captures ultra-high-resolution color images of 12 megapixels. While other systems rely on multiple pieces of equipment to process and store images, the Verra Mobility system integrates the camera and the main processing unit together. This eliminates the risk for missed or misinterpreted event data as it transfers from one processor to another.

2024 total equipment costs are estimated to be \$235,000.

2025 and future projected ongoing equipment costs are estimated to be \$564,000.

Additional Recommended Personnel:

With the addition of automated speed enforcement utilizing AVIS an increase in the number of citations is anticipated. With an increase in citations staffing is required to support this Traffic Safety Initiative to quell dangerous driving behaviors. Municipal Court and the City Attorney’s Office will be directly impacted with the increase in citations, and it is recommended that funds generated from AVIS enforcement be utilized to provide necessary staffing. The AVIS funds from the updated corridor related Traffic Safety Initiative ordinances will support the additional personnel requested by Municipal Court and the City Attorney’s Office and PDT. Below is a table highlighting the current increase in traffic citations for current camera radar vans and red-light camera citations processed by the Municipal Court and the City Attorney’s Office from January 1 to March 31 for each year shown:

| | 2023 YTD | 2024 YTD | % Change |
|--------------------|----------|----------|----------|
| Citations Issued | 4522 | 7872 | +42% |
| Citations Disposed | 4223 | 7162 | +42% |
| Dismissals | 350 | 677 | +48% |
| Trials Scheduled | 44 | 88 | +50% |
| Motions Filed | 144 | 320 | +55% |
| Cases Served by VM | 270 | 292 | +8% |

Proposed Personnel Costs:

2024 Personnel costs to support speed corridor and automated enforcement for the City consist of the following proposed positions.

- (2) Full-time municipal court clerks \$67,696 (Municipal Court)
- (1) City Attorney and (1) Legal Assistant \$142,774 (City Attorney’s Office)
- Estimated 1-2 FTE’s for temporary staffing (either hourly or contractual) Municipal Court \$24,904
- Estimated 1-2 FTE’s for temporary staffing (either hourly or contractual) City Attorney’s Office \$179,112
 - Total personnel cost expansion funded by automated enforcement \$414,486

2025 and ongoing personnel costs

- (2) Full-time municipal court clerks \$154,285 (Municipal Court)
- (1) City Attorney and (1) Legal Assistant \$253,142 (City Attorney’s Office)

- Estimated 1-2 FTE's for temporary staffing (either hourly or contractual) Municipal Court \$58,864
- Estimated 1-2 FTE's for temporary staffing (either hourly or contractual) City Attorney's Office \$258,902
- (1) Vision Zero Coordinator (PDT) \$130,713
- (1) Network Engineer (PDT) \$117,072
 - Total personnel cost expansion funded by automated enforcement \$972,978

Staff has also requested under a separate item on this agenda that Council appropriate funds to support Municipal Court and City Attorney's Office staffing to absorb traffic enforcement and AVIS expansions implemented in late 2023-early 2024.

Anticipated Traffic Safety Revenue and Appropriation of Funds

Staff is requesting for Council to appropriate \$649,486 from the Redlight Camera Fund within the General Fund, generated by these new Ordinances, to fund necessary FTE positions, equipment, and program costs for Municipal Court, City Attorney's Office and Police Services for 2024 to support adopting ordinances for automated enforcement of speeding violations in areas where the City designates as speed corridors.

The future revenue generated by AVIS will be dedicated to support traffic safety related programs, equipment, and personnel.

The current Redlight Camera Fund within the General Fund balance is \$1,082,000 and is currently used to support municipal court and PDT. Activating red-light locations into speed camera locations would generate and estimated additional \$2,166,000 and develop an estimated Redlight Camera Fund within the General Fund balance for 2024 of \$2,124,392 if activated by August of 2024, fund balance for 2025 of \$3,347,637 and for 2026 a balance of \$4,882,461.

| | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 |
|---|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|
| Current AVIS Rev | \$ 1,211,000.00 | \$ 1,164,000.00 | \$ 1,150,000.00 | \$ 1,604,000.00 | \$ 1,888,000.00 | \$ 1,944,000.00 |
| Current AVIS Exp | \$ 882,000.00 | \$ 960,000.00 | \$ 1,435,000.00 | \$ 1,899,000.00 | \$ 1,965,000.00 | \$ 2,034,000.00 |
| Income/(Loss) | \$ 329,000.00 | \$ 204,000.00 | \$ (285,000.00) | \$ (295,000.00) | \$ (77,000.00) | \$ (90,000.00) |
| Additional Corridor Revenue | | | | \$ 2,166,000.00 | \$ 3,293,000.00 | \$ 3,408,000.00 |
| Appropriation for Immediate Need | | | | \$ 179,122.00 | \$ 324,777.00 | \$ 336,144.20 |
| Additional FTE Need to Support Speed Corridor | | | | \$ 414,486.00 | \$ 972,978.00 | \$ 1,007,032.23 |
| Additional Corridor Expenses | | | | \$ 235,000.00 | \$ 564,000.00 | \$ 571,000.00 |
| | | | | \$ 649,486.00 | \$ 1,536,978.00 | \$ 1,578,032.23 |
| Total Additional Expenses | | | | \$ 828,608.00 | \$ 1,861,755.00 | \$ 1,914,176.43 |
| Fund Balance | \$ 1,163,000.00 | \$ 1,367,000.00 | \$ 1,082,000.00 | \$ 2,124,392.00 | \$ 3,478,637.00 | \$ 4,882,460.58 |

Recommendation:

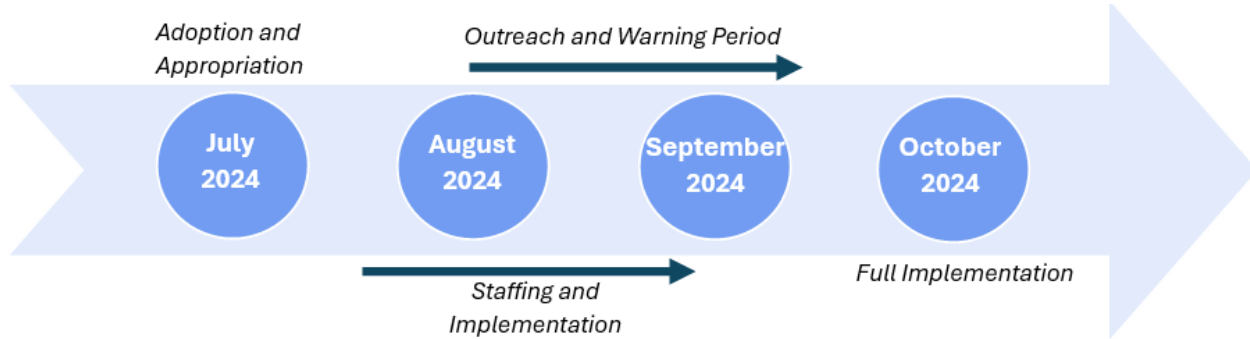
Staff recommends the following regarding the Traffic Safety Initiative for AVIS.

- Adopt on Second Reading the Ordinance Repealing and Reenacting Municipal Traffic Code Sections 615 and 1106
- Adopt on Second Reading the Ordinance Designating Speed Corridor Locations

- Adopt on Second Reading the Ordinance Appropriating Funds in the Redlight Camera Fund within the General Fund to Support Additional Staffing and Expenses for Implementation of the AVIS in 2024

Previous Council Direction

At Council work session on May 28, 2024, Council provided direction to move forward with this initiative as soon as practical and adopt all ordinances, both corridor tiers and appropriation of funds to support the program costs and recommended staffing increases for Municipal Court and the City Attorney’s Office (starting in 2024 and continuing through 2025) and PDT (starting in 2025).



CITY FINANCIAL IMPACTS

The financial impact will be to increase the current contract with the AVIS vendor the City is under contract with currently to include speed enforcement at all red-light camera locations and add two transportable automated speed enforcement units. In addition, funding the requested staffing to support the City Attorney’s Office, Municipal Court and PDT. No additional funding is requested from Council as all aspects of this initiative are to be funded directly from the Redlight Camera Fund within the General Fund if the proposed ordinances and corridor designation are adopted.

In 2024 the financial impact is approximately \$649,486 needed to support the equipment, operating costs, and personnel of AVIS Speed Corridors. Municipal Court will receive \$92,600 for personnel, the City Attorney’s office will receive \$321,886 for personnel and Police Services will receive \$235,000 for equipment.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

There are no board, commission or committee recommendations. Council requested this be presented for first reading without directing initiative through additional review.

PUBLIC OUTREACH

A thorough public outreach will occur once ordinances are adopted, and appropriations are made for expansion of the AVIS program. This involves 30 days public notice of corridor locations once posted, then 30 days of warnings for detected violations. Adoption of this initiative will also require public feedback of data focused on providing the number of citations issued in each area, ongoing feedback on the number of injury and fatal crashes after systems are fully operationalized and on a every other year basis to council to provide regular reports in-line with the budgeting for outcomes (BFO) process. This data will be publicized on Police Services website and updated monthly.

ATTACHMENTS

First Reading attachments not included.

1. Ordinance A for Consideration
2. Ordinance B for Consideration
3. Ordinance C for Consideration

ORDINANCE NO. 097, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
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

A. The City currently utilizes an approved Automated Vehicle Identification Systems (AVIS) to detect speeding violations and violations of red-light signals. This is currently authorized under Fort Collins Traffic Code Section 615 and Section 1106.

B. Traffic speed and red-light violations are a concerning problem facing the City of Fort Collins. Last year, the City experienced a record-high number of fatal and injury collisions, many of which were associated with people driving beyond posted speed limits.

C. In 2023 and 2024, changes to Colorado law related to the expanded use of unmanned speed enforcement with AVIS, to allow detection of speed violations on sections of roadways designated by the Council as speed corridors and additional locations.

D. To allow for expanded use, the current Traffic Code needs to be updated. Changes to City Traffic Code Section 615 and Section 1106 will align with state law updates signed into law from Senate Bill 23-200 which updated Colorado Revised Statutes (CRS) Section 42-4-110.5, permitting local and state governments to implement AVIS within their jurisdictions along designated speed corridors and expanded locations.

E. The expansion of AVIS will allow the automated system to detect violations of Traffic Code Section 615 for drivers who disobey traffic control signals or traffic signs, and also used to detect speed violations identified in Part 11 of the Fort Collins Traffic Code that occur within a school zone, as defined in CRS Section 42-4-615; within a residential neighborhood; within a maintenance, construction, or repair zone designated pursuant to CRS Section 42-4-614; along a street that borders a municipal park; or along a street or portion of a street that the City has designated a *speed corridor* by ordinance adopted by City Council.

F. The expansion of AVIS and designation of speed corridors throughout the city will help promote traffic safety through speed enforcement and supports Vision Zero, the City Council's goal of eliminating Fort Collins roadway fatalities and reducing injury crashes.

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 615 of the Fort Collins Traffic Code is hereby repealed in its entirety and re-enacted to read as follows:

615. - Use of Automated Vehicle Identification System.

- (1) Fort Collins Police Services is authorized to use an Automated Vehicle Identification System ("AVIS") within the city to detect violations of Section 604(1)(c) of the Fort Collins Traffic Code at signalized intersections.
- (2) (a) As used in this Section, the term "AVIS" or "automated vehicle identification system" means a system whereby:
 - (I) A machine is used to automatically detect a violation of a traffic regulation and simultaneously record a photograph or video of the vehicle and the license plate of the vehicle; and
 - (II) A notice of violation or civil penalty assessment notice may be issued to the registered owner of the motor vehicle.
- (b) AVIS includes a system used to detect a violation of Part 11 of the Fort Collins Traffic Code, a system used to detect violations of traffic restrictions imposed by traffic signals or traffic signs, and a system used to detect violations of bus lane or bicycle lane restrictions.
- (c) "State highway" means any highway that is owned by or maintained by the state. "State highway" does not include a public highway operated by a public highway authority in accordance with the "Public Highway Authority Law", Part 5 of Article 4 of Colorado Revised Statutes Title 43.
- (3) An AVIS designed to detect disobedience of Section 604(1)(c) of the Fort Collins Traffic Code shall not be used unless the City conspicuously posts a sign notifying the public that an AVIS is in use immediately ahead. The sign shall:
 - (a) Be placed in a conspicuous location not fewer than two hundred (200) feet nor more than five hundred (500) feet before the AVIS; and
 - (b) Use lettering that is at least four (4) inches high for upper case letters and two and nine-tenths (2 9/10) inches high for lower case letters.
- (4) (a) When a peace officer or employee of the City, based on evidence obtained in whole or part by means of an AVIS, has probable cause to believe that a vehicle has been driven in a manner in violation of Section 604(1)(c) of the Fort Collins Traffic Code, the peace officer or employee of the City shall issue, or cause its vendor to issue, to

the registered owner of the motor vehicle involved in the alleged violation, by first-class mail, personal service, or by any mail delivery service offered by an entity other than the United States postal service that is equivalent to or superior to first-class mail with respect to delivery speed, reliability, and price, a notice of violation:

- (I) Not less than seven (7) days prior to the time the charged person is required in the notice of violation to appear in Municipal Court.
- (II) Within thirty (30) days after the alleged violation occurred if the motor vehicle involved in the alleged violation is registered in the state; or
- (III) Within sixty (60) days after the alleged violation occurred if the motor vehicle involved in the alleged violation is registered outside of the state.

(b) The notice of violation must contain:

- (I) The name and address of the registered owner of the motor vehicle involved in the alleged violation;
- (II) The license plate number of the motor vehicle involved in the alleged violation;
- (III) The date, time, and location of the alleged violation;
- (IV) The amount of the civil penalty prescribed for the alleged violation;
- (V) The deadline for payment of the prescribed civil penalty and for disputing the alleged violation; and
- (VI) Information on how the registered owner may either dispute the alleged violation in a hearing or pay the prescribed civil penalty.

(c) (I) If the City does not receive the prescribed civil penalty or a written notice requesting a hearing to dispute the alleged violation by the deadline stated on the notice of violation, which deadline must not be less than forty-five (45) days after the issuance date on the notice of violation, the City shall issue, or cause its vendor to issue, by first-class mail, personal service, or by any mail delivery service offered by an entity other than the United States postal service that is equivalent to or superior to first-class mail with respect to delivery speed,

reliability, and price, a civil penalty assessment notice for the alleged violation to the registered owner of the motor vehicle involved in the alleged violation no later than thirty (30) days after the deadline on the notice of violation.

(II) The civil penalty assessment notice must contain:

(A) The name and address of the registered owner of the motor vehicle involved in the alleged violation;

(B) The license plate of the motor vehicle involved in the alleged violation;

(C) The date, time, and location of the alleged violation;

(D) The amount of the civil penalty prescribed for the alleged violation;

(E) The deadline for payment of the prescribed civil penalty;

(F) Information on how to pay the prescribed civil penalty.

(d) If the registered owner of the motor vehicle fails to request a hearing to dispute the alleged violation by the deadline stated in the notice of violation, the registered owner waives any right to contest the violation or the amount of the prescribed civil penalty.

(e) If the registered owner of the motor vehicle fails to pay in full the prescribed civil penalty by the deadline stated in the civil penalty assessment notice, a final order of liability shall be entered against the registered owner of the vehicle.

(f) If the registered owner of a motor vehicle involved in a traffic violation under traffic regulations adopted by the City is engaged in the business of leasing or renting motor vehicles, the registered owner remains liable for payment of the civil penalty even if the registered owner was not driving the motor vehicle but may obtain payment from the lessor or renter of the motor vehicle and forward the payment to the City.

(g) Final orders may be appealed as to matters of law and fact to the Municipal Court. The registered owner of the motor vehicle may assert in an appeal that a notice of violation served by first-class mail or other mail delivery service was not actually delivered. The appeal shall be a de novo hearing.

- (h) The City shall not initiate or pursue a collection action against a registered owner of a motor vehicle for a debt resulting from an unpaid penalty assessed pursuant to this Section unless the registered owner is personally served the notice of violation or the final order of liability.
 - (i) If the vehicle is registered in more than one (1) person's name, the notice of violation shall be issued to that registrant or driver who the issuing peace officer or employee of the City determines, under all the facts and circumstances, was the person most likely depicted in the photographs produced by the AVIS. The notice of violation shall contain the signature, or a reasonable facsimile thereof, of the peace officer or employee of the city issuing the notice of violation.
 - (j) If a notice for a violation detected using an AVIS is personally served, the City may only charge the actual costs of service of process that shall be no more than the amount usually charged for civil service of process.
- (5) When a person is served with a notice of violation under this Section, the person shall:
- (a) If admitting the charge, complete the notice of violation form by providing their driver's license number and other pertinent information requested in the form, and return the completed notice of violation form, together with the payment of the fine assessed, to the Municipal Court on or before the time specified in the notice of violation for the charged person to appear in court; or
 - (b) If contesting the charge, appear in Municipal Court at the time specified in the notice of violation for arraignment.
- (6) (a) Proof that a particular vehicle entered an intersection in violation of Section 604(1)(c) of the Fort Collins Traffic Code as detected by an AVIS and as shown by the photographs produced by the AVIS, together with proof that the particular vehicle is registered in the charged person's name, shall raise the evidentiary presumption and constitute prima facie evidence in any prosecution of a violation of Section 604(1)(c) of the Fort Collins Traffic Code of the fact that the charged person was the person driving the vehicle depicted in the photographs. However, such evidence and presumption may be rebutted by the presentation of any probative and competent evidence that the charged person was not the driver shown in the photographs.

