

# Fort Collins City Council Agenda

## Regular Meeting

6:00 p.m., Tuesday, March 5, 2024

City Council Chambers at City Hall, 300 Laporte Avenue, Fort Collins, CO 80521

Zoom Webinar link: <https://zoom.us/j/98241416497>

### NOTICE:

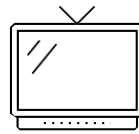
Regular meetings of the City Council are held on the 1st and 3rd Tuesdays of each month in the City Council Chambers. Meetings are conducted in a hybrid format, with a Zoom webinar in addition to the in person meeting in Council Chambers.

City Council members may participate in this meeting via electronic means pursuant to their adopted policies and protocol.

### How to view this Meeting:



Meetings are open to the public and can be attended in person by anyone.



Meetings are televised live on Channels 14 & 881 on cable television.



Meetings are available through the Zoom platform, electronically or by phone.



Meetings are livestreamed on the City's website, [fcgov.com/fctv](https://fcgov.com/fctv)

*Upon request, the City of Fort Collins will provide language access services for individuals who have limited English proficiency, or auxiliary aids and services for individuals with disabilities, to access City services, programs and activities. Contact 970.221.6515 (V/TDD: Dial 711 for Relay Colorado) for assistance. Please provide advance notice. Requests for interpretation at a meeting should be made by noon the day before.*

*A solicitud, la Ciudad de Fort Collins proporcionará servicios de acceso a idiomas para personas que no dominan el idioma inglés, o ayudas y servicios auxiliares para personas con discapacidad, para que puedan acceder a los servicios, programas y actividades de la Ciudad. Para asistencia, llame al 970.221.6515 (V/TDD: Marque 711 para Relay Colorado). Por favor proporcione aviso previo. Las solicitudes de interpretación en una reunión deben realizarse antes del mediodía del día anterior.*



## There are in person and remote options for members of the public who would like to participate in Council meetings:

### Comment in real time:

*During the public comment portion of the meeting and discussion items:*



In person attendees can address the Council in the Chambers.

The public can join the Zoom webinar and comment from the remote meeting, joining online or via phone.



All speakers are required to sign up to speak using the online sign up system available at [www.fcgov.com/agendas](http://www.fcgov.com/agendas).

Staff is also available outside of Chambers prior to meetings to assist with the sign up process for in person attendees.

Full instructions for online participation are available at [fcgov.com/councilcomments](http://fcgov.com/councilcomments).

Join the online meeting using the link in this agenda to log in on an internet-enabled smartphone, laptop or computer with a speaker and microphone. Using earphones with a microphone will greatly improve audio experience.

To be recognized to speak during public participation portions of the meeting, click the 'Raise Hand' button.

Participate via phone using this call in number and meeting ID:

Call in number: 720 928 9299

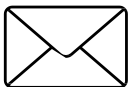
Meeting ID: 982 4141 6497

During public participation opportunities in the meeting, press \*9 to indicate a desire to speak.

### Submit written comments:



Email comments about any item on the agenda to [cityleaders@fcgov.com](mailto:cityleaders@fcgov.com)



Written comments can be mailed or dropped off at the City Manager's Office at City Hall, at 300 Laporte Ave, Fort Collins, CO 80521

***Documents to Share during public participation:*** Persons wishing to display presentation materials using the City's display equipment under the Public Participation portion of a meeting or during discussion of any Council item must provide any such materials to the City Clerk in a form or format readily usable on the City's display technology no later than two (2) hours prior to the beginning of the meeting at which the materials are to be presented.

***NOTE:*** All presentation materials for appeals, addition of permitted use applications or protests related to election matters must be provided to the City Clerk no later than noon on the day of the meeting at which the item will be considered. See Council Rules of Conduct in Meetings for details.





# City Council Regular Meeting Agenda

March 5, 2024 at 6:00 PM

Jeni Arndt, Mayor  
Emily Francis, District 6, Mayor Pro Tem  
Susan Gutowsky, District 1  
Julie Pignataro, District 2  
Tricia Canonico, District 3  
Melanie Potyondy, District 4  
Kelly Ohlson, District 5

City Council Chambers  
300 Laporte Avenue, Fort Collins  
& via Zoom at  
<https://zoom.us/j/98241416497>  
Cablecast on FCTV  
Channel 14 on Connexion  
Channel 14 and 881 on Xfinity

Carrie Daggett  
City Attorney

Kelly DiMartino  
City Manager

Heather Walls  
Interim City Clerk

## PROCLAMATIONS & PRESENTATIONS 5:00 PM

### A) PROCLAMATIONS AND PRESENTATIONS

[PP 1.](#) Declaring March 2024 as Women's History Month.

## REGULAR MEETING 6:00 PM

### B) CALL MEETING TO ORDER

### C) PLEDGE OF ALLEGIANCE

### D) ROLL CALL

### E) CITY MANAGER'S AGENDA REVIEW

- City Manager Review of Agenda
- Consent Calendar Review, including removal of items from Consent Calendar for individual discussion.

### F) COMMUNITY REPORTS - None.

### G) PUBLIC COMMENT ON ANY TOPICS OR ITEMS OR COMMUNITY EVENTS (Including requests for removal of items from Consent Calendar for individual discussion.)

*Individuals may comment regarding any topics of concern, whether or not included on this agenda. Comments regarding land use projects for which a development application has been filed should be submitted in the development review process\*\* and not to Council.*

- *Those who wish to speak are required to sign up using the online sign-up system available at [www.fcgov.com/council-meeting-participation-signup/](http://www.fcgov.com/council-meeting-participation-signup/)*
- *Each speaker will be allowed to speak one time during public comment. If a speaker comments on a particular agenda item during general public comment, that speaker will not also be entitled to speak during discussion on the same agenda item.*

- *All speakers will be called to speak by the presiding officer from the list of those signed up. After everyone signed up is called on, the presiding officer may ask others wishing to speak to identify themselves by raising their hand (in person or using the Raise Hand option on Zoom), and if in person then will be asked to move to one of the two lines of speakers (or to a seat nearby, for those who are not able to stand while waiting).*
- *The presiding officer will determine and announce the length of time allowed for each speaker.*
- *Each speaker will be asked to state their name and general address for the record, and, if their comments relate to a particular agenda item, to identify the agenda item number. Any written comments or materials intended for the Council should be provided to the City Clerk.*
- *A timer will beep one time and turn yellow to indicate that 30 seconds of speaking time remain and will beep again and turn red when a speaker's time has ended.*

*[\*\*For questions about the development review process or the status of any particular development, consult the City's Development Review Center page at <https://www.fcgov.com/developmentreview>, or contact the Development Review Center at 970.221.6760.]*

## **H) PUBLIC COMMENT FOLLOW-UP**

## **I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION**

### **CONSENT CALENDAR**

*The Consent Calendar is intended to allow Council to spend its time and energy on the important items on a lengthy agenda. Staff recommends approval of the Consent Calendar. Agenda items pulled from the Consent Calendar by either Council or the City Manager will be considered separately under their own Section, titled "Consideration of Items Removed from Consent Calendar for Individual Discussion." Items remaining on the Consent Calendar will be approved by Council with one vote. The Consent Calendar consists of:*

- *Ordinances on First Reading that are routine;*
- *Ordinances on Second Reading that are routine;*
- *Those of no perceived controversy;*
- *Routine administrative actions.*

#### **1. Consideration and Approval of the Minutes of the February 6, 2024 and February 20, 2024 Regular Meetings.**

The purpose of this item is to approve the minutes of the February 6, 2024 and February 20, 2024 regular meetings.

#### **2. Second Reading of Ordinance No. 032, 2024, Appropriating Prior Year Reserves and Unanticipated Philanthropic Revenue Received Through City Give for Various Programs and Services as Designated by the Donors.**

This Ordinance, unanimously adopted on First Reading on February 20, 2024, appropriates \$18,025.20 in philanthropic revenue received through City Give. These miscellaneous gifts to various City departments support a variety of programs and services and are aligned with both the City's strategic priorities and the respective donors' designation. In 2019, City Give, a formalized enterprise-wide initiative was launched to create a transparent, non-partisan governance structure for the acceptance and appropriations of charitable gifts.

**3. Second Reading of Ordinance No. 033, 2024, Appropriating Prior Year Reserves in the Conservation Trust Fund for the Future Design and Construction of the Fossil Creek Trail Spur.**

This Ordinance, unanimously adopted on First Reading on February 20, 2024, appropriates partial funding for the future construction of the Fossil Creek Trail spur. This revenue is contributed from the developer. This trail spur is identified in the South College Corridor Subarea Plan as “City built and maintained.” The easement for the future trail spur was secured during the development review process of the Fort Collins Nissan-Kia project. Per the South College Avenue Access Control Plan, this trail is of regional significance and the Developer agreed to contribute their proportional share of the public access trail project in the amount of \$35,000. The Developer was required to provide the funds prior to issuance of the project’s first building permit. The design and construction date of the future trail spur at this time is unknown.

**4. Second Reading of Ordinance No. 034, 2024, Authorizing Transfers of Appropriations for the Xeriscape Incentive Program.**

This Ordinance, unanimously adopted on First Reading on February 20, 2024, supports businesses, homeowner associations (“HOAs”) and other commercial properties pursuing costly landscape projects that reduce water use long-term through the Xeriscape Incentive Program by utilizing \$75,104 in existing 2024 appropriations to fund the City’s match requirement under this grant project.

**5. Second Reading of Ordinance No. 035, 2024, Authorizing the Release of Restrictive Covenants on Property at 2850 Sykes Drive, Developed by Fort Collins Habitat for Humanity.**

This Ordinance, unanimously adopted on First Reading on February 20, 2024, authorizes the termination of the HOME Investment Partnership Funding Development Contract with Fort Collins Habitat for Humanity (Habitat) and release the Agreement of Restrictive Covenants Affecting Real Property on the single-family home located at 2850 Sykes Drive. Termination of the contract and release of the Agreement of Restrictive Covenants is required for Fort Collins Habitat for Humanity to move forward with the sale of the home to the buyer.

**6. Second Reading of Ordinance No. 036, 2024, Approving the Vacation of a Portion of Two Easements Originally Dedicated in that Certain Replat of Coachlight Plaza PUD.**

This Ordinance, unanimously adopted on First Reading on February 20, 2024, approves the vacation of a 1,077 square foot portion of two easements (8’ Electrical Easement and an 8’ Telephone Easement) (the “Easements”) that are no longer required by the City because they are currently located beneath a newly constructed building envelope.

**7. Second Reading of Ordinance No. 037, 2024, Authorizing the Conveyance to N College 1311, LLC, of a Portion of the City Property Designated as the Future Hickory Detention Pond in Exchange for Adjoining Property and Other Valuable Consideration.**

This Ordinance, unanimously adopted on First Reading on February 20, 2024, permits the conveyance of approximately 1.31 acres (57,064 sf) of City property (the “Conveyed Parcel”) to N College 1311, LLC, (“Owner”), as well as a possible temporary construction easement or license to enter, and acceptance of Natural Habitat Buffer Zone on City property, in exchange for approximately 2.43 acres (105,723 sf) of Owner’s adjoining property (the “Received Parcel”) and other valuable consideration.

**8. Items Relating to the Laporte Avenue Multimodal Improvement Project.**

A. Resolution 2024-025 Authorizing an Amendment to an Existing Intergovernmental Agreement between the City of Fort Collins, Colorado, and the Colorado Department of Transportation for the Laporte Avenue Multimodal Improvement Project.

B. First Reading of Ordinance No. 038, 2024, Making Supplemental Appropriations, Appropriating Prior Year Reserves and Authorizing Transfers of Appropriations for the Laporte Avenue Multimodal Improvement Project and Related Art in Public Places.

The purpose of this item is to enable the City to receive and expend Colorado Department of Transportation (CDOT) funds for the Laporte Avenue Multimodal Improvement Project (Laporte Project). The funds will be used for construction of improvements along Laporte Ave from Fishback Avenue to Sunset Street. If approved this item will: 1) authorize the Mayor to execute an amendment to the Intergovernmental Agreement (IGA) for the Laporte Project with CDOT; 2) appropriate \$2,500,000 of Transportation Alternative grant funds for the Laporte Project; 3) use \$122,727 from the Bicycle Infrastructure Improvements Community Capital Improvement Program (CCIP Bike Program) as part of the local match; 4) use \$102,273 from the Pedestrian Infrastructure Improvements Community Capital Improvement Program (CCIP Pedestrian Program) as part of the local match; 5) appropriate as part of the local match contribution \$223,425 from the Transportation Capital Expansion Fee Reserves (TCEF); 6) appropriate as part of the local match contribution \$222,750 from General Fund Reserves; 7) appropriate \$1,755 (0.78% of the TCEF amount of the 1% contribution for the artwork portion of APP) from TCEF Reserves to the Art in Public Places Program; 8) appropriate \$495 (0.22% of the TCEF amount of the 1% contribution to APP) from the Transportation Fund Reserves to the Art in Public Places Program; 9) appropriate \$2,250 (1% of the General Fund amount) from the General Fund to the Art in Public Places Program.

#### **END OF CONSENT CALENDAR**

#### **J) ADOPTION OF CONSENT CALENDAR**

#### **K) CONSENT CALENDAR FOLLOW-UP** *(This is an opportunity for Councilmembers to comment on items adopted or approved on the Consent Calendar.)*

#### **L) STAFF REPORTS - None.**

#### **M) COUNCILMEMBER REPORTS**

#### **N) CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR FOR INDIVIDUAL DISCUSSION**

#### **O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION**

*The method of debate for discussion items is as follows:*

- Mayor introduced the item number and subject; asks if formal presentation will be made by staff
- Staff presentation (optional)
- Mayor requests public comment on the item (three minute limit for each person)
- Council questions of staff on the item
- Council motion on the item
- Council discussion
- Final Council comments
- Council vote on the item

*Note: Time limits for individual agenda items may be revised, at the discretion of the Mayor, to ensure all have an opportunity to speak. The timer will buzz when there are 30 seconds left and the light will turn yellow. It will buzz again at the end of the speaker's time.*

#### **9. Strauss Lakes Metropolitan Districts Conceptual Review Hearing.**

The purpose of this item is to conduct a Conceptual Review Hearing pursuant to the City Policy for Reviewing Service Plans for Metropolitan Districts (Metro District Policy) to allow Council and members of the public to provide preliminary comments in response to an applicant's Letter of Interest so that the applicant may better determine whether or not to submit a formal application and what a formal application should include.

Metropolitan Districts (Metro Districts) must provide exceptional public benefits in a variety of categories to gain Council approval. Staff evaluates the Metro Districts' proposed public benefits guided by the current 2021 Council-approved Metro District Policy, which includes a score card related to housing and residential development. The City's Metro District Policy requires this Conceptual Review Hearing with Council to give the applicant the opportunity to present its proposal and to seek feedback from Councilmembers and the public about the proposed Metro Districts, which the applicant may use to determine whether to submit a formal application.

#### **Hearing Process Overview**

The process for reviewing and considering approval of Metro Districts generally proceeds as follows:

1. Applicant submits Letter of Interest
2. Staff reviews Letter of Interest and provides an informal, non-binding response
3. Council Conceptual Review is conducted, where Council considers and discusses the public benefits proposed in the Letter of Interest
4. If Applicant decides to proceed, Applicant submits formal application for Metro District(s) along with Service Plan
5. Staff reviews application and Service Plan
6. Council Finance Committee reviews submittal and provides feedback to applicant
7. Council considers application and Service Plan at a public hearing

As stated in the Metro District Policy, if it so chooses to do so, Council may consider a motion at the conclusion of the hearing to express its opinion whether the service plan of the Strauss Lakes Metro Districts, as proposed, should be brought forward to Council for its formal consideration. That motion may also include any recommendations Council may have concerning what should or should not be included in the applicant's formal application. However, the Policy also clearly states that any such motion adopted and any comments, suggestions, or recommendations made by any Councilmember concerning the proposal will not bind or otherwise obligate any Councilmember or other City decision maker to any course of conduct or decision in any subsequent formal application under the Policy. Sample motions are provided below.

**It should be noted that the Council is not required to adopt a motion related to the Metro Districts, and the Conceptual Review Hearing is meant solely for Councilmembers to provide feedback on the proposed Metro Districts and is not meant for the Council to comment on, or make specific recommendation regarding, any development aspects that may later come to Council for review and decision-making.**

Strauss Lakes is a proposed mixed-use development at the northeast corner of Horsetooth Road and Ziegler Road proposed by Cottonwood Land and Farms, LLC ("Cottonwood"). On February 5, 2024, Cottonwood submitted a revised Letter of Interest outlining the public benefits to be provided by the proposed Strauss Lakes Metropolitan Districts, pursuant to the City's Metro District Policy. Staff finds the applicant's proposed public benefits generally conform with the requirements of the Metro District Policy, however, all elements of the proposed public benefits will require additional analysis by staff to confirm they meet the requirements of the Metro District Policy. Staff will provide a final assessment and recommendation on the Strauss Lakes Districts upon formal submittal.

## **P) OTHER BUSINESS**

### **OB 1. Possible consideration of the initiation of new ordinances and/or resolutions by Councilmembers.**

*(Three or more individual Councilmembers may direct the City Manager and City Attorney to initiate and move forward with development and preparation of resolutions and ordinances not originating from the Council's Policy Agenda or initiated by staff.)*

## **Q) ADJOURNMENT**

*Every regular Council meeting will end no later than midnight, except that: (1) any item of business commenced before midnight may be concluded before the meeting is adjourned and (2) the Council may, at any time prior to adjournment, by majority vote, extend a meeting beyond midnight for the purpose of considering additional items of business. Any matter that has been commenced and is still pending at the conclusion of the Council meeting, and all matters for consideration at the meeting that have not yet been considered by the Council, will be deemed continued to the next regular Council meeting, unless Council determines otherwise.*

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## PROCLAMATION

**WHEREAS**, American women of every race, class, and ethnic background have made historic contributions to the growth and strength of our Nation in countless recorded and unrecorded ways; and

**WHEREAS**, American women have played and continue to play critical economic, cultural, and social role in every sphere of the life of the Nation by constituting a significant portion of the labor force working inside and outside of the home; and

**WHEREAS**, American women have played a unique role throughout the history of the Nation by providing the majority of the volunteer labor force of the Nation; and

**WHEREAS**, American women were particularly important in the establishment of early charitable, philanthropic, and cultural institutions in our Nation; and

**WHEREAS**, American women of every race, class, and ethnic background served as early leaders in the forefront of every major progressive social change movement; and

**WHEREAS**, American women have served our country courageously in the military; and

**WHEREAS**, American women have been leaders, not only in securing their own rights of suffrage and equal opportunity, but also in the abolitionist movement, the emancipation movement, the industrial labor movement, the civil rights movement, the women's rights movement and other movements, especially the peace movement, which create a more fair and just society for all; and

**WHEREAS**, despite these contributions, the role of American women in history has been consistently overlooked and undervalued, in the sciences, literature, teaching, study of American history as well as in their contributions in areas listed above; and

**WHEREAS**, Living Her Legacy, a nonprofit Recognizing Women. Inspiring Girls. has been approved to create the first Historic, public outdoor art/education exhibition to recognition women's accomplishments in Fort Collins and in Colorado, including education programs for 2nd grade to 19- year-old girls and teen moms; and

**WHEREAS**, Living Her Legacy is creating a generation of change makers who will impact their communities and the girls who come behind them with our women's public art exhibition and our education programs for girls.

**NOW, THEREFORE**, I, Jeni Arndt, Mayor of the City of Fort Collins, do hereby proclaim March 2024, as

## WOMEN'S HISTORY MONTH

and call upon the community members of Fort Collins to celebrate March as Women's History Month with appropriate programs, ceremonies, and activities.

**IN WITNESS WHEREOF**, I have hereunto set my hand and the seal of the City of Fort Collins this 5th day of March, 2024.

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Mayor

ATTEST:

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Interim City Clerk

March 5, 2024

## AGENDA ITEM SUMMARY

City Council



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### STAFF

Heather Walls, Interim City Clerk

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### SUBJECT

**Consideration and Approval of the Minutes of the February 6, 2024 and February 20, 2024 Regular Meetings.**

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### EXECUTIVE SUMMARY

The purpose of this item is to approve the minutes of the February 6, 2024 and February 20, 2024 regular meetings.

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### STAFF RECOMMENDATION

Staff recommends approval of the minutes.

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### ATTACHMENTS

1. Draft Minutes, February 6, 2024
2. Draft Minutes, February 20, 2024



February 6, 2024

**COUNCIL OF THE CITY OF FORT COLLINS, COLORADO**

**Council-Manager Form of Government**

**Regular Meeting – 6:00 PM**

**PROCLAMATIONS AND PRESENTATIONS  
5:00 PM**

**A) PROCLAMATIONS AND PRESENTATIONS**

None scheduled.

**REGULAR MEETING  
6:00 PM**

**B) CALL MEETING TO ORDER**

Mayor Jeni Arndt called the regular meeting to order at 6:00 p.m. in the City Council Chambers at 300 Laporte Avenue, Fort Collins, Colorado, with hybrid participation available via the City's Zoom platform.

**C) PLEDGE OF ALLEGIANCE**

Mayor Jeni Arndt led the Pledge of Allegiance to the American Flag.

**D) ROLL CALL**

**PRESENT**

Mayor Jeni Arndt  
Mayor Pro Tem Emily Francis  
Councilmember Susan Gutowsky  
Councilmember Tricia Canonico  
Councilmember Shirley Peel  
Councilmember Kelly Ohlson

**ABSENT**

Councilmember Julie Pignataro

**STAFF PRESENT**

City Manager Kelly DiMartino  
City Attorney Carrie Daggett  
Interim City Clerk Heather Walls

**CITY MANAGER'S AGENDA REVIEW**

City Manager Kelly DiMartino provided an overview of the agenda, including the following discussion items:

- Item 29 – Making Appoints to Boards and Commissions Liaison and Council Committee Appointments.
- Item 30 – Appeal of the Planning and Zoning Commission decision approving the Polestar Development

**F) COMMUNITY REPORTS**

None.

**G) PUBLIC COMMENT ON ANY TOPICS OR ITEMS OR COMMUNITY EVENTS**  
*(Including requests for removal of items from Consent Calendar for individual discussion.)*

Hania Sakkal, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza. Sakkal listed local organizations which support the resolution.

Sue Ellen Klein, urged Council to adopt a resolution in support of a ceasefire in Gaza and stated the issue is humanity. Klein stated to be silent is to be complicit and Fort Collins leadership needs to be courageous and bold.

Aaron D. Lerner, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza stating the number of people killed thus far is equivalent to 52% of the residents of Fort Collins.

Alex Scott, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza stating it is a local issue as Woodward manufactures components used in the munitions being sent to Israel. Additionally, Scott noted Council has previously adopted resolutions concerning world and national issues.

Dr. Watson Saltis, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza stating the occurrences in Gaza are equivalent to genocide.

Madeline Grigg, Fort Collins resident and teacher, urged Council to adopt a resolution in support of a ceasefire in Gaza and cited statistics indicating an average daily death count of 250.

Ash W., Fort Collins high school senior, discussed lessons about negative events in history that occur to ensure they do not occur again. Ash urged Council to adopt a resolution in support of a ceasefire in Gaza.

Isabella Zapata, Fort Collins residents, urged Council to adopt a resolution in support of a ceasefire in Gaza stating we cannot stand for genocide.

G Inguata, Fort Collins resident, opposed shutting down the shelter at the Mennonite Church and urged Council to adopt a resolution in support of a ceasefire in Gaza.

Christinia Eala, Fort Collins resident, stated historical trauma will weigh on all of us and urged Council to adopt a resolution in support of a ceasefire in Gaza and opposed shutting down the shelter at the Mennonite Church.

Dory LeCount, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza.

Hayley Lucci-Rimer, urged Council to adopt a resolution in support of a ceasefire in Gaza and provided statistics linking Fort Collins to the conflict. Lucci-Rimer stated the war violates international humanitarian law.

Janie Stein, Fort Collins resident, expressed gratitude for the other speakers and urged Council to adopt a resolution in support of a ceasefire in Gaza.

Victoria Zawitkowski, Fort Collins resident, spoke of the atrocities of the Holocaust and urged Council to adopt a resolution in support of a ceasefire in Gaza. Zawitkowski noted Council adopted several previous resolutions related to national events and stated our city's taxes pay more than \$2 million toward Israel's weapons.

William Timpson, Fort Collins resident, stated violence needs to be ceased and provided examples of wars that ended in ceasefire.

President of the Islamic Center of Fort Collins, spoke in support of a ceasefire to spare lives of innocent children and urged Council to adopt a resolution in support of a ceasefire in Gaza.

Kevin Cross, Northern Colorado Alliance for a Livable Future, expressed horror regarding the Israeli government's response to the Hamas attacks and urged Council to adopt a resolution in support of a ceasefire in Gaza to end the genocide that is occurring.

Jonah Salehi, Chair of the Labor Committee for DSA Fort Collins, urged Council to adopt a resolution in support of a ceasefire in Gaza.

Ashton Schmidke, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza citing Woodward's manufacturing of Israeli weapons and local tax dollars going to Israel.

Elizabeth Lucci-Rimer, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza and commented on parents and children living through the atrocities.

Beth (no last name given), Fort Collins resident, speaking for a friend, spoke of the horror of children being fallout of political disagreement.

Jessica Olson, Fort Collins resident and CSU student, urged Council to adopt a resolution in support of a ceasefire in Gaza stating we should be proud of our community and we should speak for the people who cannot speak for themselves.

Nika Linn, Fort Collins resident, read a letter from a former Fort Collins resident who is currently in the occupied West Bank discussing the atrocities of the ongoing genocide of the Palestinian people. The letter also urged Council to adopt a resolution in support of a ceasefire in Gaza.

Victoria Tochtrop, Fort Collins resident and CSU student, urged Council to adopt a resolution in support of a ceasefire in Gaza and discussed the ethnic cleansing of the Armenian people.

Crystin Hypnar, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza and stated not all Jews support Israel.

Quinn Miller, Fort Collins resident, stated a child is killed in Gaza every 5 minutes. Miller urged Council to adopt a resolution in support of a ceasefire in Gaza and commented on Council's previous adoption of resolutions related to national issues.

Joshua Keen, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza stating Fort Collins should stand for peace and the genocide needs to cease.

Blaine Crowe, Fort Collins resident, played video of names the Palestinian children that have been killed thus far and noted Council adopted a ceasefire resolution for Ukraine.

Claire Kopp, Fort Collins resident, stated we need to acknowledge that our land was taken by force and expressed heartbreak over the suffering and genocide in Gaza. Kopp stated the Israeli occupation needs to stop now and urged Council to divest from connections with companies that support the occupation.

Kimberly Baker Medina, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza stating it is anti-violence, anti-war, and anti-genocide, not anti-Semitic.

Dana Guber, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza stating her family fled the Holocaust.

Brett Pavel, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza.

Shaylee Jennings, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza stating watching the news and images of the injured and dead is horrifying.

Nura Elmagbari, Fort Collins, urged Council to adopt a resolution in support of a ceasefire in Gaza as a plea for humanity.

J Brown, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza and opposed the planned eviction of the unhoused from the Mennonite Church in June.

Connor Flynn, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza.

Sabrina (no last name given), urged Council to adopt a resolution in support of a ceasefire in Gaza and spoke about Fort Collins' direct role in the war.

Quinn Mitchell, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza and shared a video regarding children killed in Gaza.

Rorey King, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza.

Esme Holden, Fort Collins resident, opposed the proposed eviction of unhoused individuals from the Mennonite Church and opposed the sweeping of homeless encampments without warning.

Jase Peter, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza.

Zoe R., Fort Collins resident and Jewish community member, urged Council to adopt a resolution in support of a ceasefire in Gaza.

Kimberly Connor, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza and stated local tax dollars are going directly to fund the Israeli military. Connor noted the resolution also calls for the release of Israeli hostages.

Trevor Rothanzl, Fort Collins resident, urged Council to adopt a resolution in support of a permanent ceasefire in Gaza and relayed experiences of relatives.

Steve Ramer, Fort Collins Mennonite Fellowship pastor and Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza.

Ally Eden, Fort Collins resident and granddaughter of a Holocaust survivor, stated her brother lives in the West Bank. She stated that while she realizes Fort Collins has no jurisdiction over the federal

government, there is power in voices and adopting a resolution in support of a ceasefire in Gaza will amplify those voices.

Giselle Hirschfeld, descendent of a Holocaust victim, spoke of ancestral trauma and urged Council to adopt a resolution in support of a ceasefire in Gaza.

Michael May, co-chair of CSU's YDSA, stated over 70 cities have called for ceasefire resolution and urged Council to adopt a resolution in support of a ceasefire in Gaza. May noted 70% of the housing in Gaza has been destroyed.

Kaori Keyser, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza.

Nancy York, Fort Collins native, spoke of the control Israel has over Gaza and stated the current situation is a clear case of genocide. York urged Council to adopt a resolution in support of a ceasefire in Gaza.

August-Carter Nelson, Fort Collins resident and co-chair of the Fort Collins DSA, urged Council to adopt a resolution in support of a ceasefire in Gaza and spoke of the Palestinian experience in America.

Grace Hudgens, Fort Collins resident, spoke of feeling hopeful that a difference can be made and urged Council to adopt a resolution in support of a ceasefire in Gaza.

Jo Carroll, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza.

Linda Breen, Larimer County resident, stated we should all have the courage to stand against genocide. Breen urged Council to adopt a resolution in support of a ceasefire in Gaza.

Stefanie Berganini, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza stating the United States is willfully enabling genocide to happen. Berganini stated all elected officials have a moral responsibility to act.

Louisa Kimmell, Fort Collins resident and Jewish American, urged Council to adopt a resolution in support of a ceasefire in Gaza.

Hannah Spring, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza noting some of the technology being used by Israel is directly tied to Fort Collins corporations.

Lindsey Garchar, Fort Collins resident, stated we are privileged that we can choose whether to engage in the images of the war and expressed horror that our residents contribute nearly \$2.5 million in federal taxes to Israel's weapons and that Fort Collins' corporations make Israel's genocide possible. Garchar also opposed the eviction of those housed at the Mennonite Church.

Sam Seiniger, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza.

Greg Zoda, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza stating a ceasefire confirms that all people have equal worth.

Cheryl Distaso, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza stating the testimony that has occurred this evening should compel that action. Distaso stated this is a matter of stepping up in leadership positions to do anything possible to stop an unfolding genocide and to act with humanity.

Ashley Garchar's sister, Fort Collins resident, read a written statement from Garchar urging Council to adopt a resolution in support of a ceasefire in Gaza.

Shiloh Kenway, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza and stated this is a local issue.

