

**ORDINANCE NO. 098, 2021  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROPRIATING PRIOR YEAR RESERVES FOR USE AS  
CONTINGENCY CAPITAL FUNDING FOR THE  
BROADBAND SYSTEM CONSTRUCTION**

WHEREAS, upon passage of Ordinance No. 003 (2018), of the Board of the City of Fort Collins, Colorado, Electric Utility Enterprise (the “Enterprise Ordinance”), the Electric Utility Enterprise (the “Enterprise”) issued 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”); and

WHEREAS, per the Enterprise Ordinance, the Bonds were issued and sold to fund 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 had not previously provided but is authorized to provide pursuant to City Charter Article XII, Section 7 and City Code Section 26-570 et seq. (the “Broadband System”); and

WHEREAS, pursuant to Ordinance No. 056, 2018, City Council appropriated \$115,356,991 of the net proceeds (\$142,815,541) from the sale of the Bonds to fund construction of the Broadband System, including capital, operating and debt service expenditures, leaving an unappropriated amount of \$27,458,550 for future Broadband System operation and expansion costs; and

WHEREAS, in 2018, the City engaged Atlantic Engineering Group (AEG) under a design-build contract to construct the Broadband System, and the parties have since executed four amendments to that contract in 2019, 2020, and 2021 to address changes in quantities and underground conditions, without requiring additional appropriation of Bond proceeds; and

WHEREAS, in 2019, 2020, and 2021 annual budgets, as customers subscribed to City broadband services, City Council appropriated unanticipated and excess broadband operating revenues to complement the appropriation in Ordinance No. 056, 2018 and fund ongoing construction of the Broadband System; and

WHEREAS, in anticipation of completing construction of the Broadband System in 2022, Broadband staff has identified the need for additional appropriation from the Bond proceeds in the amount of EIGHT MILLION TWO HUNDRED THOUSAND DOLLARS (\$8,200,000) as contingency capital funding, which purpose qualifies for use of unappropriated Bond proceeds under Ordinance No. 056, 2018; and

WHEREAS, this appropriation benefits the public health, safety and welfare of the residents of Fort Collins and serves the utility purpose of enabling timely and cost-effective completion of the Broadband System construction; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, 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, the City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the Broadband Fund and will not cause the total amount appropriated in the Broadband Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in that Fund during any fiscal year; and

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 for expenditure from prior year reserves in the Broadband Fund the sum of EIGHT MILLION TWO HUNDRED THOUSAND DOLLARS (\$8,200,000) to allow for the use of contingency capital funding of the Broadband System construction.

Introduced, considered favorably on first reading, and ordered published this 4th day of August, A.D. 2021, and to be presented for final passage on the 7th day of September, A.D. 2021.

  
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Mayor

ATTEST:

  
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Interim City Clerk



Passed and adopted on final reading on the 7th day of September, A.D. 2021.

  
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Mayor

ATTEST:

  
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Interim City Clerk

