STAFF

Mike Beckstead, Chief Financial Officer
John Duval, Legal
Cyril Vidergar, Legal

SUBJECT

Items Relating to Broadband Facilities and Services.

EXECUTIVE SUMMARY

A. First Reading of Ordinance No. 010, 2018, Appropriating Prior Year Reserves in the General Fund as a Loan to the Light and Power Fund for the Electric Utility’s First Year Operations and Maintenance Costs for Telecommunication Facilities and Services.

B. First Reading of Ordinance No. 011, 2018, Amending the Code of the City of Fort Collins to Authorize and Implement the City's Provision of Telecommunication Facilities and Services as Provided in City Charter Article XII, Section 7.

The City has been engaged in a multi-year process of research, due diligence, and community engagement that resulted in two successful ballot measures. The first in November 2015 gave the City the authority to provide high-speed broadband services to the community, the second, in November 2017 added telecom activity to the City Charter and demonstrated support for borrowing up to $150 million to provide fiber to the premise infrastructure.

At the November 28, 2017, Council Work Session discussion concerning the City's Broadband updates, including an estimated timeline, major milestones, appropriation and governance recommendations, staff highlighted the need to dedicate resources to support further development and details associated with a Municipal Retail model.

Staff is requesting $1.8M of funding to be appropriated to support first year start-up costs associated with recruiting and hiring personnel, consulting, equipment, and branding to support the initiative. Funding would come from the General Fund as a loan to the Light and Power Fund as start-up funding until bonds can be issued to support the total broadband build out. The bonds will be structured allowing a planned repayment to the General Fund of start-up costs supported by this appropriation. The reserves will be restored from the proceeds of the bond issuance, pending the Council’s adoption of the corresponding bond ordinance (currently scheduled for the March 20 and April 3 meetings).

To evidence the repayment of this loan, the City Council, acting as the Electric Utility Enterprise Board, will be considering an ordinance in a separate agenda item at this meeting which will agree to and direct the repayment of this loan to the General Fund when the bond proceeds are received.

In addition, certain City Code changes are needed to authorize the City Electric Utility to begin implementing its provision of broadband facilities and services and to receive and expend the General Fund loan through the Light and Power Fund. These changes are proposed in Ordinance No. 011, 2018, which accompanies this agenda item.
The changes in Ordinance No. 011, 2018, relate to the Charter amendment the voters approved this past November that grants to Council the power to authorize the Electric Utility to acquire, construct, provide, fund and contract for telecommunication facilities and services and that grants to the Enterprise of the Electric Utility the power to issue bonds to fund these facilities and services. These changes also include assigning to the City Manager the direct responsibility to administer and supervise the Electric Utility’s provision of broadband facilities and services.

**STAFF RECOMMENDATION**

Staff recommends adoption of the Ordinance on First Reading.

**BACKGROUND / DISCUSSION**

In 2016, following the passage of a ballot measure on November 3, 2015, authorizing the City to deliver high-bandwidth internet and telecommunication services, the City identified access to broadband as a strategic objective. The 2016 Strategic Plan Objective 3.9 states - “Encourage the development of reliable high-speed internet services throughout the community.”

Additional benefits sought through the broadband plan include:

- Competitive pricing (residential market pricing at $70/month or less for 1 Gbps and an affordable internet tier);
- Universal coverage across the Growth Management Area;
- Underground service for improved reliability; and
- Timely implementation to providing services within a reasonable timeframe (less than five years).

Implementing a municipal broadband operation will require a multiphase/multi-year approach and will include needed personnel, equipment, workspace and assets (fiber, equipment, etc.). First year O&M start-up costs, estimated at $1.8 million, will be appropriated from the General Fund and ultimately reimbursed from the bond proceeds later in the year.

