

ORDINANCE NO. 006, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING TRANSFERS AND APPROPRIATING
RELATED FUNDS FOR THE OAK STREET
STORMWATER IMPROVEMENTS PROJECT

A. On October 3, 2023, the Stormwater Utility Enterprise Board adopted Ordinance No. 11, 2023 authorizing the issuance of bonds in the Stormwater Fund for the construction of the Oak Street Stormwater Improvements Project (the "Project").

B. The Project is a priority project among several the City has developed as part of the Downtown Stormwater Improvement Program, which is a basin-wide evaluation of existing stormwater systems and the development of a comprehensive strategy to mitigate flood risk and damages in the Old Town Basin.

C. The City closed on the bonds on October 31, 2023, and the gross proceeds of approximately \$40.4 million have been deposited in the Stormwater Fund.

D. This requested appropriation of \$39,962,815 will allow the City to pay the costs of construction of the Project, including but not limited to the construction contract price, construction support (resident engineering, construction management, permitting, and internal support), a contingency amount, and costs for the City's Art in Public Places program.

E. This appropriation benefits the public health, safety and welfare of the residents and Stormwater Utility ratepayers of Fort Collins and serves the public purpose of the City paying the necessary expenses to construct the Project, which will mitigate flood risk and damages in the Old Town Basin.

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 such 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 this appropriation is available and previously unappropriated the Stormwater Fund and will not cause the total amount appropriated in the Stormwater 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.

H. This Project involves construction estimated to cost more than \$250,000 and, as such, City Code Section 23-304 requires a portion 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").

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

J. In accordance with Article V, Section 10 of the City Charter, the appropriation for the Oak Street Stormwater Improvement Project from the Stormwater 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 Stormwater Fund purposes and improvements in connection with the Project that provide a betterment to the Utility.

K. A portion of the funds appropriated in this Ordinance for the Project are ineligible for use in the APP Program due to restrictions placed on them by 0.5% Contribution Cap based on the year's revenue in the Stormwater Fund.

L. The amount to be contributed in this Ordinance to the APP Program will be \$47,800 with \$10,516 to be transferred to the Cultural Services and Facilities Fund.

M. 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 project.

N. The City Council wishes to designate the appropriation herein for the Oak Street Stormwater Improvement 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 new revenue or other funds in the Stormwater Fund the sum of THIRTY-NINE MILLION NINE HUNDRED SIXTY-TWO THOUSAND EIGHT HUNDRED FIFTEEN DOLLARS (\$39,962,815) to be expended in the Stormwater Fund for the Oak Street Stormwater Improvements Project.

Section 2. The unexpended and unencumbered appropriated amount of NINE THOUSAND FIVE HUNDRED SIXTY DOLLARS (\$9,560) in the Stormwater 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 NINE HUNDRED FIFTY-SIX DOLLARS (\$956) in the Stormwater 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 the replacement of the Oak Street Stormwater Improvements 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.

Introduced, considered favorably on first reading on January 16, 2024, and approved on second reading for final passage on February 6, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: February 16, 2024
Approving Attorney: Ryan Malarky