Rich Stave, Fort Collins resident, questioned the transparency and fairness of referees per Item No. 19, *First Reading of Ordinance No. 019, 2024, Amending Article III of Chapter 19 of the Code of the City of Fort Collins Regarding Municipal Court Referees*, and questioned how the public provides input.

Ruth Inglis-Widrick, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza and spoke of being assaulted by an individual who had been abused by his parents. Inglis-Widrick expressed concern about the effect of war on the children in Gaza.

Anne Hudgens, Fort Collins resident, stated governments are often on the wrong side of history. Hudgens commented on reading about the Holocaust as a child and questioning how people could stand by and not act.

Renae Mart, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza.

Terry Iverson, CSU professor and Fort Collins resident, commented on visiting Gaza and on the hospitality of the Palestinian people. Iverson urged Council to adopt a resolution in support of a ceasefire in Gaza.

Sabrina Herrick, Fort Collins resident, discussed the sweep of a homeless encampment outside the Murphy Center in December of 2022 and opposed the eviction of individuals from the Mennonite Church.

Christina Swope, Fort Collins resident, stated she is tired of feeling powerless knowing tax dollars are funding the crimes in Gaza. She stated a ceasefire resolution speaks to the intent of most Fort Collins residents.

Oliver Vollmer, Fort Collins resident, urged Council to adopt a resolution in support of a ceasefire in Gaza.

Joe Kissell, Fort Collins resident, thanked Council for their work and urged Council to adopt a resolution in support of a ceasefire in Gaza noting not one person opposed the resolution tonight.

Public comment concluded at 8:04 p.m.

## **H) PUBLIC COMMENT FOLLOW-UP**

Councilmember Ohlson thanked the speakers and stated Fort Collins has a long history of taking stands on national and global issues. He commented on other resolutions adopted by Council, including one in opposition to apartheid in South Africa and one opposed to the placement of MX missiles in Wyoming, among others. He stated there is nothing legally stopping the Council from taking a stand and stated he would support passing a resolution calling for an immediate and permanent ceasefire in Gaza. He encouraged Council to take the action as soon as possible.

Mayor Pro Tem Francis thanked the speakers and noted the Human Relations Commission is considering this item on Thursday. She recommended letting the Commission do its work and make a recommendation to Council.

Mayor Pro Tem Francis requested an update on the temporary certificate of occupancy at the Mennonite Church. Marcus Coldiron, Chief Building Official, stated Council approved an emergency ordinance allowing facilities to act as community-based shelters during the Covid pandemic and that ordinance ended on October 16, 2022; however, it was determined the use of community-based shelters would be an important resource to maintain, therefore a building permit process was created

to continue temporary use of facilities to act as shelters. Since that time, staff has determined the process would be clearer if it were codified; therefore, in the interim, the determination has been made to allow continued use under the temporary use provisions of the Building Code for these facilities to act as community-based shelters in 2024. Coldiron discussed the Building Code requirements that would typically be necessary for overnight uses.

Councilmember Potyondy thanked the speakers and expressed support for the Human Relations Commission providing a recommendation on the ceasefire resolution.

Councilmember Canonico also thanked the speakers and expressed support for the Human Relations Commission providing a recommendation on the ceasefire resolution.

**Clerk's Note: Mayor Arndt called for a break at 8:12 p.m. The meeting resumed at 8:30 p.m.**

## **I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION**

Mayor Pro Tem Francis withdrew Item No. 15, *First Reading of Ordinance No. 015, 2024, Appropriating Philanthropic Revenue Received Through City Give for Park Planning and Development to Fund Pickleball Site Feasibility and Community Engagement*, from the Consent Agenda.

## **J) CONSENT CALENDAR**

### **1. Consideration and Approval of the Minutes of the January 16, 2024 Regular Meeting.**

*The purpose of this item is to approve the minutes of the January 16, 2024 regular meeting.*

***Approved.***

### **2. Second Reading of Ordinance No. 001, 2024, Appropriating Prior Year Reserves in the Transportation Capital Expansion Fee Fund for Eligible Reimbursement to the Waterfield Fourth Filing Developer for Construction of Suniga Road, Vine Drive, and Merganser Street Improvements as Part of Waterfield Fourth Filing Phases 1 through 4; and for the Dedication of Suniga Road Right-of-Way.**

*This Ordinance, unanimously adopted on First Reading on January 16, 2024, appropriates \$1,413,645 of Transportation Capital Expansion Fee (TCEF) Funds for expenditure from the Transportation Capital Expansion Fee Program Budget to reimburse the Waterfield Fourth Filing developer, DFC Waterfield, LLC (Developer), for its oversizing construction of Suniga Road, Vine Drive, and Merganser Drive. As part of Phases 1 through 4 of the Waterfield Fourth Filing, the Developer has constructed Suniga Road as a four-lane arterial, Vine Drive as a collector, and Merganser Drive to City standards as part of its development requirements. Per Section 24-112 of the City Code, the Developer is eligible for reimbursement from TCEF funds for the oversized, non-local portion of Suniga Road, Vine Drive, and Merganser Drive not attributed to the local portion obligation. Additionally, the Developer has dedicated Suniga Road right-of-way as a four-lane arterial from its western boundary to Timberline Road and is also eligible for reimbursement from TCEF funds for the oversized, non-local portion of Suniga Road right-of-way.*

***Adopted on Second Reading.***

### **3. Second Reading of Ordinance No. 002, 2024, Appropriating Funds for Change Management Resources to Support Legislative Management Software Implementation Funds.**

*This Ordinance, unanimously adopted on First Reading on January 16, 2024, appropriates \$375,000 of general fund reserves to contract with Prosci, Inc., to provide change management support for the Legislative Management Software project throughout its implementation in 2024. Council Finance Committee recommended this move forward to Council at their December 19 meeting.*

**Adopted on Second Reading.**

4. **Second Reading of Ordinance No. 003, 2024, Authorizing Transfers and Reappropriation of Funds Previously Appropriated for the Utilities' Grid Flexibility Programs.**

*This Ordinance, unanimously adopted on First Reading on January 16, 2024, approves the funding of grid flexibility programs through the appropriation of prior year reserves and reappropriation of previously approved Light and Power funds. The ordinance does not appropriate any new funding, but rather optimizes previously appropriated funds to accelerate progress toward Our Climate Future (OCF) goals.*

**Adopted on Second Reading.**

5. **Second Reading of Ordinance No. 004, 2024, Authorizing Transfers of Appropriations and Appropriating Related Funds for the Environmental Services Radon Program.**

*This Ordinance, unanimously adopted on First Reading on January 16, 2024, supports the City's Environmental Services Radon program by:*

- *Appropriating \$9,000 of unanticipated grant revenue awarded by the Colorado Department of Public Health and Environment (CDPHE); and*
- *Utilizing matching funds in the amount of \$6,000 from existing 2024 appropriations for this grant project.*

*In December 2023, CDPHE awarded the City \$9,000 under the CDPHE Indoor Radon grant program. The City will provide an additional \$6,000 in required matching funds. The award funds and City's matching funds will support radon testing and mitigation programs to protect public health for the Fort Collins community.*

*Pursuant to the State of Colorado Purchase Order Terms and Conditions, and in accordance with Section 1-22 of the City Code, the City Manager has accepted the grant agreement. The \$9,000 are federal funds from the Environmental Protection Agency being passed through to the City by CDPHE.*

**Adopted on Second Reading.**

6. **Second Reading of Ordinance No. 005, 2024, Authorizing Transfers of Appropriations and Appropriating Related Funds for the Timberline Recycling Center Infrastructure and Efficiency Improvements.**

*This Ordinance, unanimously adopted on First Reading on January 16, 2024, supports Timberline Recycling Center (TRC) infrastructure and efficiency improvements by:*

- *Appropriating \$294,853 of unanticipated revenue awarded by the Colorado Departments of Public Health and Environment's Front Range Waste Diversion Enterprise (FRWD); and*
- *Transfer \$28,393 matching funds from existing appropriations in the Capital Projects Business Unit for the project.*

*The grant funds and matching funds will support replacement of equipment that has exceeded its useful life, as well as incorporation of new infrastructure to provide a safe, accessible and functional recycling facility. Contribution to the Art in Public Places (APP) Program is not required due to grant restrictions.*

**Adopted on Second Reading.**



**7. Second Reading of Ordinance No. 006, 2024, Authorizing Transfers and Appropriating Related Funds for the Oak Street Stormwater Improvements Project.**

*This Ordinance, unanimously adopted on First Reading on January 16, 2024, appropriates funding for the construction of the Oak Street Stormwater Improvements Project. It will fund the construction contract with the general contractor; contracts for resident engineering and construction management services, permitting and internal project support and management; construction contingency (~4%) and funding for the Art in Public Places (APP) program. The construction contingency included herein is less than the typical amount that would normally be associated with this size of contract (10-15% is typical). If additional contingency funds are needed in the future, those funds would be requested to be appropriated from the Stormwater Reserve Fund.*

*The total amount being requested for appropriation is \$39,962,815:*

- Construction Contract \$36,645,015
- Construction Support (Resident Engineer, Construction Manager, Permitting and Internal Support) \$1,720,000
- Construction Contingency \$1,550,000
- APP Program \$47,800

*The Stormwater Utility Enterprise Board adopted Ordinance No. 011, 2023 (First Reading on September 19, 2023, and Second Reading on October 3, 2023) authorizing bond issuance in the Stormwater Fund for the construction of the Oak Street Stormwater Improvements project. Following the sale and closing of the bonds, gross proceeds in the amount of \$40.4M were deposited into the Stormwater Fund reserves on October 31, 2023.*

**Adopted on Second Reading.**

**8. Second Reading of Ordinance No. 007, 2024, Amending Article II of Chapter 5 of the Code of the City of Fort Collins to Exempt Plumbing Fixtures from Permits and Inspections.**

*This Ordinance, unanimously adopted on First Reading on January 16, 2024, amends City Code to exempt plumbing fixture replacements, such as sinks, faucets, drains, showers, tubs, and toilets from the permit requirements under Chapter 5 of the City Code, for the following reasons: Colorado State does not require permits for this type of work, very few fixture replacements are currently done with a permit, there are no concerns with life or safety, and requiring permits creates additional barriers and cost impacts to improving indoor water efficiency.*

**Adopted on Second Reading.**

**9. Second Reading of Ordinance No. 008, 2024, Authorizing the Conveyance of a Permanent Non-Exclusive Utility Easement on Property Jointly Owned by the City of Fort Collins and the City of Loveland at the Northern Colorado Regional Airport for the New Airport Terminal Facility.**

*This Ordinance, unanimously adopted on First Reading on January 16, 2024, authorizes a permanent non-exclusive utility easement over a portion of the Northern Colorado Regional Airport property owned jointly by the City of Fort Collins and the City of Loveland to allow for the installation and maintenance of electrical infrastructure for the new Airport terminal facility.*

**Adopted on Second Reading.**

**10. Second Reading of Ordinance No. 009, 2024, Amending Section 2-596 of the Code of the City of Fort Collins and Setting the Salary of the City Manager.**

*This Ordinance, unanimously adopted on First Reading on January 16, 2024, amends City Code to establish the 2024 salary of the City Manager. Council met in executive session on December 19, 2023, to conduct the performance review of Kelly DiMartino, City Manager, and to consider the salary market analysis for this position.*

**Adopted on Second Reading.**

**11. Items Relating to the Fort Collins Police Services Victim Services Unit.**

*A. First Reading of Ordinance No. 010, 2024, Making a Supplemental Appropriation from the Eighth Judicial District Victim Assistance and Law Enforcement Board in the General Fund for the Fort Collins Police Services Victim Services Unit.*

*B. First Reading of Ordinance No. 011, 2024, Making a Supplemental Appropriation from the Colorado Division of Criminal Justice Under the Federal Victim of Crime Act in the General Fund for the Fort Collins Police Services Victim Services Unit.*

*The purpose of these items is to provide funding for the Victim Services Unit of Fort Collins Police Services for victim advocacy services which are required under the Colorado Victim Rights Amendment for victims and witnesses of crime and their supporting family members.*

*The Victim Services Unit has been awarded a \$70,000 Victim Assistance and Law Enforcement (VALE) grant for the period from January 1, 2024 to December 31, 2024. The VALE grant is awarded through the Eighth Judicial District Board to help fund services provided by the Victim Services team. This grant will fund one part-time victim advocate, as well as 65% of the salary for a contractual 40-hour per week victim advocate.*

*The Victim Services Unit has also been awarded a 24-month grant in the amount of \$47,959 for the period from January 1, 2023 to December 31, 2024, by the Colorado Division of Criminal Justice under the Federal Victim of Crime Act (VOCA). This grant will help fund services provided by the Victim Services Unit. These funds will be used to pay 35% of the salary for a contractual victim advocate who provides crisis intervention services for sexual assault victims between the school ages of kindergarten through 12th grade.*

**Adopted both Ordinances on First Reading.**

**12. First Reading of Ordinance No. 012, 2024, Making a Supplemental Appropriation from the Colorado Division of Criminal Justice Synthetic Opiate Poisoning Investigation and Distribution Interdiction Grant for the Fort Collins Police Services Forensic Services Unit.**

*The purpose of this item is to support Fort Collins Police Services' Forensic Services Unit work in the prevention and investigation of serious injuries and deaths caused by illegal synthetic opiate poisoning and for disrupting synthetic opiate distribution by appropriating \$40,000 of unanticipated grant revenue from the Colorado Department of Public Safety, Division of Criminal Justice (DCJ).*

**Adopted on First Reading.**

**13. First Reading of Ordinance No. 013, 2024, Appropriating Philanthropic Revenue Received by City Give for the Renovation of the Historic Carnegie Library.**

*The purpose of this item is to request an appropriation of \$214,000 in philanthropic revenue received by City Give for the renovation of the historic Carnegie Library as designated by the donor.*

*In 2019, the City launched City Give, a formalized enterprise-wide initiative to create a transparent, non-partisan governance structure for accepting and appropriating charitable gifts.*

***Adopted on First Reading.***

**14. First Reading of Ordinance No. 014, 2024, Appropriating Philanthropic Revenue Received Through City Give for Youth Sports Programming and Services.**

*The purpose of this item is to request an appropriation of \$15,550 in philanthropic revenue received through City Give for Recreation to benefit income-qualified youth sports programming and services.*

*In 2019, the City launched City Give, a formalized enterprise-wide initiative to create a transparent, non-partisan governance structure for accepting and appropriating charitable gifts.*

***Adopted on First Reading.***

**15. First Reading of Ordinance No. 015, 2024, Appropriating Philanthropic Revenue Received Through City Give for Park Planning and Development to Fund Pickleball Site Feasibility and Community Engagement.**

*The purpose of this item is to request an appropriation of \$40,000 in philanthropic revenue received by City Give for Park Planning & Development, for site feasibility and community engagement toward a future City-owned pickleball complex.*

*In 2019, the City launched City Give, a formalized enterprise-wide initiative to create a transparent, non-partisan governance structure for accepting and appropriating charitable gifts.*

***Pulled from Consent. Adopted on First Reading.***

**16. First Reading of Ordinance No. 016, 2024, Appropriating Prior Year Reserves in the Recreation Fund for the Mulberry Pool Replacement Feasibility Study.**

*The purpose of this item is to appropriate \$78,000 from Recreation Reserves to fund the Mulberry Replacement Feasibility Study. This study is in partnership with Colorado State University Athletics (CSU), who will be funding 50% of the study.*

***Adopted on First Reading.***

**17. First Reading of Ordinance No. 017, 2024, Appropriating Prior Year Reserves in the Recreation Fund for the Purchase of Ponies and Sheds at Lee Martinez Farm.**

*The purpose of this item is to appropriate \$72,000 from Recreation Reserves to purchase ponies and replace sheds at the Lee Martinez Farm.*

***Adopted on First Reading.***

**18. First Reading of Ordinance No. 018, 2024, Appropriating Prior Year Reserves for Compensation of the Mayor, Mayor Pro Tem and Councilmembers.**

*The purpose of this item is for a General Fund supplemental appropriation to fund 2023-2024 Budget Offer 28.12 - City Council Voter Approved Pay Increase for fiscal year 2024. This budget request was not funded in the 2023-2024 Adopted Budget since the election results of the 2022 City-Initiated Charter Amendment No. 1 (Council Compensation) ballot initiative would not be known until after first reading of the City's annual appropriation ordinance for 2023. The initiative was approved by Fort Collins voters and this action is to appropriate the increased spending in the General Fund to implement the ballot initiative for the salary increases in 2024.*

***Adopted on First Reading.***

19. **First Reading of Ordinance No. 019, 2024, Amending Article III of Chapter 19 of the Code of the City of Fort Collins Regarding Municipal Court Referees.**

*The purpose of this item is to amend the City Code to clarify that municipal court referees may hear cases involving camera radar and red light photo citations. Defendants in this type of case would have a choice to have a hearing with a referee in a more informal setting or a hearing in front of a municipal judge. The proposed Code changes would also allow the Chief Judge in the future to authorize referees to hear cases involving other zero-point infractions.*

***Adopted on First Reading.***

20. **Items Relating to Amending City Code to Adjust for Inflation the Following Fees: Capital Expansion Fees; Transportation Expansion Fee; Electric Capacity Fee; Water Plant Investment Fee; Sewer Plant Investment Fee; and Stormwater Plant Investment Fee.**

*A. First Reading of Ordinance No. 020, 2024, Amending Chapter 7.5 of the Code of the City of Fort Collins to Increase for Inflation the Capital Expansion Fees and Transportation Expansion Fee.*

*B. First Reading of Ordinance No. 021, 2024, Amending Chapter 26 of the Code of the City of Fort Collins Regarding Calculation and Collection of Development Fees Imposed for the Construction of New or Modified Electric Service Connections.*

*C. First Reading of Ordinance No. 022, 2024, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Water Plant Investment Fees.*

*D. First Reading of Ordinance No. 023, 2024, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Sewer Plant Investment Fee.*

*E. First Reading of Ordinance No. 024, 2024, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Stormwater Plant Investment Fees.*

*The purpose of this item is to make annual inflation adjustments effective March 1, 2024, associated with the City's Capital Expansion Fees, Transportation Expansion Fee, Utility Plant Investment Fees, and Electric Capacity Charge.*

***Adopted on all Ordinances on First Reading.***

21. **First Reading of Ordinance No. 025, 2024, Adopting the 2024 Larimer County Regional Transportation Capital Expansion Fee Schedule.**

*The purpose of this item is to adopt the 2024 Larimer County Regional Transportation Capital Expansion Fee Schedule.*

***Adopted on First Reading.***

22. **First Reading of Ordinance No. 026, 2024, Authorizing the Purchasing Agent to Enter into a Contract for Professional Services in Excess of Five Years for the Proposed Oak Street Stormwater Improvements Project.**

*The purpose of this item is to authorize the City's purchasing agent, pursuant to City Code Section 8-186(a), to enter into contracts greater than five years in length, for professional services for the proposed Oak Street Stormwater Improvements Project. The contract authorized under the proposed ordinance could be extended up to the life of the project. Design for the project began in 2020, construction is anticipated to begin in 2024 with a 2-year duration, and project close-out may take several months, making the overall duration of the project seven (7) years or more. Under this scenario and without this proposed ordinance, the design contract would expire while the project is under construction, a situation that would result in logistical and cost ramifications for the City and the project.*

**Adopted on First Reading.**

23. **First Reading of Ordinance No. 027, 2024, Authorizing the Mayor to Execute an Easement Agreement with Larimer County, the City of Loveland and South Fort Collins Sanitation District Regarding an Existing Sewer Line on Long View Farm Open Space.**

*The purpose of this item is to seek authorization to approve conveyance of a sewer line easement to South Fort Collins Sanitation District (SFCSD) across Long View Farm Open Space. This easement is intended to formally document an existing sewer line that was installed in 1981 prior to the purchase of Long View Farm Open Space.*

**Adopted on First Reading.**

24. **First Reading of Ordinance No. 028, 2024, Approving and Authorizing the Execution of an Amendment to a Reciprocal Stormwater Drainage Easement Agreement with Sun Foothills Fort Collins, LLC, and Ratifying the Original Conveyance.**

*The purpose of this item is to authorize the amendment of that certain Reciprocal Stormwater Drainage Easement Agreement (the "Original Easement") dated September 7, 2022, recorded at Reception No. 20220061510, Clerk and Recorder's Records, Larimer County, Colorado, by and between the City and Sun Foothills Fort Collins, LLC (the "Owner"), which originally conveyed a stormwater drainage easement to the Owner on City property in exchange for the City's right to retain stormwater on the Owner's property. The Amendment to the Original Easement (the "Amended Easement") will modify the legal description and revise language pertaining to access rights. Approval of the Ordinance would also ratify the Council's prior action in 2022 approving the easement exchange, the ordinance for which was missing its intended exhibits.*

**Adopted on First Reading.**

25. **First Reading of Ordinance No. 029, 2024, Approving the Conveyance of a Temporary Construction Easement, Dedication of a Permanent, Nonexclusive Water Line Easement, and Dedication of a Permanent, Nonexclusive Sewer Line Easement, all on City Property, for the Benefit of the Sun Foothills Fort Collins Development.**

*The purpose of this item is to approve an Ordinance that would authorize the conveyance of the following:*

1. *One (1) temporary construction easement (TCE) to Sun Foothills Fort Collins LLC (the "Owner") for the modification of existing grades and current stormwater drainage facilities;*
2. *One (1) permanent, nonexclusive water line easement to the Fort Collins-Loveland Water District (the "Waterline Easement"); and*

3. One (1) permanent, nonexclusive sewer line easement to the Fort Collins-Loveland Sanitation District (the "Sewer Easement").

The easements are located on 17 acres of City property located in the North West 1/4 of Section 13, Township 6 North, Range 69 West, Larimer County, Colorado, being currently held as a City of Fort Collins Land Bank property (the "City Property").

Construction pursuant to the TCE will modify existing stormwater facilities. The Waterline Easement and the Sewer Easement are entitlements required by the City so that the Owner may proceed with the development of the adjoining lands.

The easements will include the extension of stubbed water, sewer, and drainage improvements directly onto the City Property resulting in a significant benefit to the City Property.

**Adopted on First Reading.**

26. **Items Relating to the 2024 City Classified Employee Pay Plan as Provided in the Collective Bargaining Agreement with the Fraternal Order of Police.**

A. First Reading of Ordinance No. 030, 2024, Adopting the 2024 Amended Classified Employees Pay Plan to Update Classified Positions as Provided in the Collective Bargaining Agreement with the Fraternal Order of Police.

B. First Reading of Ordinance No. 031, 2024, Appropriating Prior Year Reserves in the General Fund for the Cost of Police Services Salary and Benefit Increases as Provided in the Collective Bargaining Agreement with the Fraternal Order of Police.

The purpose of these items is to recommend changes to the 2024 City Classified Employee Pay Plan based on an annual market analysis conducted as agreed upon through the 2022-2024 Collective Bargaining Agreement (Agreement) with the Northern Colorado Lodge #3 of the Fraternal Order of Police (FOP). The Agreement was approved by Council by Resolution on December 7, 2021. The Agreement specifies a salary data collection method and evaluation process that includes market data as of early January each year. This data has been collected and analyzed, resulting in the revised 2024 Amended City Classified Employee Pay Plan.

**Adopted both Ordinances on First Reading.**

27. **Resolution 2024-006 Supporting Grant Application for Local Match Funding in Support of the Midtown Central Corridor Project.**

The purpose of this item is to obtain support for the City to apply for the non-federal match requirement included in the Department of Transportation's FY2024 Rebuilding American Infrastructure with Sustainability and Equity (RAISE) discretionary grant program.

**Adopted.**

28. **Resolution 2024-007 Approving the Appointment of Heather Walls as Interim City Clerk Effective February 4, 2024.**

The purpose of this item is to appoint Heather Walls as Interim City Clerk.

**Adopted.**

## END OF CONSENT CALENDAR

**Mayor Pro Tem Francis moved, seconded by Councilmember Ohlson, to approve the recommended actions on items 1-28 minus item 15 on the Consent Calendar.**

**The motion carried 6-0.**

- K) CONSENT CALENDAR FOLLOW-UP** *(This is an opportunity for Councilmembers to comment on items adopted or approved on the Consent Calendar.)*

None.

**L) STAFF REPORTS**

None.

**M) COUNCILMEMBER REPORTS**

Councilmember Potyondy

- Announced a listening session scheduled for February 10<sup>th</sup> at 11:00 a.m. at the Harmony Library.

Mayor Arndt

- Reported on the Northern Colorado Foundation's report on data concerning northern Colorado and its rollout today during which she served on a panel of area mayors.
- State of the City is scheduled for Monday, February 26 at 6:00 p.m. at the Lincoln Center.

**N) CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR FOR INDIVIDUAL DISCUSSION**

**15. First Reading of Ordinance No. 015, 2024, Appropriating Philanthropic Revenue Received Through City Give for Park Planning and Development to Fund Pickleball Site Feasibility and Community Engagement.**

Mayor Pro Tem Francis expressed equity concerns related to part of the Parks Master Plan being prioritized by a donation through City Give noting this donation was funded by the pickleball community.

Nina Bodenhamer, City Give Director, discussed the guardrails that are in place to ensure that donations cannot be used to advance items that are not in the work plan. She stated this particular donation would fund a feasibility study, not a build prioritization, and it would not move the item further along in the work of the Parks Department.

Mayor Pro Tem Francis stated the feasibility study itself moves the item forward.

Mike Calhoun, Parks Director, discussed the local history of pickleball and the need to provide facilities for people to participate in the sport. He detailed the experience with the first courts at City Park. He noted there have been no other promises associated with the feasibility study, should it move forward.

Mayor Pro Tem Francis expressed concern with groups being able to advance their focus through City Give.

Councilmember Canonico asked if pickleball would be moved up in priority if the feasibility study is done. Calhoun replied the Recreate Master Plan notes that pickleball is below the recommended level of service whereas other recreation facilities, such as tennis courts and ball fields, are at the recommended level of service. He noted the community is always surveyed before any plans move forward.

Bodenhamer noted donations through City Give do not circumvent the budget process.

Councilmember Ohlson stated he will support the item on First Reading but will need to consider the issue further prior to Second Reading.

***Councilmember Canonico moved, seconded by Councilmember Gutowsky, to adopt Ordinance No. 015, 2024, Appropriating Philanthropic Revenue Received Through City Give for Park Planning and Development to Fund Pickleball Site Feasibility and Community Engagement.***

***The motion carried 5-1.***

***Ayes: Mayor Arndt, Councilmembers Canonico, Potyondy, Gutowsky, and Ohlson.***

***Nay: Mayor Pro Tem Francis.***

## O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION

### 29. Resolution 2024-008 Making Board and Commission Liaison and Council Committee Assignments and Making Appointments to Various External Boards and Authorities.

*The purpose of this item is to make Councilmember liaison assignments to City boards and commissions and Council committees as well as make appointments to external boards and authorities on behalf of the City.*

#### PUBLIC COMMENT

Rich Stave commented on the importance of oversight of the Planning and Zoning Commission and stated the Council liaison will play an important role.

#### COUNCIL DISCUSSION

Mayor Pro Tem Francis stated she has been the liaison to the Commission for the past three years and would like to remain in the role to continue the work the Commission has been doing.

Councilmember Gutowsky also expressed interest in the liaison role and read a statement regarding comments that were made at the Council retreat related to her motives for wanting the role. She stated she would like to serve as the liaison to provide an alternative point of view and stated she believes it would enhance the high-performing government to have a new person involved in making appointments to the Commission. However, she stated she does not believe she has the votes to make her the liaison and conceded the appointment to Mayor Pro Tem Francis.

***Councilmember Canonico moved, seconded by Councilmember Potyondy, to adopt Resolution 2024-008 Making Board and Commission Liaison and Council Committee Assignments and Making Appointments to Various External Boards and Authorities, inserting the name of Emily Francis as the Planning and Zoning Commission liaison.***

***The motion carried 6-0.***

***Clerk's Note: Mayor Arndt called for a break at 8:55 p.m. The meeting resumed at 9:05 p.m.***

### 30. Polestar Village Project Development Plan Appeal.

*The purpose of this quasi-judicial item is to consider an appeal of the Planning and Zoning Commission's decision on November 17, 2023, approving the Polestar Village Project Development Plan (#PDP220010). The Appellants filed a Notice of Appeal on December 1, 2023, with supplemental new evidence filed on December 8, 2023, alleging:*

- ***That the Planning and Zoning Commission (P&Z) failed to conduct a fair hearing in that they considered evidence relevant to their findings which was substantially false or grossly***



***misleading.*** The Appellants assert that; 1) Polestar used persuasive language during the hearing and presented misleading information as well as non-confirmable statements; and 2) Hearing attendees and council members also did not get to hear all the details of the proposal. The Appellants offer seven points in support of their assertion.

- That P&Z failed to conduct a fair hearing in that two members were ***biased against the appellant by reason of a conflict of interest*** or close relationship that interfered with their independence of judgement.

- That P&Z failed to properly interpret and apply relevant provisions of the Land Use Code including subsections:

- 3.6.2 (A) and (I) regarding layout and design of streets and drives;
- 4.5(A), the Purpose statement of the Low Density Mixed Use Neighborhood (LMN) zone district; and
- 4.(B) and (C), permitted and prohibited uses in the Low Density Residential zone district.

City Attorney Daggett provided an overview of the appeal and the appeal process.

Paul Sizemore, Director of Community Development and Neighborhood Services, noted a name spelling error on page 18 of the verbatim transcript of the Planning and Zoning Commission hearing. He provided an overview of the proposed Polestar project which proposes 20.5 acres of mixed-use neighborhood on an infill property with 144 dwelling units, a neighborhood center, mixed-use buildings, a place of assembly, and agricultural support buildings. Sizemore went on to discuss the timeline of the project and appeal.

Sizemore provided details of the appeal noting it contains three main allegations: that the Planning and Zoning Commission failed to conduct a fair hearing by considering evidence relevant to its findings which were substantially false or grossly misleading, that the Commission failed to conduct a fair hearing because it was biased against the appellant by reasons of conflict of interest or other close business, personal, or social relationships that interfered with a member's independence of judgement, and that there was a failure to properly interpret and apply relevant provisions of the Land Use Code.

Mayor Arndt requested Councilmembers disclose any potential conflicts of interest or other possible reasons for recusal.

Councilmember Ohlson stated he has met the previous owners of the property but has not seen them for years and does not believe he has a conflict.

Councilmember Potyondy stated she knows two of the appellants but did not believe she has a conflict.

The lead appellant, Charles Thompson, introduced himself. Other parties-in-interest in support of the appeal also introduced themselves: Eve Enright, Andrew Katz, Jenny Morse, Gina Santoro, Matt Benson, Melissa Markarian, and Charles Thompson, Sr.