**Timeline**

Following the appropriation of the $1.8M startup operational costs initial work would include:

**Months 1 - 5**
- Issue Request for Proposals (RFPs), interview and negotiate contracts. RFPs to be released include, but are not limited to:
  - Engineer/design
  - Combined Computer Information System
  - Construction
  - Hardware/equipment
- Recruitment and staffing (prioritization of key personnel)
  - Broadband Director
  - Sr. Network Engineer
  - Marketing Manager
  - Outside Plant Manager
  - Additional staffing
- Code updates/modifications with City Attorney’s Office
- Bond Issuance (target close - Month 5)
- Branding, Marketing and Sales Plan (continuous)

**Month 6+**
- Begin engineering/design work
Agenda Item 20

- Implementation of CIS system (billing/customer relationship management tool)
- Commence construction (Month 10+)
- Customer connections (estimated at Month 18)

Figure 1

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The current purposes for which electric utility funds may be spent under the City Code and direction of electric utility services need to be amended to allow for timely deployment of broadband facilities and services. Corresponding changes to expand the scope of approved electric utility enterprise funds spending and direction of broadband utility services as a division of the electric utility are set forth in the accompanying Ordinance. The Ordinance also temporarily authorizes the City Manager to act as director of such services, without regard to existing provisions of the City Code that vest such authority in the Utilities Executive Director. This arrangement will allow for the most expedited creation and funding for new broadband facilities and services until a more formal utility structure can be established.

CITY FINANCIAL IMPACTS

Initial start-up costs, estimated at $1.8 million, will be appropriated from the General Fund and ultimately reimbursed from the bond proceeds. The reserves will be restored from the proceeds of the bond issuance, pending the Council's adoption of the corresponding bond ordinance scheduled for the March 20 and April 3 meetings. The General Fund currently has sufficient unassigned reserves to support this appropriation.

The planned debt issuance is backed by revenue bonds issued by Utilities Light and Power (L&P). Revenue bonds are municipal bonds that are secured by L&P revenue and rate-making capacity. Currently, staff anticipates the issuance of two series of bonds: Series A, which have a three-year expenditure requirement and pay tax-exempt interest; Series B can be carried forward for a longer period of time and pay taxable interest.

ATTACHMENTS

1. Powerpoint presentation (PDF)
**Macro Timeline From “Go”**

**Objective:** Align key hires, vendors and contracts while working on bond issuance to support aggressive timeline after bonds close

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<th>Month from &quot;Go&quot;</th>
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<td>Q1</td>
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<td>Marketing &amp; Sales plan development</td>
<td>Feb</td>
<td>Q2</td>
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<tr>
<td>First Customer Live</td>
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<td>Q3</td>
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## 2018 O&M Expenditures

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<tr>
<td><strong>Total O&amp;M</strong></td>
<td><strong>$370</strong></td>
<td><strong>$459</strong></td>
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$1.8M Appropriation Funds First Year O&M....
Recruiting, Staff, Consulting, Code Changes, RFPs & Contract Negotiation
Debt Issuance

• $132M Revenue Bonds issued by L&P
  • Backed by revenue & rate making of L&P & current debt coverage capability
  • Series A – Tax Exempt – 3 year spend requirement
  • Series B – Taxable

• Structured to support reimbursement of GF $1.8M appropriation from bond proceeds

• Timeline:
  • RFP to select Underwriter issued December 28th
  • Council Finance Review – special meeting late February
  • First reading Bond Ordinance scheduled March 20th
  • Anticipate proceeds on April 26th
• **Initial Start-up costs funded by GF Reserves**
  - Consistent with prior messaging – no tax revenue used to fund broadband
  - First year of O&M included
  - First year capital costs will be funded from bond proceeds

• **GF Reserves will be replenished when bond proceeds are received**

• **Appropriation funds necessary activity and efforts while bond issuance is in process**
ORDINANCE NO. 010, 2018
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING PRIOR YEAR RESERVES IN THE GENERAL FUND AS A LOAN TO THE LIGHT AND POWER FUND FOR THE ELECTRIC UTILITY’S FIRST YEAR OPERATIONS AND MAINTENANCE COSTS FOR TELECOMMUNICATION FACILITIES AND SERVICES

WHEREAS, at the November 28, 2017, City Council Work Session, there was a discussion concerning the City’s broadband project, which included an estimated timeline, major milestones, appropriation and governance recommendations, and City staff highlighted the need to dedicate resources to support further development and details associated with a municipal retail model for the City’s Electric Utility to start providing telecommunication facilities and services; and

WHEREAS, in pursuit of that plan development, staff is requesting an appropriation of $1.8 million from General Fund reserves to support first year start-up costs associated with recruiting and hiring personnel, consulting, equipment, branding to support the initiative and other operations and maintenance costs; and