- (b) The City shall not require a registered owner of a vehicle to disclose the identity of a driver of the vehicle who is detected through the use of an AVIS. However, the registered owner may be required to submit evidence that the owner was not the driver at the time of the alleged violation.
- (7) In any proceeding in Municipal Court to prosecute a violation of Section 604(1)(c) of the Fort Collins Traffic Code, the photographs produced by AVIS concerning the violation shall be admissible in court as prima facie evidence of a violation of Section 604(1)(c) of the Fort Collins Traffic Code, provided that the peace officer or employee of the City who activated and tested the AVIS prior to the photographs being taken testifies as to the placement of the AVIS and the accuracy of the scene depicted in the photographs, and further testifies that they tested the AVIS for proper operation within a reasonable period of time both before and after the taking of the photograph. Also, to be so admissible in Municipal Court, the photographs must be of sufficient quality to permit identification of the driver of the vehicle.
- (8) Nothing in this Section applies to a violation detected by an AVIS for driving twenty-five (25) miles per hour or more in excess of the reasonable and prudent speed or twenty-five (25) miles per hour or more in excess of the maximum speed limit of seventy-five (75) miles per hour detected by the use of an AVIS.
- (9) If the City detects a violation of a municipal traffic regulation for disobedience to a traffic control signal through the use of an AVIS the maximum civil penalty that the City may impose for such violation, including any surcharge, is seventy-five dollars (\$75).
- (10) If a registered owner fails to pay a penalty imposed for a violation of a municipal traffic regulation detected using an AVIS, the City shall not attempt to enforce such a penalty by immobilizing the registered owner's vehicle.
- (11) The Colorado Department of Motor Vehicles has no authority to assess any points against a license under Colorado Revised Statutes Section 42-2-127 upon entry of a conviction or judgment for a violation of the Fort Collins Traffic Code if the violation was detected through the use of an AVIS. Said Department shall not keep any record of such violation in the official records maintained by the Department under Colorado Revised Statutes Section 42-2-121.
- (12) Notwithstanding any other provision of the statutes to the contrary, the City shall not report to the Colorado Department of Motor Vehicles any

conviction or entry of judgment against a defendant for violation of a Fort Collins Traffic Code if the violation was detected through the use of an AVIS.

- (13) (a) If the City implements a new AVIS that is not a replacement of an AVIS:
- (I) The agency responsible for the AVIS shall publicly announce the implementation of the system through its website for at least thirty (30) days prior to the use of the system; and
 - (II) For the first thirty (30) days after the system is installed or deployed, only warnings may be issued for violations of a municipal traffic regulation detected by the system.
- (b) The City may conduct an extended public information campaign or warning period for systems installed or deployed.
- (14) No portion of any fine collected through the use of AVIS may be paid to the manufacturer or vendor of the AVIS equipment. The compensation paid by the City for such equipment shall be based upon the value of such equipment and the value of any services provided to the City and may not be based upon the number of traffic citations issued or the revenue generated by such equipment or services.
- (15) The City and any vendor operating an AVIS shall, unless otherwise provided in this Section:
- (a) Program the AVIS to retain data only when a violation of a county or municipal traffic regulation or traffic violation under state law occurs;
 - (b) Treat all photographs and video collected by the automated motor vehicle identification system as confidential and exempt from disclosure and inspection pursuant to the "Colorado Open Records Act", Part 2 of Article 72 of Colorado Revised Statutes Title 24;
 - (c) Not use, disclose, sell, or permit access to photographs, video, or personal identifiable data collected by the AVIS except to the extent necessary to operate the program, including for purposes of processing violations, for other law enforcement purposes, for transferring data to a new vendor or operating system, or, pursuant to a court order, for use in unrelated legal proceedings; and
 - (d) Destroy any photographs and video of a violation collected by the AVIS within three (3) years after the final disposition of the violation unless the photographs or video are maintained in a separate system for other purposes allowed by law.

Section 2. Section 1106 of the Fort Collins Traffic Code is hereby repealed in its entirety and re-enacted to read as follows:

1106. - Automated Vehicle Identification System speed enforcement.

- (1) (a) Fort Collins Police Services is authorized to use an Automated Vehicle Identification System (“AVIS”) to detect violations of Part 11 of the Fort Collins Traffic Code within the City that occur within a school zone, as defined in Colorado Revised Statutes Section 42-4-615; within a residential neighborhood; within a maintenance, construction, or repair zone designated pursuant to Colorado Revised Statutes Section 42-4-614; along a street that borders a municipal park; or along a street or portion of a street that the City has designated a speed corridor by ordinance adopted by City Council.
- (b) As used in this Section, the term “AVIS” or “automated vehicle identification system” means a system whereby:
 - (I) A machine is used to automatically detect a violation of a traffic regulation and simultaneously record a photograph or video of the vehicle and the license plate of the vehicle; and
 - (II) A notice of violation or civil penalty assessment notice may be issued to the registered owner of the motor vehicle.
- (c) AVIS includes a system used to detect a violation of Part 11 of the Fort Collins Traffic Code, a system used to detect violations of traffic restrictions imposed by traffic signals or traffic signs, and a system used to detect violations of bus lane or bicycle lane restrictions.
- (d) As used in this Subsection (1), unless the context otherwise requires, “residential neighborhood” means any block on which a majority of the improvements along both sides of the street are residential dwellings and the speed limit is thirty-five (35) miles per hour or less.
- (e) “State highway” means any highway that is owned by or maintained by the State of Colorado. “State highway” does not include a public highway operated by a public highway authority in accordance with the “Public Highway Authority Law”, Part 5 of Article 4 of Colorado Revised Statutes Title 43.
- (2) Before the City designates an automated vehicle identification corridor on a state highway, the City shall notify the Colorado Department of

Transportation, unless the automated vehicle identification corridor on a state highway is designated by ordinance before January 1, 2025.

- (3) After the City designates an automated vehicle identification corridor on a state highway, the City shall coordinate with the Colorado Department of Transportation. Coordination must include demonstrating that the requirements set forth in Subsection (5)(a) of this Section have been met and, if needed, applying for a special use permit to install any devices or signage on department of transportation right-of-way if the segment of the highway in questions is maintained by the State. The City shall alert the Department of Transportation when the automated vehicle identification corridor begins operations or permanently ceases operations on a state highway.
- (4) Before the City begins the operation of an AVIS in an automated vehicle identification corridor on a county road, the City shall notify the Colorado State Patrol.
- (5) (a) Before the City begins operation of an AVIS in an automated vehicle identification corridor, the City must:
 - (I) Post a permanent sign in a conspicuous place not fewer than three hundred (300) feet before the beginning of the corridor; and
 - (II) Post a permanent sign not fewer than three hundred (300) feet before each static camera within the corridor thereafter or a temporary sign not fewer than three hundred (300) feet before any mobile camera; and
 - (III) Illustrate, through data collected within the past five (5) years, incidents of crashes, speeding, reckless driving, or community complaints on a street designated as an automated vehicle identification corridor;
- (b) The City shall publish a report quarterly on its website disclosing the number of citations and revenue collected by Municipal Court by the automated vehicle identification corridor.
- (c) City staff shall provide updates to Council every two years on the performance of the adopted speed corridors and adjust based on data and direction from Council.
- (d) The City shall not locate an AVIS or create an automated vehicle identification corridor on any highway that is a part of the federal interstate highway system.

- (4) (a) When a peace officer or employee of the City, based on evidence obtained in whole or part by means of an AVIS, has probable cause to believe a vehicle has been driven in excess of the legal speed limit, the peace officer or employee of the City shall issue, or cause its vendor to issue, to the registered owner of the motor vehicle involved in the alleged violation, by first-class mail, personal service, or by any mail delivery service offered by an entity other than the United States postal service that is equivalent to or superior to first-class mail with respect to delivery speed, reliability, and price, a notice of violation:
- (I) not less than seven (7) days prior to the time the charged person is required in the notice of violation to appear in Municipal Court.
 - (II) Within thirty (30) days after the alleged violation occurred if the motor vehicle involved in the alleged violation is registered in the state; or
 - (III) Within sixty (60) days after the alleged violation occurred if the motor vehicle involved in the alleged violation is registered outside of the state.
- (b) The notice of violation must contain:
- (I) The name and address of the registered owner of the motor vehicle involved in the alleged violation;
 - (II) The license plate number of the motor vehicle involved in the alleged violation;
 - (III) The date, time, and location of the alleged violation;
 - (IV) The amount of the civil penalty prescribed for the alleged violation;
 - (V) The deadline for payment of the prescribed civil penalty and for disputing the alleged violation; and
 - (VI) Information on how the registered owner may either dispute the alleged violation in a hearing or pay the prescribed civil penalty.
- (c) (I) If the City does not receive the prescribed civil penalty or a written notice requesting a hearing to dispute the alleged violation by the deadline stated on the notice of violation,

which deadline must not be less than forty-five (45) days after the issuance date on the notice of violation, the City shall issue, or cause its vendor to issue, by first-class mail, personal service, or by any mail delivery service offered by an entity other than the United States postal service that is equivalent to or superior to first-class mail with respect to delivery speed, reliability, and price, a civil penalty assessment notice for the alleged violation to the registered owner of the motor vehicle involved in the alleged violation no later than thirty (30) days after the deadline on the notice of violation.

(II) The civil penalty assessment notice must contain:

(A) The name and address of the registered owner of the motor vehicle involved in the alleged violation;

(B) The license plate of the motor vehicle involved in the alleged violation;

(C) The date, time, and location of the alleged violation;

(D) The amount of the civil penalty prescribed for the alleged violation;

(E) The deadline for payment of the prescribed civil penalty;

(F) Information on how to pay the prescribed civil penalty.

(d) If the registered owner of the motor vehicle fails to request a hearing to dispute the alleged violation by the deadline stated in the notice of violation, the registered owner waives any right to contest the violation or the amount of the prescribed civil penalty.

(e) If the registered owner of the motor vehicle fails to pay in full the prescribed civil penalty by the deadline stated in the civil penalty assessment notice, a final order of liability shall be entered against the registered owner of the vehicle.

(f) If the registered owner of a motor vehicle involved in a traffic violation under traffic regulations adopted by the City is engaged in the business of leasing or renting motor vehicles, the registered owner remains liable for payment of the civil penalty even if the registered owner was not driving the motor vehicle but may obtain payment from the lessor or renter of the motor vehicle and forward the payment to the City.

- (g) Final orders may be appealed as to matters of law and fact to the Municipal Court. The registered owner of the motor vehicle may assert in an appeal that a notice of violation served by first-class mail or other mail delivery service was not actually delivered. The appeal shall be a de novo hearing.
 - (h) The City shall not initiate or pursue a collection action against a registered owner of a motor vehicle for a debt resulting from an unpaid penalty assessed pursuant to this Section unless the registered owner is personally served the notice of violation or the final order of liability.
 - (i) If the vehicle is registered in more than one (1) person's name, the notice of violation shall be issued to that registrant who the issuing peace officer or employee of the City determines, under all the facts and circumstances, is the person most likely depicted in the photograph produced by the AVIS. The notice of violation shall contain the signature, or a reasonable facsimile thereof, of the peace officer or employee of the City issuing the notice of violation.
 - (j) If a notice of violation detected using an AVIS is personally served, the City may only charge the actual costs of service of process that shall be no more than the amount usually charged for civil service of process.
- (5) When a person is served with a notice of violation under this Section, the person shall:
- (a) If admitting the charge, complete the notice of violation form, providing their driver's license number and other pertinent information requested in the form, and return the completed notice of violation form, together with the payment of the fine assessed, to the Municipal Court on or before the time specified in the notice of violation for the charged person to appear in court; or
 - (b) If contesting the charge, appear in Municipal Court at the time specified in the notice of violation for arraignment.
- (6) (a) Proof that a particular vehicle was exceeding the legal speed limit as detected by an AVIS and as shown by the photograph produced by the AVIS, together with proof that the particular vehicle is registered in the charged person's name, shall raise the evidentiary presumption and constitute prima facie evidence in any prosecution of a violation under Part 11 of the Fort Collins Traffic Code of the fact that the charged person was the person driving the vehicle depicted in the photograph. However, such evidence and presumption may

be rebutted by the presentation of any probative and competent evidence that the charged person was not the driver shown in the photograph.

- (b) The City shall not require a registered owner of a vehicle to disclose the identity of a driver of the vehicle who is detected through the use of an AVIS. However, the registered owner may be required to submit evidence that the owner was not the driver at the time of the alleged violation.
- (7) In any proceeding in Municipal Court to prosecute a violation of this Section, any photograph produced by an AVIS concerning the violation, upon which is printed the vehicle's speed, shall be admissible in court as prima facie evidence of the speed of the vehicle depicted in the photograph, provided that the peace officer or employee of the City who activated the AVIS prior to the photograph being taken testifies as to the placement of the AVIS and the accuracy of the scene depicted in the photograph, and further testifies that they tested the radar unit of the camera radar for proper calibration before and after the taking of the photograph. Also, to be so admissible in Municipal Court, the photograph must be of sufficient quality to permit identification of the driver of the vehicle.
- (8) (a) If the City detects a speeding violation of less than ten (10) miles per hour over the reasonable and prudent speed under Part 11 of the Fort Collins Traffic Code through the use of an AVIS, the City may mail the registered owner a warning regarding the violation. No notice of violation will be issued for speeding less than ten (10) miles per hour under the posted speed limit.
- (b) The maximum penalty that the City may impose for a violation of Part 11 of the Fort Collins Traffic Code detected by an AVIS, including any surcharge, is forty dollars (\$40).
- (c) If any violation under Part 11 of the Fort Collins Traffic Code through the use of an AVIS occurs within a school zone, as defined in Colorado Revised Statutes Section 42-4-615, or a repair zone designated pursuant to Colorado Revised Statutes Section 42-4-614, the maximum penalty that may be imposed shall be doubled.
- (9) For detection of a violation by an AVIS for driving twenty-five (25) miles per hour or more in excess of the reasonable and prudent speed or twenty-five (25) miles per hour or more in excess of the maximum speed limit of seventy-five (75) miles per hour detected by the use of an AVIS, a citation will be personally served upon the driver and the maximum penalty in Section (8) do not apply.

- (10) If a registered owner fails to pay a penalty imposed for a violation of the Fort Collins Traffic Code detected using an AVIS, the City shall not attempt to enforce such a penalty by immobilizing the registered owner's vehicle.
- (11) The Colorado Department of Motor Vehicles has no authority to assess any points against a license under Colorado Revised Statutes Section 42-2-127 upon entry of a conviction or judgment for a violation of the Fort Collins Traffic Code if the violation was detected through the use of an AVIS. The Colorado Department of Motor Vehicles shall not keep any record of such violation in the official records maintained by the department under Colorado Revised Statutes Section 42-2-121.
- (12) Notwithstanding any other provision of the statutes to the contrary, the City shall not report to the Colorado Department of Motor Vehicles any conviction or entry of judgment against a defendant for violation of the Fort Collins Traffic Code if the violation was detected through the use of an AVIS.
- (13) (a) If the City implements new AVIS measures beyond those already in operation as of July 26, 2024:
- (I) The agency responsible for the AVIS shall publicly announce the implementation of the new system measures through its website for at least thirty (30) days prior to the use of the new system measures; and
 - (II) For at least the first thirty (30) days after the new measures are installed or deployed, only warnings may be issued for violations of the Fort Collins Traffic Code detected by the new measures.
- (b) The City may conduct an extended public information campaign or warning period for new AVIS measures installed or deployed on corridors as designated by ordinance.
- (14) No portion of any fine collected through the use of AVIS may be paid to the manufacturer or vendor of the AVIS equipment. The compensation paid by the City for such equipment shall be based upon the value of such equipment and the value of any services provided to the City and may not be based upon the number of traffic citations issued or the revenue generated by such equipment or services.
- (15) The City and any vendor operating an AVIS shall, unless otherwise provided in this Section:
- (a) Program the AVIS to retain data only when a violation of a county or municipal traffic regulation or traffic violation under state law occurs;

- (b) Treat all photographs and video collected by the AVIS as confidential and exempt from disclosure and inspection pursuant to the "Colorado Open Records Act", Part 2 of Article 72 of Colorado Revised Statutes Title 24;
- (c) Not use, disclose, sell, or permit access to photographs, video, or personal identifiable data collected by the AVIS except to the extent necessary to operate the program, including for purposes of processing violations, for other law enforcement purposes, for transferring data to a new vendor or operating system, or, pursuant to a court order, for use in unrelated legal proceedings; and
- (d) Destroy any photographs and video of a violation collected by the AVIS within three (3) years after the final disposition of the violation unless the photographs or video are maintained in a separate system for other purposes allowed by law.

Introduced, considered favorably on first reading on July 2, 2024, and approved on second reading for final passage on the July 16, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: July 26, 2024
Approving Attorney: Dawn Downs

ORDINANCE NO. 098, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
DESIGNATING SPEED CORRIDORS PURSUANT TO
FORT COLLINS TRAFFIC CODE SECTION 1106

A. The City currently utilizes Automated Vehicle Identification Systems (AVIS) to detect speeding violations as authorized under Fort Collins Traffic Code Section 1106.

B. Traffic speed is a concerning problem facing the City of Fort Collins. Last year, the City experienced a record-high number of fatal and injury collisions, many of which were associated with people driving beyond posted speed limits.

C. In 2023 and 2024, changes to Colorado law related to the expanded use of unmanned speed enforcement with AVIS, to allow detection of speed violations on sections of roadways designated by the Council as corridors.

D. Pursuant to Fort Collins Traffic Code Section 1106, City Council is authorized to designate by Ordinance specific corridors for speed enforcement on city streets, on state highways in coordination with the Colorado Department of Transportation, and on county roads with notification to the Colorado State Patrol.