Bob Choate, Polestar Gardens, Inc., Ken Merritt, JR Engineering, Charlie Shoub, Christina Vraunvelder, and Aisha Martinek introduced themselves as parties-in-interest opposed to the appeal.

Mayor Arndt recommended time allotments for presentations and rebuttals. She noted there are two procedural issues that need to be addressed, including that the project applicant objects to the emails included in the appellant's December 8 written submittal stating they constitute new evidence.

Mr. Thompson stated the emails provide evidence that support the claim that proper evidence of the hearing and information about the development were not received.

Mr. Choate opposed the inclusion of the emails as they came after the Planning and Zoning Commission hearing was completed. He stated all neighborhood notification requirements were met.

Mayor Arndt noted new evidence is not generally acceptable.

City Attorney Daggett clarified that the appellant did raise two fair hearing issues and if the emails related to those, they would be admissible, but if they do not, they would not be.

Mayor Pro Tem Francis and Councilmember Potyondy concurred new evidence should not be accepted.

City Attorney Daggett clarified there is a process under the Code for the appellant to submit new evidence, and that was done within the appropriate timeframe. She noted the applicant is not objecting to the main submittal but the emails that were attached.

Senior Assistant City Attorney Brad Yatabe stated the important consideration is that there are two fair hearing allegations and after reading the emails, he does not believe they speak to the allegations directly.

Mayor Pro Tem Francis asked if the emails are already in the Council packet. Yatabe replied in the affirmative.

Mayor Arndt made a ruling that the emails will be accepted as evidence. She outlined the second procedural issue related to the project applicant's objection to the appellant's failure to properly interpret and apply the Land Use Code allegations as insufficient to meet the requirements of the Code and provide adequate notice of the matters on appeal.

Mr. Thompson stated he submitted the Land Use Code provisions that are part of the appeal within the appropriate timeframe and stated he believed the publicly accessible Land Use Code provided enough support.

Mr. Choate argued there were no details provided as to how the Codes were misinterpreted.

Mayor Pro Tem Francis stated it is difficult to make a decision based on what the appellant submitted.

Councilmember Ohlson spoke in favor of allowing the appellant to make his arguments.

City Attorney Daggett outlined the Code language and recommended that if Council proceeds based on its sense of the applicant's reaction, that it confer with the applicant as to whether he has withdrawn his objection or has no further objection.

Mayor Arndt stated she is inclined to follow the Code language.

Councilmembers Canonico and Potyondy concurred and stated it is important that the outlined procedures for appeals are followed.

Councilmember Ohlson stated he would support that as well.

Councilmember Gutowsky stated appellants sometimes lack guidance as to how to process the appeal, and that seems to be the case here. She stated the lack of experience of the appellant should not interfere with the appellants' ability to state their case.

**Mayor Pro Tem Francis made a motion, seconded by Councilmember Canonico, that the Council dismiss all of the appellants' failure to properly interpret and apply the Land Use Code allegation listed in the notice of appeal submitted to the City on December 1, 2023, finding that City Code Section 2-49(B)(4) requires that every notice of appeal shall include the grounds for the appeal, including specific allegations of error and a summary of the facts contained in the record on appeal which support such allegations. The allegations that the Planning and Zoning Commission failed to properly interpret and apply the Land Use Code set forth in the appellant's notice of appeal listed only the numbers of certain Land Use Code sections without providing any specific allegations of error or a summary of facts contained in the record supporting such allegations. The information provided did not comply with City Code Section 2-49(B)(4) and did not provide sufficient notice to any part opposed to the appeal to allow such party to sufficiently prepare to address the allegations at this February 6, 2024 appeal hearing. Dismissal of the failure to properly interpret and apply all allegations is required as a matter of fairness to any party opposed to the appeal and to comply with the City's adopted appeal procedure.**

Councilmember Ohlson stated he feels badly about the vote but noted a previous Council created an ombudsman position to help regular residents of Fort Collins through the development review process to help level the playing field with applicants who are often represented by legal counsel. He stated he would support the motion, however, because the rules do matter.

Mayor Pro Tem Francis noted Council is working on making the appeal process more fair and equitable, and changes are in the works; however, the Code that is currently in place needs to be followed.

**The vote on the motion was as follows: Yeas: Ohlson, Potyondy, Canonico, Gutowsky, Arndt, and Francis. Nays: none.**

**The motion carried 6-0.**

### **Appellant Presentation**

Mr. Thompson provided arguments in support of the appeal stating Polestar's presentation during the Planning and Zoning Commission hearing contained inaccuracies and omissions that significantly impacted the decision-making process of the Commission leading to an unfair consideration of the project. He stated Polestar relied on traffic data to downplay the impact on local streets and data collection entailed limited duration and selective monitoring of streets. He questioned the thoroughness of the traffic impact study.

Mr. Thompson outlined the appeal's concerns regarding community outreach misrepresentation. Additionally, he stated Polestar has an HOA, which was not disclosed at the hearing, and current residents of the Roger's Park neighborhood, nor greater Fort Collins, will not be allowed to access the amenities of the proposed new development unless they become members.

Mr. Thompson noted Polestar's hearing presentation started at 10:30 p.m. and was cut short at 11:08 p.m.; therefore, the rushed presentation led to skipped slides containing pertinent information for the Commission's consideration. He also stated Polestar never described themselves as an investment opportunity, which they outline as a selling point on their website.

Mr. Thompson stated it has been misrepresented that Orchard Place will connect to Overland Trail, which the plans do not show but which the Commission seemed to expect. He argued the extended duration of the hearing into the early morning hours contributed to the Commission's fatigue and impaired members' ability to thoroughly assess the proposal and ask pertinent questions. He also stated the lateness of the meeting disadvantaged working class residents of Roger's Park, preventing meaningful participation in the hearing.

Mr. Thompson discussed the appeal's accusation of bias and stated the claims are not meant to be an attack on the character of those members; however, he stated two confessions of conflict of interest by Commission members did raise concerns about their impartiality.

Mr. Thompson noted staff did not find specific comments about fatigue in the record; however, he stated it was certainly alluded to, particularly given the hearing start time of 10:20 p.m. and adjournment at 12:48 a.m.

Eve Enright expressed disappointment she is seeing the same reluctance in Council to help the appellants. She requested Councilmembers keep in mind that they are to be representing residents.

Jenny Morse noted Chair Katz made a specific statement about the non-regulated land transfer that occurred resulting in the access problems to the site.

Mr. Thompson concluded by stating that the appeal asserts that the evidence from the Zoom recording of the Commission hearing reveals falsehoods and misleading information presented by Polestar influencing the Commission's decision-making process unfairly. He stated a reevaluation of the development proposal to ensure a fair and just outcome is necessary. He noted the Roger's Park neighborhood understands the land will develop but would like to see the development be a positive addition to the community.

### **Applicant Presentation**

Mr. Choate stated it is important to recognize that Council's role is not to decide on the development plan, but rather on the appeal. He stated if the Planning and Zoning Commission did not clearly get the decision wrong, he respectfully requested Council defer to the Commission's decision.

Mr. Choate provided background on Polestar and stated the property is not gated and is open to the public. He stated the applicant, Polestar Gardens, is a non-profit entity and one unique aspect is that a substantial portion of the property will be owned as tenants-in-common. He also noted the density being proposed is far less than the allowed density.

In terms of traffic, Mr. Choate noted the City's Traffic Engineers told the project not to include Orchard and Plum in their traffic impact study. Additionally, he stated these roadways are well below half of total capacity after full build out of this development.

Mr. Choate reiterated that the appropriate public notice was provided and Polestar held a neighborhood meeting. He stated there is not a question as to whether Orchard will go through to Overland; rather the question is related to whether that connection would be required with this development, and the answer to that question is very clearly 'no.' He noted Polestar has no ownership of that property or ability to acquire it to be turned into a roadway.

Mr. Choate stated neither Commissioner Shepard nor Commissioner York indicated they had a conflict of interest, rather they disclosed they knew the former owners or others in the area. He noted there is no connection between the former owners and Polestar and stated the disclosures made by the Commissioners do not rise to the level of conflict of interest.

### **Appellant Rebuttal**

Mr. Thompson noted Polestar does not provide affordable housing and stated it is an investment opportunity as per their website. Additionally, he stated that while Polestar claims to be a planned community of like-minded individuals, there will be no application process for home ownership and there is no guarantee the investors will live in the development.

Mr. Thompson questioned whether there will be tax exemptions given there will be a place of worship on the property. He reiterated questions as to why Orchard and Plum were not included in the traffic impact study. He also questioned what is considered to be common areas that are accessible by other members of the community.

Andrea Coy stated she organizes the Roger's Park neighborhood annual event and did attend the first neighborhood meeting, after which she expressed concern about the process and procedures. She expressed concern about the challenges of navigating the appeal process and stated the proposed project does not offer affordable housing as per the City's goals.

### **Applicant Rebuttal**

Mr. Choate argued the tenants-in-common ownership model does allow for more affordability and stated the project is well in line with City Plan. He reiterated this hearing is not about the project but about the appeal.

Brian Dunbar, CSU Institute for the Built Environment Executive Director, spoke on behalf of the applicant team, and stated the Institute has worked with Polestar to develop sustainable design and construction guidelines for the development and noted the project could be much more dense but opted to allow for open spaces. He stated he has found those involved in the development to be eager to establish community connections and commented on the lifelong nature of the homes that will be built. Additionally, he stated the project does provide mixed opportunities of housing, some of which would be more affordable and attainable than others.

### **Council Questions**

Mayor Pro Tem Francis requested clarification on the traffic study. Steve Gilchrist, Traffic Operations, clarified the intent of the traffic study is to determine whether the existing transportation system can handle the additional traffic from a development. He stated traffic studies examine level of service which is based on intersection capacity and this traffic study examined five intersections which were shown to fully function based on level of service standards. He stated the City can require additional studies on adjacent streets based on concerns, and in this case, looked at daily volumes on Louise, Locust Grove, and Kimball.

Councilmember Ohlson asked who sends the neighborhood notices and what checks are in place to assure those are sent out. Sizemore replied administrative staff within Community Services and Neighborhood Development prepare address lists and mailings per the methodology prescribed in the Land Use Code, and the mailing lists are kept as part of the record.

Councilmember Ohlson asked what changes were made to the development based on neighborhood feedback. Mr. Merritt replied the neighborhood meeting was held in May of 2021 via Zoom and there were not many participants. He stated there were no substantial changes to the plan because of that meeting, though there may have been more units in the original plan and one of the internal intersections changed. Additionally, it was determined a heritage cottonwood tree that was going to be removed would be saved with some changes to the plan.

Councilmember Ohlson asked about the comments made related to the community being relocated to Fort Collins. Mr. Merritt replied Polestar originally resided in Hawaii and in 2019, a volcano eruption destroyed their community. In 2020 and 2021, Polestar decided on Fort Collins for its new location. He noted this is not a closed community and sales and rentals will be open to anyone.

Councilmember Ohlson noted it is irrelevant to this hearing, but asked staff if they are looking at any changes to prevent the land transfer that led to the lack of available land for a roadway connection. Sizemore replied the Code allows for portions of land to be switched around between property owners for agricultural purposes or for the purpose of land assembly for development.

He stated it is not something that has been identified as problematic at this point, though it is something that could be examined per Council direction.

### **Council Discussion**

Mayor Pro Tem Francis stated Council is deciding whether a fair hearing was conducted and she is having difficulty finding grounds to indicate the hearing was not fair.

Councilmember Canonico expressed sympathy with the Roger's Park homeowners; however, she did not see any evidence to indicate the Commission's hearing was unfair or members were biased.

Councilmember Potyondy stated the bar for bias is high and fatigue is subjective; therefore, she did not see evidence of a lack of fair hearing.

Councilmember Gutowsky expressed concern that not all slides were presented the night of the hearing and questioned whether the result of the hearing may have been different had they all been presented. She questioned whether the hearing was fair if it was not complete.

Councilmember Potyondy asked if the slides were part of the Commission's packet. Sizemore replied in the affirmative.

Councilmember Ohlson stated he believed the hearing was imperfect but fair. He expressed concern the appeal process does not offer a level playing field and noted improvements are forthcoming and have been made in the past, citing the change in signage for development properties.

Mayor Arndt concurred the hearing was fair based on the evidence and testimony and she stated she did not see evidence of bias.

***Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, that Council find that the Planning and Zoning Commission conducted a fair hearing in consideration of the Polestar Village PDP, finding that the appellant did not establish with confident evidence in the record that any of the fair hearing issues have merit, and further, that based on the evidence in the record and presented at this hearing, the appeal allegations that the Planning and Zoning Commission failed to conduct a fair hearing contained in the appellant's notice of appeal are hereby denied and dismissed in their entirety.***

***The motion carried 5-1.***

***Yeas: Ohlson, Potyondy, Canonico, Arndt, and Francis***  
***Nays: Gutowsky***

### **P) OTHER BUSINESS**

#### **OB 1. Possible consideration of the initiation of new ordinances and/or resolutions by Councilmembers.**

*(Three or more individual Councilmembers may direct the City Manager and City Attorney to initiate and move forward with development and preparation of resolutions and ordinances not originating from the Council's Policy Agenda or initiated by staff.)*

## ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at 11:15 p.m.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Interim City Clerk

DRAFT

**February 20, 2024**

**COUNCIL OF THE CITY OF FORT COLLINS, COLORADO**

**Council-Manager Form of Government**

**Regular Meeting – 6:00 PM**

**PROCLAMATIONS AND PRESENTATIONS  
5:00 PM**

**A) PROCLAMATIONS AND PRESENTATIONS**

PP 1. **Declaring February 2024 as Black History Month.**

Mayor Jeni Arndt presented the above proclamations at 5:00 p.m.

**REGULAR MEETING  
6:00 PM**

**B) CALL MEETING TO ORDER**

Mayor Jeni Arndt called the regular meeting to order at 6:00 p.m. in the City Council Chambers at 300 Laporte Avenue, Fort Collins, Colorado, with hybrid participation available via the City's Zoom platform.

**C) PLEDGE OF ALLEGIANCE**

Mayor Jeni Arndt led the Pledge of Allegiance to the American Flag.

**D) ROLL CALL**

**PRESENT**

Mayor Jeni Arndt  
Mayor Pro Tem Emily Francis  
Councilmember Susan Gutowsky  
Councilmember Julie Pignataro  
Councilmember Tricia Canonico  
Councilmember Melanie Potyondy

**ABSENT**

Councilmember Kelly Ohlson

**STAFF PRESENT**

City Manager Kelly DiMartino  
City Attorney Carrie Daggett  
Interim City Clerk Heather Walls

**E) CITY MANAGER'S AGENDA REVIEW**

City Manager Kelly DiMartino provided an overview of the agenda, including:

- Larimer County Behavioral Health Community Report.



- All items on the consent agenda were recommended for approval.
- The items on the discussion agenda were reviewed.

## **F) COMMUNITY REPORTS**

### **1. Larimer County Behavioral Health Community Report.**

The purpose of this item is to present the Larimer County Behavioral Health Community Report.

Laura Walker, Larimer County Human and Economic Health Director, noted the County's Behavioral Health Services Department was funded through a 2018 sales tax initiative and discussed the four phases of behavioral health services implementation which completed at the end of 2023 with the opening of the acute care facility at the Longview Campus. She stated an update of the Community Master Plan for Behavioral Health is the next iteration of the work and it includes 14 focused recommendations for the next five years. Walker reviewed the recommendations.

Councilmember Potyondy commended the presentation and work to look at the feasibility for youth services.

## **G) PUBLIC COMMENT ON ANY TOPICS OR ITEMS OR COMMUNITY EVENTS**

*(Including requests for removal of items from Consent Calendar for individual discussion.)*

Sharon Shabtai, Fort Collins resident, opposed the adoption of a cease fire resolution stating it would incite anti-Israel and anti-Jewish sentiments. Shabtai advocated for a City Code provision that restricts Council involvement in foreign affairs.

Brendon Kelly, Fort Collins resident, discussed the rise in antisemitism since the Hamas attack and stated a cease fire resolution passed by Council would have no impact on the war but would have a negative effect on Jewish children in Fort Collins.

Merav Tsubely, Fort Collins resident, opposed the adoption of a cease fire resolution and stated the Human Relations Commission's pursuit of a cease fire resolution will only feed antisemitism, hate, and division.

Nathan Wallace, Fort Collins resident born and raised in Israel, expressed concern about the safety of Israeli residents in Fort Collins.

Miri Kornfeld, Director of Stand With Us, Fort Collins resident, opposed the adoption of a cease fire resolution.

Shimrit Yacobi, Fort Collins resident, spoke in support of Israel and in opposition to the adoption of a cease fire resolution.

Alexis Riggs, Fort Collins resident, commented on the rise in antisemitism opposed the adoption of a cease fire resolution.

Elise Mordos, Boulder resident, opposed the adoption of a cease fire resolution.

Tsahi Zidenberg, Fort Collins resident, supported a cease fire but opposed the adoption of a cease fire resolution.

Jordan Griffith opposed the adoption of a cease fire resolution.

Michelle Gliszinski, Fort Collins resident, spoke in support of Israel.

Dikla Leon, Superior resident, opposed the adoption of a cease fire resolution.

Jason Levi opposed the adoption of a cease fire resolution.

Angela Watson, Fort Collins resident, spoke against the war and in support of Israel.

Jarrett Watson, Fort Collins resident, spoke in favor of Israel and its right to defend itself.

Louann Griffith, Fort Collins resident, stated Council is not qualified to comment on the situation in Israel and Gaza and opposed the adoption of a cease fire resolution.

Robyn (no last name given), Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Jonah Salehi, Chair of the Labor Committee at DSA Fort Collins, spoke in support of the adoption of a cease fire resolution.

Nika (no last name given), Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Ali Owens, NoCo Liberation Coalition, spoke in support of the adoption of a cease fire resolution.

Shawn Goodwin, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Dana Guber, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Beth G., Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Shehab Elhaddad, President of Islamic Center of Fort Collins, spoke in support of the adoption of a cease fire resolution stating the Islamic Center has been involved in its drafting making it a local resolution.

Erica Dickson, Fort Collins resident, opposed the adoption of a cease fire resolution and requested Council focus on the problems in the local community caused by the resolution.

Lori Weinreich, Fort Collins resident, opposed the adoption of a cease fire resolution.

David Weinreich, Fort Collins resident, opposed the adoption of a cease fire resolution.

Cecily (no last name given), Fort Collins resident, read an excerpt from a book regarding Israel and Fort Collins and supported the adoption of a cease fire resolution.

Sabrina M., Westminster resident, spoke in support of the adoption of a cease fire resolution.

Alex Scott, Fort Collins resident, spoke in support of the adoption of a cease fire resolution and stated this issue has united the city around peace.

Schaefer Bennett, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Carmen Pauna, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Paul Herman, Fort Collins resident, discussed the divisiveness of the cease fire issue and stated City Council should not involve itself.

Joshua Keen, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Hannah Spring, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Michael Katz, Fort Collins resident, discussed the divisiveness of the cease fire issue and opposed Council's involvement in global issues.

Ella Smith, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Carrie Levi, Fort Collins resident, opposed the adoption of a cease fire resolution and requested Council adopt a City Code provision that limits Council actions in foreign issues.

Madeleine Grigg, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Dr. M Watson Saltis, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Melanie Van Der Volgen, Fort Collins resident, opposed the adoption of a cease fire resolution and stated Council should focus on municipal issues.

Cristyn Hypnar, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Michael Weinreich, Fort Collins resident, opposed the adoption of a cease fire resolution.

Ron Vaisbort, Fort Collins resident, opposed the adoption of a cease fire resolution stating it is not a matter of local concern.

Rev. Dr. Marta Fioriti, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Nancy York, spoke on behalf of Kimberly Baker Medina, both Fort Collins residents, discussed statistics related to deaths in Gaza and spoke in support of the adoption of a cease fire resolution.

Aria Hughes, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Hannah (no last name given), Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Leila Einhorn, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Zoe (no last name given), Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

David Roy, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Judy Papenfuss, Fort Collins resident, spoke in support of Israel and opposed the adoption of a cease fire resolution.

Steve Papenfuss, Fort Collins resident, opposed the adoption of a cease fire resolution.

Bill Timpson, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Aaron Brooks, Boulder resident, spoke of experiencing antisemitism at Council meetings in other communities and opposed the adoption of a cease fire resolution.

Michelle Landon, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Dolores Williams, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Eli Alberts, Loveland resident, opposed the adoption of a cease fire resolution.

Tyler Gus, Fort Collins resident, played a video showing Israeli families calling for peace.

Aisha G, Greeley resident, spoke in support of the adoption of a cease fire resolution.

Aaron Lerner, Fort Collins resident, spoke in support of the adoption of a cease fire resolution stating it is a local issue.

Samuel Pisciotta, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Tyler Chrenka, Fort Collins resident, noted Council adopted a resolution related to a cease fire in Ukraine and questioned how the Gaza situation is different.

Ash W., Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Jennifer Goodrich, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Sterling Linville, Fort Collins resident, displayed a graphic indicating genocide in Gaza and spoke in support of the adoption of a cease fire resolution.

Maddie Christian, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Isabella Zapata, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Danny Elliott, Westminster resident, spoke in support of the adoption of a cease fire resolution.

***Clerk's Note: Mayor Arndt called for a ten-minute break at 7:36 p.m. The meeting resumed at 7:50 p.m.***

Sarah A. Flick, Fort Collins resident, read excerpts from the Hamas charter.

Sue Ellen Klein, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Cori Wong, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Omar Reda spoke in support of the adoption of a cease fire resolution.

Lake Hogan, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Shay Jennings, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

JoEllen Mitchell, Fort Collins resident, opposed the adoption of a cease fire resolution.

Rorey (no last name given), Fort Collins resident, stated speaking truth is not divisive; genocide is.

Michael Korn, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Nura Elmagbari spoke in support of the adoption of a cease fire resolution.

Jonesy Winchell, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Gabrielle Friesen, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Eli (no last name given), resident of Poudre Valley Mobile Home Park, spoke in opposition to the proposed shelter.

Willie Spellman, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Esme Holden, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Khaled Alali, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Adal Khalil Raja, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Jeff Wright, Fort Collins resident and retired pastor, noted the Human Relations Commission recommended adoption of a resolution calling for a cease fire, the delivery of humanitarian aid, and the release of all hostages and encouraged Council to do so.

Kimberly Conner, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Dr. Mohamed Kuziez, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Mary Ehrlich opposed the adoption of a cease fire resolution.

Grace Hudgens, Fort Collins resident, spoke in support of the adoption of a cease fire resolution stating this is a local issue and noted Council has previously adopted resolutions related to global issues, including a cease fire in Ukraine.

Ahmad Esmet, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Anya Kaplan-Hartnett, Fort Collins resident, spoke in support of the adoption of a cease fire resolution and noted Council has previously adopted resolutions related to global issues.

Ali (no last name given), Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Sunflower (no last name given), Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Sheela Turbek, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Ashton Schmidke, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Phoebe Bauer, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Blake Summers, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Quinn Miller, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Kaori Keyser, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Dandelion (no last name given), Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Zach Heath, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Michael May, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Michael Lichtbach, Fort Collins resident, opposed the adoption of a cease fire resolution.

Kristen Switzer, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Julie Rowan-Zoch, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Robin Hutchinson, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Elliot Fladen opposed the adoption of a cease fire resolution.

Mai (no last name given), Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Lorenzo Gomez, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Elwi Borsum, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Robyn Dolgin, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Quinn Mitchell, Fort Collins resident, spoke in support of the adoption of a cease fire resolution and showed a video.

Mohiman Muneer, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Connor Flynn, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Jeremiah Thielke, Fort Collins resident and City employee, spoke in support of the adoption of a cease fire resolution.

Lindsey Garchar, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Ashley Garchar, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Giselle Herzfeld, Rocky Mountain Peace and Justice Center, spoke in support of the adoption of a cease fire resolution.

Christinia Eala, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Christina Swope, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Michael Whitcomb, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Zoelle Lane, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Blaine Crowe, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Claire Kopp, Fort Collins resident, spoke on behalf of a Jewish resident in Fort Collins in support of the adoption of a cease fire resolution.

Elisheva Lane, Fort Collins resident, opposed the adoption of a cease fire resolution.

Salah Abdel-Ghany, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Deborah Kellogg, Fort Collins resident, opposed the adoption of a cease fire resolution.

Riley (no last name given), Larimer County resident, spoke in support of the adoption of a cease fire resolution.

Rose Lew, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Sophie Dellota, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Hania Sakkal, Fort Collins resident, displayed a photo from Gaza and spoke in support of the adoption of a cease fire resolution.

Greg Zoda, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Benjamin Skillman spoke in support of the adoption of a cease fire resolution.

Oliver Vollmer, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Cheryl Distaso, Fort Collins resident, noted the Human Relations Commission recommended the adoption of a cease fire resolution which included humanitarian aid and the release of all hostages. Distaso urged Council to direct staff to craft a resolution based on the HRC recommendations and to adopt said resolution.

August-Carter Nelson, Fort Collins resident, spoke in support of the adoption of a cease fire resolution and noted Council has previously adopted resolutions related to global issues.

Will Risheill, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Silen Wellington, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Deana Munoz, Fort Collins resident, spoke in support of the adoption of a cease fire resolution.

Kaitlin (no last name given), spoke in support of the adoption of a cease fire resolution.

Emil Aiden, Fort Collins resident, opposed the adoption of a cease fire resolution.

John Ramsted stated every justice movement in the history of the country has been divisive and spoke in support of the adoption of a cease fire resolution.

## **H) PUBLIC COMMENT FOLLOW-UP**

Mayor Arndt commented on hearing compassion, commitment to peace, and freedom of expression and religion, which are all values of the City. She thanked the speakers and encouraged working together, embracing differences, and living in peace and understanding. She noted any resolution would need to be taken up under Other Business.

Councilmember Gutowsky expressed difficulty in choosing a side on the issue and stated the simplest solution may not be the best solution.

**COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION**

None.

**J) CONSENT CALENDAR****1. Items Relating to the Fort Collins Police Services Victim Services Unit.**

A. Second Reading of Ordinance No. 010, 2024, Making a Supplemental Appropriation from the Eighth Judicial District Victim Assistance and Law Enforcement Board in the General Fund for the Fort Collins Police Services Victim Services Unit.

B. Second Reading of Ordinance No. 011, 2024, Making a Supplemental Appropriation from the Colorado Division of Criminal Justice Under the Federal Victim of Crime Act in the General Fund for the Fort Collins Police Services Victim Services Unit.

These Ordinances, unanimously adopted on First Reading on February 6, 2024, provide funding for the Victim Services Unit of Fort Collins Police Services for victim advocacy services which are required under the Colorado Victim Rights Amendment for victims and witnesses of crime and their supporting family members.

The Victim Services Unit has been awarded a \$70,000 Victim Assistance and Law Enforcement (VALE) grant for the period from January 1, 2024 to December 31, 2024. The VALE grant is awarded through the Eighth Judicial District Board to help fund services provided by the Victim Services team. This grant will fund one part-time victim advocate, as well as 65% of the salary for a contractual 40-hour per week victim advocate.

The Victim Services Unit has also been awarded a 24-month grant in the amount of \$47,959 for the period from January 1, 2023 to December 31, 2024, by the Colorado Division of Criminal Justice under the Federal Victim of Crime Act (VOCA). This grant will help fund services provided by the Victim Services Unit. These funds will be used to pay 35% of the salary for a contractual victim advocate who provides crisis intervention services for sexual assault victims between the school ages of kindergarten through 12th grade.

***Adopted on Second Reading.***

**2. Second Reading of Ordinance No. 012, 2024, Making a Supplemental Appropriation from the Colorado Division of Criminal Justice Synthetic Opiate Poisoning Investigation and Distribution Interdiction Grant for the Fort Collins Police Services Forensic Services Unit.**

This Ordinance, unanimously adopted on First Reading on February 6, 2024, supports Fort Collins Police Services' Forensic Services Unit work in the prevention and investigation of serious injuries and deaths caused by illegal synthetic opiate poisoning and for disrupting synthetic opiate distribution by appropriating \$40,000 of unanticipated grant revenue from the Colorado Department of Public Safety, Division of Criminal Justice (DCJ).

***Adopted on Second Reading.***

**3. Second Reading of Ordinance No. 013, 2024, Appropriating Philanthropic Revenue Received by City Give for the Renovation of the Historic Carnegie Library.**

This Ordinance, unanimously adopted on First Reading on February 6, 2024, requests an appropriation of \$214,000 in philanthropic revenue received by City Give for the renovation of the historic Carnegie Library as designated by the donor.



In 2019, the City launched City Give, a formalized enterprise-wide initiative to create a transparent, non-partisan governance structure for accepting and appropriating charitable gifts.

***Adopted on Second Reading.***

4. **Second Reading of Ordinance No. 014, 2024, Appropriating Philanthropic Revenue Received Through City Give for Youth Sports Programming and Services.**

This Ordinance, unanimously adopted on First Reading on February 6, 2024, requests an appropriation of \$15,550 in philanthropic revenue received through City Give for Recreation to benefit income-qualified youth sports programming and services.

In 2019, the City launched City Give, a formalized enterprise-wide initiative to create a transparent, non-partisan governance structure for accepting and appropriating charitable gifts.

***Adopted on Second Reading.***

5. **Second Reading of Ordinance No. 016, 2024, Appropriating Prior Year Reserves in the Recreation Fund for the Mulberry Pool Replacement Feasibility Study.**

This Ordinance, unanimously adopted on First Reading on February 6, 2024, appropriates \$78,000 from Recreation Reserves to fund the Mulberry Replacement Feasibility Study. This study is in partnership with Colorado State University Athletics (CSU), who will be funding 50% of the study.

***Adopted on Second Reading.***

6. **Second Reading of Ordinance No. 017, 2024, Appropriating Prior Year Reserves in the Recreation Fund for the Purchase of Ponies and Sheds at Lee Martinez Farm.**

This Ordinance, unanimously adopted on First Reading on February 6, 2024, appropriates \$72,000 from Recreation Reserves to purchase ponies and replace sheds at the Lee Martinez Farm.

***Adopted on Second Reading.***

7. **Second Reading of Ordinance No. 018, 2024, Appropriating Prior Year Reserves for Compensation of the Mayor, Mayor Pro Tem and Councilmembers.**

This Ordinance, unanimously adopted on First Reading on February 6, 2024, is for a General Fund supplemental appropriation to fund 2023-2024 Budget Offer 28.12 - City Council Voter Approved Pay Increase for fiscal year 2024. This budget request was not funded in the 2023-2024 Adopted Budget since the election results of the 2022 City-Initiated Charter Amendment No. 1 (Council Compensation) ballot initiative would not be known until after first reading of the City's annual appropriation ordinance for 2023. The initiative was approved by Fort Collins voters and this action is to appropriate the increased spending in the General Fund to implement the ballot initiative for the salary increases in 2024.