WHEREAS, the General Fund reserves will be restored from the proceeds of the Electric Utility Enterprise proposed bond issuance, pending the Council’s adoption of the corresponding bond ordinance (currently scheduled for the March 20 and April 3 meetings), acting as the Board of the Electric Utility Enterprise; and

WHEREAS, costs estimates are as follows:

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<td><strong>Total Capital</strong></td>
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; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council to appropriate by ordinance at any time during the fiscal year such funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated; and

WHEREAS, City staff have determined that the appropriations as described herein are available and previously unappropriated in the General Fund; and
WHEREAS, this appropriation will serve the public purpose of providing a loan to the City’s Electric Utility to help fund its start-up costs related to the Utility making “telecommunications facilities and services,” as this term is defined in Section 7 of City Charter Article XIII, available to its customers throughout the City; and

WHEREAS, the City Council hereby finds that the appropriation is necessary for the public’s health, safety and welfare and is in the best interests of the City and its residents, businesses, and public and private organizations.

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 prior year reserves in the General Fund the sum of ONE MILLION EIGHT HUNDRED THOUSAND DOLLARS ($1,800,000) as a loan to the Light and Power Fund to be expended for the Electric Utility’s first year of operations and maintenance relating to telecommunications facilities and services. This loan shall be repaid to the General Fund by the City’s Electric Utility Enterprise when the Enterprise receives the proceeds from the revenue bonds the Enterprise is anticipated to issue to fund the Electric Utility’s start-up costs for the provision of telecommunications facilities and services. The loan repayment shall also include interest of two and three quarters percent (2.75%).

Introduced, considered favorably on first reading, and ordered published this 2nd day of January, A.D. 2018, and to be presented for final passage on the 16th day of January, A.D. 2018.

______________________________
Mayor

ATTEST:

______________________________
City Clerk
Passed and adopted on final reading on the 16th day of January, A.D. 2018.

                        ____________________________
                                Mayor

ATTEST:

                        ____________________________
                                City Clerk
ORDINANCE NO. 011, 2018
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING THE CODE OF THE CITY OF FORT COLLINS TO AUTHORIZE AND IMPLEMENT THE CITY’S PROVISION OF TELECOMMUNICATION FACILITIES AND SERVICES AS PROVIDED IN CITY CHARTER ARTICLE XII, SECTION 7

WHEREAS, at a special election on November 3, 2015, City voters authorized the City to provide high-speed internet services, including, without limitation, high-bandwidth broadband services, telecommunications services, and/or cable television services within the City’s growth management area; and

WHEREAS, at a special election on November 7, 2017, City voters approved an amendment to the City Charter, which has added a new Section 7 to Charter Article XII (“Section 7”); and

WHEREAS, paragraph (a) of Section 7 grants to the City Council certain powers related to the City providing “telecommunications facilities and services,” including, without limitation, “broadband Internet facilities and services,” as both these terms are defined in paragraph (f) of Section 7 (“Telecommunication Facilities and Services”); and

WHEREAS, on July 20, 1993, the City Council adopted Ordinance No. 60, 1993 establishing the City’s Electric Utility as an enterprise of the City under Section 20 of Article X of the Colorado Constitution (the “Electric Utility Enterprise”) by adding Section 26-392 to the City Code; and

WHEREAS, this Ordinance adds a new Section 26-398 to Code Chapter 26 to implement this authority granted in Section 7 by authorizing the Electric Utility to acquire, construct, provide, fund and contract for Telecommunication Facilities and Services and by authorizing the Electric Utility Enterprise to exercise the power to issue revenue bonds to fund the provision of Telecommunication Facilities and Services as provided in paragraph (b) of Section 7; and

WHEREAS, this Ordinance also amends Code Sections 2-491, 2-504 and 26-21 to delegate to the City Manager the direct responsibility to administer and supervise the Electric Utility’s provision of Telecommunication Facilities and Services and to make other changes to the administration of Utility Services in light of this new assignment of direct responsibility to the City Manager; and

WHEREAS, because the Council has adopted on the same date as this Ordinance its Ordinance No. 010, 2018, to appropriate $1.8 million from the City’s General Fund as a loan to the City’s Light and Power Fund to be used by the Electricity Utility for its start-up costs related to providing Telecommunication Facilities and Services, this Ordinance also amends Code Section 8-77 to provide that the Electric Utility’s revenues, debt issuance proceeds and expenditures related to Telecommunication Facilities and Services shall be deposited, expended and administered through the City’s Light and Power Fund; and

WHEREAS, the City Council hereby finds that this Ordinance is necessary for the
public’s health, safety and welfare and is in the best interests of the City and its residents, businesses, and public and private organizations and of 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 Section 2-491 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 2-491. - Executive—Office of the City Manager; duties of the City Manager.