E. The designation of corridors throughout the city will help promote traffic safety through speed enforcement and supports Vision Zero, the City Council's goal of eliminating Fort Collins roadway fatalities and reducing injury crashes.

F. City staff will provide updates to Council every two years on the performance of the adopted speed corridors to allow adjustments to speed corridor designations as needed based on data and direction from Council.

G. City Council's designation of corridors is based on data collected within up to the last five years of the roadways and intersections with the highest level of crashes involving injuries, serious bodily injury, and fatalities; speed violations of 20 miles per hour or more; intersections with more than 700 redlight speed violations of 11 miles per hour or more; citations for careless driving, reckless driving, speed contest, and speed exhibition, and areas with more than seven traffic related community complaints.

H. These corridor designations shall remain in effect until modified by future adopted 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 applicable to Fort Collins Traffic Code Section 1106 that the following corridors shall be established as AVIS speed corridors, to include all intersections abutting, and all directions of traffic on, the roadways listed below:

I. Suniga Road—Between College Avenue and Lemay Avenue;

- II. Riverside Drive— Between College Avenue and Pitkin Street;
- III. Prospect Road— Between Taft Hill Road and I-25;
- IV. Drake Road— Between Overland Trail and Lemay Avenue;
- V. Horsetooth Road— Between College Avenue and Ziegler Road;
- VI. Harmony Road—Between Chokecherry Trail and I-25;
- VII. Trilby Road— Between Wainright Drive and College Avenue/Highway 287;
- VIII. Taft Hill Road— Between Mulberry Street and Trilby Street;
- IX. Shields Street— Between Elizabeth Street and Carpenter Road;
- X. College Avenue/Hwy 287— Between Laurel Street and Carpenter Road;
- XI. Lemay Avenue— Between Prospect Road and Trilby Road;
- XII. Timberline Road— Between Prospect Road and Drake Road;
- XIII. Timberline Road— Between Harmony Road and Trilby Road;
- XIV. Ziegler Road— Between William Neal Parkway and Kechter Road;
- XV. Conifer Street—Between College Avenue and Lemay Avenue;
- XVI. Mulberry Street—Between Taft Hill Road and 12th Street;
- XVII. Stuart Street—Between College Avenue and Lemay Avenue;
- XVIII. Elizabeth Street—Between Overland Trail and Shields Street;
- XIX. Drake Road—Between Lemay Avenue and Miles House Avenue;
- XX. Overland Trail—Between Mulberry Street and Drake Road;
- XXI. Timberline Road—Between Drake Road and Harmony Road;
- XXII. Intersection at Mulberry Street and Shields Street—East and West Approaches;
- XXIII. Intersection at Prospect Road and Shields Street—North and South Approaches;
- XXIV. Intersection at Harmony Road and Shields Street—North and South Approaches ;
- XXV. Intersection at Drake Road and College Avenue—North and South Approaches;
- XXVI. Intersection at Drake Road and Lemay Avenue—North and East Approaches; and
- XXVII. Intersection at Harmony Road and Timberline Road—East and West Approaches.

Introduced, considered favorably on first reading on July 2, 2024, and approved on second reading for final passage on the July 16, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: July 26, 2024
Approving Attorney: Dawn Downs

ORDINANCE NO. 099, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING SUPPLEMENTAL APPROPRIATIONS TO SUPPORT
ADDITIONAL STAFFING AND EXPENSES FOR
IMPLEMENTATION OF THE AUTOMATED VEHICLE
IDENTIFICATION SYSTEM TRAFFIC SAFETY INITIATIVE

A. The City currently utilizes Automated Vehicle Identification Systems (AVIS) to detect speeding violations and violations of red-light signals. This is currently authorized under Fort Collins Traffic Code Section 615 and Section 1106.

B. Traffic speed and red-light violations are a concerning problem facing the City of Fort Collins. Last year, the City experienced a record-high number of fatal and injury collisions, many of which were associated with people driving beyond posted speed limits.

C. In 2023 and 2024, changes to Colorado law related to the expanded use of unattended speed enforcement with AVIS, to allow detection of speed violations on sections of roadways designated by the Council as speed corridors and additional locations.

D. To allow for expanded use, the current Traffic Code needs to be updated. Changes to City Traffic Code Section 615 and Section 1106 will align with state law updates signed into law from Senate Bill 23-200 which updated Colorado Revised Statutes (C.R.S.) Section 42-4-110.5, permitting local and state governments to implement AVIS within their jurisdictions along designated speed corridors and expanded locations.

E. The expansion of AVIS will allow the automated system to detect violations of Traffic Code Section 615 for drivers who disobey traffic control signals or traffic signs, and also used to detect speed violations identified in Part 11 of the Fort Collins Traffic Code that occur within a school zone, as defined in C.R.S. Section 42-4-615; within a residential neighborhood; within a maintenance, construction, or repair zone designated pursuant to C.R.S. Section 42-4-614; along a street that borders a municipal park; or along a street or portion of a street that the City has designated a *speed corridor* by ordinance adopted by City Council.

F. To accommodate the expansion of the AVIS program updated equipment and associated costs for Police Services in 2024 are anticipated to be \$235,000.

G. With the addition of automated speed enforcement utilizing AVIS a significant increase in the number of citations is anticipated. With an increase in citations staffing is required to support this Traffic Safety Initiative to quell dangerous driving behaviors.

H. Municipal Court, the City Attorney's Office, and Planning, Development and Transportation Services will be directly impacted with the increase in citations, and it is

recommended that funds generated from AVIS enforcement be utilized to provide necessary staffing.

I. Accordingly, additional full time equivalent (“FTE”) positions and funding to support the expanded AVIS program for 2024, are proposed as follows:

- a. Two full-time municipal court clerks \$67,696 (Municipal Court);
- b. One City Attorney and one Legal Assistant \$142,774 (City Attorney’s Office);
- c. Estimated 1-2 FTE’s for temporary staffing (either hourly or contractual) Municipal Court \$24,904; and
- d. Estimated 1-2 FTE’s for temporary staffing (either hourly or contractual) City Attorney’s Office \$179,112.

J. In addition to the continuation of the above staffing in 2025 and future years, starting in 2025 additional staffing for Planning, Development and Transportation Services has also been requested to support one Vision Zero Coordinator and one Network Engineer.

K. The AVIS funds from the updated Traffic Safety Initiative ordinances will support the additional equipment and personnel.

L. Future revenue generated by AVIS will be dedicated to support traffic safety related programs, and support the costs associated with the program.

M. This appropriation benefits public health, safety and welfare of the community and serves a public purpose by promoting traffic safety through speed enforcement, and supports Vision Zero, the City Council's goal of eliminating Fort Collins roadway fatalities and reducing injury crashes.

N. 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.

O. The City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the Redlight Camera Fund in the General Fund and will not cause the total amount appropriated in the Redlight Camera Fund within 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 as follows:

Section 1. There is hereby appropriated from new revenue or other funds in the Redlight Camera Fund within the General Fund the sum of NINETY-TWO THOUSAND SIX HUNDRED DOLLARS (\$92,600) to be expended in the General Fund for the increased staffing for the Municipal Court to support the AVIS Traffic Safety Initiative.

Section 2. There is hereby appropriated from new revenue or other funds in the Redlight Camera Fund within the General Fund the sum of THREE HUNDRED TWENTY-ONE THOUSAND EIGHT HUNDRED EIGHTY-SIX DOLLARS (\$321,886) to be expended in the General Fund for the increased staffing for the City Attorney’s Office to support the AVIS Traffic Safety Initiative.

Section 3. There is hereby appropriated from new revenue or other funds in the Redlight Camera Fund within the General Fund the sum of TWO HUNDRED THIRTY-FIVE THOUSAND DOLLARS (\$235,000) to be expended in the General Fund for Police Services expenses to support the AVIS Traffic Safety Initiative.

Introduced, considered favorably on first reading on July 2, 2024, and approved on second reading for final passage on July 16, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: July 26, 2024
Approving Attorney: Dawn Downs

File Attachments for Item:

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.

July 16, 2024

AGENDA ITEM SUMMARY

City Council



STAFF

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

SUBJECT

Items Relating to Golf Enterprise Expenses.

EXECUTIVE SUMMARY

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.

STAFF RECOMMENDATION

Staff recommends adoption of both Ordinances on First Reading.

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.

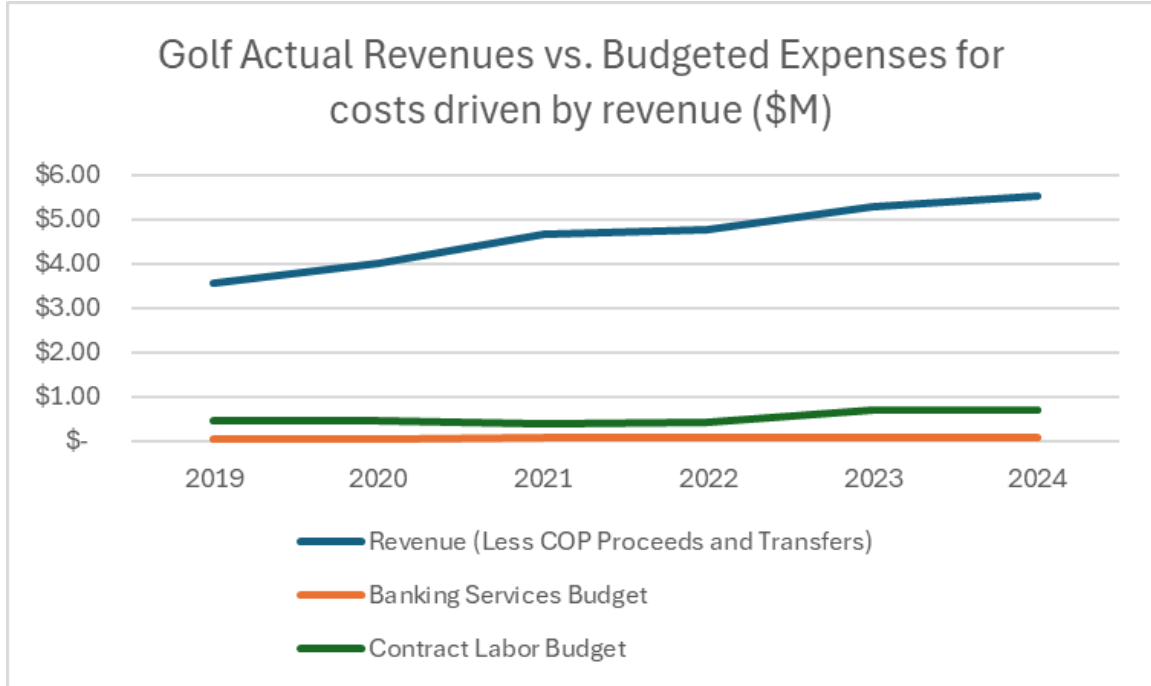
- These activities are expected to incur a \$350,000 shortfall in budget vs. expenses for 2024 without additional appropriation.
- Since these are ongoing expenses associated with higher revenue, staff is requesting the appropriation for these expenses be made from unanticipated excess revenues.

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

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

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

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

ATTEST:

City Clerk

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

File Attachments for Item:

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.

July 16, 2024

AGENDA ITEM SUMMARY

City Council



STAFF

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

SUBJECT

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.

EXECUTIVE SUMMARY

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.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

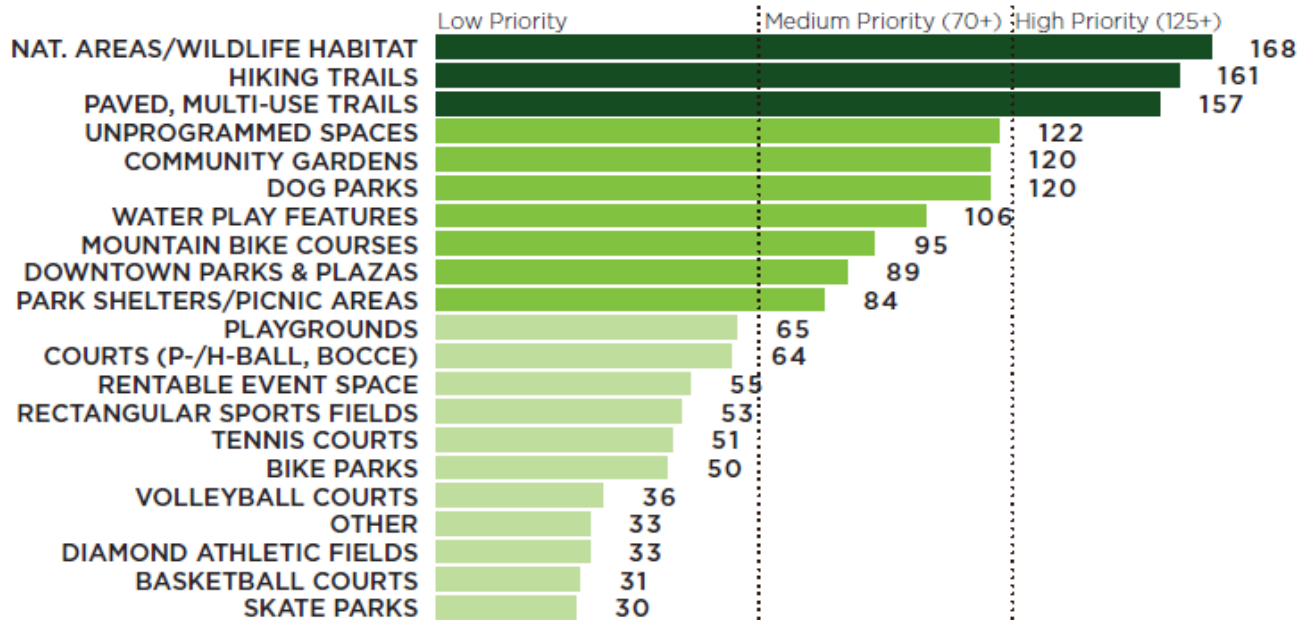
BACKGROUND / DISCUSSION

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

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

None.

PUBLIC OUTREACH

Refer to "Background" section.

ATTACHMENTS

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

ATTEST:

City Clerk

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

File Attachments for Item:

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.

July 16, 2024



AGENDA ITEM SUMMARY

City Council

STAFF

Nina Bodenhamer, Director, City Give

SUBJECT

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.

EXECUTIVE SUMMARY

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.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

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

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

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

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

ATTEST:

City Clerk

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

File Attachments for Item:

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.

July 16, 2024

AGENDA ITEM SUMMARY

City Council



STAFF

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

SUBJECT

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.

EXECUTIVE SUMMARY

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.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First 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

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

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

- 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

ATTEST:

City Clerk

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

File Attachments for Item:

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.

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.

July 16, 2024

AGENDA ITEM SUMMARY

City Council



STAFF

Selina Lujan Albers, Environmental Sustainability
 Kerri Ishmael, Grants Administration

SUBJECT

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.

EXECUTIVE SUMMARY

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.

STAFF RECOMMENDATION

Staff recommend adoption of the Ordinance on First 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

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

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

None.

