

ORDINANCE NO. 056, 2018
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING PROCEEDS FROM THE ISSUANCE OF 2018 ELECTRIC UTILITY
ENTERPRISE REVENUE BONDS FOR CAPITAL, OPERATING, DEBT SERVICE AND
ART IN PUBLIC PLACES EXPENDITURES ASSOCIATED WITH THE CONSTRUCTION
OF A BROADBAND SYSTEM TO PROVIDE TELECOMMUNICATION FACILITIES AND
SERVICES TO CUSTOMERS WITHIN FORT COLLINS IN THE LIGHT AND POWER
FUND AND TRANSFERRING APPROPRIATIONS FROM THE LIGHT AND POWER
FUND TO THE CULTURAL SERVICES AND FACILITIES FUND FOR THE ART IN
PUBLIC PLACES PROGRAM

WHEREAS, after final passage of Ordinance No. 003 of the Board of the City of Fort Collins, Colorado, Electric Utility Enterprise (the "Enterprise Ordinance"), the Electric Utility Enterprise (the "Enterprise") intends to issue its "City of Fort Collins, Colorado, Electric Utility Enterprise, Tax-Exempt Revenue Bonds, Series 2018A" (the "2018A Bonds") and its "City of Fort Collins, Colorado, Electric Utility Enterprise, Taxable Revenue Bonds, Series 2018B" (the "2018B Bonds" and, together with the 2018A Bonds, the "Bonds")

WHEREAS, as described in the Enterprise Ordinance, the Bonds are being issued and sold to fund the construction of a municipal broadband system by the City's Electric Utility (the "Electric Utility") to provide telecommunication facilities and services, including the transmission of voice, data, graphics and video, to customers within the City, which facilities and services the Electric Utility has not previously provided but is now authorized to provide pursuant to City Charter Article XII, Section 7 and City Code Section 26-398 (the "Broadband System"); and

WHEREAS, the net proceeds from the sale of the Bonds are anticipated to be \$142,815,541, and of this amount, City staff is requesting that only \$115,356,991 be appropriated now from the Light and Power Fund to be used to fund the construction of the Broadband System, including for all related capital, operating and debt service expenditures, leaving an unappropriated balance of \$27,458,550 to be appropriated for future operation and expansion costs relating to the Broadband System and capitalized interest to bondholders; and

WHEREAS, in 1995, the City Council adopted Article XII of City Code Chapter 23 to establish a program to acquire, exhibit and maintain art in public places to be funded by including in the Council's appropriations for certain capital projects, including those of its utilities, an amount equal to 1% of the construction costs for those projects, but this contribution amount for the City's utilities is limited to a total annual contribution amount of .5% of each utility's "budgeted operating revenue" (the "APP Ordinance"); and

WHEREAS, contributions to art in public places for each utility will be kept and spent in such Utility's own fund, with the exception of maintenance, administration, repair and display costs pursuant to City Code Section 23-303; and

WHEREAS, the Electric Utility's budgeted operating revenue for 2018 is \$130.53 million, but this amount does not include any budgeted revenues generated from the Broadband System since the System will not be in operation in 2018, so this amount only includes revenues to be generated from electric services provided in 2018 by the Electric Utility; and

WHEREAS, as currently written, the APP Ordinance therefore requires that this appropriation include a 1% contribution for art in public places capped at the Electric Utility's Light and Power Fund's annual limit of .5% of the \$130.53 million budgeted operating revenues, which is \$652,650, and the Light and Power Fund has so far contributed \$43,124 of this cap in 2018, so this leaves \$609,526 available to be contributed for the Broadband System project under the APP Ordinance; and

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

WHEREAS, the City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the Light and Power Fund and will not cause the total amount appropriated in the Light and Power Fund to exceed the current estimate of actual and anticipated revenues to be received in this Fund during the fiscal year; and

WHEREAS, the City Council finds and determines that the adoption of this Ordinance is necessary for the public's health, safety and welfare and that it is in the best interests of the City, the Electric Utility and the Electric Utility's ratepayers.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That there is hereby appropriated from the Light and Power Fund proceeds from the Bonds in the total amount of ONE HUNDRED FIFTEEN MILLION THREE HUNDRED FIFTY-SIX THOUSAND NINE HUNDRED NINETY-ONE DOLLARS (\$115,356,991) to be used to fund the construction of the Broadband System, including for all related capital, operating, debt service and art-in-public-places expenditures as follows:


Cost of Issuance	\$822,100
Interest on loan from General Fund	15,000
Backfill of forfeited subsidy to Light & Power	373,000
2018 Operating Expenses	1,800,000
2018 Capitalized Interest	3,129,117

Capital Projects	108,608,249
Art in Public Places (Artwork)	479,430
Art in Public Places (transfer to Cultural Services for Maintenance & Operations)	130,096
	\$115,356,991

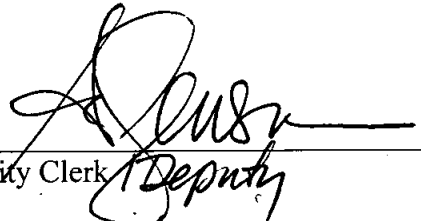
Section 3. That the unexpended appropriated amount of ONE HUNDRED THIRTY THOUSAND NINETY-SIX DOLLARS (\$130,096) in the Light and Power Fund is authorized for transfer to the Cultural Services and Facilities Fund. Appropriation of said funds in the Cultural Services and Facilities Fund shall be contingent upon the completion of the review process described in Section 4. Such funds shall be appropriated in the Cultural Services and Facilities Fund for the Art in Public Places Program Maintenance and Operations.

Section 4. That the City Manager is directed to study whether the APP Ordinance needs to be amended to address future Broadband System projects and to present any recommended amendments to Council before the end of 2018. This should include consideration of a contribution amount capped at .5% of the Broadband System's anticipated annual operating revenues once the system is in full operation, which capped amount is estimated to be from \$125,000 to \$150,000. The City Manager should also evaluate and recommend to Council how to fund art-in-public places contributions for Broadband System appropriations. It is Council's intent that some or all of the funds transferred by this Ordinance to the Cultural Services and Facilities Fund shall be transferred to the Light and Power Fund as appropriate and in accordance with the program amendments adopted by Council in follow up to this review process.

Introduced, considered favorably on first reading, and ordered published this 24th day of April, A.D. 2018, and to be presented for final passage on the 1st day of May, A.D. 2018.

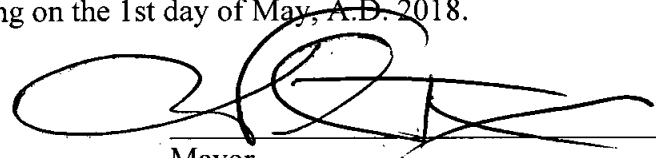

 Mayor

ATTEST:

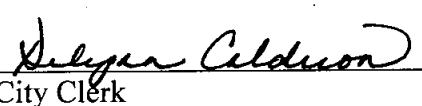

 City Clerk Deputy



Passed and adopted on final reading on the 1st day of May, A.D. 2018.


 Mayor

ATTEST:


 City Clerk