The Office of the City Manager shall be under the direction of the City Manager, who shall be responsible to the City Council for the proper administration of all affairs of the City and who shall have all powers and duties assigned to the City Manager by the provisions of the Charter and this Code. The offices and divisions of the Office of the City Manager shall be established by the City Manager. Said offices and divisions, and the employees assigned thereto, shall be responsible for such duties and functions as may be determined by the City Manager, provided that such duties and functions are in the discretion of the City Manager, reasonable and necessary for the proper administration of the affairs of the City consistent with the Charter administrative organization of the City as established by the provisions of the Charter and this Code.

Section 3. That Section 2-504 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 2-504. - Utility Services; duties of Director and City Manager.

(a) Utility Services shall be and is hereby created.

(b) Except as provided in paragraph (c) below, Utility Services shall be in the charge of a Director who shall be directly responsible to the Deputy City Manager for the functions and duties of Utility Services, including, without limitation, the functions and duties necessary to provide for the design, construction, reconstruction, addition, repair, replacement, operation and maintenance of the City's electric, water, wastewater and stormwater utility services, and who shall have control and supervision over such agencies, service units, departments, divisions, offices or persons assigned by the Deputy City Manager.

(c) The City Manager shall have the direct responsibility and authority to administer and supervise all functions and activities related to the electric utility’s provision of “telecommunication facilities and services,” as this term is defined in Section 7(f) of Charter Article XII. In exercising this authority, the City Manager may assign to other employees such duties, assignments and functions as the City Manager determines necessary for the proper and efficient administration of the electric utility in providing telecommunication facilities and services.
Section 4. That Section 8-77 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 8-77. - Light and power fund.

There is hereby created a fund to account for the City's municipal electric utility known as the light and power fund. Revenues for the fund shall include **bond and other debt issuance proceeds** and **receipts from charges for electric facilities and services** and from **telecommunication facilities and services**. Expenditures shall be made for approved purposes in connection with furnishing electric facilities and services and furnishing telecommunication facilities and services. For purposes of this section, the term “telecommunication facilities and services” shall have the meaning given to it in Section 7(f) of Charter Article XII.

Section 5. That Section 26-1 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-1. - Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section:

...  

*Electric utility* shall mean those departments of Utility Services which are in charge of the distribution and sale of electricity in the City and the provision of telecommunication facilities and services in the City.  

*Telecommunication facilities and services* shall have the meaning given to it in Section 7(f) of Charter Article XII.

...

Section 6. That Section 26-21 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-21. - Organization.

...  

(b) **Except as provided in § 2-504 of this Code,** Utilities Services shall be headed by the Utilities Executive Director pursuant to § 2-506 of this Code.

Section 7. That a new Section 26-398 is hereby added to the Code of the City of Fort Collins to read as follows:

Sec. 26-398. – Telecommunication facilities and services.
(a) To the full extent authorized in Section 7 of Charter Article XII, the electric utility is authorized to acquire, construct, provide, fund and contract as necessary to provide telecommunication facilities and services in the City, and to take such other actions as may be necessary for the proper administration of said facilities and services. The City’s electric utility enterprise is also authorized to issue revenue and refunding securities and other debt obligations in the manner and to the full extent authorized in Section 7(b) of Charter Article XII and in Code § 26-392 to fund the electric utility’s provision of telecommunication facilities and services.

(b) The provisions of this § 26-398 shall supersede any contrary or conflicting provisions of the Code, including, without limitation, provisions of this Chapter 26 specifying the authority, funding, operation and supervision of the electric utility.

Introduced, considered favorably on first reading, and ordered published this 2nd day of January, A.D. 2018, and to be presented for final passage on the 16th day of January, A.D. 2018.

__________________________________
Mayor

ATTEST:

_______________________________
City Clerk

Passed and adopted on final reading on the 16th day of January, A.D. 2018.

__________________________________
Mayor

ATTEST:

_______________________________
City Clerk