ATTACHMENTS

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

ATTEST:

City Clerk

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



STATE OF COLORADO

Department of Public Health & Environment

| | | | | | | | |
|---|--|------------|------------|---|-------------------|--------------------------|--|
| ORDER | | | | *****IMPORTANT***** | | | |
| Number: | PO,FAAA,202500000822 | | | The order number and line number must appear on all invoices, packing slips, cartons, and correspondence. | | | |
| Date: | 6/5/24 | | | | | | |
| Description: | Ft Collins 9310 FY25 EJ grant program RFA #42184 | | | BILL TO | | | |
| Effective Date: | 07/01/24 | | | DIVISION OF ADMINISTRATION C-1 4300 CHERRY CREEK DRIVE SOUTH DENVER, CO 80246-1530 | | | |
| Expiration Date: | 06/30/25 | | | | | | |
| BUYER | | | | SHIP TO | | | |
| Buyer: | | | | DIVISION OF ADMINISTRATION C-1 4300 CHERRY CREEK DRIVE SOUTH DENVER, CO 80246-1530 | | | |
| Email: | | | | | | | |
| VENDOR | | | | SHIPPING INSTRUCTIONS | | | |
| CITY OF FORT COLLINS Finance Department PO BOX 580 FORT COLLINS, CO 80522-0580 | | | | Delivery/Install Date: 06/30/25 FOB: FOB Dest, Freight Prepaid | | | |
| | | | | | | | |
| Contact: | | | | VENDOR INSTRUCTIONS | | | |
| Phone: | | | | EXTENDED DESCRIPTION | | | |
| 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. | | | | | | | |
| Line Item | Commodity/Item Code | UOM | QTY | Unit Cost | Total Cost | MSDS Req. | |
| 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 | | | |
| TERMS AND CONDITIONS | | | | | | | |
| https://www.colorado.gov/osc/purchase-order-terms-conditions | | | | | | | |
| DOCUMENT TOTAL = \$168,874.00 | | | | | | | |

STATEMENT OF WORK

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

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| Goal #1: To advance environmental justice in disproportionately impacted (DI) communities in Colorado. | |
| Objective #1: 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. | |
| Primary Activity #1 | 1. The Contractor shall provide resources to program participants to improve the homes' health and safety. |
| Sub-Activities #1 | 1. The Contractor shall conduct a minimum of 45 home visits that include: <ul style="list-style-type: none"> a. An IAQ assessment with behavior-based recommendations and b. Actions households can take to improve IAQ. |

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

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| Standards and Requirements | <ol style="list-style-type: none"> 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. 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"> a. Radon test kits b. Natural cleaner c. Sustainable cleaning cloths d. Smoke alarms e. CO alarms f. Commercial-grade doormats g. Fire extinguishers h. Portable air cleaners i. Air conditioners. 3. The Contractor shall provide the resources mentioned in the Work Plan, Sub-Activities 1.2, 1.4, and Standards & 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"> a) Hickory, b) North College, c) Stonecrest, Montclair, d) Andersonville/San Cristo, e) Buckingham, f) Alta Vista, g) Dry Creek, h) Buffalo Run, i) Old Town Neighbors, j) Collins Aire, k) Timber Ridge, l) Harmony Park, m) Highlander Heights, n) Skyline, o) Poudre Valley Mobile Home Park, and p) Nueva Vida. 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"> a. Quarterly Report Guidance Document 5. The Contractor shall include the following information in the 6-month Progress Report. <ol style="list-style-type: none"> a. Successes to date, b. Challenges and barriers encountered to date, and c. Anticipated challenges by the end of the Contract. 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"> a. What disproportionately impacted (DI) community did your project serve? b. What was the relationship between the project and the community it served? <ol style="list-style-type: none"> i. How did your project engage members of a DI Community? ii. How did the community react to the project? |
|-----------------------------------|--|

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|--|---|--|
| | <ul style="list-style-type: none"> c. What is the final status of the project? <ul style="list-style-type: none"> i. Did the project complete all of the activities set in the SOW? d. What was the biggest success of the project including unanticipated successes? <ul style="list-style-type: none"> i. How do you measure the success of your project? e. What was the greatest challenge and what did you learn from it? f. Would you apply for the grant again? g. Any suggestions for the grant program in the future? <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"> a. the date of the check-in meeting, b. the meeting link, for virtual meeting, c. the meeting venue, for in-person meeting, d. meeting agenda, e. meeting duration, and f. meeting participants. <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"> a. First check-in meeting sixty (60) business days after the Contract execution date, b. Second check-in meeting nine (9) months into the Contract. <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"> a. Quarterly Report b. 6-Month Progress Report c. Final Report <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> | |
| Expected Results of Activity(s) | <ul style="list-style-type: none"> 1. Increased quality of life of community members. 2. Expanded access to resources and programs for community members. 3. Increased knowledge and tools for community members to protect themselves from extreme temperatures and poor outdoor air quality. | |
| Measurement of Expected Results | <ul style="list-style-type: none"> 1. Number of households reached. 2. Number of volunteer HHE who are trained and committed to the program. 3. Number of new HHE and/or NC who are recruited. 4. Number of continued education opportunities for HHE. | |
| Deliverables | <ul style="list-style-type: none"> 1. The Contractor shall submit electronically to the EJ Grants Specialist Quarterly Progress Reports. 2. The Contractor shall submit electronically to the EJ Grants Specialist a 6-Month Progress Report. | Completion Date |
| | | <p>No later than 15 days following the end of Q1, Q2, Q3, Q4</p> <p>No later than January 15, 2025</p> |

| | | |
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| | 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

Item 15.

Please do not adjust the formulas within this spreadsheet

| | | | |
|-------------------|---|--|--|
| 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 | | | | \$ - | \$ - |
| Total Personnel Costs (Personal Services) (including fringe benefits) | | | | | | \$ 56,250.00 | |
| 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 | \$ - | |
| Total Supplies & Operating Expenses | | | | | | \$45,810 | |
| 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 | | | \$ - | \$ - | |
| Total Travel | | | | | | \$ - | |
| 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 | | |
| Total Contractual | | | | | | \$ 66,814.00 | |
| SUB-TOTAL OF DIRECT COSTS | | | | | | \$ 168,874.00 | |
| Indirect | | | | | | | |
| TOTAL | | | | | | \$ 168,874.00 | |

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

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: \$1,000,000 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-

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

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 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:

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.

July 16, 2024

AGENDA ITEM SUMMARY

City Council



STAFF

Anna Kelso, Active Modes Specialist

SUBJECT

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

EXECUTIVE SUMMARY

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.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

The City was awarded a Bloomberg Philanthropies Asphalt Art Innovations grant for \$25,000 in the fall of 2023 for an asphalt art curb extension project at the intersection of Canyon Avenue, West Magnolia Street, and South Sherwood Street. The original grant application included a curb extension design proposal totaling roughly 6,500 square feet. Upon receiving the grant, Bloomberg Philanthropies partnered FC Moves with Street Plans, a tactical urbanism consulting firm. Street Plans recommended revising the original plan to cover a much larger area than originally planned. The revised plans will be more effective in traffic calming and reducing pedestrian crossing distances and have been approved by all relevant City departments. Increasing the total area of tactical curb extension from 6,500 square feet to almost 17,000 square feet has also increased the total budget considerably, most notably, the artist honorarium. Funding from the Community Capital Improvement Program (CCIP) for Pedestrian Sidewalk/Americans with Disabilities Act (ADA) compliance and Bicycle Infrastructure Improvements will cover the increased project costs above the grant award. 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. According to Sec. 23-308, the Art in Public Places (APP) Board shall make recommendations to the City Council concerning the use of funds in excess of thirty thousand dollars (\$30,000) for the acquisition, installation and maintenance of works of art.

Art in Public Places promoted a call for artists in January 2024. The artist was selected in a competitive process. Local artist Jess Bean was selected on March 15, 2024. Bean is an established artist and muralist and serves as the Executive Director of the Fort Collins Mural Project. One of her most recent murals can be observed on the United Way Community Center located at the corner of Sherwood Avenue and Oak Street. Bean also has extensive experience working on collaborative creative installations in the City and excels in building community through art.

Artist Jess Bean prepared the following statement about her design for the Canyon/Magnolia/Sherwood intersection:

The design uses the non-native magnolias to represent settlers overtaking the indigenous peoples. Black-tipped feathers represent Arapaho Chief Friday who worked closely with the “Indian Agent” appointed by Abraham Lincoln, Frederick Sherwood. Chief Friday’s efforts to secure land for his people never came to fruition, and he eventually moved his people on the Wind River Reservation in Wyoming after it became clear that Sherwood was not going to be able to secure any land in Colorado for the Arapaho. The shadows of the black-tipped feathers represent Friday’s ever-lasting legacy.

CITY FINANCIAL IMPACTS

None.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

At the June 27, 2024, Art in Public Places Board meeting, the Board recommended funding the acquisition and installation of the art at the intersection of Canyon/Magnolia/Sherwood with a \$62,000 budget.

PUBLIC OUTREACH

Public outreach for this installation began with a press release informing the public of the Bloomberg Philanthropies Asphalt Art Innovations Grant in the fall of 2023. This was followed by a call for artists which was managed through Art in Public Places. Once the artist (Jess Bean) was selected by the review committee, two public outreach events were held at the Lincoln Center on March 27th and May 16th, 2024. These events included live music, dance performances as well as an opportunity for the public to meet the artist, offer input on the design and vote on one of two designs provided for selection. Online voting was also offered on the FC Moves asphalt art page. Further communication about the project and the outreach events was provided to local businesses, residents and landowners via postcard mailers and yard signs.

ATTACHMENTS

- 1. Resolution for Consideration
- 2. APP Board Handout for the Canyon/Magnolia/Sherwood Asphalt Art Project
- 3. Draft APP Board Minutes, June 27, 2024

RESOLUTION 2024-091
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROVING THE ACQUISITION AND INSTALLATION OF A
PUBLIC ASPHALT ART MURAL ON CANYON AVENUE

A. The City seeks to install an asphalt art project at the intersection of Canyon Avenue, West Magnolia Street, and South Sherwood Street (the “Asphalt Art Mural”). The design for the Asphalt Art Mural includes feathers and non-native Magnolia flowers, representing the historical interplay between indigenous peoples and settlers in the area that now includes Fort Collins.

B. The total cost of acquiring and installing the Asphalt Art Mural is \$56,500. The City Council previously appropriated \$25,000 for the project through Ordinance No. 054, 2024. Another \$31,500 has been appropriated as part of the Community Capital Improvement Program.

C. The goal of installing the Asphalt Art Mural is to calm traffic and improve pedestrian and cyclist safety.

D. Section 23-308 of the City Code requires the Art in Public Places (“APP”) Board to make recommendations to the City Council concerning the use of funds in excess of \$30,000 for the acquisition, installation and maintenance of works of art. At its June 27, 2024, meeting, the APP Board recommended acquiring and installing the Asphalt Art Mural.

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 approves of the Asphalt Art Project described herein, the conceptual design of which was reviewed and approved by the Art in Public Places Board at its June 27, 2024, meeting.

Passed and adopted on July 16, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: July 16, 2024
Approving Attorney: Ted Hewitt

Asphalt Art Installation

Artist: Jess Bean

Location: Canyon/Magnolia/Sherwood

Title: TBD

Item 16.

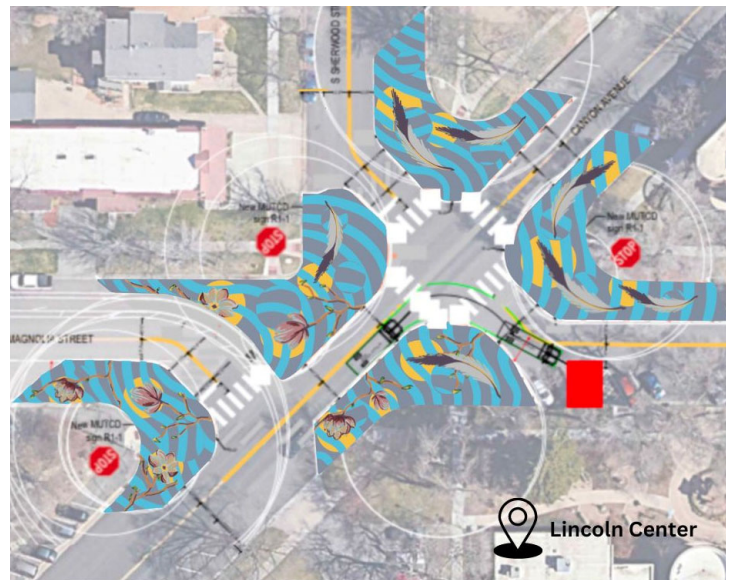
About Jess Bean - Jess Bean is an established artist and muralist and serves as the executive director of the Fort Collins Mural Project. One of her most recent murals can be observed on the United Way Community Center located at the corner of Sherwood Avenue and Oak Street. Bean also has extensive experience working on collaborative creative installations in the city and excels in building community through art.

Design—Artist Statement: Based on a trip to the Museum of Discovery's archives; this design uses the non-native magnolias to represent settlers over taking the indigenous peoples. Black tipped feathers represent Arapaho Chief Friday who worked closely with the "Indian Agent" appointed by Abraham Lincoln, Frederick Sherwood. Chief Friday's efforts to secure land for his people never came to fruition, and he eventually moved his people on to the Wind River reservation in Wyoming after it became clear that Sherwood was not going to be able to secure any land in Colorado for the Arapaho. The shadows of the Black tipped feather's represent Friday's ever-lasting legacy. The wavy lines represent the moving waters of the Poudre running from the canyon through the city, and the circles are indicative of the statue on the South side of the Lincoln Center.

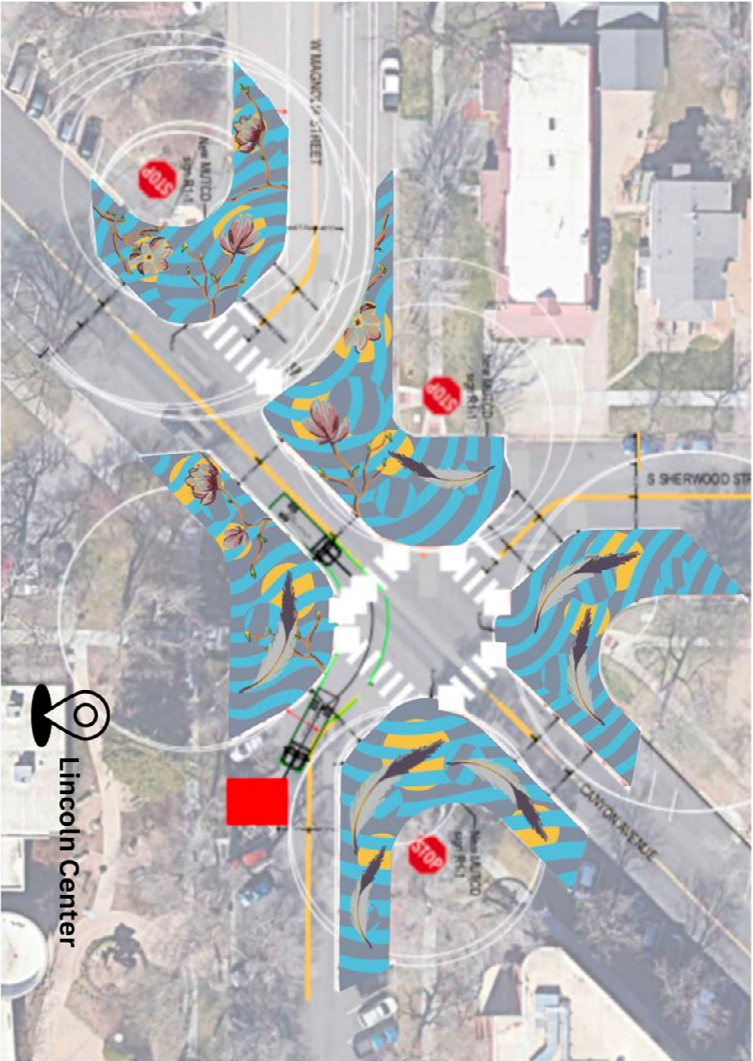
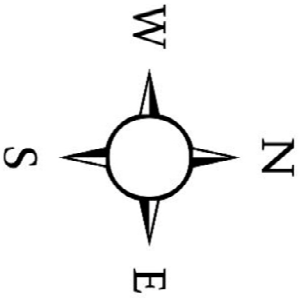
BEFORE



AFTER



Design 1



 Lincoln Center

J BEAN ART 

Disclaimer: The grey in this Mock-up will be negative space allowing the asphalt to show.

Artist Statement: Based on a trip to the Museum of Discovery's archives; this design uses the non-native magnolias to represent settlers over taking the indigenous peoples. Black tipped feathers represent Arapahoe Chief Friday who worked closely with the "Indian Agent" appointed by Abraham Lincoln, Frederick Sherwood. Chief Friday's efforts to secure land for his people never came to fruition, and he eventually moved his people on to the Wind River reservation in Wyoming after it became clear that Sherwood was not going to be able to secure any land in Colorado for the Arapahoe. The shadows of the Black tipped feather's represent Friday's ever-lasting legacy. The wavy lines represent the moving waters of the Poudre running from the canyon through the city, and the circles are indicative of the statue on the South side of the Lincoln Center.



Color Palette:



Feather & Magnolia detail:



Design/Location Justification: Tactical asphalt art is a combination of art on pavement, or street murals, and tactical urbanism infrastructure. Tactical urbanism uses short-term, low-cost, interventions to catalyze long-term change. The most common form of tactical infrastructure used in asphalt art projects around the country is curb extensions. Curb extensions, also known as bulb-outs, extend the sidewalk or curb line out into the parking lane, which reduces the effective street width. Tactical curb extensions are created with traffic paint and plastic delineator posts as opposed to concrete. Tactical curb extensions are more affordable, quicker and easier to install, relatively easy to adjust or remove, allow a city to test and evaluate an intersection redesign, and do not change the hydrology of an intersection. Asphalt art curb extensions include artistic murals within the curb extension area. Asphalt art has the power to transform cities and make their public spaces safer and more vibrant.

New guidance from the 11th edition of the Manual on Uniform Traffic Control Devices (MUTCD) as well as input from Public-Right-of-Way Accessibility Guidelines (PROWAG) provide requirements and recommendations for ADA compliance based on the specifications of each curb extension. Tactical curb extensions measuring over 7 feet distance from the sidewalk ramp require tactile warning devices (TWD) as well as truncated domes where the curb extension meets the crosswalk. These applications provide guidance from the sidewalk ramp to the crosswalk for the visually impaired.

The intersection of Canyon/Magnolia/Sherwood was selected as it is a cherished focal point of the community and also presents one of the best opportunities for improvements in:

- reducing right-of-way confusion
- Shortening pedestrian crossing distances
- Reducing traffic speeds
- Creating manful community spaces

Project/Budget Narrative: FC Moves was awarded the Bloomberg Philanthropies asphalt innovations grant for \$25K in the fall of 2023. The original curb extension design submitted in the grant application was small and the budget outline reflected this. Upon receiving the grant, Bloomberg Philanthropies partnered FC Moves with a consulting firm, Street Plans. Street plans provided a revision that created a significantly larger and more ambitious design. The revised plan will be more effective in traffic calming and reducing pedestrian crossing distances. Increasing the total area of the tactical curb extension from roughly 6,500 sq ft to almost 17,000 sq ft. has also increased the total cost of the project considerably. To adjust for this we will also be using funds from pedestrian CCIP, bike CCIP, as well as small private donors.

Community Outreach and Engagement: Two community outreach events have been held thus far. The first event included live music by Russick Smith and improvisational dance by Impact Dance Company. At this event residents and local businesses had the opportunity to meet the artist, Jess Bean, and learn more about the benefits of asphalt art. The second community outreach event included live music by Carlos Barata and offered community members the opportunity to vote on their favorite design. Those who were not able to attend in person were given the opportunity to vote online. Installation will be supported by community volunteer effort and managed by FC Moves. Post installation celebration for the community to follow in fall 2024.