***Adopted on Second Reading.***

8. **Second Reading of Ordinance No. 019, 2024, Amending Article III of Chapter 19 of the Code of the City of Fort Collins Regarding Municipal Court Referees.**

This Ordinance, unanimously adopted on First Reading on February 6, 2024, amends the City Code to clarify that municipal court referees may hear cases involving camera radar and red light photo citations. Defendants in this type of case would have a choice to have a hearing with a referee in a more informal setting or a hearing in front of a municipal judge. The proposed Code changes would also allow the Chief Judge in the future to authorize referees to hear cases involving other zero-point infractions.

***Adopted on Second Reading.***

**9. Items Relating to Amending City Code to Adjust for Inflation the Following Fees: Capital Expansion Fees; Transportation Expansion Fee; Electric Capacity Fee; Water Plant Investment Fee; Sewer Plant Investment Fee; and Stormwater Plant Investment Fee.**

A. Second Reading of Ordinance No. 020, 2024, Amending Chapter 7.5 of the Code of the City of Fort Collins to Increase for Inflation the Capital Expansion Fees and Transportation Expansion Fee.

B. Second Reading of Ordinance No. 021, 2024, Amending Chapter 26 of the Code of the City of Fort Collins Regarding Calculation and Collection of Development Fees Imposed for the Construction of New or Modified Electric Service Connections.

C. Second Reading of Ordinance No. 022, 2024, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Water Plant Investment Fees.

D. Second Reading of Ordinance No. 023, 2024, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Sewer Plant Investment Fee.

E. Second Reading of Ordinance No. 024, 2024, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Stormwater Plant Investment Fees.

These Ordinances, unanimously adopted on First Reading on February 6, 2024, make annual inflation adjustments effective March 1, 2024, associated with the City's Capital Expansion Fees, Transportation Expansion Fee, Utility Plant Investment Fees, and Electric Capacity Fee.

***Adopted on Second Reading.***

**10. Second Reading of Ordinance No. 025, 2024, Adopting the 2024 Larimer County Regional Transportation Capital Expansion Fee Schedule.**

This Ordinance, unanimously adopted on First Reading on February 6, 2024, adopts the 2024 Larimer County Regional Transportation Capital Expansion Fee Schedule.

***Adopted on Second Reading.***

**11. Second Reading of Ordinance No. 026, 2024, Authorizing the Purchasing Agent to Enter into a Contract for Professional Services in Excess of Five Years for the Proposed Oak Street Stormwater Improvements Project.**

This Ordinance, unanimously adopted on First Reading on February 6, 2024, authorizes the City's purchasing agent, pursuant to City Code Section 8-186(a), to enter into contracts greater than five years in length, for professional services for the proposed Oak Street Stormwater Improvements Project. The contract authorized under the proposed ordinance could be extended up to the life of the project. Design for the project began in 2020, construction is anticipated to begin in 2024 with a 2-year duration, and project close-out may take several months, making the

overall duration of the project seven (7) years or more. Under this scenario and without this proposed ordinance, the design contract would expire while the project is under construction, a situation that would result in logistical and cost ramifications for the City and the project.

***Adopted on Second Reading.***

12. **Second Reading of Ordinance No. 027, 2024, Authorizing the Mayor to Execute an Easement Agreement with Larimer County, the City of Loveland and South Fort Collins Sanitation District Regarding an Existing Sewer Line on Long View Farm Open Space.**

This Ordinance, unanimously adopted on First Reading on February 6, 2024, seeks authorization to approve conveyance of a sewer line easement to South Fort Collins Sanitation District (SFCSD) across Long View Farm Open Space. This easement is intended to formally document an existing sewer line that was installed in 1981 prior to the purchase of Long View Farm Open Space.

***Adopted on Second Reading.***

13. **Second Reading of Ordinance No. 028, 2024, Approving and Authorizing the Execution of an Amendment to a Reciprocal Stormwater Drainage Easement Agreement with Sun Foothills Fort Collins, LLC, and Ratifying the Original Conveyance.**

This Ordinance, unanimously adopted on First Reading on February 6, 2024, authorizes the amendment of that certain Reciprocal Stormwater Drainage Easement Agreement (the "Original Easement") dated September 7, 2022, recorded at Reception No. 20220061510, Clerk and Recorder's Records, Larimer County, Colorado, by and between the City and Sun Foothills Fort Collins, LLC (the "Owner"), which originally conveyed a stormwater drainage easement to the Owner on City property in exchange for the City's right to retain stormwater on the Owner's property. The Amendment to the Original Easement (the "Amended Easement") will modify the legal description and revise language pertaining to access rights. Approval of the Ordinance would also ratify the Council's prior action in 2022 approving the easement exchange, the ordinance for which was missing its intended exhibits.

14. **Second Reading of Ordinance No. 029, 2024, Approving the Conveyance of a Temporary Construction Easement, Dedication of a Permanent, Nonexclusive Water Line Easement, and Dedication of a Permanent, Nonexclusive Sewer Line Easement, all on City Property, for the Benefit of the Sun Foothills Fort Collins Development.**

This Ordinance, unanimously adopted on First Reading on February 6, 2024, approves an Ordinance that would authorize the conveyance of the following:

1. One (1) temporary construction easement (TCE) to Sun Foothills Fort Collins LLC (the "Owner") for the modification of existing grades and current stormwater drainage facilities;
2. One (1) permanent, nonexclusive water line easement to the Fort Collins-Loveland Water District (the "Waterline Easement"); and
3. One (1) permanent, nonexclusive sewer line easement to the Fort Collins-Loveland Sanitation District (the "Sewer Easement").

The easements are located on 17 acres of City property located in the North West 1/4 of Section 13, Township 6 North, Range 69 West, Larimer County, Colorado, being currently held as a City of Fort Collins Land Bank property (the "City Property").

Construction pursuant to the TCE will modify existing stormwater facilities. The Waterline Easement and the Sewer Easement are entitlements required by the City so that the Owner may proceed with the development of the adjoining lands.

The easements will include the extension of stubbed water, sewer, and drainage improvements directly onto the City Property resulting in a significant benefit to the City Property.

***Adopted on Second Reading.***

**15. Items Relating to the 2024 City Classified Employee Pay Plan as Provided in the Collective Bargaining Agreement with the Fraternal Order of Police.**

A. Second Reading of Ordinance No. 030, 2024, Adopting the 2024 Amended Classified Employees Pay Plan to Update Classified Positions as Provided in the Collective Bargaining Agreement with the Fraternal Order of Police.

B. Second Reading of Ordinance No. 031, 2024, Appropriating Prior Year Reserves in the General Fund for the Cost of Police Services Salary and Benefit Increases as Provided in the Collective Bargaining Agreement with the Fraternal Order of Police.

These Ordinances, unanimously adopted on First Reading on February 6, 2024, recommend changes to the 2024 City Classified Employee Pay Plan based on an annual market analysis conducted as agreed upon through the 2022-2024 Collective Bargaining Agreement (Agreement) with the Northern Colorado Lodge #3 of the Fraternal Order of Police (FOP). The Agreement was approved by Council by Resolution on December 7, 2021. The Agreement specifies a salary data collection method and evaluation process that includes market data as of early January each year. This data has been collected and analyzed, resulting in the revised 2024 Amended City Classified Employee Pay Plan.

***Both Ordinances Adopted on Second Reading.***

**16. First Reading of Ordinance No. 032, 2024, Appropriating Prior Year Reserves and Unanticipated Philanthropic Revenue Received Through City Give for Various Programs and Services as Designated by the Donors.**

The purpose of this item is to request appropriation of \$18,025.20 in philanthropic revenue received through City Give. These miscellaneous gifts to various City departments support a variety of programs and services and are aligned with both the City's strategic priorities and the respective donors' designation. In 2019, City Give, a formalized enterprise-wide initiative was launched to create a transparent, non-partisan governance structure for the acceptance and appropriations of charitable gifts.

***Adopted on First Reading.***

**17. First Reading of Ordinance No. 033, 2024, Appropriating Prior Year Reserves in the Conservation Trust Fund for the Future Design and Construction of the Fossil Creek Trail Spur.**

The purpose of this item is to request an appropriation for partial funding for the future construction of the Fossil Creek Trail spur. This revenue is contributed from the developer. This trail spur is identified in the South College Corridor Subarea Plan as "City built and maintained." The easement for the future trail spur was secured during the development review process of the Fort Collins Nissan-Kia project. Per the South College Avenue Access Control Plan, this trail is of regional significance and the Developer agreed to contribute their proportional share of the public

access trail project in the amount of \$35,000. The Developer was required to provide the funds prior to issuance of the project's first building permit. The design and construction date of the future trail spur at this time is unknown.

***Adopted on First Reading.***

**18. First Reading of Ordinance No. 034, 2024, Authorizing Transfers of Appropriations for the Xeriscape Incentive Program.**

The purpose of this item is to support businesses, homeowner associations ("HOAs") and other commercial properties pursuing costly landscape projects that reduce water use long-term through the Xeriscape Incentive Program by utilizing \$75,104 in existing 2024 appropriations to fund the City's match requirement under this grant project.

***Adopted on First Reading.***

**19. First Reading of Ordinance No. 035, 2024, Authorizing the Release of Restrictive Covenants on Property at 2850 Sykes Drive, Developed by Fort Collins Habitat for Humanity.**

The purpose of this item is to obtain authorization from Council to terminate the HOME Investment Partnership Funding Development Contract with Fort Collins Habitat for Humanity (Habitat) and release the Agreement of Restrictive Covenants Affecting Real Property on the single-family home located at 2850 Sykes Drive. Termination of the contract and release of the Agreement of Restrictive Covenants is required for Fort Collins Habitat for Humanity to move forward with the sale of the home to the buyer.

***Adopted on First Reading.***

**20. First Reading of Ordinance No. 036, 2024, Approving the Vacation of a Portion of Two Easements Originally Dedicated in that Certain Replat of Coachlight Plaza PUD.**

The purpose of this item is to approve the vacation of a 1,077 square foot portion of two easements (8' Electrical Easement and an 8' Telephone Easement) (the "Easements") that are no longer required by the City because they are currently located beneath a newly constructed building envelope.

***Adopted on First Reading.***

**21. Resolution 2024-009 Approving Fort Fund Special Event Grant Disbursements.**

The purpose of this item is to approve Fort Fund grants from the Cultural Development and Programming Account and the Tourism Programming Account for the selected community events in the Special Event Grant – January Deadline category, based upon the recommendations of the Cultural Resources Board.

***Adopted.***

22. **Resolution 2024-010 Authorizing the Initiation of Exclusion Proceedings of Annexed Properties Within the Territory of the Poudre Valley Fire Protection District and Authorizing an Intergovernmental Agreement with Said District.**

The purpose of this item is to authorize the City Attorney to file a petition in Larimer County District Court to exclude the property annexed into the City in 2023 from the Poudre Valley Fire Protection District (the "District") in accordance with state law. The property affected by this Resolution is the Thompson Thrift Spaulding Addition Annexation. Colorado Revised Statutes Section 32-1-502 requires an order of exclusion from the District Court to remove the annexed property from special district territories. The property has been receiving fire protection services from the Poudre Fire Authority and will continue to do so. The City Attorney's Office files the petition in Larimer County District Court each year seeking exclusion for all properties annexed in the previous year that should be removed from the District to avoid double taxation.

***Adopted.***

23. **Resolution 2024-011 Authorizing the City Manager to Execute an Agreement Between the City of Fort Collins and the City of Greeley Regarding Certain Aspects of the Halligan Water Supply Project, Including Water Quality Analysis, Mitigation Measures, and Milton Seaman Reservoir Release Gate Design.**

The purpose of this item is to authorize a proposed agreement ("Proposed Agreement") between the City of Fort Collins ("Fort Collins") and the City of Greeley ("Greeley") (together, "Cities") regarding certain aspects of the Halligan Water Supply Project ("Halligan Project"). Greeley owns Milton Seaman Reservoir on the North Fork of the Poudre River ("North Fork"), downstream of the Halligan Project. Greeley is undergoing a time sensitive capital infrastructure replacement project for the release gate on their reservoir. Fort Collins desires that the new release gate also be able to bypass and account for Halligan Project releases. In addition, Greeley anticipates that there may be water quality impacts caused by certain operational changes due to the Halligan Project. The Cities are working collaboratively on these issues.

Under the Proposed Agreement, the Cities would collaboratively study and do design work. The Cities would:

- retain AECOM as a consultant for Phase 1 (Analysis and Preliminary Design) to perform a jointly agreed upon scope of work (release gate design and water quality identification and mitigation);
- agree to use the results of Phase 1 to develop a plan for Phase 2 (Implementation); and
- agree to a 50/50 cost share for Phase 1, \$553,490 (Fort Collins' obligation \$276,745).

Fort Collins staff's analyses indicate that the Proposed Agreement is beneficial to the City and the Halligan Project. An anticipated subsequent agreement on Phase 2 would be brought to Council.

***Adopted.***

24. **Resolution 2024-012 Adopting Findings of Fact in Support of the City Council's Decision on Appeal to Uphold the Planning and Zoning Commission Approval of the Polestar Village Project Development Plan PDP220010.**

The purpose of this item is to make Findings of Fact and Conclusions regarding Council's decision at the February 6, 2024, appeal hearing upholding the Planning and Zoning Commission's decision to approve the Polestar Village Project Development Plan.

***Adopted.***

**END OF CONSENT CALENDAR**

**Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to approve the recommended actions on items 1-24 on the Consent Calendar.**

**The motion carried 6-0.**

**Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Canonico, Pignataro, Potyondy, and Gutowsky**

**Absent: Councilmember Ohlson**

**K) CONSENT CALENDAR FOLLOW-UP** *(This is an opportunity for Councilmembers to comment on items adopted or approved on the Consent Calendar.)*

Councilmember Gutowsky commented on Item No. 3, *Second Reading of Ordinance No. 013, 2024, Appropriating Philanthropic Revenue Received by City Give for the Renovation of the Historic Carnegie Library*, stating the renovations will be very exciting.

**L) STAFF REPORTS**

None.

**M) COUNCILMEMBER REPORTS**

Councilmember Potyondy

- Reported on a recent listening session during which the cease fire resolution was also discussed. She acknowledged the difficulty of the issue and noted people in the community are hurting.

**Clerk's Note: Mayor Arndt called for a 15-minute break at 9:28 p.m. The meeting resumed at 9:45 p.m.**

**N) CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR FOR INDIVIDUAL DISCUSSION**

None.

**O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION**

**25. Second Reading of Ordinance No. 015, 2024, Appropriating Philanthropic Revenue Received Through City Give for Park Planning and Development to Fund Pickleball Site Feasibility and Community Engagement.**

This Ordinance, adopted on First Reading on February 6, 2024, by a vote of 5-1 (Nays: Councilmember Francis; Absent: Councilmember Pignataro) is to request an appropriation of \$40,000 in philanthropic revenue received by City Give for Park Planning & Development, for site feasibility and community engagement toward a future City-owned pickleball complex.

In 2019, the City launched City Give, a formalized enterprise-wide initiative to create a transparent, non-partisan governance structure for accepting and appropriating charitable gifts.

**PUBLIC COMMENT**

No public comment.

## COUNCIL DISCUSSION

Mayor Pro Tem Francis thanked staff for meeting with her to discuss this issue. She stated that while she disagrees with the way this part of the City Gives program is being handled, the pickleball club did follow the appropriate process and she will support the item.

Councilmember Gutowsky spoke in support of the pickleball feasibility study.

***Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to adopt Ordinance No. 015, 2024, Appropriating Philanthropic Revenue Received Through City Give for Park Planning and Development to Fund Pickleball Site Feasibility and Community Engagement, on Second Reading.***

***The motion carried 6-0.***

***Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Canonico, Pignataro, Potyondy, and Gutowsky***

***Absent: Councilmember Ohlson***

**26. First Reading of Ordinance No. 037, 2024, Authorizing the Conveyance to N College 1311, LLC, of a Portion of the City Property Designated as the Future Hickory Detention Pond in Exchange for Adjoining Property and Other Valuable Consideration.**

The purpose of this item is to approve an Ordinance that would permit the conveyance of approximately 1.31 acres (57,064 sf) of City property (the "Conveyed Parcel") to N College 1311, LLC, ("Owner"), as well as a possible temporary construction easement or license to enter, and acceptance of Natural Habitat Buffer Zone on City property, in exchange for approximately 2.43 acres (105,723 sf) of Owner's adjoining property (the "Received Parcel") and other valuable consideration.

Jason Graham, Utilities Water Director, outlined the proposed land exchange between the City of Fort Collins Stormwater Utility and N College 1311, LLC for the purpose of improving the stormwater and floodplain protection infrastructure.

Ralph Campano, Real Estate Manager, discussed the property location north of Hickory Street on North Mason Drive and detailed the property exchange and beneficial financial impacts.

## PUBLIC COMMENT

No public comment.

## COUNCIL DISCUSSION

Mayor Pro Tem Francis noted the stormwater detention pond is a key piece necessary to move forward with development and restoration.

***Mayor Pro Tem Francis moved, seconded by Councilmember Potyondy, to adopt Ordinance No. 037, 2024, Authorizing the Conveyance to N College 1311, LLC, of a Portion of the City Property Designated as the Future Hickory Detention Pond in Exchange for Adjoining Property and Other Valuable Consideration, on First Reading.***

***The motion carried 6-0.***



**Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Canonico, Pignataro, Potyondy, and Gutowsky**  
**Absent: Councilmember Ohlson**

**P) OTHER BUSINESS**

OB 1. **Possible consideration of the initiation of new ordinances and/or resolutions by Councilmembers.**

None.

Mayor Pro Tem Francis stated a cease fire resolution is not the will of Council and it will not be considered.

OB 2. **Consideration of a motion to adjourn to 6:00 p.m. on February 27, 2024, for the purpose of considering adoption of Council Priorities.**

***Mayor Pro Tem Frances moved, seconded by Councilmember Canonico, that Council adjourn this meeting to 6:00 p.m. on Tuesday, February 27, 2024, in order to consider adoption of Council priorities and such other business as may come before Council.***

***The motion carried 6-0.***

**Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Canonico, Pignataro, Potyondy, and Gutowsky**  
**Absent: Councilmember Ohlson**

**Q) ADJOURNMENT**

There being no further business before the Council, the meeting was adjourned at   :   p.m.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Interim City Clerk

**AGENDA ITEM SUMMARY**  
City Council

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**STAFF**

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Nina Bodenhamer, City Give Director

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**SUBJECT**

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**Second Reading of Ordinance No. 032, 2024, Appropriating Prior Year Reserves and Unanticipated Philanthropic Revenue Received Through City Give for Various Programs and Services as Designated by the Donors.**

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**EXECUTIVE SUMMARY**

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This Ordinance, unanimously adopted on First Reading on February 20, 2024, appropriates \$18,025.20 in philanthropic revenue received through City Give. These miscellaneous gifts to various City departments support a variety of programs and services and are aligned with both the City's strategic priorities and the respective donors' designation. In 2019, City Give, a formalized enterprise-wide initiative was launched to create a transparent, non-partisan governance structure for the acceptance and appropriations of charitable gifts.

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**STAFF RECOMMENDATION**

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Staff recommends adoption of the Ordinance on Second Reading.

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**BACKGROUND / DISCUSSION**

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The City has long been the beneficiary of local generosity and has a valuable role in our community's philanthropic landscape. Generosity is demonstrated in both large and modest gifts, each appreciated for its investment in the mission and the range of services the City strives to deliver.

The City received several individual philanthropic donations supporting various departments totaling \$18,025.20 and these funds are currently unappropriated.

As acknowledged by Section 2.5 of the City's Fiscal Management Policy 2-Revenue approved by City Council, the City Manager has adopted the City Give Financial Governance Policy to provide for the responsible and efficient management of charitable donations to the City.

These generous donations have been directed by the respective donors to be used by the City for designated uses within and for the benefit of City service areas and programs. These gifts represent a range of support for City programming and services: Lincoln Center Performances, The Farm, Forestry, and the Youth Golf Scholarship Fund.

## CITY FINANCIAL IMPACTS

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This Ordinance will appropriate \$10,514 received in 2023 being appropriated from prior year reserves, and \$7,511.20 in new philanthropic revenue received in 2024 through City Give for gifts to various City departments support a variety of programs and services.

The donations shall be expended from the designated fund solely for the donor's directed intent:

From Prior Year Reserves:

Cultural Services & Facilities Fund	\$6,250.00
General Fund	\$ 500.00
Golf Fund	\$3,764.00

From New Unanticipated Philanthropic Revenue:

General Fund	\$1,511.20
Recreation Fund	\$1,000.00
Transportation Fund	\$5,000.00

The funds have been received and accepted per City Give Administrative and Financial Policy.

The City Manager has also determined that these appropriations are available and previously unappropriated from the City funds in which they have been deposited and will not cause the total amount appropriated in those City funds to exceed the current estimate of actual and anticipated revenues and all other funds to be received in the General Fund during fiscal year 2024.

## ATTACHMENTS

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First Reading attachments not included

1. Ordinance for Consideration

ORDINANCE NO. 032, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROPRIATING PRIOR YEAR RESERVES AND  
UNANTICIPATED PHILANTHROPIC REVENUE RECEIVED  
THROUGH CITY GIVE FOR VARIOUS PROGRAMS AND  
SERVICES AS DESIGNATED BY THE DONORS

A. The City received in 2023 four donations totaling \$10,514 and in 2024 six donations totaling \$7,511.20 to be used for various City programs and services, which donations are each \$5,000 or less.

B. The donors have directed these donations to be used solely by the City for certain designated uses.

C. As acknowledged by Section 2.5 of the City's Fiscal Management Policy 2 – Revenue approved by City Council, the City Manager has adopted the City Give Financial Governance Policy to provide for the responsible and efficient management of charitable donations to the City (the "City Give Policy").

D. Section 52.2.C. of the City Give Policy authorizes the City Give Director to accept donations of \$5,000 or less for the City service area intended by the donor to be benefited and Section 52.2.D. of the City Give Policy similarly authorizes the City Manager to accept donations of more than \$5,000 up to \$100,000.

E. As so authorized, the City Give Director and City Manager have accepted for the benefited City service areas, as applicable, the donations to be appropriated in this Ordinance to be used solely as directed by each donor.

F. Article V, Section 9 of the City Charter permits the City Council, upon the 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.

G. 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.

H. The City Manager has recommended the appropriations described in Sections 1 and 2 of this Ordinance and determined that the amount of each of these appropriations is available and previously unappropriated from the funds named in Sections 1 and 2 and will not cause the total amount appropriated in each such fund to exceed the current estimate of actual and anticipated revenues to be received in those funds during this fiscal year.

I. Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds, a federal, state or private grant or donation, 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 donation or the City's expenditure of all funds received from such donation.

J. The City Council wishes to designate the appropriation herein for various City Give donations as an appropriation that shall lapse at the end of this fiscal year, except for the appropriation from the Golf Fund for a golf scholarship, which shall be non-lapsing.

K. These appropriations will serve the public purpose of providing additional revenue to each of the benefited service areas to aid them in accomplishing the public purposes for which each service area is established thereby benefiting the public's health, safety and welfare.

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 the following funds these amounts of philanthropic revenue held in prior year reserves to be expended as designated by the donors:

Cultural Services & Facilities Fund	\$6,250
General Fund	\$500
Golf Fund	\$3,764

Section 2. There is hereby appropriated from the following funds these amounts of philanthropic revenue received in 2024 to be expended as designated by the donors:

General Fund	\$1,511.20
Recreation Fund	\$1,000
Transportation Fund	\$5,000

Section 3. As authorized in Article V, Section 11 of the City Charter, the appropriations herein for various City Give donations are hereby designated as appropriations that shall lapse at the end of this fiscal year; provided, however, that the appropriation herein from the Golf Fund for a golf scholarship donation is hereby designated as an appropriation that shall not lapse at the end of this fiscal year but shall

continue until the earlier of the expiration of the donation or the City's expenditure of all funds received from such donation.

Introduced, considered favorably on first reading on February 20, 2024, and approved on second reading for final passage on March 5, 2024.

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Mayor

ATTEST:

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Interim City Clerk

Effective Date: March 15, 2024

Approving Attorney: Ryan Malarky

March 5, 2024

## AGENDA ITEM SUMMARY

City Council



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### STAFF

Missy Nelson, Parks & Park Planning & Development, Sr. Technical Project Manager  
Kristin Flower, Parks & Park Planning & Development, Analyst II, Finance  
Jill Wuertz, Park Planning & Development Senior Manager  
Mike Calhoon, Parks Director

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### SUBJECT

**Second Reading of Ordinance No. 033, 2024, Appropriating Prior Year Reserves in the Conservation Trust Fund for the Future Design and Construction of the Fossil Creek Trail Spur.**

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### EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on February 20, 2024, appropriates partial funding for the future construction of the Fossil Creek Trail spur. This revenue is contributed from the developer. This trail spur is identified in the South College Corridor Subarea Plan as "City built and maintained." The easement for the future trail spur was secured during the development review process of the Fort Collins Nissan-Kia project. Per the South College Avenue Access Control Plan, this trail is of regional significance and the Developer agreed to contribute their proportional share of the public access trail project in the amount of \$35,000. The Developer was required to provide the funds prior to issuance of the project's first building permit. The design and construction date of the future trail spur at this time is unknown.

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### STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

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### BACKGROUND / DISCUSSION

#### The Project

In addition to the summary above, the design and construction date of the future trail spur is unknown and funds will be held until such time the remaining easements for this spur trail project are secured.

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### CITY FINANCIAL IMPACTS

Developer's proportionate share was based on the Property's frontage of South College Avenue, ~.25 miles:

\$35,000 – Cost for the Developer

The amount from the developer was received in December 2023 and was deposited in the Conservation Trust Fund.

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

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The City's Park Planning and Development department reviewed and secured easement and funds during the development review process for Fort Collins Nissan-Kia. The associated Project Development Plan, PDP210017, was approved at the July 2022 Planning & Zoning Commission (Type 2) Hearing and the associated Final Development Plan, FDP220011, was recorded 05/02/2023.

## **PUBLIC OUTREACH**

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Typical per Type II Development Review process: sign posting, mailers, neighborhood meeting.

## **ATTACHMENTS**

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First Reading attachments not include.

1. Ordinance for Consideration
- 2.



ORDINANCE NO. 033, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROPRIATING PRIOR YEAR RESERVES IN THE  
CONSERVATION TRUST FUND FOR THE FUTURE DESIGN  
AND CONSTRUCTION OF THE FOSSIL CREEK TRAIL SPUR

A. In July 2022, the City's Planning and Zoning Commission approved a Project Development Plan by Fort Collins Nissan-Kia (the "Developer") and the Final Development Plan was recorded on May 5, 2023.

B. During that development review process, the City secured an easement from the Developer, located in the South College Corridor Subarea Plan, for the future construction of the Fossil Creek Trail spur.

C. The Fossil Creek Trail offers over 8 miles of paved pathway on the south side of the City. This trail is of regional significance and the Developer agreed to contribute their proportional share of the public access trail project in the amount of \$35,000.

D. In December 2023 the City received those funds from the Developer and the funds were deposited into the Conservation Trust Fund.

E. This appropriation benefits public health and welfare of the citizens of Fort Collins and serves the public purpose and strategic objective of continuing the planned buildout of the paved trail system.

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 this appropriation is available and previously unappropriated from the Conservation Trust Fund and will not cause the total amount appropriated in the Conservation Trust 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.

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 that there is hereby appropriated from prior year reserves in the Conservation Trust Fund the sum of THIRTY-FIVE THOUSAND DOLLARS (\$35,000) to be expended in the Conservation Trust Fund for the future design and construction of the Fossil Creek Trail Spur as identified in the South College Corridor Plan.

Introduced, considered favorably on first reading on February 20, 2024, and approved on second reading for final passage on March 5, 2024.

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Mayor

ATTEST:

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Interim City Clerk

Effective Date: March 15, 2024  
Approving Attorney: Sara Arfmann

March 5, 2024

## AGENDA ITEM SUMMARY

City Council



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### STAFF

Katie Collins, Water Conservation Specialist  
Kerri Ishmael, Senior Analyst, Grant Administration

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### SUBJECT

**Second Reading of Ordinance No. 034, 2024, Authorizing Transfers of Appropriations for the Xeriscape Incentive Program.**

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### EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on February 20, 2024, supports businesses, homeowner associations (“HOAs”) and other commercial properties pursuing costly landscape projects that reduce water use long-term through the Xeriscape Incentive Program by utilizing \$75,104 in existing 2024 appropriations to fund the City’s match requirement under this grant project.

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### STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

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### BACKGROUND / DISCUSSION

The Xeriscape Incentive Program (“XIP”) supports Fort Collins Utilities (“Utilities”) water customers by providing funding for landscape retrofit projects that reduce outdoor water use long-term. The typical existing commercial landscape in Fort Collins is made up mostly of bluegrass, which, on average, requires 15-18 gallons of supplemental irrigation water per square foot of area, per growing season. Reducing the total amount of bluegrass on a property along with reconfiguring irrigation systems may cut a property’s landscape water requirement by 30% or more, but retrofit projects are costly. XIP is one tool to help reduce barriers to landscape conversions, providing rebates of \$1.50 per square foot of area converted from high- to low- water landscape. More information about the XIP can be found at [fcgov.com/xip](http://fcgov.com/xip).

Reducing outdoor water use is one of several effective water demand management tools. Since 2020, when Utilities started offering XIP funding for commercial water customers, XIP has funded 27 projects across HOAs, businesses and county properties. In total, 19 acres of bluegrass have been replaced with low-water landscape. The water savings for the 27 completed projects is estimated at 18 acre-feet per year compared to pre-project water use.

In support of XIP, the Bureau of Reclamation (“BOR”) awarded the City \$75,000 for XIP projects. The City committed \$95,000 to support a total of \$170,000 in rebates under this grant project.

The grant project has been operating, with the City needing to contribute \$75,104 to allowable rebates under the grant project. Based on changes made to provide more transparency over grant projects,

including tracking of City's required matching funds, the \$75,104 in 2024 appropriated funds in the Water Fund will be transferred to the grant project.

The City's matching funds of \$75,104 were appropriated in the 2024 operating budget for Water Conservation.

#### **CITY FINANCIAL IMPACTS**

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This item authorizes transfer of \$75,104 in required matching funds for the grant project that have already been appropriated in the Water Fund, specifically in the 2024 operating budget for Water Conservation.

