

# AGENDA ITEM SUMMARY

City Council



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## STAFF

Brad Smith, Energy Services  
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## SUBJECT

**First Reading of Ordinance No. 157, 2023, 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.**

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## EXECUTIVE SUMMARY

The purpose of this item is to support the *Zero Carbon Performance Code Project* by:

- Appropriating \$693,595 of unanticipated revenue awarded by the Department of Energy (DOE);
- Appropriating \$152,127 from Light and Power Fund reserves;
- Transferring \$7,600 matching funds from existing 2023 appropriations in the Light & Power Fund; and
- Appropriating \$46,842 from General Fund reserves.

In July 2023, the Department of Energy (DOE) awarded the City of Fort Collins (City) \$693,595 under the Bipartisan Infrastructure Law, Resilient and Efficient Codes Implementation (RECI) funding. The award supports development of a Zero Carbon Performance Energy Code framework by 2030 to meet energy use and carbon emissions reduction targets and replace prescriptive energy code models. This framework will be developed as a Code path to include successive code update cycles focused on an end goal of zero carbon new construction in the 2030 code cycle.

This project directly aligns with Our Climate Future's Big Move 6 "Efficient, Emissions Free Buildings." It also recognizes the importance of building energy codes as an effective strategy to improve health and safety, comfort, climate resilience and lower energy costs within community buildings.

While the DOE did not provide the final grant agreement before first reading of this Ordinance, staff is seeking approval to begin spending resources toward the City's anticipated match. The City's \$206,569 match will be met principally through Energy Services and Building Services staff personnel time. Upon presentation of its final grant agreement and DOE confirmation of its \$693,595 award (anticipated to occur before or contemporaneous with second reading), the DOE grant will be applied to reimburse project partners and the City. DOE funds and the City's match support total project costs of \$900,164.

## STAFF RECOMMENDATION

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Staff recommends adoption of the Ordinance on First Reading.

## BACKGROUND / DISCUSSION

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The DOE introduced the RECI funding opportunity as the first roll out of funds from both the Bipartisan Infrastructure Law and from the Inflation Reduction Act. The City was the only local government out of the 27 awardees selected from the highly competitive RECI program. A primary reason for the City's selection was our proposal to implement a performance-based building energy code framework that reaches zero carbon/zero energy in new construction by 2030. This approach is viewed in the energy code community as the likely path forward for jurisdictions with ambitious climate goals. The performance-based building energy code framework requires the use of software to model and achieve building energy performance targets in the design and construction of new buildings. City Code currently offers a performance path option for building energy code compliance but it is focused on modeling related to energy cost, which is not fully aligned with the 2030 Our Climate Future goals.

The *Zero Carbon Performance Code Project* will modify the existing City approach by establishing required targets for energy use and carbon reduction of a building or home when built to the 2030 zero carbon code. It will then use the two interim code cycles in 2024 and 2027 as increased steps in efficiency that ultimately achieve 2030 code targets. The performance-based building energy code framework will allow builders flexibility in construction approaches and materials in achieving targets and provides transparency in future code and beyond the typical three-year update cadence.

Critical to the success of this work will be ongoing input from a local, diverse stakeholder group with a vested interest in new construction, building code, and affordability. To ensure a smooth transition to this new code in future code cycles, the project will establish an implementation guide, education materials and training offerings developed through stakeholder engagement.

The City will collaborate with other subject matter experts from project partners Florida Solar Energy Center, New Buildings Institute, and the International Code Council (ICC). The Colorado Energy Office is also serving as a supporting partner, providing review and evaluation of project outcomes and guidance as needed.

The proposed project approach follows the three-year code cycle established by the ICC. This cycle will continue with the City's adoption of the 2024, 2027 and 2030 body of ICC codes. Considering City policy to adopt updated energy codes within a year of issuance by the ICC and that the 2024 code year is about to begin, the *Zero Carbon Performance Code Project* needs to commence as soon as possible to avoid a delay in the target code adoption process, including adoption of the 2024 body of ICC codes.