Schedule: August 12 to August 18, 2024

Monday, August 12th— pressure washing and crosswalk removal/reinstallation
 Tuesday, August 13th—striping and prep
 Wednesday August 14th to 18th—Asphalt art installation

Installation plan:

Traffic control will begin with a closing of the intersection on Monday morning, August 12th. Installation will then follow with crosswalk removal and reinstallation followed by pressure washing and striping. Volunteer supported asphalt art installation will begin on Wednesday, August 14, 2024. Intersection barricades to be removed the morning of Monday, August 19th and plastic delineator posts to be installed.

| Canyon/Magnolia/Sherwood Budget | |
|---------------------------------|------------------|
| Service | Amount |
| artist honorarium | 25,000.00 |
| traffic plan | 7,000.00 |
| asphalt art paint | 7,000.00 |
| traffic ops services | 15,000.00 |
| supplies | 2,000.00 |
| pressure washing | 1,300.00 |
| ADA materials | 3,000.00 |
| | |
| Budget Details | |
| | |
| Total expenditures | 60,300.00 |
| | |
| Total Budget | 56,500.00 |
| | |
| Remaining | -3,800.00 |

| Funding source | Amount |
|-------------------------------|------------------|
| Bloomberg grant | 25,000.00 |
| Ped CCIP | 17,000.00 |
| FC Moves | 10,000.00 |
| Private donor (not confirmed) | 10,000.00 |
| | |
| Total | 62,000.00 |

SealMaster Color Pallet — We have selected SealMaster Colorpave HD 500 for this installation as it complies with both Risk Management and Environmental Regulatory Affairs requirements. Please see below for color pallet.

MINUTES

CITY OF FORT COLLINS • BOARDS AND COMMISSIONS



ART IN PUBLIC PLACES REGULAR MEETING

Wednesday, June 26, 2024 – 3:30 PM

The Lincoln Center, Founders Room

1. CALL TO ORDER: 3: PM

2. ROLL CALL

- a) Board Members Present – Natalie Barnes, Kathy Bauer, Myra Powers, Renee Sherman, Heidi Shuff, and Nancy Zola
- b) Board Members Absent – Christopher Staten
- c) Staff Members Present – Ellen Martin, Liz Good, Anna Kelso
- d) Cultural Resources Board Liaison – Leslie Walker
- e) Guests – None

3. AGENDA REVIEW

4. PUBLIC PARTICIPATION

5. APPROVAL OF MINUTES, May 15, 2024

Ms. Sherman confirmed the update she requested to her attendance had been made.

Ms. Powers moved to approve the minutes

Ms. Shuff seconded.

Unanimously approved.

6. NEW BUSINESS

a) Asphalt Art Project Review

Anna Kelso with FC Moves was in attendance to present the project for the intersection of Magnolia, Canyon, and Sherwood. The project is funded through an Asphalt Art Initiative grant from Bloomberg Philanthropies and FC Moves. It isn't funded by APP. She shared the final design by artist Jess Bean and its inspiration. She also outlined community engagement, the updated project budget, and proposed installation schedule in mid-August. The Board asked about signage. Ms. Kelso shared that the DEI Office has also made this request. If approved by the Board, the project will be recommended to City Council that will need to approve due to the budget being over \$30,000.

Ms. Sherman moved to approve the Asphalt Art as presented.

Ms. Zola seconded.

Unanimously approved.

b) Center for Creativity Restroom Mural Review

ART IN PUBLIC PLACES

REGULAR MEETING

Ms. Martin presented the project design by artist Chelsea Ermer. For this mural Chelsea is painting a sunset cloudscape. The purpose for this mural is to add whimsy and surprise to the space.

Ms. Powers moved to approve for the Center for Creativity Restroom Mural.
Ms. Shuff seconded.
Unanimously approved.

c) Transformer Cabinet Artist Discussion

Ms. Good shared statistics for the last five years. There was a discussion about ways to include new artists and modify the process. The Board requested to continue the discussion at a future meeting.

d) APP 30th Anniversary

Ms. Martin shared that the APP program started in April 1995 and 2025 will be the 30th Anniversary. Staff wants to start a discussion with the Board of ways to share the APP story. The 20th anniversary celebration was discussed as a model. It was suggested to have a celebration at the newly remodeled Center for Creativity. Staff will add this to the agenda to continue the discussion.

8. STAFF REPORT

Ms. Martin shared highlights and updates; the report will be emailed to the Board.

9. OTHER BUSINESS

Leslie Walker with the Cultural Resources Board shared about the granting process for Fort Fund. They are also starting community workshops.

Ms. Bauer shared about a friend who was moved by seeing a Pedestrian Paver featuring a wheelchair athlete that reminded her of her son. She also shared that she went to the Chair/Vice Chair training and wanted to thank Staff for their organization. She also shared about the Church of Beethoven at Avogadro's Number as a favorite summer activity.

10. ADJOURNMENT 4:54 PM

Minutes approved by the chair and a vote of the Board/Commission on XX/XX/XX

File Attachments for Item:

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.

AGENDA ITEM SUMMARY

City Council



STAFF

Frank Barrett, Assistant Chief
Sage Madden, Explorer Lieutenant
Emily Barrett, Explorer Sergeant

SUBJECT

Highlight the Explorer Program from Fort Collins Police Services.

EXECUTIVE SUMMARY

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.

BACKGROUND / DISCUSSION

The Fort Collins Police Services Explorer Program is a volunteer program for youth in our community ages 15 to 21. It allows youth interested in the criminal justice/law enforcement profession to learn and get exposure to the field's different aspects and career opportunities. The Explorer Program gives youth experience in the law enforcement field and the ability to develop their leadership, communication, teamwork, and conflict resolution skills and give back to the community through volunteer service opportunities.

The Explorers meet once a week, with two mandatory meetings and two voluntary meetings per month. During these meetings, the Explorers receive presentations and instruction from professionals in the criminal justice field. During many of these presentations, Explorers get hands-on experience with the skill or topic they learned about. In other meetings, the Explorers participate in scenario/decision-based training to continue learning about the profession and developing their skills. The Explorers also provide many volunteer services to Police Services and the community. The Explorer Program has provided over 1700 community service hours in the last two years. These hours have included assistance with Santa Cops, delivery of Council materials to Councilmembers, building tours of the Fort Collins Police Department, help with special events, and many other activities.

The program currently has 13 youth, ranging from 15 to 20 years of age, and is managed by 7 police officer advisors. The advisors guide and mentor the Explorer Leadership Team, which consists of one lieutenant, two sergeants, and two corporals. The Explorer Leadership Team gives the youth the ability to plan and facilitate their own meetings and training sessions. It also allows them to develop their leadership skills. The skills and experiences the participants have in this program help them become more successful in their pursuit of obtaining a position in the criminal justice field. Several previous Explorers have said the skills, knowledge, and experience they gained during their time as an Explorer were invaluable and helped

them be successful in getting positions in the profession. Fort Collins Police Services has several current officers and dispatchers who were previous Explorers.

Once a year, a group of Explorers participate in a national explorer competition with explorer programs from around the country. During this competition, the Explorers go through various scenarios in several different aspects of law enforcement and are scored based on their performance by current law enforcement professionals. This year, five of our Explorers traveled to Topeka, Kansas. They competed against fourteen teams from across the nation in many events to test their knowledge, skills, and abilities in law enforcement-related situations. The Explorer team did exceptionally well, finishing second overall in the competition. The rankings for each team exercise were:

- 1st in Crisis Negotiations
- 1st in Death Investigation
- 1st in Crime Scene Investigator
- 1st in Special Victim
- 2nd in Active Shooter
- 2nd in Dodgeball
- 3rd in Crisis Intervention
- 3rd in Suspicious Vehicle

CITY FINANCIAL IMPACTS

None.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

1. Presentation

Fort Collins Police Services' Explorer Program

Frank Barrett, Assistant Chief

Sage Madden, Explorer Lieutenant

Emily Barrett, Explorer Sergeant



- Volunteer program for youth ages 15 to 21
- Helps youth interested in criminal justice/law enforcement learn about the profession
- Allows for development in leadership, communication, teamwork, and conflict resolution skills
- Give back to the community





- Monthly meetings
- Hands-on experience
- Scenario/decision-based training
- Community service
 - Santa Cops
 - Council packets
 - Police building tours
 - Special events
- Over the last two years, Explorers have provided **1,700 hours of community service**

Current Explorer Group

- 13 Explorers ranging from ages 15 to 20
- 7 police officer advisors
- Explorer Leadership Team
 - Lieutenant
 - 2 Sergeants
 - 2 Corporals



Explorer Competition

- Capital Challenge 2024 – Explorer Competition – Topeka, Kansas
- 14 Explorer teams
- 14 scenarios based on current trends law enforcement encounter routinely
- Allows Explorers to demonstrate their skills, knowledge, and abilities in these scenarios
- Explorers are evaluated based on their performance by current law enforcement professionals
- 5 Explorers attended and competed this year



Law Enforcement Explorer Competition

Topeka, Kansas

June 8th & 9th, 2024

Competition Results

- 2nd - Overall in the competition
- 1st - Crisis negotiation
- 1st – Death investigation
- 1st – CSI
- 1st – Special victim
- 2nd – Active shooter
- 2nd – Dodgeball
- 3rd – Crisis intervention
- 3rd – Suspicious vehicle





Questions?

File Attachments for Item:

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.

July 16, 2024

AGENDA ITEM SUMMARY

City Council



STAFF

Rupa Venkatesh, Assistant City Manager
Ginny Sawyer, Sr. Project Manager

SUBJECT

Items Relating to the Civic Assembly Process.

EXECUTIVE SUMMARY

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.

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STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

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

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

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

1. Ordinance for Consideration
2. Resolution for Consideration
3. Presentation from American Public Trust and Healthy Democracy Fund

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.

Mayor

ATTEST:

City Clerk

Effective Date: August 30, 2024
Approving Attorney: Carrie Daggett

RESOLUTION 2024-092
OF THE COUNCIL OF THE CITY OF FORT COLLINS
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

A. Section 8-161(d)(1)a of the City Code authorizes the Purchasing Agent to negotiate for services without using a competitive process where the Purchasing Agent determines there exists only one responsible source for the services.

B. The City requires the services of a consultant to administer a civic assembly engagement process to help develop the site plan for the Hughes stadium property. Healthy Democracy Fund is the only consultant available to perform these services. 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.

C. The Purchasing Agent has determined that Healthy Democracy Fund is the only responsible source to administer a civic assembly engagement process to help develop the site plan for the Hughes stadium property.

D. The cost to procure these services is expected to be \$150,000, however, the City is seeking grant funds to augment the services Healthy Democracy Fund is providing to the City, which may increase the total cost of the procurement up to \$250,000.

E. The Purchasing Agent and other City staff recommend the adoption of this Resolution.

F. The Purchasing Agent has submitted the requisite justification to the City Manager for approval and the City Manager has reviewed and approved this justification.

G. Section 8-161(d)(3) of the City Code requires prior approval of this purchase as it exceeds \$200,000.

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 Purchasing Agent to negotiate and enter into an agreement with Healthy Democracy Fund for up to five years for professional services in connection with the conduct of a civic assembly process for the Hughes Master Plan, and further approves this action as an exception to the City's competitive purchasing process requirements, for the reasons set forth herein.

Passed and adopted on July 16, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: July 16, 2024
Approving Attorney: Carrie Daggett

Civic Assemblies: Public Engagement to 'Solve' Tough Problems

Fort Collins, Colorado City Council

7.16.24



Rahmin Sarabi
Founder & Director
American Public Trust



Linn Davis
Program Director
Healthy Democracy

Goals & Agenda

Item 17.

- **Civic Assemblies 101**
- **Questions & Discussion**

- 1. Need**
- 2. What Assemblies are & How they work**
- 3. APT + HD + CPD Roles**
- 4. Questions & Discussion**



Item 17.

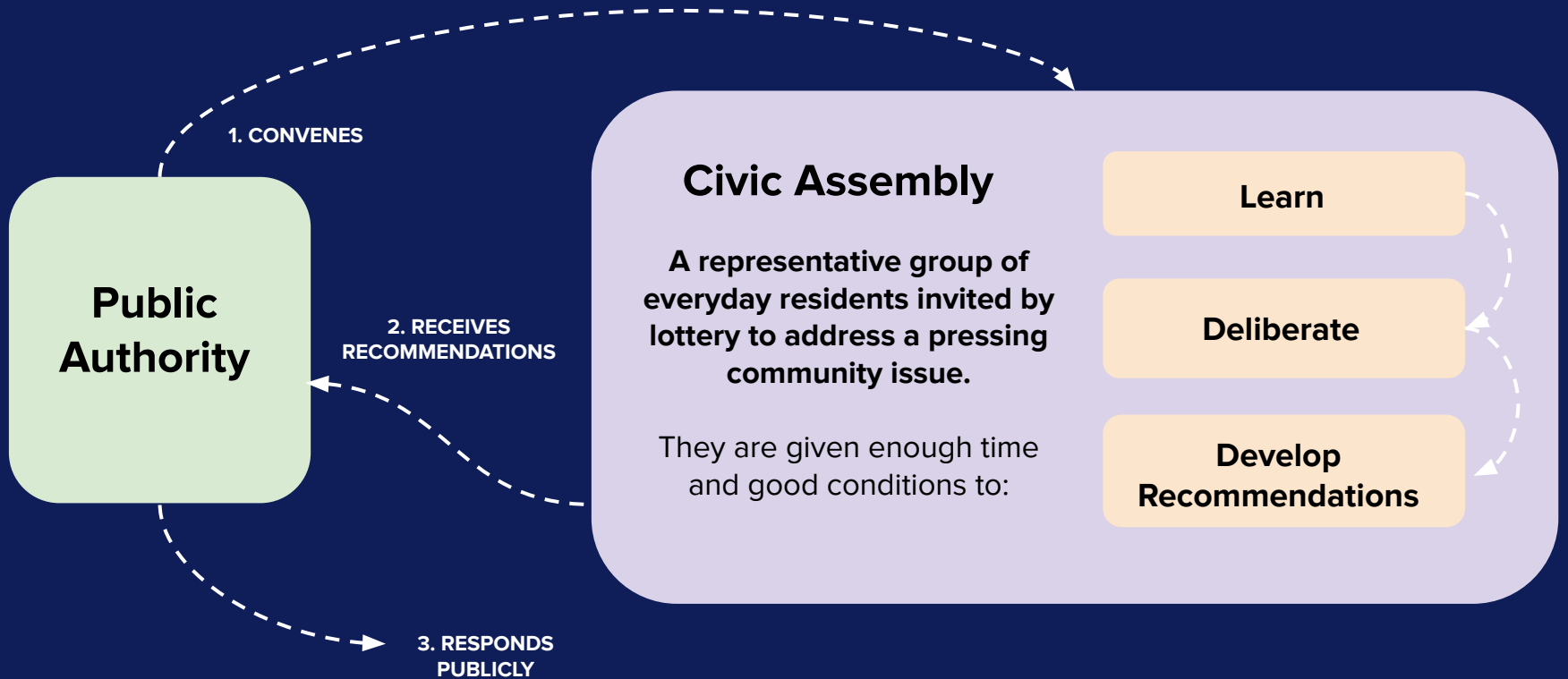
Item 17.



**Civic Assemblies
empower the wisdom
of “we the people” to
solve tough public
problems and bridge
divides.**



What is a Civic Assembly?



How is it Different?

WHO

1
Participants are selected by **Civic Lottery**



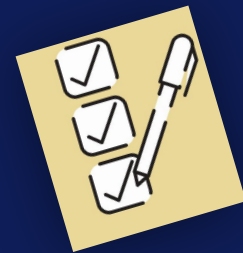
WHAT

2
They're provided with enough time and supports for **Learning and In-depth Deliberation**



HOW

3
Recommendations are generated with **Super Majority Agreement**



Selection by Civic Lottery

Two-stage process for selecting a representative assembly of community members

Item 17.

STAGE 1



Invitations sent
by random to
households
(5,000-30,000)



Recipients opt in
to participate

Selection by Civic Lottery

Two-stage process for selecting a representative assembly of community members

Item 17.

STAGE 1



Invitations sent
by random to
households
(5,000-30,000)



Recipients opt in
to participate



STAGE 2



Lottery is run to
select Members
stratified on: Age,
Income, Gender,
Geography, Political
Views...



Final Group
formed that is
representative of the
demographics of the
city, town, state...

