

ORDINANCE NO. 104, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING UNANTICIPATED REVENUE FROM BOND PROCEEDS
FROM THE ISSUANCE OF THE SERIES 2023 ELECTRIC UTILITY ENTERPRISE
REVENUE BONDS FOR LIGHT AND POWER, CONNEXION,
AND THE ART IN PUBLIC PLACES PROGRAM

WHEREAS, both the City’s Light and Power and Connexion have various capital project needs for their systems and Connexion needs additional operating funds; and

WHEREAS, to address these funding needs, the board of the Electric Utility Enterprise has adopted Ordinance No. 015 (“Ordinance No. 015”) authorizing the issuance of the Series 2023 Electric Utility Revenue Bonds (the “Revenue Bonds”); and

WHEREAS, the Revenue Bonds are estimated to be issued for \$66.2 million in total gross proceeds from which: (i) \$40.7 million will be used for Light and Power’s identified capital project needs and possibly for the payment of a bank loan funding the EPIC program, (ii) \$18 million used for Connexion’s identified capital project needs, (iii) \$4.8 million used as a contingency for future Connexion capital projects currently unidentified, (iv) \$2 million used by Connexion for operations, and (v) \$0.7 million used for the issuance costs for Revenue bonds; and

WHEREAS, of these amounts, only the following are being appropriated in this Ordinance: (i) \$40.7 million for Light and Power’s identified capital project needs, (ii) \$18 million for Connexion’s identified project needs, (iii) \$2 million for Connexion operations, and \$0.7 for the issuance costs for the Revenue Bonds; and

WHEREAS, the Light and Power and Connexion identified capital projects involve construction estimated to cost more than \$250,000 and, as such, City Code Section 23-304 requires one percent of these appropriations to be transferred to the Cultural Services and Facilities Fund for a contribution to the Art in Public Places program (“APP Program”), so this Ordinance also transfers and appropriates these required funds for the APP Program; and

WHEREAS, the appropriations in this Ordinance benefit the public health, safety and welfare of the residents of Fort Collins and serve the public purposes of providing the services and benefits being provided to Fort Collins residents by Light and Power, Connexion, and the APP Program; and

WHEREAS, 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; and

WHEREAS, the City Manager has recommended the appropriation described herein and determined that these appropriations are available and previously unappropriated from the Light and Power Fund and the Broadband Subaccount in the Light and Power Fund (the “Broadband

Fund”), as applicable, and will not cause the total amount appropriated in the Light and Power Fund and the Broadband 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; and

WHEREAS, contributions to the APP Program by each City utility for art projects is kept and spent in such utility’s own fund, except the utility contributes its share of the APP Program’s costs for maintenance, administration, repair and display to the Cultural Services and Facilities Fund as provided in City Code Section 23-303(c); and

WHEREAS, in accordance with Article V, Section 10 of the City Charter, the appropriation for the capital projects from the Light and Power Fund and the Broadband Fund and the transfer of a portion of those unexpended and unencumbered appropriated funds to the APP Program as provided in City Code Section 23-304(c) will be used for the Light and Power and Connexion purposes, as applicable, and improvements in connection with their capital projects that provide a betterment to Light and Power and Connexion; and

WHEREAS, a portion of the funds appropriated in this Ordinance in the amount of \$2,710,387 for the Projects are ineligible for use in the APP Program due to restrictions placed on them by the source and use of these funds; and

WHEREAS, the amount to be contributed to the APP Program by the Light and Power Fund is therefore \$407,043; and

WHEREAS, 0.5% of the Broadband Fund operating revenue is \$100,495 for 2023; and

WHEREAS, the amount to be contributed to the APP Program in this Ordinance by the Broadband Fund is \$100,495; and

WHEREAS, 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; and

WHEREAS, the City Council wishes to designate the appropriations herein using the proceeds from the issuance of the Revenue Bonds for use on capital projects expended or transferred from the Light and Power Fund and the Broadband Fund, as applicable, as appropriations that shall not lapse until the completion of the projects as such designations are set forth in Sections 2 and 5 below.

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 proceeds in the Light and Power Fund to be received from the issuance of the Revenue Bonds the sum of FORTY-ONE MILLION ONE HUNDRED SIXTY-NINE THOUSAND NINE HUNDRED THIRTY-TWO DOLLARS (\$40,952,511) to be expended in the Light and Power Fund for capital projects, bond issuance costs, and APP Program transfers as set forth below.

Light and Power Capital Projects (non-lapsing)	\$40,095,000
Art in Public Places (Artwork; non-lapsing)	\$315,900
Art in Public Places Project (transfer to Cultural Services Fund for APP Operations; lapsing)	\$81,000
Art in Public Places Project (transfer to Cultural Services Fund for APP Maintenance; lapsing)	\$8,100
Issuance costs (lapsing)	\$452,511
Total	\$40,952,511

Section 3. That the unexpended and unencumbered appropriated amount of EIGHTY-ONE THOUSAND DOLLARS (\$81,000) in the Light and Power Fund is hereby authorized for transfer to the Cultural Services and Facilities Fund and appropriated and expended therein for the operation costs of the APP Program.

Section 4. That the unexpended and unencumbered appropriated of EIGHT THOUSAND ONE HUNDRED DOLLARS (\$8,100) in the Light and Power Fund is hereby authorized for transfer to the Cultural Services and Facilities Fund and appropriated and expended therein for the maintenance costs of the APP Program.

Section 5. That there is hereby appropriated from the proceeds in the Broadband Fund to be received from the issuance of the Revenue Bonds the sum of TWENTY MILLION TWO HUNDRED NINETY-TWO THOUSAND EIGHT HUNDRED SIXTY-FOUR DOLLARS (\$20,292,864) to be expended in the Broadband Fund for capital projects, operating costs, bond issuance costs, and APP Program transfers as set forth below.

Broadband Capital Projects (non-lapsing)	\$18,000,000
Broadband operating costs (lapsing)	\$1,952,683
Art in Public Places (Artwork; non-lapsing)	\$78,386
Art in Public Places Project (transfer to Cultural Services Fund for APP Operations; lapsing)	\$20,099
Art in Public Places Project (transfer to Cultural Services Fund for APP Maintenance; lapsing)	\$2,010
Issuance costs (lapsing)	\$239,686
Total	\$20,292,864

Section 6. That the unexpended and unencumbered appropriated amount of TWENTY THOUSAND NINETY-NINE DOLLARS (\$20,099) in the Broadband Fund is hereby authorized for transfer to the Cultural Services and Facilities Fund and appropriated and expended therein for the operation costs of the APP Program.

Section 7. That the unexpended and unencumbered appropriated of TWO THOUSAND TEN DOLLARS (\$2,010) in the Broadband Fund is hereby authorized for transfer to the Cultural Services and Facilities Fund and appropriated and expended therein for the maintenance costs of the APP Program.

Section 8. That the appropriations herein from the issuance of the Revenue Bonds to be used on capital projects in the Light and Power Fund and the Broadband Fund, as applicable, are hereby designated, as authorized in Article V, Section 11 of the City Charter, as appropriations that shall not lapse at the end of this fiscal year but continue until the completion of those projects and repayment of the bonds as such designations are indicated in Sections 2 and 5 above.

Introduced, considered favorably on first reading, and ordered published this 15th day of August, 2023, and to be presented for final passage on the 5th day of September, 2023.

Mayor

ATTEST:

Chief Deputy City Clerk

Passed and adopted on final reading on the 5th day of September, 2023.

Mayor

ATTEST:

City Clerk