

RESOLUTION 2024-059
OF THE COUNCIL OF THE CITY OF FORT COLLINS
SUPPORTING THE GRANT APPLICATION FOR THE UNITED
STATES DEPARTMENT OF THE INTERIOR, BUREAU OF
RECLAMATION'S WATERSMART GRANTS: PLANNING AND
PROJECT DESIGN FOR THE POUFRE FLOWS PROJECT AND
AUTHORIZING THE CITY MANAGER TO EXECUTE
AGREEMENTS REGARDING SUCH A GRANT

A. The Cache la Poudre River ("Poudre River") flows through Fort Collins and is a significant amenity to the City, its citizens, and the region. The Poudre River is the source of water supply for numerous water users, including the City, such that the majority of Poudre River flows are diverted into canals, ditches, pipelines, reservoirs, and other waterworks. Such diversions reduce the flows of water through Fort Collins, which has various ecological, environmental, recreational, sociological, and other impacts, some of which are adverse.

B. The City desires to enhance Poudre River flows through Fort Collins and in the region while working within the existing legal context, including the prior appropriation doctrine, which is confirmed in Sections 5 and 6 of Article XVI of the Colorado Constitution and the Water Right Determination and Administration Act of 1969, Colorado Revised Statutes Sections 37-92-101 et seq.

C. The City and regional partners are pursuing the Poudre Flows Project ("Project") to improve Poudre River flows, from the canyon mouth to Poudre River's confluence with the South Platte River, at times when flows would improve the ecological health of the river, while not injuriously affecting the owners of or persons entitled to use water under vested water rights or decreed conditional water rights. The Project includes a proposed stream flow augmentation plan pursuant to Colorado Revised Statutes Section 37-92-102(4.5), which is pending in Case No. 2021CW3056 in the District Court for Water Division 1.

D. The City and its regional partners have entered into several agreements related to the Project. See, e.g., Resolution 2016-022, Resolution 2018-087 and Resolution 2018-088.

E. The United States Department of the Interior, Bureau of Reclamation ("Reclamation") has a WaterSMART (Sustain and Manage America's Resources for Tomorrow) Program and has requested applications for WaterSMART Grants: Planning and Project Design for Fiscal Year 2024 ("WaterSMART Grant"). Such a WaterSMART Grant could provide significant funding for the Project, namely with respect to necessary infrastructure upgrades at the Arthur Ditch diversion structure. The upgrades must be installed to operate the City's water rights that contribute to the Project.

F. The City desires to pursue such a WaterSMART Grant. Staff will submit an application under Reclamation's WaterSMART Grant program, pursuant to which the City would seek a grant of \$400,000.

G. Applications for WaterSMART Grants require a resolution from the applicant's governing board verifying: (1) the identity of the official with legal authority to enter into an agreement; (2) the board of directors, governing body, or appropriate official who has reviewed and supports the application submitted; (3) the capability of the applicant to provide the amount of funding and/or in-kind contributions specified in the funding plan; and (4) that the applicant will work with Reclamation to meet established deadlines for entering into a grant or cooperative agreement. Following the award of such a WATERSMART Grant, Reclamation and the entity that was awarded the grant enter into an agreement.

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

Section 1. The City Council supports the submission of a WaterSMART Grant application as described in this Resolution.

Section 2. The City Council has the capability to provide the amount of funding and/or in-kind contributions specified in the project budget funding plan to be described in the WaterSMART Grant application, as long as such funding has been appropriated by City Council.

Section 3. The City Manager will work with Reclamation to meet established deadlines for entering into a grant or cooperative agreement related to any award of a WaterSMART Grant.

Section 4. The City Manager is hereby authorized to execute an agreement related to a WaterSMART Grant consistent with this Resolution, with such terms and conditions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City and to effectuate the purposes of this resolution, provided that all required matching funds have been appropriated prior to execution.

Passed and adopted on April 16, 2024.

Mayor

ATTEST:

Interim City Clerk

Effective Date: April 16, 2024

Approving Attorney: Eric Potyondy