- **Creates a representative “microcosm”** of the larger public
- **Reduces practical barriers** to participation (e.g. money*, technology, child/eldercare)
- **Engages parts of the public** who typically would not participate

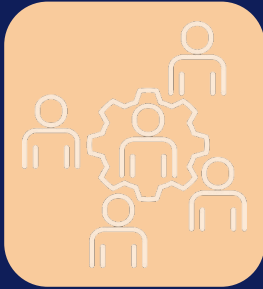
* Participants are paid a stipend for their time



Expert Testimony
from all sides



Enough Time
4-10 days

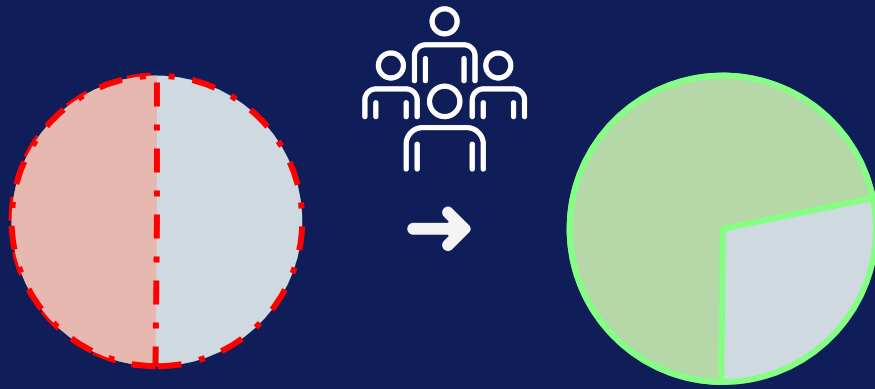


Professional Facilitation
for respectful dialogue

- **Equips assembly members to grapple with the complex tradeoffs** of an issue
- **Engages the full breadth** of viewpoints and evidence, fostering trust from stakeholders and the public
- **Supports creative problem solving** for the broadest benefit of the community

Learning & High Quality Deliberation

Good conditions to make sense of an issue with all voices considered



- **Results in novel, practical, and more durable policy solutions**
- **Solutions are more inclusive, often integrating across the political divides**
- **Increases legitimacy and acceptance from the Public**

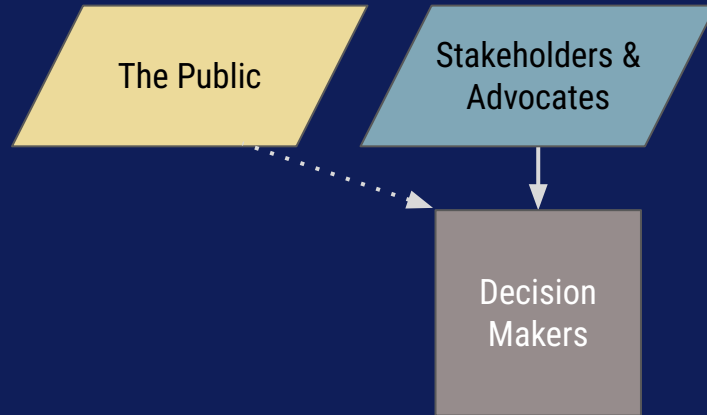
Decisions by Super Majority

70% agreement or greater

Role of Stakeholders

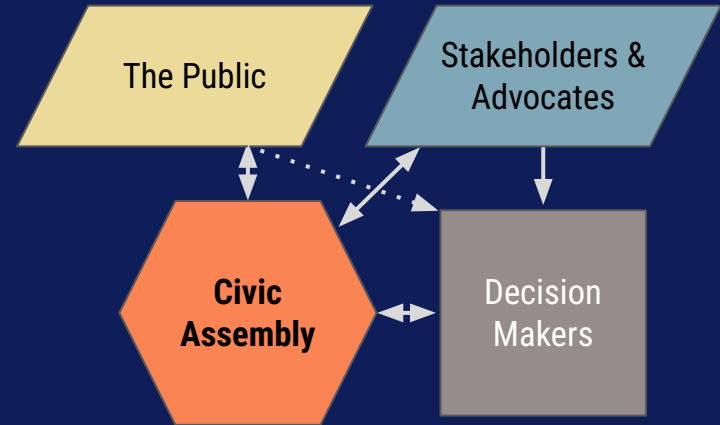
Item 17.

Traditional Approach



- Stakeholders advocate with the public & decision makers, largely from outside the political system
- Hand-picked stakeholders serve on City-directed advisory committees

Adding a Civic Assembly



Everything to the left, plus . . .

- Stakeholders interact with Assembly by:
 - Curating initial information & presenters for the Assembly
 - Presenting directly to the Assembly
 - Providing feedback as the Assembly conducts its analysis

Citizens' Assemblies help decision makers act on tough issues more effectively and with greater public support.

Through expressing an informed voice of the public, Assemblies help depolarize and resolve tough issues, turning down the heat from the most polarized voices in a community, while re-engaging the “silent majority” and fostering practical collaborative problem-solving.



Civic Assembly design and delivery; local capacity building for future assemblies



Fundraising support; program management; local and national strategic comms



Broad public and stakeholder engagement (tied into the assembly process)

Questions & Discussion

APPENDIX

How is it Different?

| | Traditional Public Engagement | Lottery-Selected Panels |
|------------------|--|--|
| Who Participates | <p>Self-selected volunteers and stakeholders with a vested interest in the topic.</p> <p>Frequent overrepresentation of those with the most time and resources. Participants often skew whiter, older, and more highly educated than the general public.</p> | <p>Everyday community members, most of whom don't engage in other public processes.</p> <p>Guarantees demographic representation. Reduces practical barriers to participation (e.g., time, money, childcare, and information).</p> |
| Information | <p>Participants expected to do their own research or rely on pre-packaged information from a government agency.</p> <p>Debates over "the facts" prevent collaborative critical thinking and overshadow substantive conversation about solutions.</p> | <p>Access to a wide range of viewpoints and evidence, selected in part by an independent stakeholder body.</p> <p>Collecting and analyzing information is a collaborative undertaking – with the goal of understanding diverse viewpoints and identifying creative solutions.</p> |
| Process Design | <p>Fundamentally designed to encourage adversarial debate about specific policy positions, creating a zero-sum political environment.</p> <p>Time-constrained – e.g., a 3-minute public comment or afternoon workshop – lending itself to superficial input.</p> <p>Designed by staff or consultants, without input from participants, external advisors, or independent evaluators.</p> | <p>Fundamentally designed to encourage thoughtful and respectful deliberation about what solutions serve a variety of community interests.</p> <p>Plenty of time and freedom to dig deeply into a topic and produce comprehensive policy recommendations from scratch.</p> <p>Panelists oversee process staff and have power to direct their own process; third-party evaluation and advice is standard.</p> |
| Policy Impact | <p>Emphasizes one-directional community input. Staff and electeds receive comments from many opinion groups and mediate a policy solution themselves.</p> <p>Effect of public feedback is often unknown.</p> | <p>Emphasizes community-driven problem solving, in which everyday residents and stakeholders <i>work among themselves</i> to identify creative solutions.</p> <p>Decision makers commit to, at minimum, thoroughly considering and substantively responding to Panel reports.</p> |



Item 17.



***Vision:* Civic Assemblies as regular features of governance – helping restore faith, activate engaged citizens, and upgrade our capacity to address our many ‘wicked’ problems.**

“The added value of [the citizen] contribution lies in the fact that they remain **the best experts on what changes are acceptable and when they should be implemented.**”

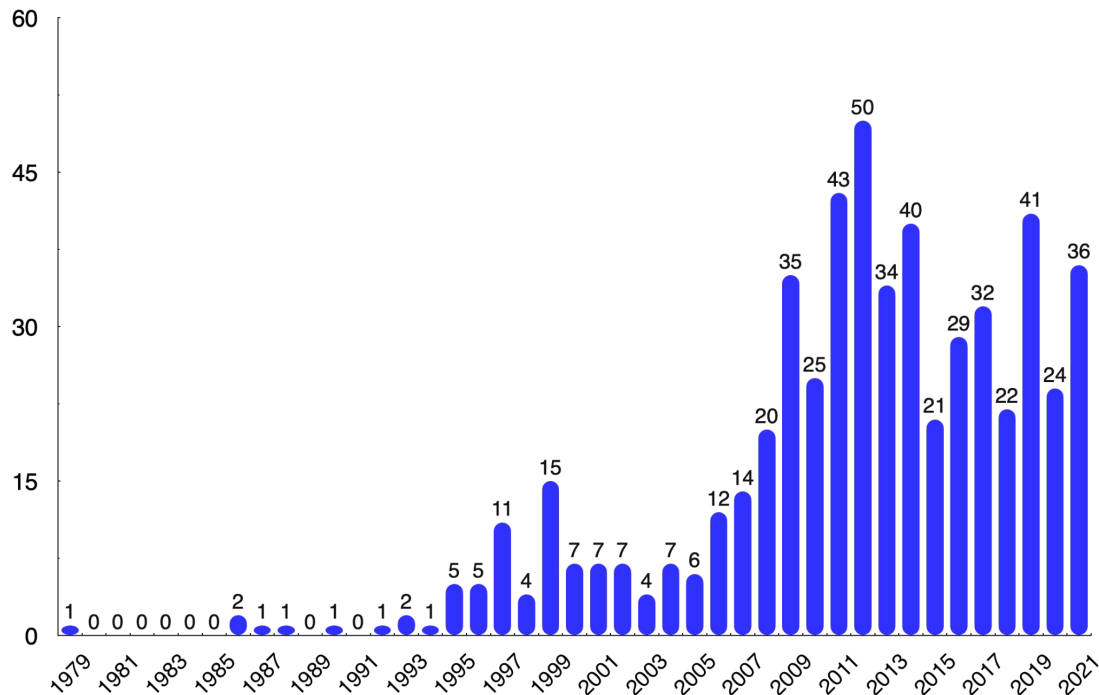


Alain Maron, Minister of the Brussels-Capital Region Government in charge of Climate Transition, Environment, Energy and Participatory Democracy.

The 'deliberative wave' has been building, notably since 2010

Note: n=566; Data for OECD countries is based on 24 OECD countries that were members in 2021 plus the European Union. Processes that spanned over multiple years are noted by the year of their completion (except for permanent ongoing processes).

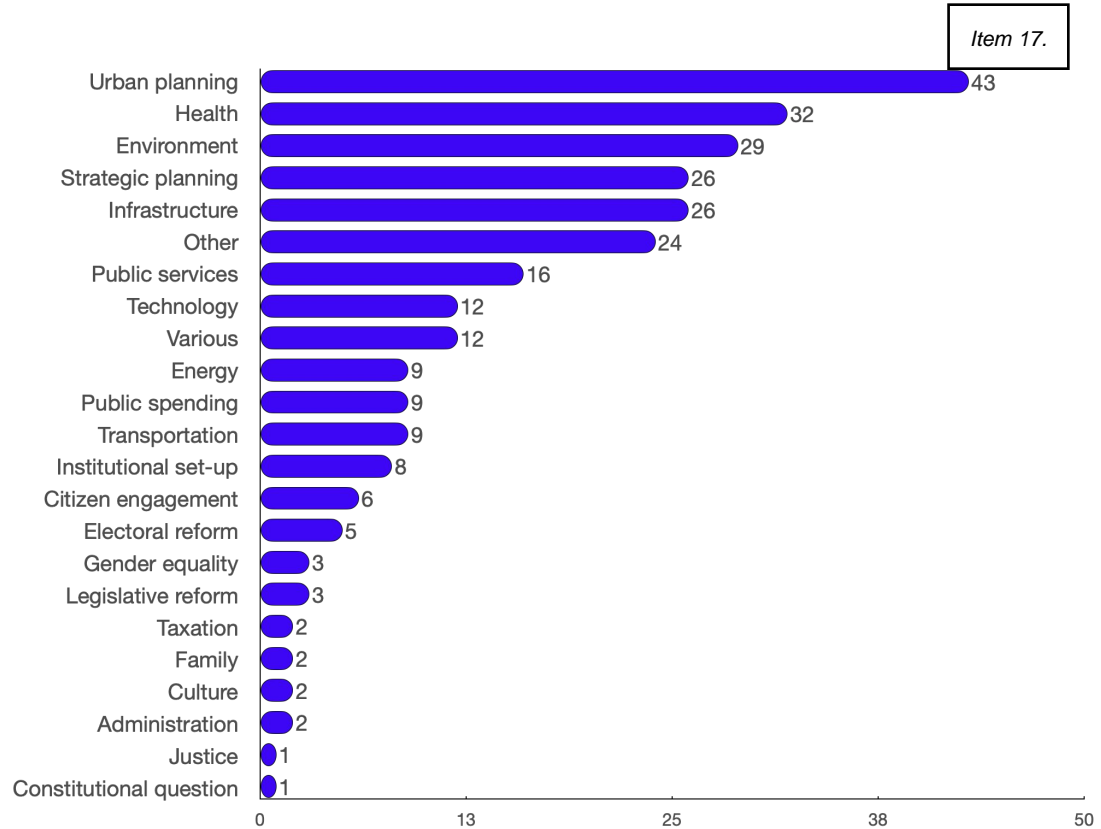
Source: OECD Database of Representative Deliberative Processes and Institutions (2021).



Assemblies have addressed *a wide range of policy issues*

Note: n=566; Data for OECD countries is based on 24 OECD countries that were members in 2021 plus the European Union. Processes that spanned over multiple years are noted by the year of their completion (except for permanent ongoing processes).

Source: OECD Database of Representative Deliberative Processes and Institutions (2021).



Assembly recommendations are *widely adopted* by commissioning authorities

Item 17.

How public authorities responded to citizens' recommendations

55 cases analysed by OECD, %



Source: OECD

- 1. Make Hard Decisions *Easier***
- 2. Find *Agreement* on Practical Solutions**
- 3. Build Government & Community *Trust***

File Attachments for Item:

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.

July 16, 2024

AGENDA ITEM SUMMARY

City Council



STAFF

Travis Storin, Chief Financial Officer
Ginny Sawyer, Senior Project and Policy Manager

SUBJECT

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.

EXECUTIVE SUMMARY

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.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

The Street Maintenance Program (SMP) provides funding for the repair and renovation of the entire City street system. The Fort Collins community has supported dedicated funding of the SMP since 1989 when it was funded through Choices 95.

The current Street Maintenance Program tax will expire December 31, 2025. The Street Maintenance Program is funded at approximately \$21.0 million per year. This dedicated quarter-cent tax makes up approximately \$8.7 million per year of that total cost. The General Fund is also a significant contributor to these costs.

The Street Maintenance Program maximizes the community's investment in the street network by performing ongoing maintenance before much more costly repairs or replacement is necessary, extending the usable life of a street. The program includes repair of concrete curbs, gutters, and sidewalks;

construction of sidewalk access ramps; repair of deteriorating asphalt; and the reconstruction, overlay, or seal coat operations on existing streets. Street Maintenance funding also contributes to repair and replacement of bridges and traffic control infrastructure throughout the City.

Since 2015, lane miles in the City grew from 1,870 miles to more than 1,994 miles. Each year, approximately 94 lane miles of Fort Collins streets are improved which is in contrast to the 130 lane mile target to maintain a “good” rating system-wide. The City’s policy is to keep the street system at a Level of Service (LOS)-Grade B or better and the Street Maintenance Program is critical to meeting this goal. Fort Collins’ overall street network is the City’s largest capital asset, and maintaining and preserving this asset is a key responsibility of municipal government.

Having a dedicated funding source for the Street Maintenance Program through a ¼-cent sales tax ensures that streets are maintained while sharing the cost burden with non-City residents that use our street system.

CITY FINANCIAL IMPACTS

This is a proposed tax extension, not a new tax, and as such will not be an increase in current tax revenue. This is a sales and use tax collected on all taxable purchases, which does not include prescription drugs and food for home consumption. The extension results in the continued ¼-cent tax which is the equivalent of 25-cents on a \$100 taxable purchase. This measure is for a 20-year extension based on the critical and on-going need of street maintenance.

The recommended term of the tax renewal is January 1, 2026, through December 31, 2045. Current revenue projections over 20 years are approximately \$220.0 million in 2024 terms.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

Staff engaged with members of multiple City Boards and Commissions at a Super Issues Meeting. There was overall support for a 20-year extension on the tax.

PUBLIC OUTREACH

None.

ATTACHMENTS

1. Resolution for Consideration
2. Presentation

RESOLUTION 2024-093
OF THE COUNCIL OF THE CITY OF FORT COLLINS
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

A. The City of Fort Collins has enacted a comprehensive sales and use tax, which enactment is codified in Chapter 25, Article III of the Code of the City of Fort Collins.

B. The amount of such tax presently imposed by the Code, as contained in Section 25-75(a) thereof, includes a twenty-five hundredths percent (0.25%) tax (the "Existing Tax") most recently approved by the voters of the City on April 7, 2015, to fund the City's street maintenance program.

C. The City's street maintenance program pays the costs of planning, design, right-of-way acquisition, incidental upgrades and other costs associated with the repair and renovation of City streets, including, without limitation, curbs, gutters, bridges, sidewalks, parkway shoulders and medians and traffic control infrastructure (the "Street Maintenance Program").

D. The Existing Tax will expire at midnight at the end of December 31, 2025.

E. By continuing this dedicated funding source, the City is not only able to provide a higher level of maintenance for City streets, but is also able to obtain assistance in funding the Street Maintenance Program from non-City residents that use the City's street system. This dedicated funding source is separate from the General Fund.

F. The Council believes it to be in the best interests of the residents of the City to extend the Existing Tax for the Street Maintenance Program for a period of twenty (20) years.

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 there is hereby submitted to the registered electors of the City at the special City election to be held on November 5, 2024, the question of whether to extend the Existing Tax for the City's Street Maintenance Program for a period of twenty (20) years, which question shall be submitted in substantially the following form:

BALLOT ISSUE NO. ___

A City-initiated Question

WITHOUT RAISING ADDITIONAL TAXES, SHALL THE CITY'S EXISTING 0.25% SALES AND USE TAX (25 CENTS ON A \$100 PURCHASE) FIRST APPROVED BY THE VOTERS IN 2005 FOR THE STREET MAINTENANCE PROGRAM BE EXTENDED FROM ITS CURRENT EXPIRATION AT THE END OF DECEMBER 31, 2025, THROUGH THE END OF DECEMBER 31, 2045; PROVIDED THAT THE REVENUES DERIVED FROM SUCH TAX EXTENSION SHALL BE USED TO PAY THE COSTS OF PLANNING, DESIGN, RIGHT-OF-WAY ACQUISITION, INCIDENTAL UPGRADES AND OTHER COSTS ASSOCIATED WITH:

- THE REPAIR AND RENOVATION OF CITY STREETS, INCLUDING, BUT NOT LIMITED TO, CURBS, GUTTERS, BRIDGES, SIDEWALKS, PARKWAYS, SHOULDERS AND MEDIANS, AND TRAFFIC CONTROL INFRASTRUCTURE;

AND FURTHER PROVIDED THAT THE FULL AMOUNT OF REVENUES DERIVED FROM THE TAX EXTENSION MAY BE RETAINED AND EXPENDED BY THE CITY NOTWITHSTANDING ANY STATE REVENUE OR EXPENDITURE LIMITATION, INCLUDING, BUT NOT LIMITED TO, THE LIMITATION CONTAINED IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

YES
 NO

Passed and adopted on July 16, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: July 16, 2024
 Approving Attorney: Carrie M. Daggett

Ballot Referral

Street Maintenance 1/4-cent Tax Renewal

Travis Storin,
Chief Financial Officer
Ginny Sawyer,
Senior Project and Policy
Manager



City maintains:

- 1,994 lane miles of road
- 1,060 miles of sidewalk
- 290 traffic signals
- 34,000 traffic signs

Dedicated quarter cent tax to support maintenance since 1990.