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

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None.

#### **PUBLIC OUTREACH**

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None.

#### **ATTACHMENTS**

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First Reading attachments not included.

1. Ordinance for Consideration

ORDINANCE NO. 034, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING TRANSFERS OF APPROPRIATIONS FOR THE  
XERISCAPE INCENTIVE PROGRAM

A. The City owns and operates Fort Collins Utilities (“Utilities”), which includes a water utility that provides water to customers in its service area.

B. Water conservation and efficiency comprise a tool Utilities uses, primarily through the Utilities Water Conservation Division, to manage and reduce the demand for water service by Utilities customers, which is beneficial to the City, the water utility, and its ratepayers by, among other reasons, reducing demand on water supplies and helping to ensure that the demand for water does not exceed supplies.

C. Utilities has developed the Xeriscape Incentive Program (“XIP”) to support customers seeking to transform their large-scale landscapes to use less water from Utilities, such as those of homeowners’ associations and commercial customers.

D. The United States Department of the Interior, Bureau of Reclamation (“Reclamation”) has a Water SMART (Sustain and Manage America’s Resources for Tomorrow) Program that provides grants to water conservation programs. Reclamation previously awarded the City a grant of \$75,000 for XIP.

E. In order to fully utilize such Reclamation grant funds, the City needs to contribute \$75,104 in matching funds. The 2024 appropriated funds in the Water Fund contain sufficient funds that can be transferred to be utilized as such matching funds.

F. 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.

G. The City Manager has recommended the transfer of \$75,104 from the Water Fund Operating Budget to the Water Fund Xeriscape Project Budget and determined that the purpose for which the transferred funds are to be expended remains unchanged.

H. Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for the Water Fund Xeriscape Incentive Program, 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 the City’s expenditure of all funds received from such grant.

I. The City Council wishes to designate the appropriation herein for the Water Fund Xeriscape Incentive Program 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.

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. The unexpended and unencumbered appropriated amount of Water Fund the sum of SEVENTY-FIVE THOUSAND ONE HUNDRED FOUR DOLLARS (\$75,104) to be transferred from the Water Fund's Water Conservation Operating Budget to be expended in the Water Fund for the Xeriscape Incentive Program Grant Budget.

Section 2. The appropriation herein for the Xeriscape Incentive Program 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 continue until the earlier of the expiration of the grant or the City's expenditure of all funds received from such grant.

Introduced, considered favorably on first reading on February 20, 2024, and approved on second reading for final passage on March 5, 2024.

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Mayor

ATTEST:

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Interim City Clerk

Effective Date: March 15, 2024  
Approving Attorney: Eric Potyondy

March 5, 2024

## AGENDA ITEM SUMMARY

City Council



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### STAFF

Beth Rosen, Grants Compliance and Policy Manager

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### SUBJECT

**Second Reading of Ordinance No. 035, 2024, Authorizing the Release of Restrictive Covenants on Property at 2850 Sykes Drive, Developed by Fort Collins Habitat for Humanity.**

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### EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on February 20, 2024, authorizes the termination of the HOME Investment Partnership Funding Development Contract with Fort Collins Habitat for Humanity (Habitat) and release the Agreement of Restrictive Covenants Affecting Real Property on the single-family home located at 2850 Sykes Drive. Termination of the contract and release of the Agreement of Restrictive Covenants is required for Fort Collins Habitat for Humanity to move forward with the sale of the home to the buyer.

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### STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

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### BACKGROUND / DISCUSSION

On April 13, 2023, the City entered into a Development Contract for HOME Investment Partnership (HOME) funding with Fort Collins Habitat for Humanity. The contract provided for the payment of \$80,000 in HOME funding to support the construction costs of a single-family home built in partnership with the Geometry in Construction program at Poudre High School (PHS). The contract funding agreement was secured by a Promissory Note, Deed of Trust and Agreement of Restrictive Covenants ensuring the home would be transferred to an income eligible buyer and remain affordable for a period of 20 years.

Funds were to be provided as a reimbursement of eligible construction costs to reduce the purchase price of the home for the income qualified buyer. No payments have been made under the terms of the contract.

At the time of contracting, an income eligible homeowner had been selected through Habitat's rigorous selection process. The selected buyer has since completed all program requirements and contributed the required sweat equity towards the building of the home. However, on January 5, 2024, Habitat submitted a letter to the City of Fort Collins requesting termination of the contract so they can sell the property to the buyer because the buyer no longer meets applicable income restrictions. Termination of the contract and release of the Agreement of Restrictive Covenants would allow Habitat to move forward with the sale of the unrestricted home to the buyer.

If approved, this home will not receive any investment of City or federal funds and will not be a part of the long-term affordable housing inventory. Habitat will retain a first right of refusal to purchase the home back from the owner and may seek future funding to subsidize the home for a subsequent buyer.

### **CITY FINANCIAL IMPACTS**

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The \$80,000 in unexpended HOME funds will go into the Spring 2024 Competitive Process to be allocated to another affordable housing project. Habitat for Humanity continues to build affordable home ownership units and will apply for funding to support the development of four new units at Harmony Cottages. Funding recommendations related to the reallocation of funds will be presented to Council in June as part of the 2024 Competitive Process Funding Recommendations.

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

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The Human Services and Housing Funding Board voted to recommend this request at its regular Board meeting held on January 10, 2024.

The Affordable Housing Board voted to recommend this request at its regular Board meeting held on February 1, 2024.

### **PUBLIC OUTREACH**

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None.

### **ATTACHMENTS**

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First Reading attachments not included.

1. Ordinance for Consideration



ORDINANCE NO. 035, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING THE RELEASE OF RESTRICTIVE COVENANTS  
ON PROPERTY AT 2850 SYKES DRIVE, DEVELOPED BY FORT  
COLLINS HABITAT FOR HUMANITY

A. On April 13, 2023, the City of Fort Collins entered into a Development Contract (the "Agreement") for HOME Investment Partnership ("HOME") funding with Fort Collins Habitat for Humanity.

B. The Agreement provided for the payment of \$80,000 in HOME funding to support the construction costs of a single-family home built in partnership with the Geometry in Construction program at Poudre High School. The property is located at 2850 Sykes Drive (the "Property").

C. The HOME funding was secured by a Promissory Note, Deed of Trust and Agreement of Restrictive Covenants ensuring the Property would be transferred to an income eligible buyer and remain affordable for a period of 20 years (the "Covenant").

D. Funding under the Agreement was to be provided as a reimbursement of eligible construction costs to reduce the purchase price of the Property for the income-qualified buyer. No payments have been made by the City under the terms of the Agreement.

E. At the time of execution of the Agreement, an income eligible buyer ("Buyer") had been selected through Habitat for Humanity's selection process. The Buyer has since completed all program requirements and contributed the required physical work towards the building of the home on the Property.

F. On January 5, 2024, Habitat for Humanity requested termination of the Agreement so it can sell the Property to the Buyer, who now does not meet applicable income requirements. Termination of the Agreement and release of the Covenant would allow Habitat for Humanity to sell the Property to the Buyer. Further, there is no negative financial impact to the City because City staff will add the unpaid HOME funding to the funds distributed through the Social Sustainability's annual competitive process.

G. The City's right under the Covenant to restrict the use of the Property constitutes an interest in real property owned by the City that the City would be giving up by releasing the Covenant.

H. City Code Section 23-111(a) states that the City Council is authorized to sell, convey or otherwise dispose of any interest in real property owned by the City, provided that the City Council first finds, by ordinance, that such sale or other disposition is in the best interests of the City.

I. Authorizing the release of the Covenant in these circumstances provides flexibility to Habitat for Humanity to administer its affordable housing program, allowing it to both honor its commitment to the Buyer and to maximize its creation of new affordable housing in Fort Collins. Accordingly, the City Council hereby finds that releasing the Covenant on the Property on the terms and conditions described herein is in the best interests of the City.

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 that the City Council hereby authorizes the City Manager to execute such documents as are necessary to release the Property from the Covenant on terms and conditions consistent with this Ordinance, along with such other terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary and appropriate to protect the interests of the City or effectuate the purposes of this Ordinance.

Introduced, considered favorably on first reading on February 20, 2024, and approved on second reading for final passage on March 5, 2024.

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Mayor

ATTEST:

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Interim City Clerk

Effective Date: March 15, 2024  
Approving Attorney: Ted Hewitt

March 5, 2024

## AGENDA ITEM SUMMARY

City Council



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### STAFF

Jonathan Piefer, Senior Real Estate Specialist  
Sophie Buckingham, Civil Engineer II  
Marissa Pomerleau, Development Review Coordinator

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### SUBJECT

**Second Reading of Ordinance No. 036, 2024, Approving the Vacation of a Portion of Two Easements Originally Dedicated in that Certain Replat of Coachlight Plaza PUD.**

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### EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on February 20, 2024, approves the vacation of a 1,077 square foot portion of two easements (8' Electrical Easement and an 8' Telephone Easement) (the "Easements") that are no longer required by the City because they are currently located beneath a newly constructed building envelope.

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### STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

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### BACKGROUND / DISCUSSION

The Easements were originally dedicated to the City in that certain Replat of Coachlight Plaza, recorded on March 1, 1982, with the Larimer County Clerk and Recorder (the "Replat").

On May 31, 2022, Coachlight Apartments LLLP (the "Owner") acquired the property burdened by the Easements, and subsequently applied for a building permit to enlarge and remodel the original structure served by the Easements. On April 24, 2023, construction of the new building (the "New Building") was approved by the Building and Development Review Department, which issued Building Permit #B2109742 (the "Permit"). Construction was completed shortly thereafter and the Permit was closed out on November 2, 2023, thereby ending the development review process.

The Owner recently advised the City that the Easements were actually located underneath the New Building and that their final funding is contingent upon obtaining releases of that portion of the Easements that underly the New Building. The Easements do not contain any public utilities, and the Development Review Coordinator approves of the vacation of the Easements. However, the vacation of the Easements requires City Council approval because the construction project for the New Building is no longer in the development review process.

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### CITY FINANCIAL IMPACTS

None.

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

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The City's Building and Development Review Department has approved the vacation of the Easement.

## **PUBLIC OUTREACH**

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None.

## **ATTACHMENTS**

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1. Ordinance for Consideration
2. Exhibit A to Ordinance

ORDINANCE NO. 036, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROVING THE VACATION OF A PORTION OF TWO  
EASEMENTS ORIGINALLY DEDICATED IN THAT CERTAIN  
REPLAT OF COACHLIGHT PLAZA PUD

A. The easements at issue were dedicated to the City in that certain Replat of Coachlight Plaza, PUD, recorded on March 1, 1982, with the Larimer County Clerk and Recorder, in Book 2156, Page 1197.

B. The easements include an easement for electrical improvements and an easement for telephone improvements (the "Easements").

C. In May 2022, Coachlight Apartments, LLLP ("Coachlight"), the owner of the property burdened by the Easements, applied to the City for a building permit to enlarge and remodel the original building served by the Easements.

D. In or about April 2023, Coachlight began construction of the new building pursuant to a City-issued building permit, which was closed out on November 2, 2023, after Coachlight completed construction. The closure of the building permit ended Coachlight's involvement in the City's development review process.

E. Coachlight recently advised the City that to obtain its final funding for the project that it must obtain releases of that portion of the Easements underlying the new building, said portion totaling 1,077 square feet.

F. City staff are recommending the City Council vacate the portion of the Easements described on Exhibit "A", attached and incorporate herein by this reference.

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. That the City Council hereby finds and determines that the portions of the Easements, more particularly described on Exhibit "A," are no longer needed or required and that it is in the public interest to vacate the same.

Section 2. That the specified portions of the Easements are hereby vacated, abated and abolished, providing that:

(a) This vacation shall not take effect until this Ordinance is recorded with the Larimer County Clerk and Recorder by the property owner or its agent.

(b) If this Ordinance is not recorded by December 31, 2024, then this Ordinance shall become null and void and of no force and effect.

Introduced, considered favorably on first reading on February 20, 2024, and approved on second reading for final passage on the March 5, 2024.

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Mayor

ATTEST:

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Interim City Clerk

Effective Date: March 15, 2024  
Approving Attorney: Ryan Malarky



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## **EXHIBIT "A"**

December 13, 2023

A description of a portion of an 8-foot Electric Easement and a portion of an 8-foot Telephone Easement within The Replat of Coachlight Plaza to be vacated by City of Fort Collins. For: Coachlight Apartments LLLP.

### LEGAL DESCRIPTION

All of that part of an 8-foot Electric Easement and a part of an 8-foot Telephone Easement set forth on the plat of The Replat of Coachlight Plaza, a subdivision of the City of Fort Collins located in the NW1/4 of Section 1, T7N, R69W of the 6th P.M., County of Larimer, State of Colorado, recorded March 1, 1982, in Book 2156 at Page 1197 of the records of Larimer County, Colorado, which lies within the Community Building of Coachlight Apartments, described as follows:

COMMENCING at the Southwest Corner of said The Replat of Coachlight Plaza from which the Northwest Corner of said The Replat of Coachlight Plaza bears N00°00'00"E, 585.69 feet (Basis of Bearing), thence N33°24'16"E, 247.03 feet a point of intersection of the Southerly Line of the Community Building and Easterly Line said 8-foot Electric Easement and the POINT OF BEGINNING;

Thence N89°53'20"W, 8.00 feet along the Southerly Line of said Community Building to the Westerly Line of said 8-foot Electric Easement;

The following courses and distances are along the Westerly, Southerly, Easterly, and Northerly Lines of said 8-foot Electric Easement:

Thence N00°00'00"E, 33.76 feet;

Thence N90°00'00"W, 26.00 feet;

Thence N00°00'00"E, 8.00 feet;

Thence N90°00'00"E, 34.00 feet;

Thence S00°00'00"E, 14.00 feet to the Northerly Line of said 8-foot Telephone Easement;

Thence leaving the Easterly Line of said 8-foot Electric Easement, N90°00'00"E, 30.02 feet along the Northerly Line of said 8-foot Telephone Easement to an angle point thereof;

Thence N00°00'00"E, 20.26 feet along the Westerly Line of said 8-foot Telephone Easement to the Northerly Line of said Community Building;

Thence S89°53'20"E, 8.00 feet along the Northerly Line of said Community Building to the Easterly Line of said 8-foot Telephone Easement;

Thence S00°00'00"E, 20.25 feet along the Easterly Line of said 8-foot Telephone Easement to an angle point thereof;

Thence N90°00'00"E, 8.62 feet along the Northerly Line of said 8-foot Telephone Easement to the Easterly Line of said Community Building;

Thence S00°06'40"W, 8.00 feet along the Easterly Line of said Community Building to the Southerly Line of said 8-foot Telephone Easement;

Thence N90°00'00"W, 46.63 feet along the Southerly Line of said 8-foot Telephone Easement to the Easterly Line of said 8-foot Electric Easement;

Thence S00°00'00"E, 19.78 feet along the Easterly Line of said 8-foot Electric Easement to the POINT OF BEGINNING.

Area = 1,077 square feet acres (0.025 acres), more or less.

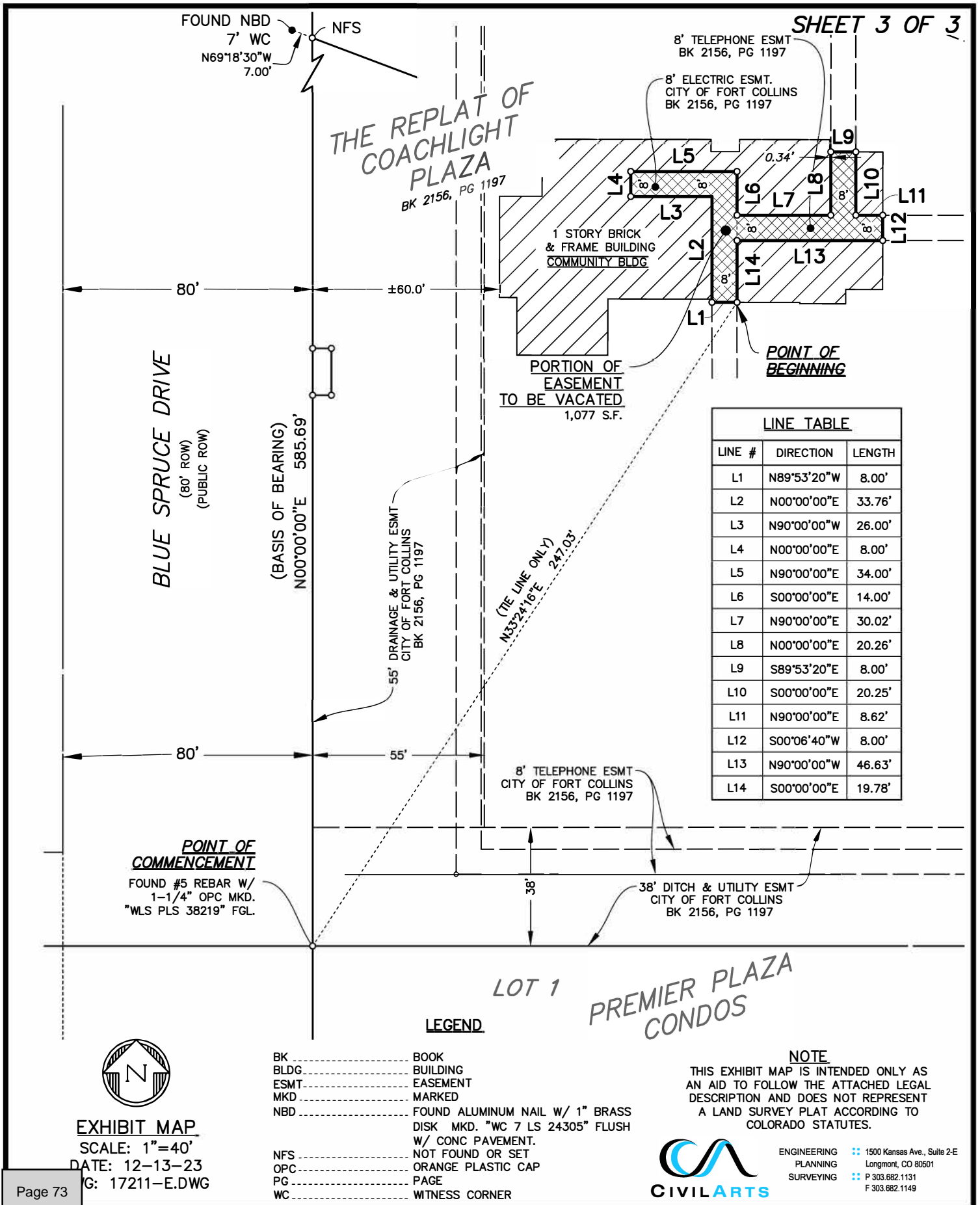
**NOTICE:** According to Colorado law you **must** commence any legal action based upon any defect in this survey within three years after you first discovered such defect. In no event, may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

  
Frank N. Drexel 24305  
Colorado Professional Land  
Surveyor No. 24305  
1500 Kansas Ave #2-E, Longmont, CO 80501  
Date: 12-13-23

File: 17211-E lgl.doc

Project: 1721-1





February 20, 2024

## AGENDA ITEM SUMMARY

City Council



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### STAFF

Jonathan Piefer, Senior Real Estate Specialist  
Ralph Campano, Real Estate Services Manager  
Jason Graham, Water Utilities Director  
Ken Sampley, Stormwater Engineer/Development Review Director

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### SUBJECT

**Second Reading of Ordinance No. 037, 2024, Authorizing the Conveyance to N College 1311, LLC, of a Portion of the City Property Designated as the Future Hickory Detention Pond in Exchange for Adjoining Property and Other Valuable Consideration.**

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### EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on February 20, 2024, permits the conveyance of approximately 1.31 acres (57,064 sf) of City property (the "Conveyed Parcel") to N College 1311, LLC, ("Owner"), as well as a possible temporary construction easement or license to enter, and acceptance of Natural Habitat Buffer Zone on City property, in exchange for approximately 2.43 acres (105,723 sf) of Owner's adjoining property (the "Received Parcel") and other valuable consideration.

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### STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading

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### BACKGROUND / DISCUSSION

#### Hickory Detention Pond

The Conveyed Parcel was purchased by the City on July 30, 2010, from Amada, LLC, as part of a 7.53 acre tract of land (the "City Property") on Hickory Street intended to be used as a future regional stormwater detention pond (the "Hickory Detention Pond"). The Hickory Detention Pond will provide stormwater runoff detention, water quality treatment, and a stormwater outfall for new and existing developments in the North College Area of the Dry Creek Basin. The future construction of Hickory Detention Pond will also provide flood protection to southern portions of the Dry Creek Basin. The North College Urban Renewal Authority identified the Hickory Detention Pond project as a top priority for investment in the area.

As a result of this proposed transaction (the "Subject Exchange"), the City will gain an additional net 1.12 acres (48,659 sf) (the "Additional Acreage") to be used for the future construction and operation of Hickory Detention Pond (the "Larger Pond Site"). The City will also obtain the additional benefits discussed below.

## **the Shelter Project**

The Received Parcel was purchased by the Owner on May 6, 2019, as part of a 5.21 acre tract of land (the "Owner Property") intended to be used by the Fort Collins Rescue Mission ("FCRM") for future development of a supportive shelter project for those experiencing homelessness (the "Shelter Project"). FCRM has submitted plans to the City for the Shelter Project, which is currently in the development review process. The Owner has proposed the Subject Exchange as a mutually beneficial transaction: while site analysis shows the Shelter Project can be built on the Owner Property without use of the City Property, the Subject Exchange would benefit both the Shelter Project and the development of the Hickory Detention Pond by optimizing the configuration of both Properties for their proposed uses. The Hickory Detention Pond would benefit from more efficient capture of stormwater draining from the north, and the new alignment of the City Property would allow for an existing tree grove to be incorporated into the Pond. If the Subject Exchange does not happen, the City will need to acquire and maintain an easement across the Owner Property to get stormwater from the north to the Hickory Detention Pond.

### **Land Valuation**

The main issue to determine regarding the Subject Exchange is whether the City Stormwater Utility ratepayers would be adequately compensated for the exchange of the Conveyed Parcel. To make this determination, the City has relied primarily on an appraisal prepared by Jon Vaughan, MAI, SR/WA of CBRE of Hickory Detention Pond using the Before and After methodology as it applies to the Subject Exchange (the "Appraisal").

Although the Additional Acreage will expand Hickory Detention Pond, the overall effect of the Subject Exchange on the Larger Pond Site is a reduction in value. Primarily, the Subject Exchange includes the transfer of approximately 86,734 square feet of additional Natural Habitat Buffer Zone ("NHBZ") onto the Larger Pond Site, which restricts many types of development on approximately 44% of the Larger Pond Site.

Additionally, the Larger Pond Site will have an irregular shape and reduced frontage on Mason Street, which further limit its value based on future development potential. The Appraisal concluded that the Subject Exchange results in a loss of \$250,000 in Fair Market Value to the City because the value of the Larger Pond Site after the Subject Exchange is less than the value of the City Property before the Subject Exchange.

### **Additional Consideration**

The Subject Exchange includes related benefits that the City and Owner agree are in their respective best interests and will compensate the Stormwater Utility for the reduction in value of the Larger Pond Site. This additional consideration will be included in a Land Exchange Agreement for the Subject Exchange (the "LEA"). The LEA will be finalized and executed prior to completing the exchange. Specifically, the parties intend the LEA to include provisions for the Owner's performance of excavation, clearing, grading, and design of a portion of Hickory Detention Pond and NHBZ restoration on City Property in exchange for the Owner's use of fill materials from the City Property (the "Excavation Provisions").

The Excavation Provisions will require the Owner to clear and grub approximately 8 acres of woody debris and surface materials and then excavate approximately 29,000 cubic yards of soil on the Larger Pond Site. This is a benefit to the City of approximately \$620,000 towards the future construction of the final Hickory Detention Pond. The Owner will also be responsible for the estimated cost of restoration on City Property of approximately 2 Acres of NHBZ. The Owner will likely need a temporary construction easement or license to enter from the City to complete the proposed work on the City Property.

Additionally, the Owner has completed engineering design of the preliminary grading of the Hickory Detention Pond, the value of which has not been included in these numbers.

It is important to note that while the irregular shape, loss of Mason Street Frontage and transfer NHBZ areas to the City property have an adverse impact on fair market value, the changes do not significantly impact the utility of the site as a stormwater detention pond.

## Conclusion

City staff has concluded that the Subject Exchange is in the best interest of the Stormwater Utility ratepayers because there will be Additional Acreage to be used for Hickory Detention Pond, and that plus the financial benefits to the City as a result of the Excavation Provisions, and the other City benefits will outweigh any loss in value to the Hickory Detention Pond property as a result of the Subject Exchange.

## CITY FINANCIAL IMPACTS

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Other than staff time and related expenses, the only additional cost to the City associated with the Subject Exchange is a loss in land value of approximately \$250,000, which is offset by four beneficial impacts:

1. The \$620,000 cost savings to the City as a result of the Excavation Provisions, which is a net benefit of \$370,000;
2. The addition of 1.12 acres of land available for development as a stormwater pond;
3. NHBZ restoration of approximately 2 acres of land on the City Larger Pond Site; and
4. Detention Pond Design cost savings.

City staff recommends that the Subject Exchange not include any additional monetary consideration because the City Utilities ratepayers will be adequately compensated as summarized above.

## BOARD / COMMISSION / COMMITTEE RECOMMENDATION

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The Water Commission will consider the Subject Exchange at its February 15, 2024, meeting and staff anticipates the Commission will recommend its approval by Council.

## PUBLIC OUTREACH

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None.

## ATTACHMENTS

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First Reading attachments not include.

1. Ordinance for Consideration
2. Exhibit A to Ordinance
3. Exhibit B to Ordinance
4. Exhibit C to Ordinance
5. Exhibit D to Ordinance
6. Exhibit E to Ordinance

ORDINANCE NO. 037, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING THE CONVEYANCE TO N COLLEGE 1311, LLC, OF A  
PORTION OF THE CITY PROPERTY DESIGNATED AS THE FUTURE  
HICKORY DETENTION POND IN EXCHANGE FOR ADJOINING  
PROPERTY AND OTHER VALUABLE CONSIDERATION

A. The City owns a 7.53 acre tract of land on Hickory Street (the “City Property”) purchased in 2010 as the site for a future regional stormwater detention pond (the “Hickory Detention Pond”). The Hickory Detention Pond will collect stormwater draining from existing properties to the north and west that do not currently have adequate stormwater infrastructure and release it into 2,350 feet of new storm sewer along the future North Mason Street right-of-way. N College 1311, LLC, (“Owner”) owns a tract of land adjacent to the City Property (the “1311 Property”). The City Property and 1311 Property are shown on Exhibit “A”, attached and incorporated herein by reference.

B. The 1311 Property is the proposed site for the Fort Collins Rescue Mission’s new 24/7 shelter for persons experiencing homelessness (the “Shelter Project.”).

C. The Owner has proposed exchanging a 2.43 acre portion of the 1311 Property for a 1.31 acre portion of the City Property. While this exchange is not essential for either project, it would facilitate development of both the Shelter Project and the Hickory Detention Pond by optimizing the configuration of both Properties for their proposed uses.

D. The property that the City would convey to the Owner (the “Conveyed Parcel”) and the property the Owner would convey to the City (the “Received Parcel”) are both shown on Exhibit “B”, attached and incorporated herein by reference. The configuration of the City Property and the 1311 Property after the proposed exchange are shown on Exhibit “C”, attached and incorporated herein by reference. Surveyed legal descriptions of both the Conveyed Parcel and the Received Parcel would be created before the parties close on the exchange of the Parcels.

E. Portions of both the City Property and the 1311 Property are within 500 feet of an area or feature identified as a natural habitat or feature pursuant to Division 3.4 of the City’s Land Use Code (a “Natural Habitat Buffer Zone” or “NHBZ”). A NHBZ limits development but can be reduced in one area and expanded in another. Therefore, the Owner is asking the City to agree to accept more of the NHBZ on the City Property to increase the developable area on the 1311 Property. City staff does not object to this proposal, as the NHBZ should not limit the City’s ability to construct the Hickory Detention Pond.

F. The current locations of the NHBZ on both Properties is shown on Exhibit “D”, and the location of the NHBZ on the City Property after the proposed property exchange and relocation of the NHBZ is shown on Exhibit “E”, both attached and incorporated herein by reference.

G. Section 23-111(a) of the City Code authorizes the City Council to sell, convey or otherwise dispose of any interest in real property owned by the City, provided that the City Council first finds, by ordinance, that such sale or other disposition is in the best interests of the City; and, with respect to real property which is a part of the City's water or utility systems, the City Council must also find that the disposition will not materially impair the viability of the particular utility system as a whole and that it will be for the benefit of the citizens of the City.

H. In addition, Section 23-114 of the City Code requires that any sale or other conveyance of property interests approved under section 23-111(a) be for an amount equal to or greater than the fair market value of such interest.

I. City staff has determined through an outside appraisal prepared using the "before and after" methodology that the City Property is currently worth approximately \$1.57 million. But even though the Received Parcel is larger than the Conveyed Parcel, after the proposed exchange the fair market value of the City Property would be approximately \$250,000 less than it is now, primarily because the exchange would include the transfer of additional Natural Habitat Buffer Zone onto the City Property, limiting its potential for development and therefore reducing its value.

J. The Owner has agreed, however, as additional consideration for the land exchange, to be responsible for the design, excavation, clearing, and grading of a portion of the Hickory Detention Pond and restoration of the NHBZ on the City Property as part of the work on the Shelter Project. The Owner will be able to use dirt removed from such excavation as fill on the 1311 Property.

K. The Owner or its contractor may require a license to enter or temporary construction easement over the City Property shown on Exhibit C for work on the Hickory Detention Pond.

L. The value to the City of the Received Parcel plus the work the Owner has agreed to do on the City Property, less the value of the Conveyed Parcel, results in a net gain to the City of approximately \$370,000. The Owner's design work for the Hickory Detention Pond is not included in this amount but provides additional value to the City; staff therefore recommends that the City not charge the Owner any additional monetary consideration for the proposed exchange.

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. The City's conveyance of the Conveyed Parcel and a temporary construction easement or license to enter to the Owner, plus the City's acceptance of additional Natural Habitat Buffer Zone on the City Property, in exchange for the Received Parcel plus additional services to be provided to the City by the Owner on the City Property is in the best interests of the City, will not materially impair the viability of the

City's stormwater utility system as a whole, and will be for the benefit of the citizens of the City.

