

ORDINANCE NO. 078, 2025
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING PRIOR YEAR RESERVES AND AUTHORIZING
TRANSFERS OF APPROPRIATIONS FOR BROADBAND
BUILDOUT TO MULTI-DWELLING UNITS AND CUSTOMER
INSTALLATIONS AND RELATED ART IN PUBLIC PLACES AND
MODIFYING THE TERMS OF REPAYMENT FOR PRIOR
APPROPRIATIONS FROM THE LIGHT AND POWER FUND

A. Broadband is requesting an appropriation of \$12,000,000 of reserves from the Light & Power Fund for use in Broadband's efforts to continue new customer installations, including infrastructure buildout to multi-dwelling units and mobile home parks, and providing for asset management.

B. Multi-dwelling units and mobile home parks infrastructure buildout will be capital intensive and current projections have established a funding need for new installations and associated asset management over the next four years.

C. The funds from Light & Power will provide a significant portion of the total funding need over the next four years and will be reimbursed to the Light & Power Fund, including interest, from the cash flow generated by Broadband operations.

D. City Council adopted Ordinance No. 034, 2022, approving the appropriation of \$20,000,000 from the prior year reserves available in the Light and Power Fund to Broadband, which is currently scheduled to be paid back with interest by 2029. Both the prior \$20,000,000 loan from 2022, and the current \$12,000,000 loan will be scheduled to be repaid in full, with interest and an administrative fee, to the Light and Power Fund by January 1, 2036.

E. This appropriation benefits the public health, safety, and welfare of the residents of Fort Collins and serves the public purpose of making Broadband's products and services available to multi-dwelling units and mobile home parks.

F. 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 from such revenues and funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated.

G. The City Manager has recommended the appropriation described herein and determined that the funds to be appropriated are available and previously unappropriated from the Light and Power Fund and that this appropriation will not cause the total amount appropriated in the Light and 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.

H. 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.

I. The City Manager has recommended the transfer of \$12,000,000 from the Light and Power Fund to the Broadband Fund and determined that the purpose for which the transferred funds are to be expended remains unchanged.

J. This Project involves 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").

K. The Infrastructure Buildout project cost of \$11,300,000 has been used to calculate the contribution to the APP program.

L. The amount to be contributed in this Ordinance will be \$113,000. The amount to be transferred to the Cultural Services and Facilities Fund will be \$24,860 as contribution to operations and maintenance of the APP Program. The remaining \$88,140 will remain in the Broadband Fund as contribution to artwork for the APP Program.

M. Contributions to the APP Program by each City utility for art projects is kept and spent in such utility's own fund, 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).

N. In accordance with Article V, Section 10 of the City Charter, the appropriation for the Project from 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 Broadband purposes and improvements in connection with the Project that provide a betterment to the Utility and provide a specific utility purpose that is beneficial to the Utility's ratepayers.

O. 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.

P. The City Council wishes to designate the appropriation herein for the Broadband Infrastructure Buildout project as an appropriation that shall not lapse until the completion of the project.

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

Section 1. There is hereby appropriated from prior year reserves in the Light and Power Fund the sum of TWELVE MILLION DOLLARS (\$12,000,000) to be expended in the Light and Power Fund for transfer to the Broadband Fund and appropriated therein to be expended for operations and the buildout of the Broadband infrastructure.

Section 2. The unexpended and unencumbered appropriated amount of TWENTY-TWO THOUSAND SIX HUNDRED DOLLARS (\$22,600) 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 3. The unexpended and unencumbered appropriated amount of TWO THOUSAND TWO HUNDRED SIXTY DOLLARS (\$2,260) 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 4. The appropriation herein for Broadband Infrastructure Buildout project 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 continue until the completion of the project.

Section 5. It is intent of Council, and direction to the City Manager and the City Financial Officer, that this amount appropriated be reimbursed annually to the Light and Power Fund in the amount the Connexion revenues collected exceed Connexion's expenses and debt obligations for that fiscal year, together with an interest factor which is the greater of the Light and Power Fund's average investment earnings for its reserve balance for that year or the average ten- year AA- bond rate for that year, plus a one percent administrative fee, until this appropriated amount with such interest has been paid in full, which payment in full is to be completed on or before January 1, 2036. In addition, when the City Manager is setting under City Code Section 26-573 the rates, fees and charges for furnishing telecommunication facilities and services to Connexion subscribers, the City Manager shall do so taking into consideration this reimbursement of the Light and Power Fund as provided in this Section 5.

Section 6. It is also the City Council' s intent that, in the event the City or the Electric Utility Enterprise hereafter issues any bonds or incurs any other financial obligation to be used to reimburse the Light and Power Fund for the Connexion' s expenditure of this appropriation for the Project, this Ordinance is intended to be a declaration of " official intent" to reimburse these expenditures within the meaning of Treasury Regulation §1.150-2.

Introduced, considered favorably on first reading on May 20, 2025, and approved on second reading for final passage on June 3, 2025.

Mayor

ATTEST:

City Clerk

Effective Date: June 13, 2025

Approving Attorney: Yvette Lewis-Molock

Exhibits: None