The DOE notified the City in a July 12, 2023 Selection Notification Letter (Attachment 2) that our application in support of the *Zero Carbon Performance Code Project* was recommended for RECI funding. The City subsequently received the Assistance Agreement, i.e., draft grant agreement (Attachment 3; also attached as Exhibit "A" to the Ordinance) demonstrating the \$693,595 in DOE funds obligated for this project with a Period of Performance commencing October 1, 2023. As described in the Assistance Agreement, the \$900,164 in total project costs is subject to a cooperative agreement, which provides the DOE participating in the project, working closely with the City to ensure outcomes are met and during the proposed project timeframe.

Per the draft cooperative agreement, DOE is providing \$693,595 for reimbursement of costs for activities presented in the Budget (Attachment 4), with the City funding \$206,569 of project costs. The conditional status of the award in the Assistance Agreement will be lifted upon completion of the Cooperative Agreement negotiations. The negotiations pertain to the final statement of project objectives (SOPO) and Budget, on which staff and DOE have worked for several months this fall to finalize. As noted in a November 5, 2023, email communication with DOE (Attachment 5), DOE representatives supporting this project have

approved the SOPO and Budget that are currently under review with the DOE Financial Assistance unit. Staff anticipates notice from DOE on Assistance Agreement conditions being lifted by second reading of this item on December 5, 2023.

Considering the need for City staff to commence work on this project to support:

- (1) Meeting project objective timelines as outlined in the SOPO; and
- (2) to ensure no delay by the City in adopting the 2024 code;

staff is seeking adoption of this Ordinance ahead of the final DOE action, allowing commencement of work on the project in 2023. All such work by staff will be funded from existing unencumbered annual appropriations and support the required \$206,569 local cost share.

Upon DOE lifting remaining Assistance Agreement conditions, the City will finalize subaward agreements with partners Florida Solar Energy Center, New Buildings Institute, and the ICC, supporting work by these partners under the *Zero Carbon Performance Code Project* for which allowable costs for such work will be submitted for reimbursement by DOE pursuant to the Assistance Agreement.

Though the DOE did not provide the final cooperative grant agreement before first reading of this Ordinance, staff is seeking Council approval to begin spending City match resources in the form of Energy Services and Building Services staff time. Starting preparations and initial grant work ahead of signing the Assistance Agreement will ensure the full scope of work can be completed during the proposed project timeframe. Staff anticipates the DOE will provide the final grant agreement and confirmation of award by or before second reading of the proposed Ordinance.

### **CITY FINANCIAL IMPACTS**

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This item appropriates \$892,564 in costs to support the *Zero Carbon Performance Code Project* from:

- \$693,595 in unanticipated grant revenue from DOE
- \$152,127 in Light & Power Fund reserves to be used toward required local matching funds
- \$46,842 in General Fund reserves to be used for the final portion of the required matching funds

Required matching funds in the amount of \$7,600 have already been appropriated in the 2023 Light & Power Fund in the Energy Services operating budget. The \$7,600 will be transferred from Energy Services 2023 operating budget to the grant/cooperative assistance project. This serves to support tracking of personnel time in meeting the City's match obligation.

The DOE award is a reimbursement type award, meaning Light & Power Fund expenses will be reimbursed up to \$693,595.

### **BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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On February 9, and June 8, 2023, the Energy Board received updates, and expressed general support, regarding planning for advancing building code performance and the pending DOE grant opportunity.

### **PUBLIC OUTREACH**

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None.

## ATTACHMENTS

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1. Ordinance for Consideration
2. DOE July 12, 2023, Selection Notification Letter
3. DOE Assistance Agreement
4. *Zero Carbon Performance Code Project* Budget
5. November 6, 2023, Email Communication Between Staff and DOE