

ORDINANCE NO. 157, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING A SUPPLEMENTAL APPROPRIATION, APPROPRIATING
PRIOR YEAR RESERVES, AUTHORIZING TRANSFERS AND
AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT
FOR THE ZERO CARBON PERFORMANCE CODE PROJECT

WHEREAS, on March 16, 2021, City Council approved Resolution 2021-031 in which it adopted the City’s Our Climate Future Plan, setting local climate, energy and waste reduction goals focused on improving community equity and resilience outcomes, and a commitment to mitigate climate change with a systems-based approach; and

WHEREAS, in June 2023, the U.S. Department of Energy (DOE) awarded the City a \$693,595 grant under the 2023 Bipartisan Infrastructure Law, Resilient and Efficient Codes Implementation funding (RECI) to support the City’s development of an updated Energy Code framework that sets energy use and carbon emission reduction targets by 2030 (“Zero Carbon Performance Code Project”); and

WHEREAS, the Zero Carbon Performance Code Project directly aligns with the City’s Our Climate Future’s Big Move 6 “Efficient, Emissions Free Buildings” component, which seeks to ensure all City residents live and work in healthy efficient buildings that can transition to become emissions free; and

WHEREAS, to begin work on the Zero Carbon Performance Code Project, Utilities staff proposes appropriation and transfer of the following amounts for expenditure in the project fund:

- Appropriation of:
 - \$693,595 of unanticipated DOE RECI grant revenue;
 - \$152,127 from current Light & Power Fund reserves;
 - \$46,842 from current General Fund reserves; and
- Transfer of \$7,600 from unencumbered 2023 Budget appropriations in the Light & Power Fund to satisfy the City’s local matching obligation under the DOE RECI grant; and

WHEREAS, the DOE RECI grant is conditioned on the City entering into an agreement through which the DOE will work with the City to ensure completion of project outcomes contained in an approved statement of project objectives (SOPO), a draft assistance agreement with special terms are attached hereto as Exhibit “A;” 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 this appropriation is available and previously unappropriated from the Light & Power Fund and will not cause the total amount appropriated in the Light & Power Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year; and

WHEREAS, Article V, Section 10 of the City Charter authorizes the City Council, upon recommendation by the City Manager, to transfer by ordinance any unexpended and unencumbered appropriated amount or portion thereof from one fund or capital project to another fund or capital project, provided that the purpose for which the transferred funds are to be expended remains unchanged, the purpose for which the funds were initially appropriated no longer exists, or the proposed transfer is from a fund or capital project in which the amount appropriated exceeds the amount needed to accomplish the purpose specified in the appropriation ordinance; and

~~WHEREAS, the City Manager has recommended the transfer of \$46,842 from the General Fund to the Light & Power Fund and determined that the purpose for which the transferred funds are to be expended remains unchanged; and~~

WHEREAS, the City Manager has recommended the transfer of \$7,600 from the Energy Services operating budget in the Light & Power Fund to the Zero Carbon Performance Code Project budget in the Light & Power Fund and determined that the purpose for which the transferred funds are to be expended remains unchanged; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council, upon the recommendation of the City Manager, to make supplemental appropriations 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 Light & Power Fund and the General Fund and will not cause the total amount appropriated in the Light & Power Fund and the General Fund 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, Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a federal, state or private grant, that such appropriation shall not lapse at the end of the fiscal year in which the appropriation is made, but continue until the earlier of the expiration of the federal, state or private grant or the City's expenditure of all funds received from such grant; and

WHEREAS, this appropriation benefits public health, safety and welfare of the citizens of Fort Collins and serves the public purpose of facilitating adoption of modern energy-efficient building and construction codes that improve the health, safety, and comfort of community buildings; and

WHEREAS, the proposed appropriation also furthers the Zero Carbon Performance Code Project which benefits electric utility ratepayers by expediting development of building codes focused on improving climate resilience and reducing energy costs in the City's built environment; and

WHEREAS, the City Council wishes to designate the appropriation herein for the DOE Resilient and Efficient Codes Implementation grant project as an appropriation that shall not lapse until the earlier of the expiration of the grant or the City's expenditure of all funds received from such grant.

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 new revenue or other funds in the Light & Power Fund the sum of SIX HUNDRED NINETY-THREE THOUSAND FIVE HUNDRED NINETY-FIVE DOLLARS (\$693,595) to be expended in the Light & Power Fund for the Zero Carbon Performance Code Project.

Section 3. That there is hereby appropriated from prior year reserves in the Light & Power Fund the sum of ONE HUNDRED FIFTY-TWO THOUSAND ONE HUNDRED TWENTY-SEVEN DOLLARS (\$152,127) to be expended in the Light & Power Fund for the Zero Carbon Performance Code Project.

Section 4. That there is hereby appropriated from prior year reserves in the General Fund the sum of FORTY-SIX THOUSAND EIGHT HUNDRED FORTY-TWO DOLLARS (\$46,842) ~~is authorized for transfer from the General Fund to the Light & Power Fund~~ **to be expended in the General Fund** for the Zero Carbon Performance Code Project.

Section 5. That the unexpended and unencumbered appropriated amount of SEVEN THOUSAND SIX HUNDRED DOLLARS (\$7,600) is authorized for transfer from the Energy Services operating budget in the Light & Power Fund to the Zero Carbon Performance Code Project budget in the Light & Power Fund and appropriated therein to be expended for the Zero Carbon Performance Code Project.

Section 6. That the appropriation herein for the U.S. Department of Energy Resilient and Efficient Codes Implementation (RECI) grant is hereby designated, as authorized in Article V, Section 11 of the City Charter, as an appropriation that shall not lapse at the end of this fiscal year but will continue until the earlier of the expiration of the grant or the City's expenditure of all funds received from such grant.

Section 7. That the City Manager is authorized to enter into a cooperative agreement with the U.S. Department of Energy for the RECI grant, with such additional or modified terms and conditions as the City Manager may, in consultation with the City Attorney, determine necessary and appropriate to protect the interests of the City or effectuate the purposes of this Ordinance.

Introduced, considered favorably on first reading and ordered published this 21st day of November, 2023, and to be presented for final passage on the 5th day of December, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 5th day of December, 2023.

Mayor

ATTEST:

City Clerk