Recommending 20-year term on the renewal.

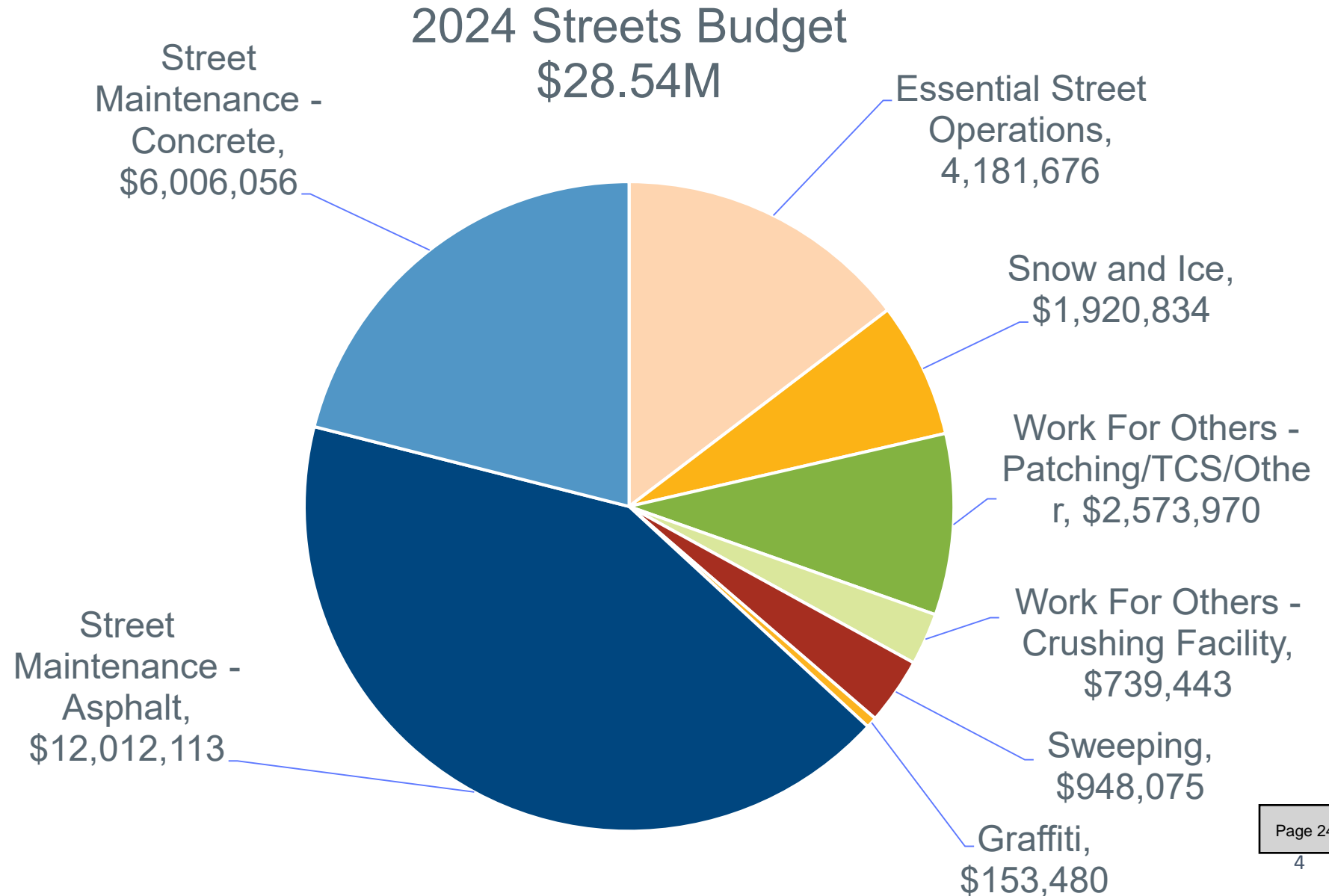


Transportation Network

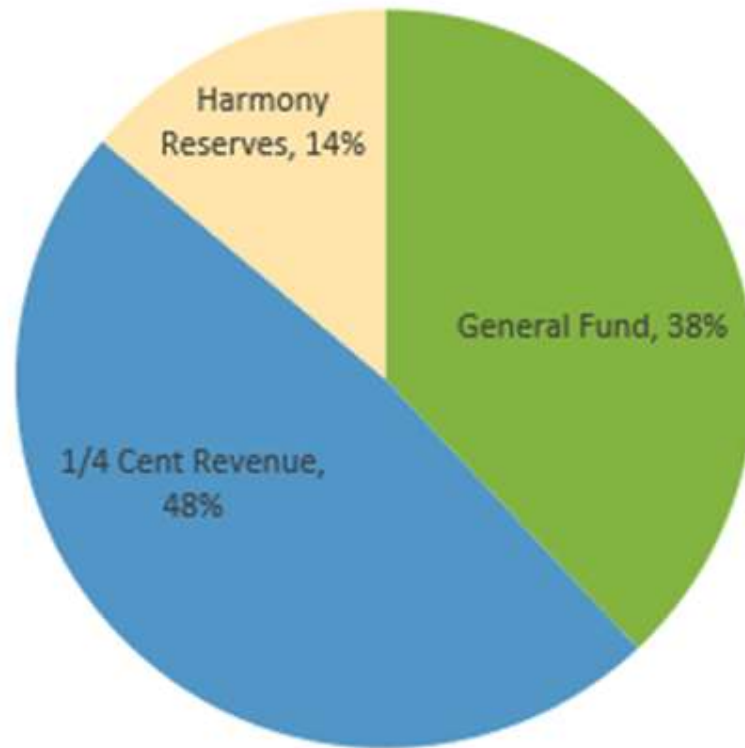


Streets Department Budget

SMP \$18.02M
Operations \$10.52M

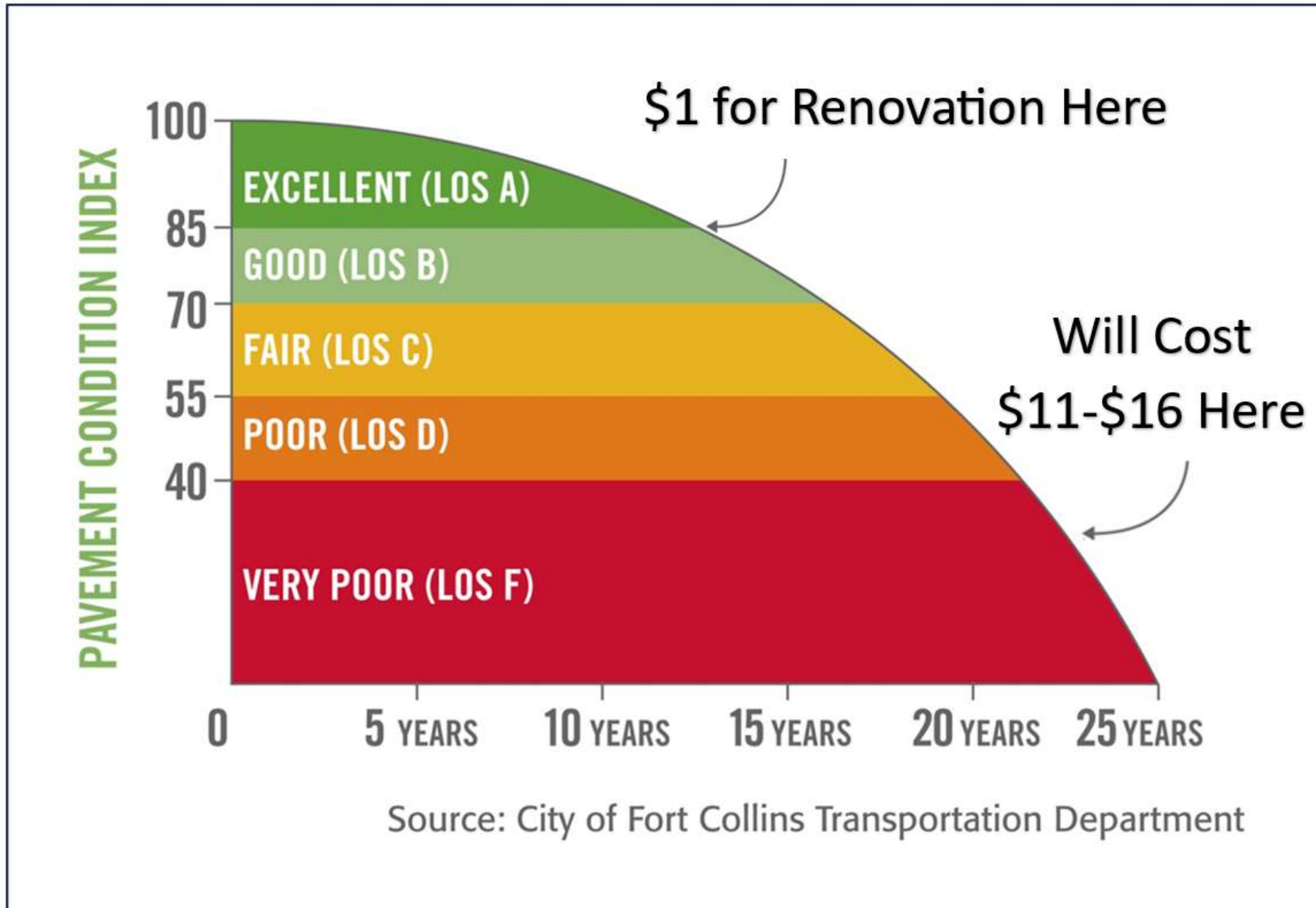


SMP Funding Sources - 2024



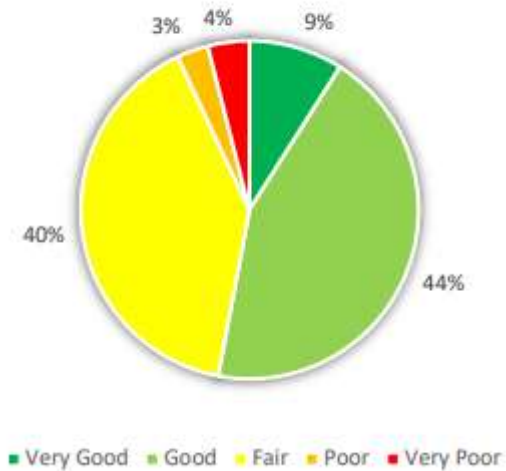
- 1/4-cent SMP tax historically used exclusively for Streets department.
- During the 2023-2024 BFO Cycle, \$2.0 M of SMP funds used to address critical bridge and traffic infrastructure needs.
- Current practice is to address the road system wholistically: bridges, streets, and traffic. This is intended to provide efficiencies by increasing collaboration and supporting strategic project planning.

Street Maintenance Program (SMP)



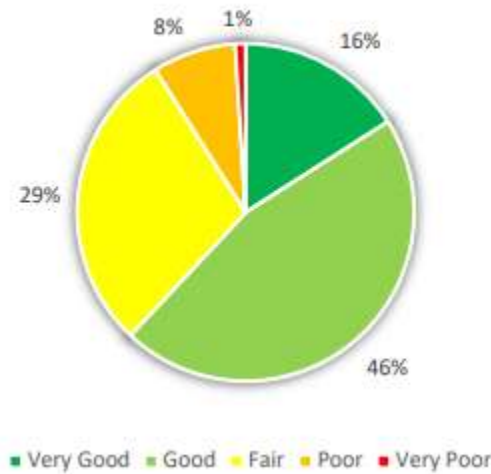
BRIDGES

Overall Condition State



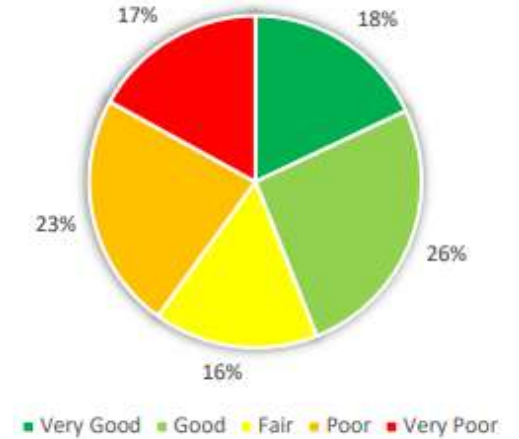
STREETS

Overall Condition State



TRAFFIC

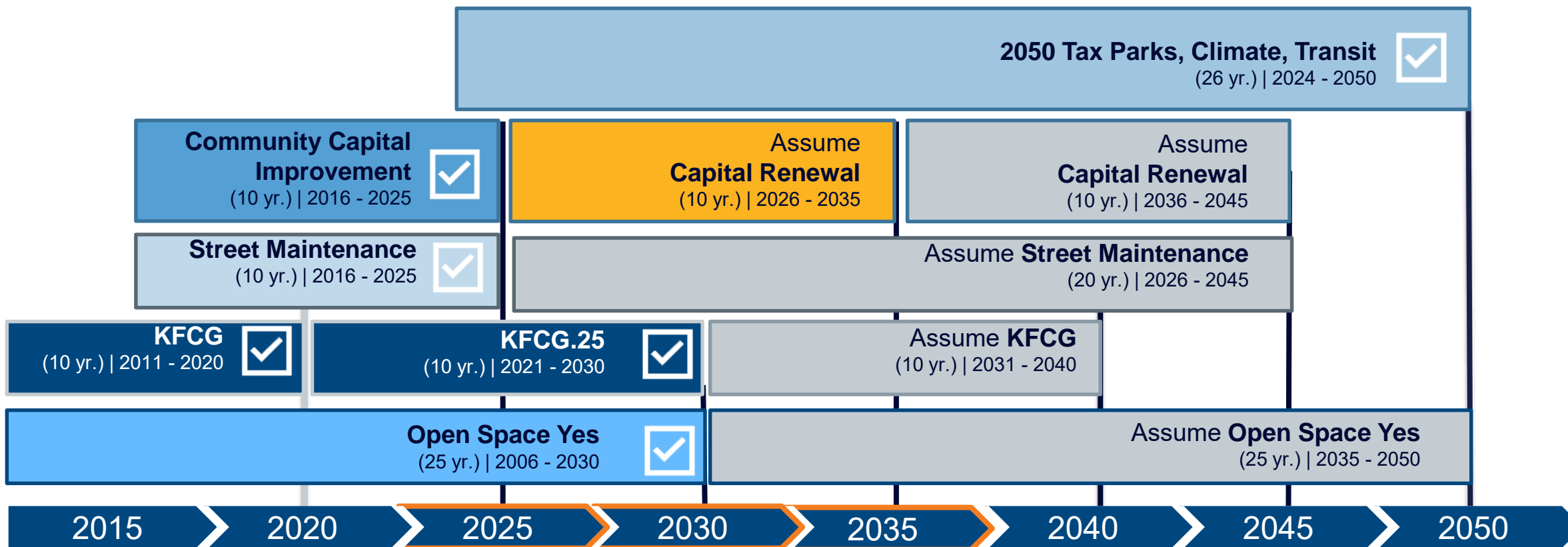
Overall Condition State



- “Condition State” is one factor used to define levels of service.
- Other factors include compliance with regulations, sustainability, quantity, and equity.

Tax Renewals

ASSUMPTIONS



Proposed Ballot Language

- **BALLOT ISSUE NO. 2**

- A City-Initiated Question**

- Extending the Expiring Quarter-cent Sales and Use Tax Used to Fund the City's Street Maintenance Program**

WITHOUT RAISING ADDITIONAL TAXES, SHALL THE CITY'S EXISTING 0.25% SALES AND USE TAX (25 CENTS ON A \$100 PURCHASE) APPROVED BY THE VOTERS IN 2005 FOR THE STREET MAINTENANCE PROGRAM BE EXTENDED FROM ITS CURRENT EXPIRATION AT THE END OF DECEMBER 31, 2015, THROUGH THE END OF DECEMBER 31, 2025; PROVIDED THAT THE REVENUES DERIVED FROM SUCH TAX EXTENSION SHALL BE USED TO PAY THE COSTS OF PLANNING, DESIGN, RIGHT-OF-WAY ACQUISITION, INCIDENTAL UPGRADES AND OTHER COSTS ASSOCIATED WITH:

- THE REPAIR AND RENOVATION OF CITY STREETS, INCLUDING, BUT NOT LIMITED TO, CURBS, GUTTERS, BRIDGES, SIDEWALKS, PARKWAYS, SHOULDERS AND MEDIANS;

AND FURTHER PROVIDED THAT THE FULL AMOUNT OF REVENUES DERIVED FROM THE TAX EXTENSION MAY BE RETAINED AND EXPENDED BY THE CITY NOTWITHSTANDING ANY STATE REVENUE OR EXPENDITURE LIMITATION, INCLUDING, BUT NOT LIMITED TO, THE LIMITATION CONTAINED IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

File Attachments for Item:

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.