Section 2. The City Council hereby authorizes the Mayor to execute such documents as are necessary to convey the Conveyed Parcel to the Owner on terms and conditions consistent with this Ordinance, together with such terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the interests of the City, including, but not limited to, any necessary changes to the legal description of the Conveyed Parcel, as long as such changes do not materially increase the size or change the character of the interest to be conveyed.

Section 3. The City Council also authorizes the Mayor or City Manager, as appropriate, to execute such additional documents as may be necessary to (i) convey a temporary construction easement or license to enter to the Owner for the purpose of doing work on the Hickory Detention Pond, and (ii) accept or allow transfer of additional Natural Habitat Buffer Zone onto the City Property as shown on Exhibit E, on terms and conditions consistent with this Ordinance, together with such terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the interests of the City, including, but not limited to, any necessary changes to the legal description of the property interests involved, as long as such changes do not materially increase the size or change the character of the interests to be conveyed.

Section 4. The City Council's approval of the property exchange described herein does not signify the Council's approval of the Shelter Project, which must comply with all applicable standards and requirements of the City's development review process.

Introduced, considered favorably on first reading on February 20, 2024, and approved on second reading for final passage on March 5, 2024.

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Mayor

ATTEST:

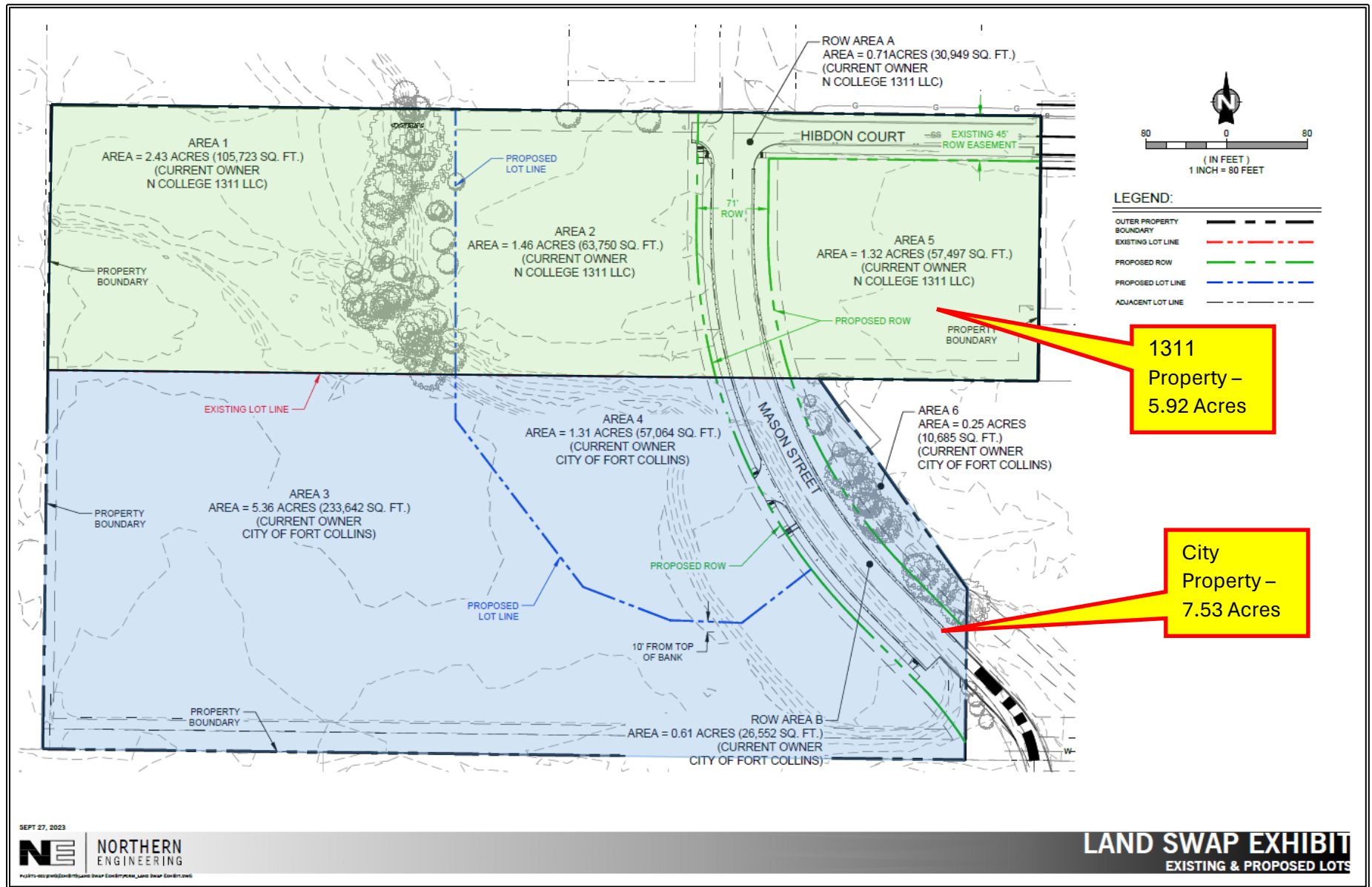
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Interim City Clerk

Effective Date: March 15, 2024  
Approving Attorney: Ingrid Decker



# Exhibit A - Properties Before Exchange





# Exhibit B - Exchange Parcels

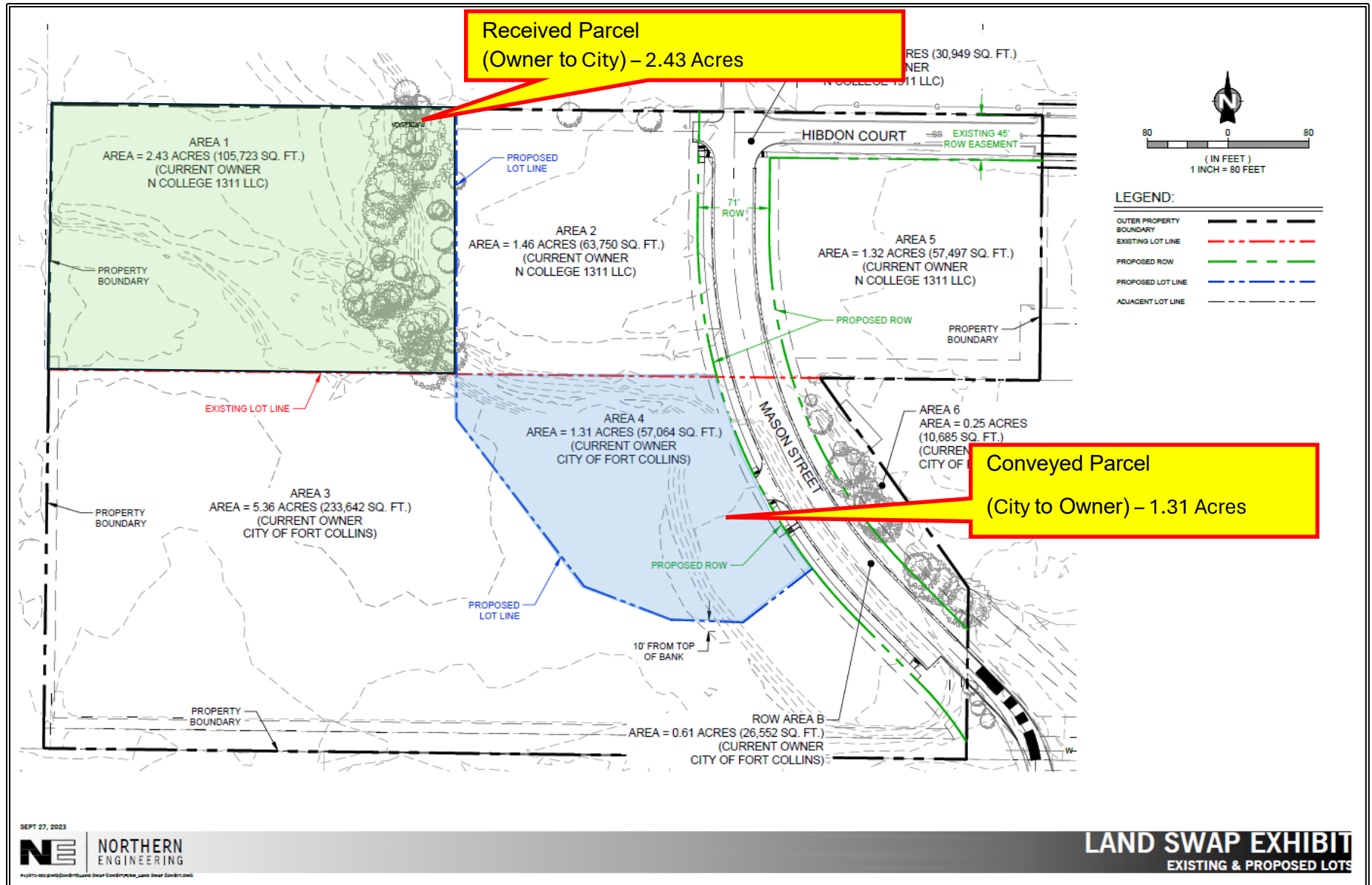
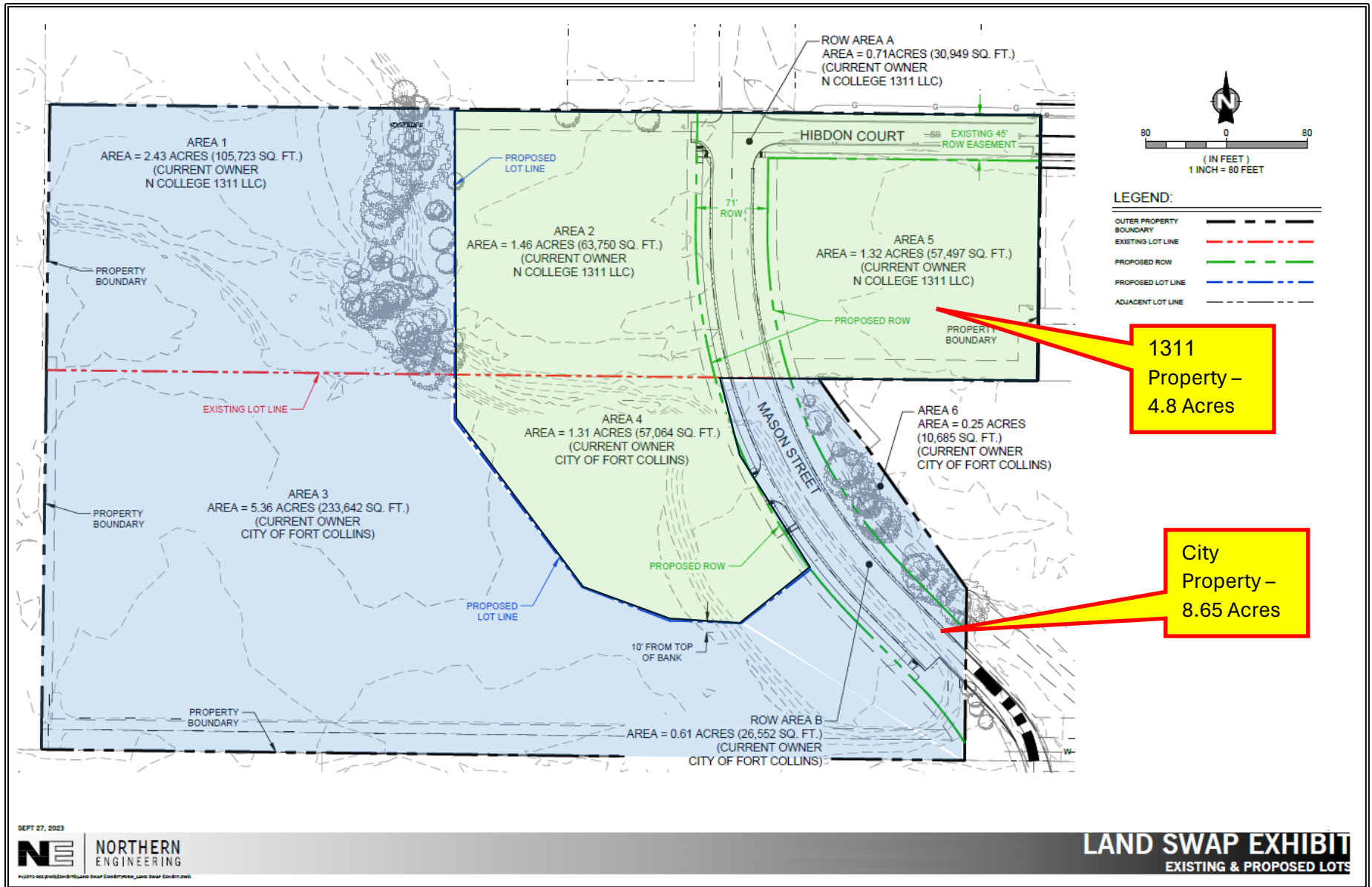


EXHIBIT C TO ORDINANCE NO. 037, 2024

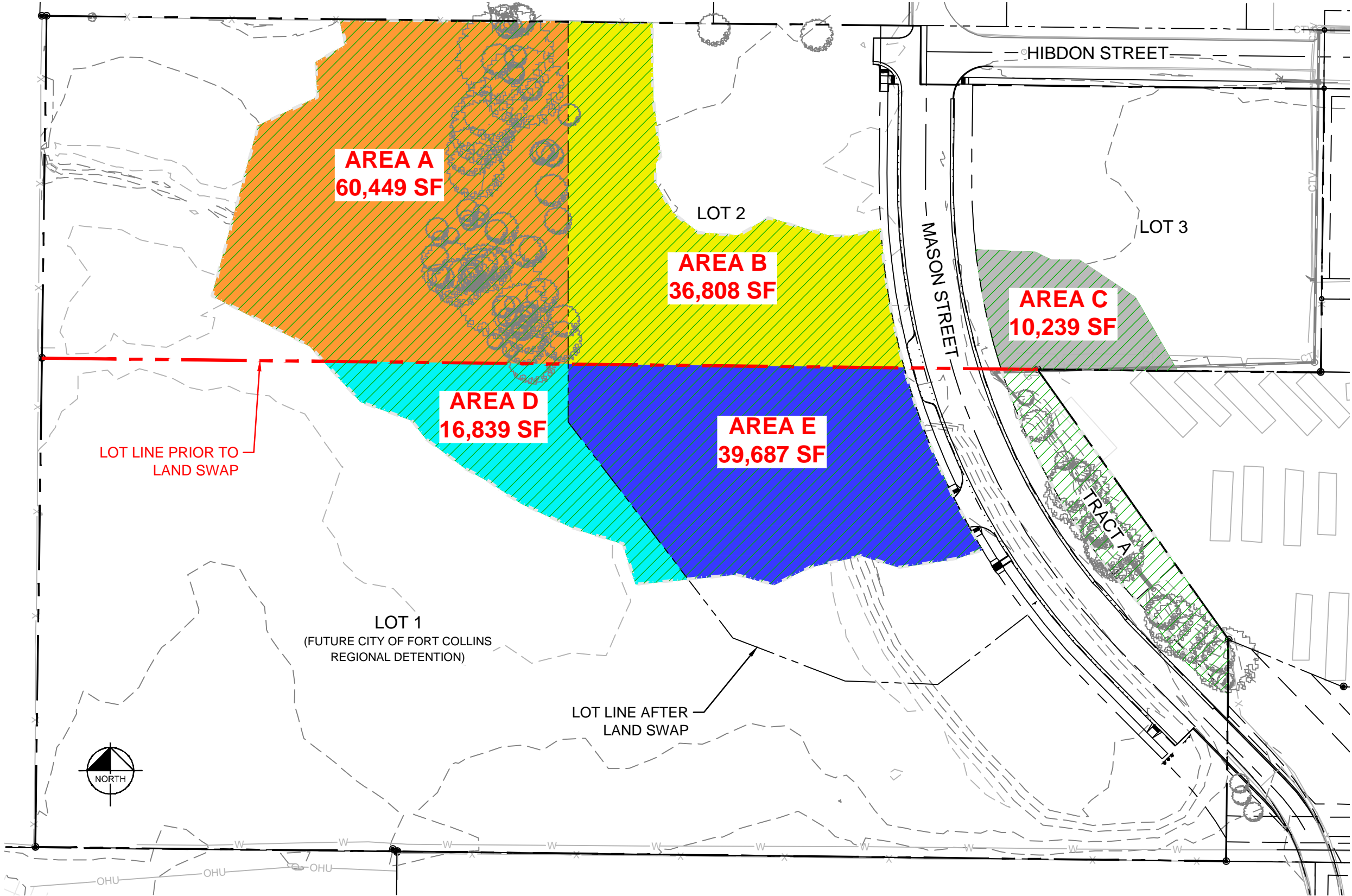
## Exhibit C - Properties After Exchange

Item 7.



# Exhibit D - Natural Habitat Buffer Zone (NHBZ) Before Proposed Transfer

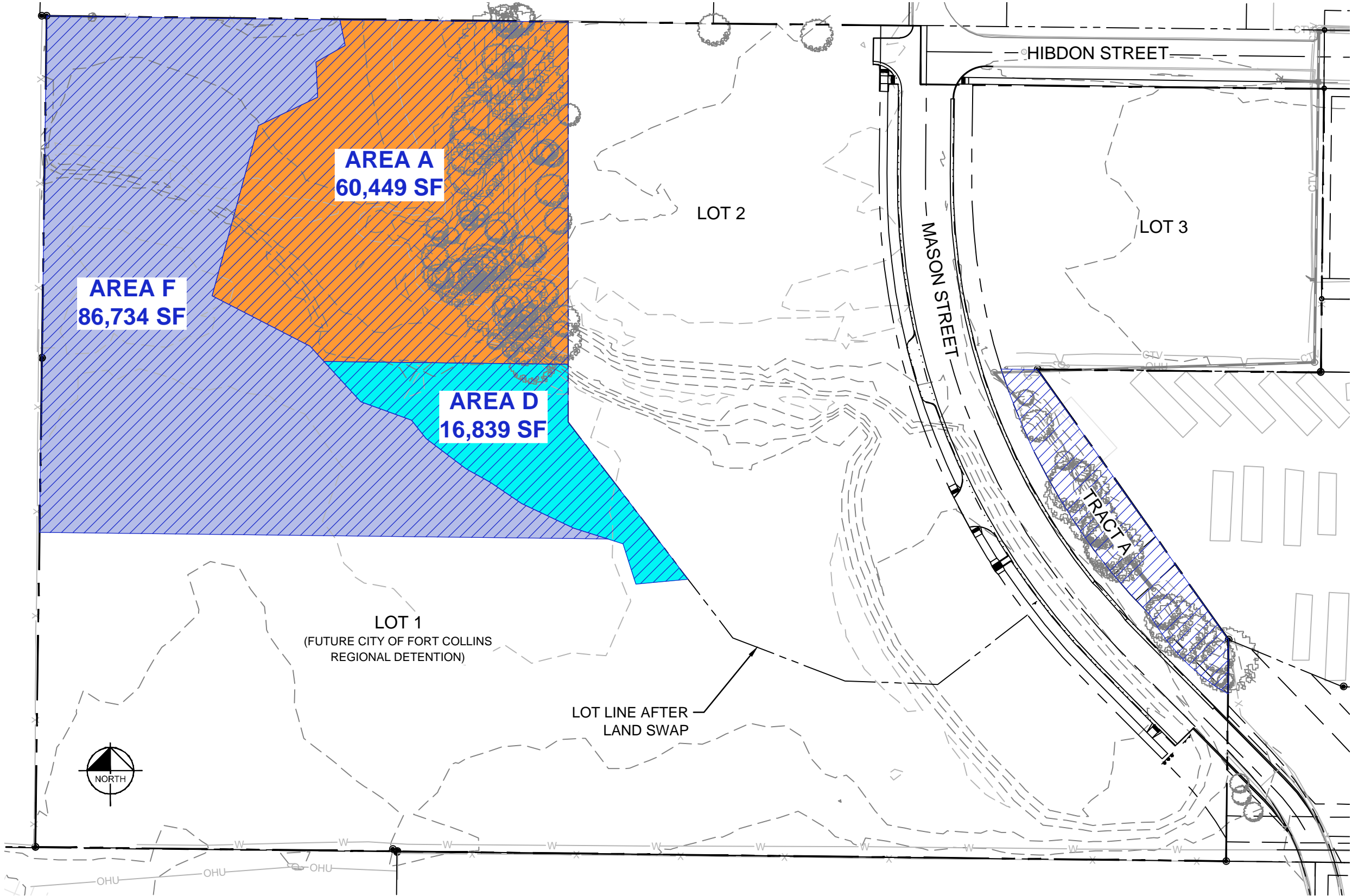
AREA ID	AREA ON CITY PROPERTY PRIOR TO LAND SWAP	AREA ON N COLLEGE 1311 LLC PROPERTY PRIOR TO LAND SWAP
A		60,449
B		36,808
C		10,239
D	16,839	
E	39,687	
TOTAL	56,526	107,496



Item 7.

# Exhibit E - Natural Habitat Buffer Zone (NHBZ) After Proposed Transfer

AREA ID	AREA ON CITY PROPERTY AFTER LAND SWAP	AREA ON N COLLEGE 1311 LLC PROPERTY AFTER LAND SWAP
A	60,449	
B		
C		
D	16,839	
E		
F	86,734	
TOTAL	164,022	





March 5, 2024

## AGENDA ITEM SUMMARY

City Council



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### STAFF

Gunnar Hale, Project Manager  
Dana Hornkohl, Capital Projects Manager

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### SUBJECT

**Items Relating to the Laporte Avenue Multimodal Improvement Project.**

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### EXECUTIVE SUMMARY

A. Resolution 2024-025 Authorizing an Amendment to an Existing Intergovernmental Agreement between the City of Fort Collins, Colorado, and the Colorado Department of Transportation for the Laporte Avenue Multimodal Improvement Project.

B. First Reading of Ordinance No. 038, 2024, Making Supplemental Appropriations, Appropriating Prior Year Reserves and Authorizing Transfers of Appropriations for the Laporte Avenue Multimodal Improvement Project and Related Art in Public Places.

The purpose of this item is to enable the City to receive and expend Colorado Department of Transportation (CDOT) funds for the Laporte Avenue Multimodal Improvement Project (Laporte Project). The funds will be used for construction of improvements along Laporte Ave from Fishback Avenue to Sunset Street. If approved this item will: 1) authorize the Mayor to execute an amendment to the Intergovernmental Agreement (IGA) for the Laporte Project with CDOT; 2) appropriate \$2,500,000 of Transportation Alternative grant funds for the Laporte Project; 3) use \$122,727 from the Bicycle Infrastructure Improvements Community Capital Improvement Program (CCIP Bike Program) as part of the local match; 4) use \$102,273 from the Pedestrian Infrastructure Improvements Community Capital Improvement Program (CCIP Pedestrian Program) as part of the local match; 5) appropriate as part of the local match contribution \$223,425 from the Transportation Capital Expansion Fee Reserves (TCEF); 6) appropriate as part of the local match contribution \$222,750 from General Fund Reserves; 7) appropriate \$1,755 (0.78% of the TCEF amount of the 1% contribution for the artwork portion of APP) from TCEF Reserves to the Art in Public Places Program; 8) appropriate \$495 (0.22% of the TCEF amount of the 1% contribution to APP) from the Transportation Fund Reserves to the Art in Public Places Program; 9) appropriate \$2,250 (1% of the General Fund amount) from the General Fund to the Art in Public Places Program.

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### STAFF RECOMMENDATION

Staff recommends adoption of the Resolution and Ordinance on First Reading.

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### BACKGROUND / DISCUSSION

Laporte Avenue between Fishback Avenue and Sunset Street is a two-lane arterial roadway. Most of the roadway within the Laporte Project limits lacks adequate bicycle and pedestrian facilities including sidewalk, bike lanes, curb and gutter. The roadway experiences heavy bicycle and pedestrian traffic

especially with Poudre High School, and many residential neighborhoods and businesses being located adjacent to the Laporte Project limits. Several near misses and at least one serious vehicle-pedestrian accident have occurred in 2015 within the Laporte Project limits. The corridor currently experiences a higher-than-expected volume of traffic accidents due to the lack of adequate infrastructure. Laporte Avenue is master planned to be on the City's low-stress bicycle network. The Laporte Project will address the safety concerns and lack of multimodal infrastructure.

In 2019, the City applied for two grants: a federal Transportation Alternatives Program (TAP) grant and a state Multimodal Transportation and Mitigation Options Fund (MMOF) grant. In 2020 the TAP and MMOF funds were awarded to the City through the North Front Range Metropolitan Planning Organization (NFRMPO) and the Colorado Department of Transportation (CDOT) for the design, right-of-way acquisition, and construction of the Laporte Project. In 2021 the City applied for and was awarded the Revitalizing Mainstreet (RMS) Grant. These grant funds along with Transportation Capital Expansion Fee (TCEF) Program funds and Transportation Services funds used as the required matching funds were appropriated in 2022 via Resolution 2022-027. These funds were used to fund design, right-of-way acquisition, and partial construction.

In 2023 the City applied for and was awarded \$2,500,000 in additional TAP funds through the NFRMPO. These funds are required to complete construction of the Laporte Project planned for 2024. These grant funds require a 20% matching funds obligation from the local agency. General Fund, CCIP Bike Program, CCIP Pedestrian Program, and TCEF program funds will be used for the local match portion, as well as an additional \$50,000 in overmatch funds. This local funding scenario was brought before the Council Finance Committee on February 23, 2024, and approved.

Per Chapter 23 of the City Code, Article XII (addressing Art in Public Places), Section 23-304, all appropriations for construction projects estimated to cost over \$250,000 shall include an amount equal to one percent of the estimated cost for works of art. Funds from all three grants are ineligible for use toward public art. Community Capital Improvement Program (CCIP) funds have already satisfied the required contribution to public art for the initial appropriation. For the proposed appropriation the total Art in Public Places funds to be appropriated is \$4,500. This item will transfer \$1,750 of the TCEF appropriations and \$2,250 of the General Fund appropriations to the Art in Public Places Program. Staff has identified the Transportation Services Fund Reserves as a means to provide the additional \$750 needed to provide long-term maintenance for the art.

## CITY FINANCIAL IMPACTS

The following is a summary of the funding anticipated for design, right-of-way acquisition, and construction for the Laporte Avenue Multimodal Improvement Project:

<b>Prior Appropriated Funds</b>	
Community Capital Improvement Program (CCIP) Local Funds (2017-2018 BFO Offer 1.7)	\$300,000
Transportation Alternative Program (TAP) Grant Funds	\$750,000
Multimodal Options Funds (MMOF) Grant Funds	\$250,000
Revitalizing Mainstreet (RMS) Grant Funds	\$1,437,500
Transportation Capital Expansion Fee (TCEF) Funds	\$388,830
Transportation Services Fund Reserves	\$1,170
<b>Total Prior Appropriation</b>	<b>\$3,127,500</b>

<b>Funds to be Appropriated with this Action</b>	
Transportation Alternative Program (TAP) Grant Funds	\$2,500,000
<i>Community Capital Improvement Program (CCIP) Bike Program*</i>	\$122,727
<i>Community Capital Improvement Program (CCIP) Pedestrian Program*</i>	\$102,273
Transportation Capital Expansion Fee (TCEF) Funds Reserves	\$225,000
General Fund Reserves	\$225,000
Transportation Services Fund Reserves (for Art in Public Places contribution)	\$495
<b>Total Funds to be Appropriated per this Action</b>	<b>\$3,175,495</b>
<b>Transfer to Art in Public Places</b>	<b>\$4,500</b>
<b>Total Project Funds</b>	<b>\$6,302,995</b>

*\*These funds were previously appropriated through the 23-24 BFO Cycle and were transferred to the Capital Projects Fund and appropriated therein but are noted in this action as they will be used as part of the TAP grant's local match.*

The total fund amount projected for this Laporte Project is \$6,302,995 composed of funds appropriated with prior actions and with this action.

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

City staff presented this Laporte Project to the Council Finance Committee on August 11, 2021, and February 23, 2024. The Laporte Project was also presented to the Transportation Board as well as the Bicycle Advisory Committee in 2020. Council Finance Committee supports an out of cycle supplemental appropriation for the Transportation Alternative Program local match to fund construction for the Laporte Project.

#### **PUBLIC OUTREACH**

Staff has developed a comprehensive Public Engagement Plan for the Laporte Project. Staff has discussed and presented conceptual level drawings at several public outreach events with an open house in October of 2019, two public meetings held on May 1, 2023, and May 23, 2023, and the Transportation Fair in February of 2023 and February 2024. A project website is regularly updated with project information and upcoming milestones.

#### **ATTACHMENTS**

1. Resolution for Consideration
2. Resolution Exhibit A
3. Ordinance for Consideration
4. Laporte Avenue Multimodal Project - Vicinity Map
5. Council Finance Committee Draft Meeting Minutes, February 23, 2024

RESOLUTION 2024-025  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING AN AMENDMENT TO AN EXISTING  
INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF  
FORT COLLINS, COLORADO, AND THE COLORADO  
DEPARTMENT OF TRANSPORTATION FOR THE LAPORTE  
AVENUE MULTIMODAL IMPROVEMENT PROJECT

A. Laporte Avenue between Fishback Avenue and Sunset Street is a two-lane arterial roadway. The roadway experiences heavy bicycle and pedestrian traffic especially with Poudre High School and many residential neighborhoods and businesses located in this corridor. The corridor currently experiences a higher-than-expected volume of traffic accidents due to the lack of adequate infrastructure.

B. The Laporte Avenue corridor between Fishback Avenue and Sunset Street currently has several gaps in bicycle and pedestrian facilities. Many locations lack sidewalks, curbs, and gutters, and the bike lanes are often narrow and not well defined. The corridor also provides access to Poudre High School and has significant bicycle and pedestrian activity with the proximity of the school and residential neighborhoods.

C. There have been several near misses in recent years involving bicyclists and pedestrians and at least one serious vehicle-pedestrian accident in 2015 in this Laporte Avenue corridor.

D. A precursor project, the Laporte Bridges Project, has begun to address safety issues in this corridor by replacing and widening two previously deficient bridges on Laporte Avenue over the New Mercer Canal, just north of Grandview Cemetery.

E. The Laporte Avenue Multimodal Improvement Project (Laporte Project) has been developed to improve vehicular, bicycle, and pedestrian safety along the Laporte Avenue corridor by addressing deficient sidewalks, adding bicycle lanes, and adding a center reversible turn lane, upgrading the roadway with curb and gutter, improving drainage along the corridor, and installing other traffic improvements.

F. The Laporte Project will install improvements from Fishback Avenue to Sunset Street and will also include improvements to the intersection at Taft Hill and Laporte.

G. Laporte Avenue is identified in the City's 2014 Bicycle Master Plan as part of the City's Low Stress Bicycle Network and is recognized by the North Front Range Metropolitan Planning Organization (NFRMPO) as a high priority for bicycle and pedestrian improvements.

H. In 2020, the City was awarded two grants: a federal Transportation Alternatives Program (TAP) grant and a state Multimodal Options Fund (MMOF) grant. The funds were awarded to the City through the NFRMPO and the Colorado Department



of Transportation (CDOT) for the design, right-of-way acquisition, and construction of the Laporte Project. In 2021 the City was awarded the Revitalizing Mainstreet (RMS) Grant. These grant funds along with Transportation Capital Expansion Fee (TCEF) Program funds and Transportation Services funds used as the required matching funds were appropriated in 2021 via Ordinance No. 155, 2021. These funds were used to fund design, right-of-way acquisition, and partial construction.

I. In 2023 the City applied for and was awarded \$2,500,000 in additional TAP funds through the NFRMPO. These funds are required to complete construction of the Laporte Project planned for 2024. These grant funds require a 20% matching funds obligation from the local agency. General Fund, Bicycle Infrastructure Improvements Community Capital Improvement Program (CCIP Bike Program), Pedestrian Infrastructure Improvements Community Capital Improvement Program (CCIP Pedestrian Program), and TCEF program funds will be used for the local match portion, as well as an additional \$50,000 in overmatch funds.

J. City staff presented this project to the Council Finance Committee on August 11, 2021, and February 23, 2024. The Laporte Project was also presented to the Transportation Board as well as the Bicycle Advisory Committee in 2020. Council Finance Committee supports an out of cycle supplemental appropriation for the TAP local match to fund construction for the Laporte Project.

K. CDOT administers the grant funds for the Laporte Project. In 2022, via Resolution 2022-027, the City Council authorized execution of an intergovernmental agreement (IGA) with CDOT.

L. CDOT has proposed an amendment to the IGA to enable the City to receive and expend the additional grant funds to continue to address the safety concerns and lack of multimodal infrastructure.

M. Colorado Revised Statutes Section 29-1-203 provides that governments may cooperate or contract with one another to provide certain services or facilities when the cooperation or contracts are authorized by each party thereto with the approval of its legislative body or other authority having the power to so approve.

N. Article II, Section 16 of the City Charter empowers the City Council, by ordinance or resolution, to enter into contracts with governmental bodies to furnish governmental services and make charges for such services, or enter into cooperative or joint activities with other governmental bodies.

O. City Code Section 1-22 requires the City Council to approve IGAs that require the City to make a direct, monetary payment over \$50,000, and the proposed IGA requires the City to provide matching funds in the amount of \$675,000.

P. The City Council has determined that the IGA with CDOT is in the best interests of the City and that the Mayor be authorized to execute the IGA between the City and CDOT in support thereof.

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

Section 1. The City Council authorizes the Mayor to execute, on behalf of the City, an Intergovernmental Agreement with the Colorado Department of Transportation, in substantially the form attached hereto as Exhibit A, with such additional or modified terms and conditions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City or effectuate the purposes of this Resolution.

Section 2. The City Council hereby authorizes the City Manager to approve and execute future amendments to the IGA that the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to facilitate completion of the Laporte Avenue Multimodal Improvement Project, so long as such amendments do not increase the cost of the Laporte Project, substantially modify the purposes of the IGA, increase the allocation or amount of funding for the Laporte Project funded by the City, or otherwise increase the obligations and responsibilities of the City as set forth in the IGA.

Passed and adopted on March 5, 2024.

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Mayor

ATTEST:

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Interim City Clerk

Effective Date: March 5, 2024

Approving Attorney: Heather N. Jarvis

**STATE OF COLORADO AMENDMENT****Amendment #: 1 Project #: TAP M455-133 (23630, 25890, 25891, 25892)****SIGNATURE AND COVER PAGE**

<b>State Agency</b> Department of Transportation		<b>Amendment Routing Number</b> 22-HA4-XC-00017-M0002
<b>Local Agency</b> CITY OF FORT COLLINS		<b>Original Agreement Routing Number</b> 22-HA4-XC-00017
<b>Agreement Maximum Amount</b>	\$6,352,500.00	<b>Agreement Performance Beginning Date</b> June 29, 2022
		<b>Initial Agreement Expiration Date</b> January 11, 2032

**THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT**

Each person signing this Amendment represents and warrants that he or she is duly authorized to execute this Amendment and to bind the Party authorizing his or her signature.

<p align="center"><b>STATE OF COLORADO</b> <b>Jared S. Polis, Governor</b> Department of Transportation Shoshana M. Lew, Executive Director</p> <p align="center">_____ Keith Stefanik, P.E., Chief Engineer</p> <p align="center">Date: _____</p>	
<p align="center"><b>LOCAL AGENCY</b> CITY OF FORT COLLINS</p> <p align="center">_____ Signature</p> <p align="center">_____ By: (Print Name and Title)</p> <p align="center">Date: _____</p>	<p align="center"><b>LOCAL AGENCY</b> <b>(Additional Signatures)</b></p> <p align="center">_____ Signature</p> <p align="center">_____ By: (Print Name and Title)</p> <p align="center">Date: _____</p> <p align="center">APPROVED AS TO FORM:</p> <p align="center">_____ Signature</p> <p align="center">_____ By: (Print Name and Title)</p> <p align="center">Date: _____</p>

In accordance with §24-30-202 C.R.S., this Amendment is not valid until signed and dated below by the State Controller or an authorized delegate.

<p><b>STATE CONTROLLER</b> <b>Robert Jaros, CPA, MBA, JD</b></p> <p align="center">By: _____ Department of Transportation</p> <p align="center">Amendment Effective Date: _____</p>
---

**1) PARTIES**

This Amendment (the "Amendment") to the Original Agreement shown on the Signature and Cover Page for this Amendment (the "Agreement") is entered into by and between the Local Agency and the State.

**2) TERMINOLOGY**

Except as specifically modified by this Amendment, all terms used in this Amendment that are defined in the Agreement shall be construed and interpreted in accordance with the Agreement.

**3) EFFECTIVE DATE AND ENFORCEABILITY****A. Amendment Effective Date**

This Amendment shall not be valid or enforceable until the Amendment Effective Date shown on the Signature and Cover Page for this Amendment. The State shall not be bound by any provision of this Amendment before that Amendment Effective Date, and shall have no obligation to pay the Local Agency for any Work performed or expense incurred under this Amendment either before or after the Amendment term shown in **§3.B** of this Amendment

**B. Amendment Term**

The Parties' respective performances under this Amendment and the changes to the Agreement contained herein shall commence on the Amendment Effective Date shown on the Signature and Cover Page for this Amendment and shall terminate on the termination of the Agreement.

**4) PURPOSE**

The Parties entered into the Agreement for the Laporte Avenue Improvements: Fishback to Sunset in Fort Collins, CO. The Parties now desire to update the Scope of Work, Funding Provisions, and Local Agency Contract Administration Checklist.

**5) MODIFICATIONS**

The Agreement and all prior amendments thereto, if any, are modified as follows:

a) Exhibit A shall be replaced by **Exhibit A-1**. Any reference in the Original Agreement to **Exhibit A** shall be a reference to **Exhibit A-1**;

b) The total budgeted funds are increased from \$3,127,500.00 by \$3,225,000.00 to a new total budgeted funds of \$6,352,500.00. The new funding breakdown is as follows:

i. The federal TAP award is increased from \$937,500.00 by \$3,125,000.00 to a new federal TAP award of \$4,062,500.00. This award is federal funds of \$3,250,000.00 and Local Agency funds of \$812,500.00;

ii. The Local Agency funds for the RMS/ARPA award is increased from \$252,500.00 by \$100,000.00 to a new Local Agency funds of \$352,500.00;

c) **Exhibit C-3** shall be replaced by **Exhibit C-4**. Any reference in the Original Agreement to **Exhibit C**, **Exhibit C-1**, **Exhibit C-2**, or **Exhibit C-3** shall be a reference to **Exhibit C-4**;

d) **Exhibit D** shall be replaced by **Exhibit D-1**. Any reference in the Original Agreement to **Exhibit D** shall be a reference to **Exhibit D-1**; and

e) **Exhibit E** shall be replaced by **Exhibit E-1**. Any reference in the original agreement to **Exhibit E** shall be a reference to **Exhibit E-1**.

**6) LIMITS OF EFFECT**

This Amendment is incorporated by reference into the Agreement, and the Agreement and all prior amendments or other modifications to the Agreement, if any, remain in full force and effect except as specifically modified in this Amendment. Except for the Special Provisions contained in the Agreement, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Agreement or any prior modification to the Agreement, the provisions of this Amendment shall in all

respects supersede, govern, and control. The provisions of this Amendment shall only supersede, govern, and control over the Special Provisions contained in the Agreement to the extent that this Amendment specifically modifies those Special Provisions.

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**EXHIBIT A-1**  
**Scope of Work**

**Laporte Avenue Improvements: Fishback to Sunset  
TAP M455-133 (23630, 25890, 25891, 25892)**

The Colorado Department of Transportation (#CDOT#) will oversee the City of Fort Collins (#City#) when the City designs and constructs the following: bicycle and pedestrian improvements including bike lanes, sidewalk, multi-use paths, curb and gutter, and signing and striping along Laporte Avenue between Sunset Street and Fishback Avenue. The city believes these improvements are necessary to improve bike and pedestrian safety along the corridor. This work will be located on Laporte Avenue between Sunset Street and Fishback Avenue.

The work will conform to AASHTO standards, the MUTCD, and all applicable state and federal regulations. The design phase will identify exact requirements, qualities, and attributes for this work (Hereinafter referred to as #the exact work#). The exact work shall be used to construct designed improvements. The design phase shall begin in the Fall of 2021 and the construction phase is anticipated to begin in Fall of 2023. All Multi-Modal Options Fund (MMOF) funding expenditures shall be completed, invoiced, and reimbursed by June 30, 2025. Public art is not an eligible expense of MMOF and Transportation Alternatives (TA) funding.

**If ARPA funds are used, all ARPA funds must be encumbered by December 31, 2024. All work funded by ARPA must be completed by December 31, 2026 and all bills must be submitted to CDOT for payment by January 31, 2027. These bills must be paid by CDOT by March 31, 2027.**

By accepting funds for this Scope of Work, Local Agency acknowledges, understands, and accepts the continuing responsibility for the safety of the traveling public after initial acceptance of the project. **Local Agency is responsible for maintaining and operating the scope of work described in this Exhibit A-1 constructed under this Agreement at its own cost and expense during its useful life.**

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**EXHIBIT C-4 - FUNDING PROVISIONS****City of Fort Collins TAP M455-133 (23630, 25890, 25891, 25892)****A. Cost of Work Estimate**

The Local Agency has estimated the total cost the Work to be \$6,352,500.00, which is to be funded as follows:

**1. FUNDING**

a.	Federal Funds TAP (80.00% of TAP Award)	\$3,250,000.00
b.	Local Agency Funds (20.00% of TAP Award)	\$812,500.00
c.	Federal Funds ARPA US Treasury Expenditure Category EC6 (80.31% of RMS Award)	\$1,437,500.00
d.	Local Agency Funds (19.69% of RMS Award)	\$352,500.00
e.	State Funds MMOF (50.00% of MMOF Award)	\$250,000.00
f.	Local Agency Funds (50.00% of MMOF Award)	\$250,000.00

**TOTAL FUNDS ALL SOURCES****\$6,352,500.00****2. OMB UNIFORM GUIDANCE**

a.	Federal Award Identification Number (FAIN):	TBD
b.	Name of Federal Awarding Agency:	FHWA, USDT
c.	Local Agency Unique Entity Identifier	VEJ3BS5GK5G1
d.	Assistance Listing # Highway Planning and Construction	ALN 20.205
e.	Assistance Listing # Coronavirus State and Local Fiscal Recovery Funds	ALN 21.027
f.	Is the Award for R&D?	No
g.	Indirect Cost Rate (if applicable)	N/A
h.	Amount of Federal Funds Obligated by this Action:	\$0.00
i.	Amount of Federal Funds Obligated to Date (including this Action):	\$2,187,500.00

**3. ESTIMATED PAYMENT TO LOCAL AGENCY**

a.	Federal Funds Budgeted	\$3,250,000.00
b.	ARPA Funds Budgeted	\$1,437,500.00
c.	State Funds Budgeted	\$250,000.00
d.	Less Estimated Federal Share of CDOT-Incurred Costs	\$0.00

<b>TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY</b>	<b>77.73%</b>	<b>\$4,937,500.00</b>
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<b>TOTAL ESTIMATED FUNDING BY LOCAL AGENCY</b>	<b>22.27%</b>	<b>\$1,415,000.00</b>
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<b>TOTAL PROJECT ESTIMATED FUNDING</b>	<b>100.00%</b>	<b>\$6,352,500.00</b>
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**4. FOR CDOT ENCUMBRANCE PURPOSES****TAP**

a.	Total Encumbrance Amount (Federal funds + Local Agency funds)	\$4,062,500.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109	\$0.00

**RMS (ARPA)**

a.	Total Encumbrance Amount (Only ARPA funds are encumbered)	\$1,437,500.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109	\$0.00

**MMOF**

a.	Total Encumbrance Amount (Only State funds are encumbered)	\$250,000.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109	\$0.00

**NET TO BE ENCUMBERED BY CDOT IS AS FOLLOWS****\$5,750,000.00**

Note: Only \$2,625,000.00 is currently available. Additional Design and Construction funds will become available after execution of an Option letter (Exhibit B) or formal Amendment.

**TAP**

WBS Element 23630.10.30	Performance Period Start**/End Date 08/31/2022 – 12/31/2024	Design 3020	\$1.00
WBS Element 25890.20.10	Performance Period Start**/End Date 10/12/2023 – 02/28/2024	Const. 3301	\$937,500.00
WBS Element 25891.20.10	Performance Period Start**/End Date TBD-TBD	Const. 3301	\$0.00
WBS Element 25892.20.10	Performance Period Start**/End Date TBD-TBD	Const. 3301	\$0.00

**RMS**

WBS Element 23630.10.30	Performance Period Start**/End Date 06/29/2022 – 12/31/2026	Design 3020	\$1,437,499.00
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**MMOF**

WBS Element 25890.10.30	Performance Period Start**/End Date N/A- N/A	Const. 3301	\$250,000.00
WBS Element 25891.20.10	Performance Period Start**/End Date N/A- N/A	Const. 3301	\$0.00
WBS Element 25892.20.10	Performance Period Start**/End Date N/A- N/A	Const. 3301	\$0.00

\* For TAP funds, the Local Agency should not begin work until all three (3) of the following are in place: 1) Phase Performance Period Start Date; 2) the execution of the document encumbering funds for the respective phase; and 3) Local Agency receipt of the official Notice to Proceed. Any work performed before these three (3) milestones are achieved will not be reimbursable.

\*\* For RMS and MMOF funds, the Local Agency should not begin work until both of the following are in place: 1) the execution of the document encumbering funds for the respective phase; and 2) Local Agency receipt of the official Notice to Proceed. Any work performed before these two (2) milestones are achieved will not be reimbursable.

**B. Matching Funds**

The funding ratio for the federal & State funds for this Work is 77.73% federal & State funds to 22.27% Local Agency funds, and this ratio applies only to the \$6,352,500.00 that is eligible for federal & State funding. All other costs are borne by the Local Agency at 100%. If the total cost of performance of the Work exceeds \$6,352,500.00, and additional federal & State funds are not available, the Local Agency shall pay all such excess costs. If the total cost of performance of the Work is less than \$6,352,500.00, then the amounts of Local Agency and federal & State funds will be decreased in accordance with the funding ratio described in **A1. This applies to the entire scope of Work.**

**C. Maximum Amount Payable**

The maximum amount payable to the Local Agency under this Agreement shall be \$4,937,500.00. For CDOT accounting purposes, the federal funds of \$3,250,000.00, federal ARPA funds of \$1,437,500.00, State MMOF funds of \$250,000.00 and Local Agency funds of \$812,500.00 will be encumbered, but the Local Agency funds of \$602,500.00 will NOT be encumbered for a total encumbrance of \$5,750,000.00. The total budget of this project is \$6,352,500.00, unless this amount is increased by an executed amendment before any increased cost is incurred. The total cost of the Work is the best estimate available, based on the design data as approved at the time of execution of this Agreement, and that any cost is subject to revisions agreed to by the parties prior to bid and award. The maximum amount payable will be reduced without amendment when the actual amount of the Local Agency's awarded Agreement is less than the budgeted total of the federal funds and the Local Agency funds. The maximum amount payable will be reduced through the execution of an Option Letter as described in Section 7. E. of this contract. **This applies to the entire scope of Work. ARPA Funds can only originate from and after May 18, 2021.**



**D. Single Audit Act Amendment**

All state and local government and non-profit organizations receiving \$750,000 or more from all funding sources defined as federal financial assistance for Single Audit Act Amendment purposes shall comply with the audit requirements of 2 CFR part 200, subpart F (Audit Requirements) see also, 49 CFR 18.20 through 18.26. The Single Audit Act Amendment requirements applicable to the Local Agency receiving federal funds are as follows:

**i. Expenditure less than \$750,000**

If the Local Agency expends less than \$750,000 in Federal funds (all federal sources, not just Highway funds) in its fiscal year then this requirement does not apply.

**ii. Expenditure of \$750,000 or more-Highway Funds Only**

If the Local Agency expends \$750,000 or more, in Federal funds, but only received federal Highway funds (Catalog of Federal Domestic Assistance, CFDA 20.205) then a program specific audit shall be performed. This audit will examine the "financial" procedures and processes for this program area.

**iii. Expenditure of \$750,000 or more-Multiple Funding Sources**

If the Local Agency expends \$750,000 or more in Federal funds, and the Federal funds are from multiple sources (FTA, HUD, NPS, etc.) then the Single Audit Act applies, which is an audit on the entire organization/entity.

**iv. Independent CPA**

Single Audit shall only be conducted by an independent CPA, not by an auditor on staff. An audit is an allowable direct or indirect cost.

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**EXHIBIT D-1**  
**LOCAL AGENCY RESOLUTION**

*To be provided by Local Agency prior to execution of this Amendment.*

**EXHIBIT E-1****LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST**

<b>COLORADO DEPARTMENT OF TRANSPORTATION</b>			
<b>LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST</b>			
Project No. TAP M455-133	STIP No.	Project Code 23630, 25890, 25891, 25892	Region 04
Project Location Laporte Avenue: N Sunset Street to Fishback Avenue			Date 3/18/2023
Project Description Laporte Avenue pedestrian improvements			
Local Agency City of Fort Collins	Local Agency Project Manager Tim Sellers		
CDOT Resident Engineer Bryce Reeves	CDOT Project Manager Armando Ochoa		
<p><b>INSTRUCTIONS:</b></p> <p>This checklist shall be utilized to establish the contract administration responsibilities of the individual parties to this agreement. The checklist becomes an attachment to the Local Agency agreement. Section numbers correspond to the applicable chapters of the <i>CDOT Local Agency Manual</i>.</p> <p>The checklist shall be prepared by placing an "X" under the responsible party, opposite each of the tasks. The "X" denotes the party responsible for initiating and executing the task. When neither CDOT nor the Local Agency is responsible for a task, not applicable (NA) shall be noted. In addition, a "#" will denote that CDOT must concur or approve.</p> <p>Tasks that will be performed by Headquarters staff will be indicated. The Regions, in accordance with established policies and procedures, will determine who will perform all other tasks that are the responsibility of CDOT.</p> <p>The checklist shall be prepared by the CDOT Resident Engineer or the CDOT Project Manager, in cooperation with the Local Agency Project Manager, and submitted to the Region Program Engineer. If contract administration responsibilities change, the CDOT Resident Engineer, in cooperation with the Local Agency Project Manager, will prepare and distribute a revised checklist.</p>			

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
TIP / STIP AND LONG-RANGE PLANS			
2-1	Review Project to ensure consistency with STIP and amendments thereto		X
FEDERAL FUNDING OBLIGATION AND AUTHORIZATION			
4-1	Authorize funding by phases (CDOT Form 418 - Federal-aid Program Data. Requires FHWA concurrence/involvement)		X
PROJECT DEVELOPMENT			
5-1	Prepare Design Data - CDOT Form 463	X	#
5-2	Prepare Local Agency/CDOT Inter-Governmental Agreement (see also Chapter 3)		X
5-3	Conduct Consultant Selection/Execute Consultant Agreement	X	
5-4	Conduct Design Scoping Review meeting	X	X
5-5	Conduct Public Involvement	X	
5-6	Conduct Field Inspection Review (FIR)	X	
5-7	Conduct Environmental Processes (may require FHWA concurrence/involvement)	X	
5-8	Acquire Right-of-Way (may require FHWA concurrence/involvement)	X	#
5-9	Obtain Utility and Railroad Agreements	X	#
5-10	Conduct Final Office Review (FOR)	X	
5-11	Justify Force Account Work by the Local Agency	X	#
5-12	Justify Proprietary, Sole Source, or Local Agency Furnished items	X	#
5-13	Document Design Exceptions - CDOT Form 464	X	#
5-14	Prepare Plans, Specifications and Construction Cost Estimates	X	#
5-15	Ensure Authorization of Funds for Construction		X

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
<b>PROJECT DEVELOPMENT CIVIL RIGHTS AND LABOR COMPLIANCE</b>			
6-1	Set Disadvantaged Business Enterprise (DBE) Goals for Consultant and Construction Contracts (CDOT Region EEO/Civil Rights Specialist)		X
6-2	Determine Applicability of Davis-Bacon Act This project <input type="checkbox"/> is <input checked="" type="checkbox"/> is not exempt from Davis-Bacon requirements as determined by the functional classification of the project location (Projects located on local roads and rural minor collectors may be exempt.)  Bryce Reeves CDOT Resident Engineer(Signature on File) 6/30/2023 Date		X
6-3	Set On-the-Job Training Goals.		X
6-4	Title VI Assurances	X	
	Ensure the correct Federal Wage Decision, all required Disadvantaged Business Enterprise/On-the-Job Training special provisions and FHWA Form 1273 are included in the Contract (CDOT Resident Engineer)		X
<b>ADVERTISE, BID AND AWARD</b>			
7-1	Obtain Approval for Advertisement Period of Less Than Three Weeks	X	#
7-2	Advertise for Bids	X	
7-3	Distribute "Advertisement Set" of Plans and Specifications	X	
7-4	Review Worksite and Plan Details with Prospective Bidders While Project is Under Advertisement	X	
7-5	Open Bids	X	
7-6	Process Bids for Compliance	X	
	Check CDOT Form 1415 - Certificate of Proposed DBE Participation when the low bidder meets DBE goals		X
	Evaluate CDOT Form 1416 - DBE Good Faith Effort Documentation and determine if the Contractor has made a good faith effort when the low bidder does not meet DBE goals		X
	Submit required documentation for CDOT award concurrence	X	
7-7	Concurrence from CDOT to Award		X
7-8	Approve Rejection of Low Bidder		X
7-9	Award Contract	X	#
7-10	Provide "Award" and "Record" Sets of Plans and Specifications	X	
<b>CONSTRUCTION MANAGEMENT</b>			
8-1	Issue Notice to Proceed to the Contractor	X	
8-2	Project Safety	X	
8-3	Conduct Conferences:		
	Pre-construction Conference (Appendix B)	X	
	Presurvey		
	• Construction staking	X	
	• Monumentation	X	
	Partnering (Optional)	X	
	Structural Concrete Pre-Pour (Agenda is in <i>CDOT Construction Manual</i> )	X	
	Concrete Pavement Pre-Paving (Agenda is in <i>CDOT Construction Manual</i> )	X	
	HMA Pre-Paving (Agenda is in <i>CDOT Construction Manual</i> )	X	
8-4	Develop and distribute Public Notice of Planned Construction to media and local residents	X	
8-5	Supervise Construction		
	A Professional Engineer (PE) registered in Colorado, who will be "in responsible charge of construction supervision."  Tim Sellers Local Agency Professional Engineer or CDOT Resident Engineer 720-280-6926 Phone number	X	

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
	Provide competent, experienced staff who will ensure the Contract work is constructed in accordance with the plans and specifications	X	
	Construction inspection and documentation	X	
8-6	Approve Shop Drawings	X	
8-7	Perform Traffic Control Inspections	X	#
8-8	Perform Construction Surveying	X	
8-9	Monument Right-of-Way	X	
8-10	Prepare and Approve Interim and Final Contractor Pay Estimates	X	
	Provide the name and phone number of the person authorized for this task.		
	Tim Sellers 720-280-6926 Local Agency Representative Phone number		
8-11	Prepare and Approve Interim and Final Utility/Railroad Billings	X	
8-12	Prepare Local Agency Reimbursement Requests	X	
8-13	Prepare and Authorize Change Orders	X	#
8-14	Approve All Change Orders		X
8-15	Monitor Project Financial Status	X	
8-16	Prepare and Submit Monthly Progress Reports	X	
8-17	Resolve Contractor Claims and Disputes	X	
8-18	Conduct Routine and Random Project Reviews		
	Provide the name and phone number of the person responsible for this task.		X
	Bryce Reeves 970-350-2126 CDOT Resident Engineer Phone number		
<b>MATERIALS</b>			
9-1	Discuss Materials at Preconstruction Meeting -Buy America documentation <b>prior</b> to installation of steel	X	
9-2	Complete CDOT Form 250 - Materials Documentation Record <ul style="list-style-type: none"> <li>Generate form, which includes determining the minimum number of required tests and applicable material submittals for all materials placed on the project</li> <li>Update the form as work progresses</li> <li>Complete and distribute form after work is completed</li> </ul>	X X	X
9-3	Perform Project Acceptance Samples and Tests	X	
9-4	Perform Laboratory Verification Tests	X	
9-5	Accept Manufactured Products	X	
	Inspection of structural components: <ul style="list-style-type: none"> <li>Fabrication of structural steel and pre-stressed concrete structural components</li> <li>Bridge modular expansion devices (0" to 6" or greater)</li> <li>Fabrication of bearing devices</li> </ul>	X X X	
9-6	Approve Sources of Materials	X	
9-7	Independent Assurance Testing (IAT), Local Agency Procedures <input checked="" type="checkbox"/> CDOT Procedures <input type="checkbox"/> <ul style="list-style-type: none"> <li>Generate IAT schedule</li> <li>Schedule and provide notification</li> <li>Conduct IAT</li> </ul>	X X	X
9-8	Approve Mix Designs <ul style="list-style-type: none"> <li>Concrete</li> <li>Hot Mix Asphalt</li> </ul>	X X	# #
9-9	Check Final Materials Documentation	X	#
9-10	Complete and Distribute Final Materials Documentation	X	

<b>CONSTRUCTION CIVIL RIGHTS AND LABOR COMPLIANCE</b>			
10-1	Fulfill Project Bulletin Board and Pre-construction Packet Requirements	X	
10-2	Process CDOT Form 205b - Sublet Permit Application Review and sign completed CDOT Form 205 for each subcontractor, and submit to EEO/Civil Rights Specialist	X	
10-3	Conduct Equal Employment Opportunity and Labor Compliance Verification Employee Interviews. Complete CDOT Form 280	X	
10-4	Monitor Disadvantaged Business Enterprise Participation to Ensure Compliance with the "Commercially Useful Function" requirements	X	
10-5	Conduct Interviews When Project Utilizes On-the-Job Trainees. Complete CDOT Form 200 - OJT Training Questionnaire	X	
10-6	Check Certified Payrolls (Contact the Region EEO/Civil Rights Specialists for training requirements.)	X	#
10-7	Submit FHWA Form 1391 - Highway Construction Contractor's Annual EEO Report	X	
<b>FINALS</b>			
11-1	Conduct Final Project Inspection. Complete and submit CDOT Form 1212 - Final Acceptance Report (Resident Engineer with mandatory Local Agency participation.)	X	#
11-2	Write Final Project Acceptance Letter	X	
11-3	Advertise for Final Settlement	X	
11-4	Prepare and Distribute Final As-Constructed Plans	X	
11-5	Prepare EEO Certification	X	
11-6	Check Final Quantities, Plans and Pay Estimate; Check Project Documentation; and submit Final Certifications	X	
11-7	Check Material Documentation and Accept Final Material Certification (See Chapter 9)	X	
11-8	Obtain CDOT Form 1419 - Contractor DBE Payment Certification from the Contractor and submit to the Resident Engineer (Quarterly)	X	
11-9	Obtain FHWA Form 47 - Statement of Materials and Labor Used ... from the Contractor		NA
11-10	Process Final Payment	X	
11-11	Complete and Submit CDOT Form 950 - Project Closure		X
11-12	Retain Project Records for Three Years from Date of Project Closure	X	X
11-13	Retain Final Version of Local Agency Contract Administration Checklist	X	X

cc: CDOT Resident Engineer/Project Manager  
CDOT Region Program Engineer  
CDOT Region EEO/Civil Rights Specialist  
CDOT Region Materials Engineer  
CDOT Contracts and Market Analysis Branch  
Local Agency Project Manager

ORDINANCE NO. 038, 2024  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
MAKING SUPPLEMENTAL APPROPRIATIONS,  
APPROPRIATING PRIOR YEAR RESERVES AND AUTHORIZING  
TRANSFERS OF APPROPRIATIONS FOR THE LAPORTE  
AVENUE MULTIMODAL IMPROVEMENT PROJECT AND  
RELATED ART IN PUBLIC PLACES

A. Laporte Avenue between Fishback Avenue and Sunset Street is a two-lane arterial roadway. The roadway experiences heavy bicycle and pedestrian traffic especially with Poudre High School and many residential neighborhoods and businesses located in this corridor. The corridor currently experiences a higher-than-expected volume of traffic accidents due to the lack of adequate infrastructure.

B. The Laporte Avenue corridor between Fishback Avenue and Sunset Street currently has several gaps in bicycle and pedestrian facilities. Many locations lack sidewalks, curbs, and gutters, and the bike lanes are often narrow and not well defined. The corridor also provides access to Poudre High School and has significant bicycle and pedestrian activity with the proximity of the school and residential neighborhoods.

C. There have been several near misses in recent years involving bicyclists and pedestrians and at least one serious vehicle-pedestrian accident in 2015 in this Laporte Avenue corridor.

D. A precursor project, the Laporte Bridges Project, has begun to address safety issues in this corridor by replacing and widening two previously deficient bridges on Laporte Avenue over the New Mercer Canal, just north of Grandview Cemetery.

E. The Laporte Avenue Multimodal Improvement Project (Laporte Project) has been developed to improve vehicular, bicycle, and pedestrian safety along the Laporte Avenue corridor by addressing deficient sidewalks, adding bicycle lanes, and adding a center reversible turn lane, upgrading the roadway with curb and gutter, improving drainage along the corridor, and installing other traffic improvements.