July 16, 2024

AGENDA ITEM SUMMARY

City Council



STAFF

Tyler Marr, Deputy City Manager

SUBJECT

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

EXECUTIVE SUMMARY

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.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

The NISP project has been in design and in the permitting process at the federal, state, and local level for many years. Throughout the process Council has adopted Resolutions in response to the project at that time including concerns and desires for the project, direction for staff actions, and informing comments on the permitting process.

As of 2024, NISP has obtained permits (although still under a legal challenge) and the City has adopted 1041 regulations. Some of NISP's infrastructure may be planned to be located in Fort Collins' municipal boundaries and thus may require a "1041" permit from the City pursuant to Article 6 (Guidelines and Regulations for Areas and Activities of State Interest of the City of Fort Collins) of the City's Land Use Code. Proceedings for such "1041" permits are generally described as quasi-judicial proceedings, which require, among other things, certain standards of fairness and impartiality.

The Resolution presented reflects the current state of NISP and confirms the City Council is impartial to the project should Council be required to act as a quasi-judicial decision making body in the future.

CITY FINANCIAL IMPACTS

None.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

1. Resolution for Consideration

RESOLUTION 2024-094
OF THE COUNCIL OF THE CITY OF FORT COLLINS
REGARDING THE CITY'S POSITION ON THE NORTHERN
INTEGRATED SUPPLY PROJECT

A. The Northern Colorado Water Conservancy District ("Northern Water") is pursuing the Northern Integrated Supply Project ("NISP"), a water storage and supply project that would divert significant amounts of water from the Cache la Poudre River upstream of Fort Collins.

B. NISP would require the construction and operation of various infrastructure. Some of NISP's infrastructure is planned to be located in Fort Collins' municipal boundaries and thus may require a "1041" permit from the City pursuant to Article 6 (Guidelines and Regulations for Areas and Activities of State Interest of the City of Fort Collins) of the City's Land Use Code. Proceedings for such "1041" permits are generally described as quasi-judicial proceedings, which require, among other things, certain standards of fairness and impartiality.

C. NISP has been involved in various federal, state, and local permitting processes that have resulted in previous actions by City Council, including in Resolution 2008-082, Resolution 2015-082, Resolution 2017-024, Resolution 2017-073, Resolution 2018-053, Resolution 2018-093, and Resolution 2020-075. In those resolutions, City Council has stated its position regarding NISP at that time.

D. In light of the NISP's status and the potential that Northern Water may seek a "1041" permit from the City, the City desires to update and clarify its position on NISP.

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 all previous Council statements regarding the City's and Council's position on NISP, including such statements regarding opposition to or support of NISP, and including such statements in Resolution 2008-082, Resolution 2015-082, Resolution 2017-024, Resolution 2017-073, Resolution 2018-053, Resolution 2018-093, and Resolution 2020-075, are hereby rescinded.

Passed and adopted on July 16, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: July 16, 2024
Approving Attorney: Eric Potyondy

File Attachments for Item:

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.

July 16, 2024

AGENDA ITEM SUMMARY

City Council



STAFF

Clay Frickey, Planning Manager

SUBJECT

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

EXECUTIVE SUMMARY

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.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

Larimer County is processing a development application for a proposed concrete batch plant near the intersection of Highway 287 and Terry Lake Road. Since the property is within the City's Growth Management Area the City provides comments to the County on the proposed development.

City staff provided comments to the County on this development project on January 29, 2024. Staff's comments indicated that the proposed development does not align with the vision and plans for Fort Collins in this area. City Plan identifies this area as being a Suburban Mixed-Use corridor. Suburban Mixed-Use designation considers principal land use for this property to be retail, restaurants, and other commercial services. Supporting land uses include high-density residential, entertainment, childcare centers, and other supporting uses. Staff would consider a concrete batch plant to meet the definition of a heavy industrial use. Heavy industrial is only permitted in the Industrial zone district in the City. Upon annexation, staff would not assign the Industrial zone district to this property. This means that the proposal is not consistent with the vision for the area in City Plan and Planning staff are not supportive of the proposed development.

Currently, County staff are collecting comments from other reviewing agencies. After collecting all comments from outside agencies County staff will evaluate if the project is ready for hearing or if they will need another round of review. The Board of County Commissioners is the decision maker on this project. There is no hearing date scheduled for this project.

CITY FINANCIAL IMPACTS

None.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

- 1. Resolution for Consideration
- 2. Exhibit A to Resolution

RESOLUTION 2024-095
 OF THE COUNCIL OF THE CITY OF FORT COLLINS
 EXPRESSING OPPOSITION TO A CONCRETE BATCH PLANT
 PROPOSED WITHIN THE CITY'S GROWTH MANAGEMENT
 AREA

A. Larimer County has received a development application for a proposed concrete batch plant located at 516 N. Highway 287 located near the intersection of Highway 287 and Terry Lake Road.

B. The concrete batch plant is located within the City's Growth Management Area ("GMA") agreed upon by the City and Larimer County.

C. The City provided written comments, attached along with a staff memorandum to Council as Exhibit "A", to the applicant for the concrete batch plant and to Larimer County stating that the City does not support an on-site wastewater treatment system for the concrete batch plant pursuant to Larimer County Land Use Code Section 4.3.5, Subsection 4 because:

1. The concrete batch plant does not achieve the land use pattern envisioned for the portion of the GMA where the plant is proposed because it does not align with City Plan, the City's comprehensive plan, Our Climate Future, and the Air Quality Plan; and
2. While the City would review whether to annex the property when it is eligible, the presence of a concrete batch plant, a heavy industrial use within an area envisioned for suburban mixed-uses upon annexation, weighs heavily against annexation, or at least an annexation that does not have substantial restrictions on the concrete batch plant with the eventual goal of eliminating the concrete batch plant as a nonconforming use.

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. Council is opposed to the concrete batch plant within the GMA because the impacts of the heavy industrial use and the request for an on-site wastewater treatment system does not meet Larimer County Land Use Code Section 4.3.5, Subsection 4, and potentially other Larimer County Land Use Code requirements City staff may identify.

Section 2. Council directs City staff to monitor and update Council regarding developments in Larimer County's review of the concrete batch plant.

Section 3. Council authorizes the Mayor to send a letter to the Larimer County Board of Commissioners expressing Council's opposition to the concrete batch plant.

Section 4. Council authorizes the City Manager or her designee to appear and provide comments on behalf of Council in opposition to the concrete batch plant at any related Larimer County Board of Commissioners hearing or Planning Commission hearing.

Passed and adopted on July 16, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: July 16, 2024.
Approving Attorney: Brad Yatabe



MEMORANDUM

DATE: July 2, 2024

TO: Mayor and City Councilmembers^{DS}

THRU: Kelly DiMartino, City Manager
 Tyler Marr, Deputy City Manager
 Caryn Champine, Director, Planning, Development & Transportation

FROM: Clay Frickey, Planning Manager, Community Development & Neighborhood Services

RE: **Update on Aragon Holdings Batch Plant Development Proposal**

Purpose: The purpose of this memorandum is to update Councilmembers on the status of the proposed Aragon Holdings Batch Plant development at 516 N. Highway 287.

Bottom Line

Staff has provided comments in accordance with our standard process. If additional action is desired, Council may consider the following options related to the proposed Aragon Holdings Batch Plant:

1. Pass a resolution in opposition to the project.
2. Send a letter to the County Commissioners expressing Council's opposition to the project.
3. Provide comment at the land use hearing expressing Council's opposition to the project.

Background

Larimer County is processing a development application for a proposed concrete batch plant near the intersection of Highway 287 and Terry Lake Road. Since the property is within the City's Growth Management Area the City provides comments to the County on the proposed development.

City staff provided comments to the County on this development project on January 29, 2024. Staff's comments indicated that the proposed development does not align with the vision and plans for Fort Collins in this area. City Plan identifies this area as being a Suburban Mixed-Use corridor. Suburban Mixed-Use designation considers principal land use for this property to be retail, restaurants, and other commercial services. Supporting land uses include high-density residential, entertainment, childcare centers, and other supporting uses. Staff would consider a concrete batch plant to meet the definition of a heavy industrial use. Heavy industrial is only permitted in the Industrial zone district in the City. Upon annexation, staff would not assign the Industrial zone district to this property. This means that the proposal is not consistent with the



vision for the area in City Plan and Planning staff are not supportive of the proposed development.

Currently, County staff are collecting comments from other reviewing agencies. After collecting all comments from outside agencies County staff will evaluate if the project is ready for hearing or if they will need another round of review.

Attachments

1. Planning comments on proposed Aragon Holdings Batch Plant



MEMORANDUM

DATE: January 29, 2024

TO: Savanah Benedick-Welch, Norris Design Planner
Michael Whitley, Larimer County Senior Planner

FROM: Katelyn Puga, City Planner

CC: Clay Frickey, Planning Manager

RE: **Aragon Holdings Batch Plant Letter Request**

Introduction

The following memo has been prepared at the request of the applicant team for the Aragon Holdings Batch Plant project. Larimer County Land Use Code Article 4.3.5 Wastewater Disposal, subsection 4 *On-Site Wastewater Treatment Systems in the Urban Districts and GMAs*, requires that proposals to use on-site wastewater treatment systems must submit an appeal as part of their application. Because the subject property at 516 N. Highway 287 is within the Fort Collins Growth Management Area (GMA), the City of Fort Collins is the applicable municipality that must respond to the following requirements of the application:

- c. A letter from the applicable municipality indicating their concurrence that the development as proposed will achieve the land use pattern envisioned for this part of the growth management area.**
- d. A letter from the applicable municipality that indicates their willingness to annex the property when it becomes eligible for annexation;**

The following summary addresses sections C and D and shall serve as the letter from the applicable municipality as specified in the Larimer County Land Use Code.

Background/Discussion

As mentioned, the proposed development of a concrete batch plant on the property at 516 Highway 287 is located within the Fort Collins GMA. The City of Fort Collins utilizes the Structure Plan as adopted in City Plan as guidance for future land use composition and density within the Fort Collins GMA. The property at 516 N. Highway 287 (Concrete Batch Plant) has a designation of Suburban Mixed-Use. A Suburban Mixed-Use designation considers principal land use for this property to be retail, restaurants, and other commercial services. Supporting land uses include high-density residential, entertainment, childcare centers, and other supporting uses.

Structure Plan place type designations also serve to inform future zoning of properties when annexation is proposed. The City of Fort Collins zone districts that correlate to the Suburban Mixed-Use place type



include various commercial zone districts exclusively. City staff would consider the function and use of the proposed Concrete Batch Plant to correspond with a land use of heavy industrial as defined in Division 5.1 of the City of Fort Collins Land Use Code:

Heavy industrial uses shall mean uses engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involved hazardous conditions.

Heavy industry shall also mean those uses engaged in the operation, parking and maintenance of vehicles, cleaning of equipment or work processes involving solvents, solid waste or sanitary waste transfer stations, recycling establishments, and transport terminals (truck terminals, public works yards, container storage).

Heavy industrial land uses are only considered for approval on properties zoned as the Industrial Zone District in the City. Unincorporated areas within the Fort Collins GMA that are designated as Industrial District place types by the Structure Plan would align with the purpose of the Industrial Zone District. Therefore, the development as proposed does not achieve the land use pattern envisioned for this part of the GMA.

Alignment of Proposed Development with Adopted Plans and Policies

The proposed development does not align with the following adopted policies in City plans including, but not limited to the following policies found within City Plan, Our Climate Future, and the Air Quality Plan:

1a. CITY PLAN POLICY LIV 1.6 – ADEQUATE PUBLIC FACILITIES: *Utilize the provision of public facilities and services to direct development to desired location, in accordance with the following criteria:*

- *Direct development to locations where it can be adequately served by critical public facilities and services such as water, sewer, police, transportation, schools, fire, stormwater management and parks, in accordance with adopted levels of service for public facilities and services.*
- *Work with Larimer County to develop plans and policies for public services and facilities required for new and existing development located in unincorporated areas of the GMA.*

1b. City Staff Response: The City has been informed that there is no feasible public sewer connection available to this property today. Division 3.7.3 of the Land Use Code requires that all development provides adequate facilities to serve the property. The Land Use Code requires that adequate wastewater service to the property is provided through the design and construction of functional mains and stubs. The City would require adequate facilities and connection to the public sewer as prescribed in the Land Use Code for the future annexation consideration of the property.

2a. CITY PLAN POLICY LIV 3.3 – GATEWAYS: *Enhance and accentuate the community's gateways including Interstate 25 interchanges and College Avenue, to provide a coordinated and positive community entrance.*

2b. City Staff Response: Although the subject site remains north of city limits, its visually prominent location on Highway 287 contributes towards the overall approach into the North College gateway. This



stretch of 287 from Shields continuing south into the City of Fort Collins is ultimately envisioned as a continuous Suburban Mixed-Use District. As previously mentioned, the proposed land use would qualify as heavy industrial and is therefore incompatible with land uses and place types envisioned in City Plan. Subsequent passages of Policy LIV 3.3 describe supportive land uses as a factor contributing towards gateway design elements.

3a. CITY PLAN POLICY LIV 3.6 – CONTEXT – SENSITIVE DEVELOPMENT: *Ensure that all development contributes to the positive character of the surrounding area. Building materials, architectural details, color range, building massing, relationships to streets and sidewalks should be tailored to the surrounding area.*

3b. City Staff Response: Property within the City of Fort Collins is subject to the development standards as required by the Land Use Code to ensure that development provides a design that is appropriate to the context of the surrounding land uses and zone district. While this site is not incorporated into the City yet, any improvements that would be considered in the future upon annexation would be required to meet the standards of the Land Use Code to accomplish this policy to the maximum extent feasible.

4a. CITY PLAN POLICY LIV 4.2 – COMPATIBILITY OF ADJACENT DEVELOPMENT: *Ensure that development that occurs in adjacent districts complements and enhances the positive qualities of existing neighborhoods.*

4b. City Staff Response: Compatibility with surrounding land uses is a factor in the determination of the Structure Plan place type designation. Adjacent properties within the Fort Collins GMA are also designated as a Suburban Mixed-Use District and Suburban Neighborhood Districts. There is no future industrial development planned as part of the envisioned land use pattern in the immediate vicinity. Strategies to mitigate any incompatibility between uses would be required as part of an annexation proposal in the future.

5a. CITY PLAN POLICY ENV 1.3 – NATURE IN THE CITY: *Conserve, protect, and enhance natural resources and high-value biological resources throughout the GMA by:*

- *Directing development away from natural features to the maximum extent feasible*

5b. OUR CLIMATE FUTURE HNS3 – HEALTHY NATURAL SPACES: *Protect and expand natural habitats as growth occurs.*

5c. City Staff Response: The property is located near several natural features as identified by the City including Dry Creek and Terry Lake, and Great blue heron colonial nest sites. To further protect these resources the Land Use Code requires a 100-foot natural habitat buffer zone for developments that are proposed near natural features.

6a. AIR QUALITY PLAN POLICY ENV 4.1 PRIORITY AIR POLLUTANTS: *Focus on high-priority air pollutants, as identified in the Air Quality Plan, considering such criteria as health impacts, community concerns, air pollution trends, compliance with current state and federal standards and ability to affect improvements at the local level.*

6b. AIR QUALITY PLAN POLICY ENV 4.2 AIR POLLUTANT SOURCES: *Implement a full spectrum of options including engagement, incentives, and regulation – that focus on prevention of air pollution at the source.*



6c. City Staff Response: The City of Fort Collins prioritizes the protection of public health and the environment through improvement of outdoor and indoor air quality. The proposed location of the Concrete Batch Plant is adjacent to resources and residents within the City. The stockpiles of raw material on site are incidental to the heavy industrial land use that could be a source of air pollution that impacts the nearby community within the City and does not promote the goals adopted by the Air Quality Plan through prevention of air pollution.

Future Annexation Eligibility

Pursuant to the Intergovernmental Agreements (IGA) between Larimer County and the City of Fort Collins, the City agrees to consider the annexation of any parcel located within the GMA which are eligible for voluntary annexation. If the subject property becomes eligible for annexation, the City will abide by the guidance in the IGA and process the annexation request. An annexation proposal for a property with a heavy industrial use would be subject to the following considerations:

- a. As outlined in the first section of this letter, the anticipated Zone District for this property would not allow this land use. The annexation of a land use that is not conforming would lead the property to be considered a nonconforming land use upon annexation. Nonconforming land uses are subject to limitations for site improvements. Most future improvement would require that the site and land use be brought into compliance with the Land Use Code.
- b. The City would not accept a property that is served by a septic system and requires that adequate public facilities be provided to the property in order to meet City standards. This would be a consideration of the annexation and the proposal would be evaluated for compliance with this standard.
- c. The City would ensure that any risks with noise, lighting, odor, and dust created by the Concrete Batch Plant use be mitigated as part of the annexation request and may be incorporated into a future Annexation Agreement to ensure compliance with the City standards.

Based on the adopted policies outlined in this letter, the development proposal for the Concrete Batch Plant for Aragon Holdings located at 516 N. Highway 287 does not align with the vision and plans for the City of Fort Collins at this property. The City of Fort Collins does not support an appeal to allow the proposal to provide an on-site wastewater treatment system. Aligning future development with the City's goals and plans is the utmost priority of the City of Fort Collins. Thank you for the opportunity to review the proposal and provide comments. Please contact me if you have any questions regarding the information provided in this memo at kpuga@fcgov.com or at 970-221-6343.

Sincerely,

A handwritten signature in blue ink that reads "Katelyn Puga".

Katelyn Puga, City Planner