F. The Laporte Project will install improvements from Fishback Avenue to Sunset Street and will also include improvements to the intersection at Taft Hill and Laporte.

G. Laporte Avenue is identified in the City's 2014 Bicycle Master Plan as part of the City's Low Stress Bicycle Network and is recognized by the North Front Range Metropolitan Planning Organization (NFRMPO) as a high priority for bicycle and pedestrian improvements.

H. In 2020, the City was awarded two grants: a federal Transportation Alternatives Program (TAP) grant and a state Multimodal Options Fund (MMOF) grant. The funds were awarded to the City through the NFRMPO and the Colorado Department of Transportation (CDOT) for the design, right-of-way acquisition, and construction of the Laporte Project. In 2021 the City was awarded the Revitalizing Mainstreet (RMS) Grant.

These grant funds along with Transportation Capital Expansion Fee (TCEF) Program funds and Transportation Services funds used as the required matching funds were appropriated in 2021 via Ordinance No. 155, 2021. These funds were used to fund design, right-of-way acquisition, and partial construction.

I. In 2023 the City applied for and was awarded \$2,500,000 in additional TAP funds through the NFRMPO. These funds are required to complete construction of the Laporte Project planned for 2024. These grant funds require a 20% matching funds obligation from the local agency. General Fund, Bicycle Infrastructure Improvements Community Capital Improvement Program (CCIP Bike Program), Pedestrian Infrastructure Improvements Community Capital Improvement Program (CCIP Pedestrian Program), and TCEF program funds will be used for the local match portion, as well as an additional \$50,000 in overmatch funds.

J. City staff presented this Laporte Project to the Council Finance Committee on August 11, 2021, and February 23, 2024. The Laporte Project was also presented to the Transportation Board as well as the Bicycle Advisory Committee in 2020. Council Finance Committee supports an out of cycle supplemental appropriation for the TAP local match to fund construction for the Laporte Project.

K. CDOT administers the grant funds for the Laporte Project. In 2022, via Resolution 2022-027, the City Council authorized execution of an intergovernmental agreement (IGA) with CDOT.

L. CDOT has proposed an amendment to the IGA to enable the City to receive and expend the additional grant funds to continue to address the safety concerns and lack of multimodal infrastructure.

M. These appropriations benefit public health, safety, and welfare of the residents of Fort Collins and serve the public purpose of promoting safer travel across multiple modalities and improving the transportation infrastructure within the City.

N. 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, does not exceed the current estimate of actual and anticipated revenues and all other funds to be received during the fiscal year.

O. The City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the Capital Projects Fund and will not cause the total amount appropriated in the Capital Projects 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.

P. 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.

Q. The City Manager has recommended the appropriations described herein and determined that these appropriations are available and previously unappropriated from the Transportation Capital Expansion Fee Fund, the General Fund, and the Transportation Services Fund, as applicable, and will not cause the total amount appropriated in the Transportation Capital Expansion Fee Fund, the General Fund, or the Transportation Services 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.

R. 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.

S. The City Manager has recommended the transfer of \$122,727 from the CCIP Bike Program in the Capital Projects Fund and \$102,273 from the CCIP Pedestrian Program in the Capital Projects Fund to the Laporte Avenue Multimodal Improvement Project in the Capital Projects Fund and determined that the purpose for which the transferred funds are to be expended remains unchanged.

T. Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a capital project or 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 completion of the capital project or 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.

U. The City Council wishes to designate the appropriation herein for the TAP grant 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.

V. The City Council wishes to designate the appropriations herein for the Laporte Avenue Multimodal Improvement Project as appropriations that shall not lapse until the completion of the Laporte Project.

W. This Laporte 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).

X. A portion of the funds appropriated in this Ordinance for the Laporte Project are ineligible for use in the APP Program due to restrictions placed on them by the Colorado Department of Transportation, the source of these funds.

Y. A portion of the funds appropriated in this Ordinance for the Laporte Project have already been used for contribution to the APP Program.

Z. The project cost of \$450,000 has been used to calculate the contribution to the APP program.

AA. The amount to be contributed in this Ordinance will be \$4,500.

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 Capital Projects Fund the sum of TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000) to be expended in the Capital Projects Fund for the Laporte Avenue Multimodal Improvement Project.

Section 2. The unexpended and unencumbered appropriated amount of ONE HUNDRED TWENTY-TWO THOUSAND SEVEN HUNDRED TWENTY-SEVEN DOLLARS (\$122,727) is authorized for transfer from the CCIP Bike Program in the Capital Projects Fund to the Laporte Avenue Multimodal Improvement Project in the Capital Projects Fund and appropriated therein to be expended for the bicycle network.

Section 3. The unexpended and unencumbered appropriated amount of ONE HUNDRED TWO THOUSAND TWO HUNDRED SEVENTY-THREE DOLLARS (\$102,273) is authorized for transfer from the CCIP Pedestrian Program in the Capital Projects Fund to the Laporte Avenue Multimodal Improvement Project in the Capital Projects Fund and appropriated therein to be expended for improvements to the pedestrian facilities.

Section 4. There is hereby appropriated from prior year reserves in the Transportation Capital Expansion Fee Fund the sum of TWO HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$225,000) to be expended in the Transportation Capital Expansion Fee Fund for transfer to the Capital Projects Fund and appropriated therein for the Laporte Avenue Multimodal Improvement Project.

Section 5. There is hereby appropriated from prior year reserves in the General Fund the sum of TWO HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$225,000) to be expended in the General Fund for transfer to the Capital Projects Fund and appropriated therein for the Laporte Avenue Multimodal Improvement Project.

Section 6. There is hereby appropriated from prior year reserves in the Transportation Services Fund the sum of FOUR HUNDRED NINETY-FIVE DOLLARS (\$495) to be expended in the Transportation Services Fund for transfer to the Capital

Projects Fund and appropriated therein for the Laporte Avenue Multimodal Improvement Project.

Section 7. The unexpended and unencumbered appropriated amount of THREE THOUSAND FIVE HUNDRED TEN DOLLARS (\$3,510) in the Capital Projects Fund is hereby authorized for transfer to the Cultural Services and Facilities Fund and appropriated and expended therein to fund art projects under the APP Program.

Section 8. The unexpended and unencumbered appropriated amount of NINE HUNDRED DOLLARS (\$900) in the Capital Projects 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 9. The unexpended and unencumbered appropriated amount of NINETY DOLLARS (\$90) in the Capital Projects 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 10. The appropriation herein for the Transportation Alternatives Program grant is 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.

Section 11. The appropriations herein for the Laporte Avenue Multimodal Improvement Project are appropriations that shall not lapse until the completion of the Laporte Project.

Introduced, considered favorably on first reading on March 5, 2024, and approved on second reading for final passage on March 19, 2024.

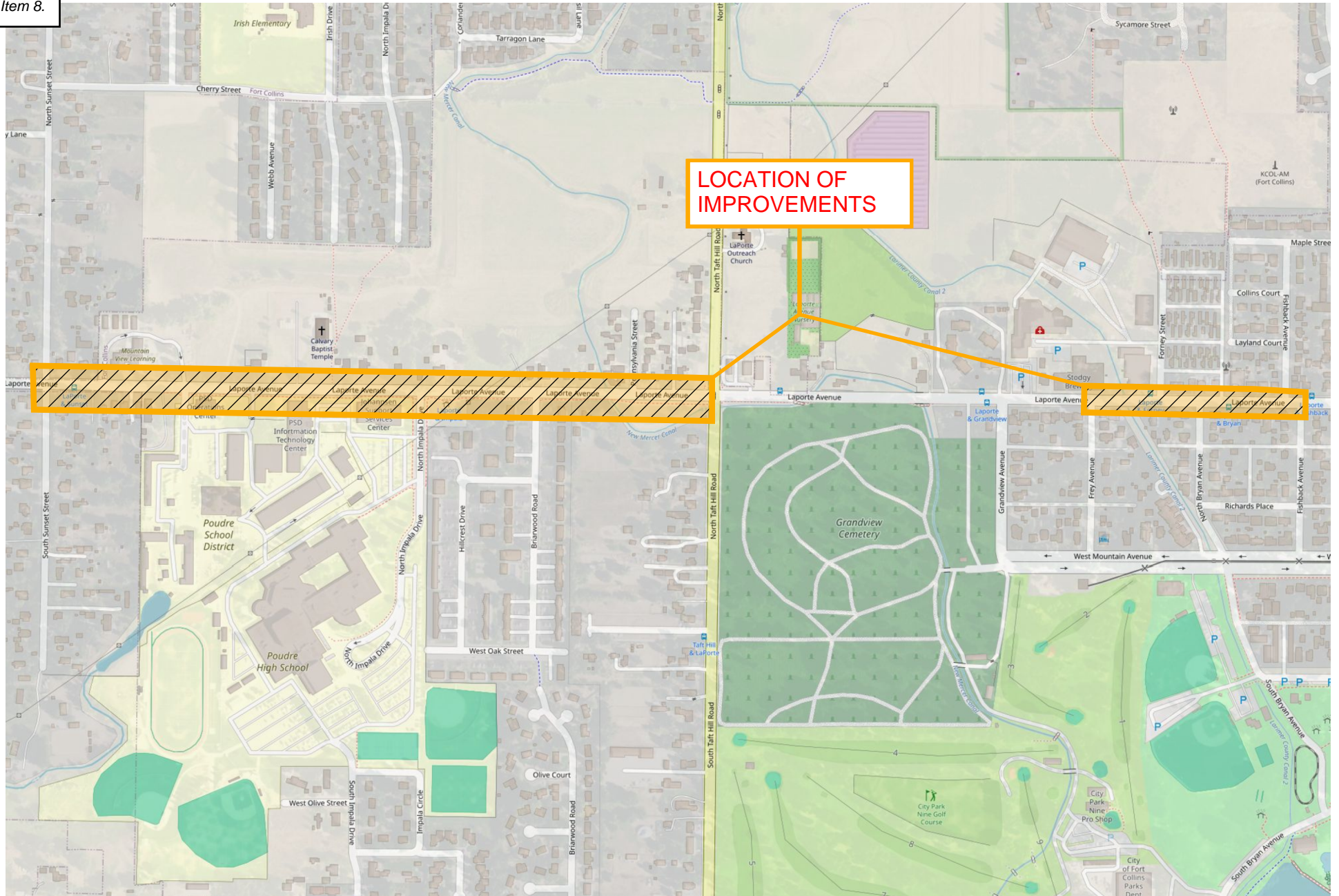
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Mayor

ATTEST:

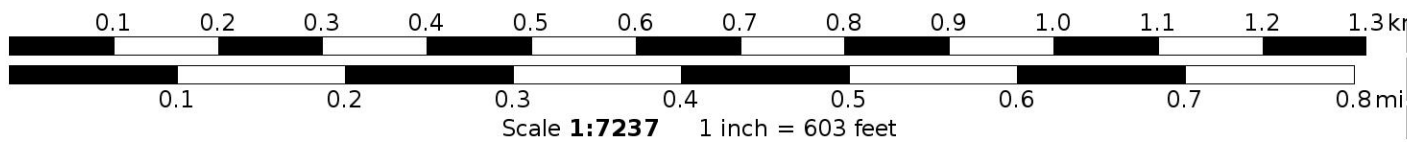
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Interim City Clerk

Effective Date: March 29, 2024  
Approving Attorney: Heather N. Jarvis

# VICINITY MAP



Mercator Projection  
WGS84  
UTM Zone 13T





**Council Finance Committee Hybrid Meeting**  
**CIC Room / Zoom**  
**February 23, 2024**  
**1:00 - 3:00 pm**

Council Attendees: Mayor Arndt, Emily Francis, Kelly Ohlson

Staff: Kelly DiMartino, Tyler Marr, Travis Storin, Denzel Maxwell, Claudia Menendez, Lance Smith, Jason Graham, Phil Ladd, Ryan Malarky, Andrea Smith, Gunnar Hale, Monica Martinez, Drew Brooks, Brad Buckman, Dana Hornkohl, Dave Lenz, Trevor Nash, Terri Runyan, Ginny Sawyer, Renee Reeves, Lawrence Pollack, Jo Cech, Nina Bodenhamer, Victoria Shaw, Zack Mozer, Carolyn Koontz

Others: Keivn Jones, Chamber

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Meeting called to order at 1:00 pm

Approval of minutes from December 14, 2023, Council Finance Committee Meeting.  
Emily Francis moved for approval of the minutes as presented. Mayor Arndt seconded the motion.  
The minutes were approved unanimously via roll call by; Mayor Arndt, Emily Francis, Kelly Ohlson.

**A. Laporte Multimodal Grant Match**

Gunnar Hale, P.E. Engineering, Civil Engineer I  
Monica Martinez, Manager, FP&A, PDT Finance

**SUBJECT FOR DISCUSSION**

Laporte Multi-Modal Grant Match – Transportation Alternative Program Grant Appropriation

**EXECUTIVE SUMMARY**

Laporte Avenue between Fishback Avenue and Sunset Street is a two-lane arterial roadway and most of the roadway within the Project limits lacks adequate bicycle and pedestrian facilities including sidewalk, bike lanes, curb, and gutter. The City was awarded a \$2,500,000 Transportation Alternative Program grant from the North Front Range Metropolitan Planning Organization (NFRMPO) to fund construction of the Laporte Avenue Multi-Modal Improvement Project. The grant award requires a 20% local match of \$2,500,000. It is suggested that CCIP Bike, CCIP Pedestrian, TCEF program funds, Transportation Services Fund Reserves and General Fund, be used for the local match portion, as well as an additional \$50,000 in overmatch funds. The City will be required



to contribute 20% of the local match funds as well as the local overmatch funds. The City's financial commitment to fund construction will be \$625,750 in local funds and \$50,000 in local overmatch funds for a total of \$675,750 to complete the \$3.175M construction.

#### **GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED**

- Is Council Finance supportive of an out of cycle supplemental appropriation for the Transportation Alternative Program (TAP) and required local match to fund construction for the Laporte Avenue Multi-Modal Improvement Project.

#### **BACKGROUND/DISCUSSION**

##### TAP Background

In June 2023, the NFRMPO awarded the City with a TAP grant for the construction of the Laporte Avenue Multi-Modal Improvement Project

The approved funding breakdown is as follows:

TAP grant	\$2,500,000
Local Match (City)	\$625,750
Local Overmatch (City)	<u>\$50,000</u>
Total	\$3,175,750

The total local match request from the City is \$675,750. Suggested local match breakdown is as follows: Transportation Capital Expansion Fee (TCEF) (\$225,000), CCIP Bike (\$122,727), CCIP Pedestrian (\$102,273), Transportation Services Fund Reserves (\$750) and General Fund (\$225,000) be used to support this supplemental appropriation request.

##### Laporte Corridor Background

The Laporte Corridor within the project limits of Fishback Avenue and Sunset Street currently lacks adequate bicycle and pedestrian facilities including sidewalk, bike lanes and curb and gutter.

The roadway experiences heavy bicycle and pedestrian traffic especially with Poudre High School, many residential neighborhoods, and businesses located adjacent to the project limits.

- Several near misses and at least one serious vehicle-pedestrian accident have occurred.
- The corridor currently experiences a higher-than-expected volume of traffic accidents due to the lack of adequate infrastructure

Laporte Avenue is master planned to be on the City's low-stress bicycle network. The Project will address the safety concerns and lack of multi-modal infrastructure.

##### Laporte Corridor Project Status

TAP Grant submitted – 2020

\$750,000 awarded.

MMOF Grant submitted – 2020

\$250,000 awarded.

Revitalizing Main Street Grant awarded – 2021

\$1,437,500 awarded.

TAP Grant Submitted – 2023

\$2,500,000 awarded.

East Segment 100% Design – Completed Fall 2023

West Segment 90% FOR Design – January 2024

East Segment Construction – March 2024

West Segment Construction – June 2024

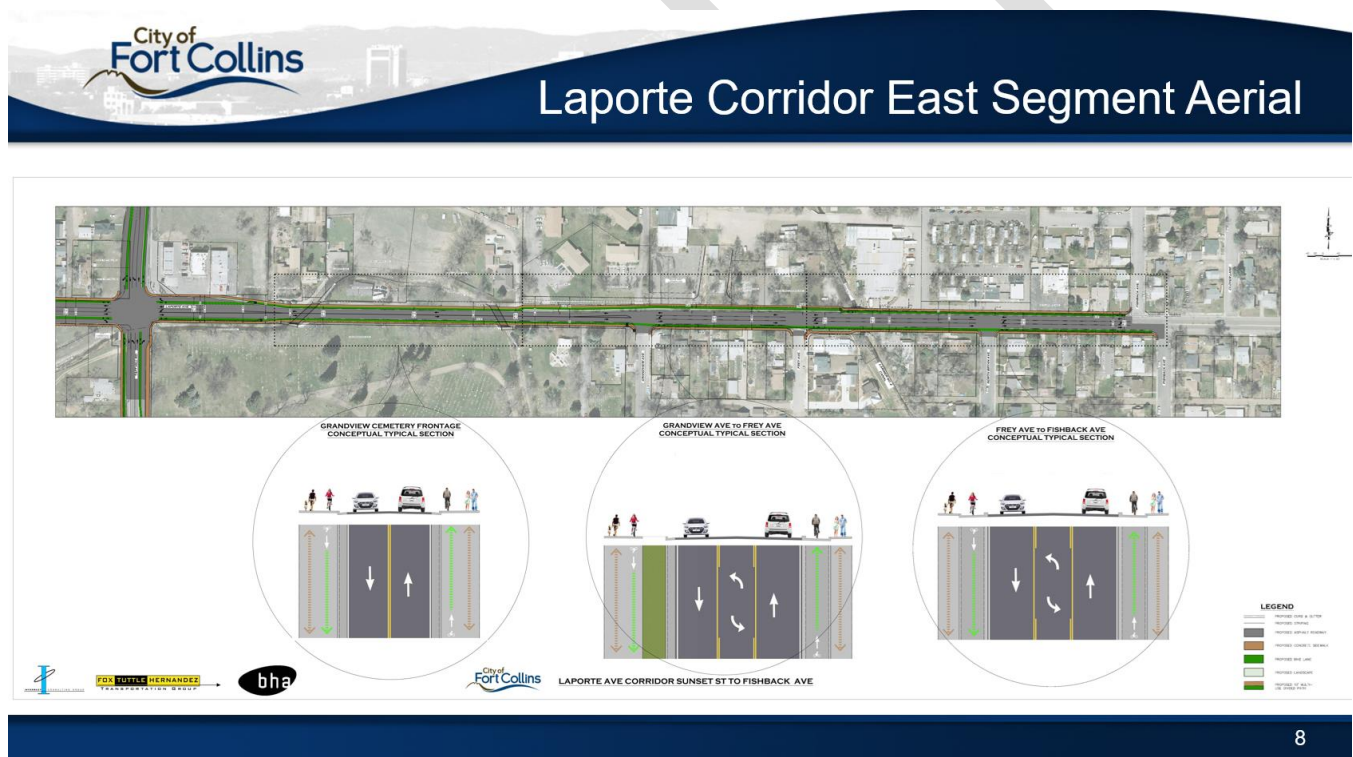
Staff is recommending appropriation of the City's construction local match and overmatch for several reasons.

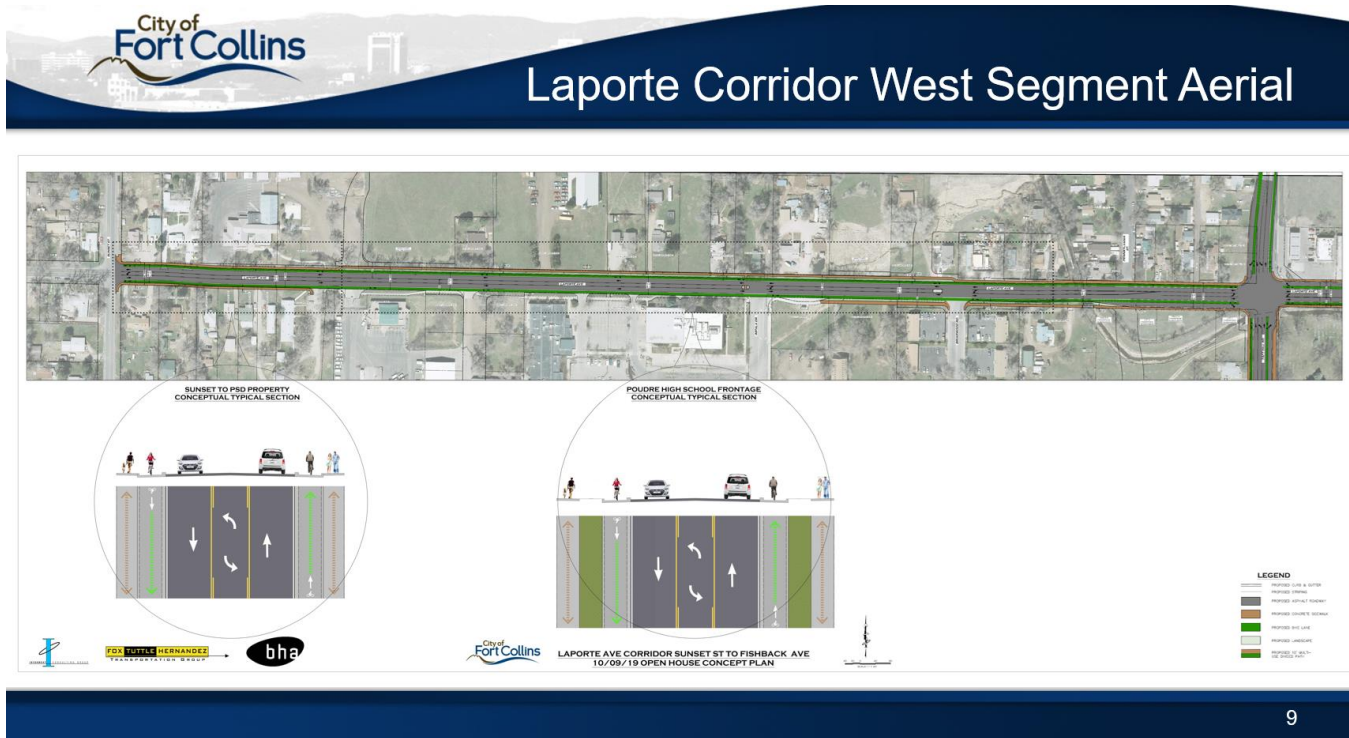
- In line with guiding themes and principles of the City Strategic Plan:
  - Multimodal Transportation

## Discussion / Next Steps;

### GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

Is Council Finance supportive of an out of cycle supplemental appropriation for the Transportation Alternative Program (TAP) and required local match to fund construction for the Laporte Avenue Multi-Modal Improvement Project.





9

Gunnar Hale; we are using the full extent of the right of way we own for this project east bound from Taft Hill. (see slide #8 above). There are a few houses on the west bound segment (see slide #9 above)– Sunset where we will need to buy right of way.

Kelly Ohlson; this has been approved in numerous ways before now. You are bringing this to us now (1 month before construction starts) because of the General Fund amount in the mix.

What do you mean when you say that you are negotiating the construction costs? Did we bid the project out?

Gunnar Hale; for CMGC (Construction Manager, General Contractor) projects, we will negotiate the costs of the projects. Because of the size of this project and the blessing from CDOT, we chose CMGC so we can have a quicker timeline. We have to compare the costs from the CMGC contractor with an independent estimate as well to prove the costs are true and accurate.

CMGC is kind of a bridge in between a bid and an RFP in a lot of ways. It is not the straight math problem of low bid when we use that as a tool for procurement. We brought on the contractor midway through the design. The benefit of bringing them on early is the collaboration and to anticipate and plan for problems that might arise as opposed to things happening in the field and causing delays.

Kelly Ohlson; who decides who we negotiate with?

Gunnar Hale; in the beginning when we chose SEMA as the CMGC we put this out to bid and multiple contractors bid on the contract, then we choose who we think will do the best job.

Kelly Ohlson; this is a good project. Where did the other \$3M that was previously allocated go? It can't all be in design.



Gunnar Hale; the east segment is covered with that beginning \$3M that we have in the project. The west segment is where we need the funding. The additional \$3M we are asking for from the General Fund is the local match for the west segment of the project.

Monica Martinez; we would usually go to our Transportation Services Fund as that is where we always go first for any sort of local match for capital projects, but we do not have the needed amount in that fund this year, so we have to come forward to request General Fund dollars.

Emily Francis; I am supportive of this. I would like to meet with Brad to discuss the design. We have been out there a few times before. I just want to make sure I understand the on again off again street, paths, and sidewalks so I can answer questions.

Mayor Arndt; I am thrilled and an absolute yes. This is one of my priorities - safe route to schools (to Poudre High School). It has been a challenge for the students -this will be a huge improvement- happy to support this – long time coming. Mulberry improvements as well have made a huge difference. Lots of safety concerns - our kids deserve better.

Travis Storin; will move this on to the full Council on the consent agenda as soon as possible.

March 5, 2024

## AGENDA ITEM SUMMARY

### City Council



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#### STAFF

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Josh Birks, Deputy Director, Sustainability Services Area

#### SUBJECT

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**Strauss Lakes Metropolitan Districts Conceptual Review Hearing.**

#### EXECUTIVE SUMMARY

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The purpose of this item is to conduct a Conceptual Review Hearing pursuant to the City Policy for Reviewing Service Plans for Metropolitan Districts (Metro District Policy) to allow Council and members of the public to provide preliminary comments in response to an applicant's Letter of Interest so that the applicant may better determine whether or not to submit a formal application and what a formal application should include.

Metropolitan Districts (Metro Districts) must provide exceptional public benefits in a variety of categories to gain Council approval. Staff evaluates the Metro Districts' proposed public benefits guided by the current 2021 Council-approved Metro District Policy, which includes a score card related to housing and residential development. The City's Metro District Policy requires this Conceptual Review Hearing with Council to give the applicant the opportunity to present its proposal and to seek feedback from Councilmembers and the public about the proposed Metro Districts, which the applicant may use to determine whether to submit a formal application.

#### Hearing Process Overview

The process for reviewing and considering approval of Metro Districts generally proceeds as follows:

1. Applicant submits Letter of Interest
2. Staff reviews Letter of Interest and provides an informal, non-binding response
3. Council Conceptual Review is conducted, where Council considers and discusses the public benefits proposed in the Letter of Interest
4. If Applicant decides to proceed, Applicant submits formal application for Metro District(s) along with Service Plan
5. Staff reviews application and Service Plan
6. Council Finance Committee reviews submittal and provides feedback to applicant
7. Council considers application and Service Plan at a public hearing

As stated in the Metro District Policy, if it so chooses to do so, Council may consider a motion at the conclusion of the hearing to express its opinion whether the service plan of the Strauss Lakes Metro

Districts, as proposed, should be brought forward to Council for its formal consideration. That motion may also include any recommendations Council may have concerning what should or should not be included in the applicant's formal application. However, the Policy also clearly states that any such motion adopted and any comments, suggestions, or recommendations made by any Councilmember concerning the proposal will not bind or otherwise obligate any Councilmember or other City decision maker to any course of conduct or decision in any subsequent formal application under the Policy. Sample motions are provided below.

**It should be noted that the Council is not required to adopt a motion related to the Metro Districts, and the Conceptual Review Hearing is meant solely for Councilmembers to provide feedback on the proposed Metro Districts and is not meant for the Council to comment on, or make specific recommendation regarding, any development aspects that may later come to Council for review and decision-making.**

Strauss Lakes is a proposed mixed-use development at the northeast corner of Horsetooth Road and Ziegler Road proposed by Cottonwood Land and Farms, LLC ("Cottonwood"). On February 5, 2024, Cottonwood submitted a revised Letter of Interest outlining the public benefits to be provided by the proposed Strauss Lakes Metropolitan Districts, pursuant to the City's Metro District Policy. Staff finds the applicant's proposed public benefits generally conform with the requirements of the Metro District Policy, however, all elements of the proposed public benefits will require additional analysis by staff to confirm they meet the requirements of the Metro District Policy. Staff will provide a final assessment and recommendation on the Strauss Lakes Districts upon formal submittal.

### **STAFF RECOMMENDATION**

Staff recommends Council consider adopting a motion addressing whether Council believes the applicant's application for Council's consideration of the service plan for Strauss Lakes Metro Districts, as proposed, should proceed to Council for formal consideration.

#### Sample Motions:

- I move that the City Council recommend to the applicant that it not proceed with its formal application for Council's consideration of the proposed service plan for the Strauss Lakes Metro Districts unless that application includes the following: [Describe recommended modifications or additions to the formal application].
- I move that the City Council recommend to the applicant that it proceed with its formal application for Council's consideration of its proposed service plan for the Strauss Lakes Metro Districts.

## BACKGROUND / DISCUSSION

### Policy Context

Council adopted Resolution 2008-069 in July 2008 to establish policies and guidelines related to forming and reviewing Metro Districts (2008 Policy). Metro Districts are a special district providing at least two types of governmental services. Typically, developers form a Metro District to facilitate building, financing, and maintaining infrastructure. A Metro District service plan is the document that authorizes the establishment of a Metro District and grants to it the powers it may have to issue debt, impose taxes and fees, construct public improvements, and provide certain governmental services (Service Plan). The Service Plan for a Metro District to be organized within the City must first be approved by Council. The 2008 Policy provided that the City would not consider Service Plans that proposed Metro Districts to serve only residential development, but instead would only consider Service Plans for “predominately commercial” developments, meaning developments having an estimated assessed value for “non-residential uses” of no less than 90% of the entire development.

Since adopting the 2008 Policy, Council has adopted a series of amendments to this policy in 2018, 2019, and 2021. With Resolution 2018-079, Council permitted consideration of Metro Districts that were predominately residential. Residential Metro Districts must provide public benefits that are secured through Public Benefits Agreements. Resolution 2018-079 also contained Model Service Plans that served as templates for new Metro Districts. Resolution 2019-016 amended the Metro District Policy to refine the Council approval process and add workforce and attainable housing as public benefits.

Council most recently adopted Resolution 2021-045 approving an amended Metro District Policy on April 20, 2021. This new Policy applies to Metro Districts where more than 10% of the estimated assessed value of the project is residential. The application process includes an additional residential scorecard with minimum requirements. Applications gain points by providing public benefits in a number of categories. As part of this approval process, the new Metro District Policy requires a pre-application hearing with Council called a “Conceptual Review”. This Conceptual Review hearing allows Council and members of the public the opportunity to provide direction and feedback on the Metro District’s proposed public benefits prior to submitting a formal application.

Pursuant to the Metro District Policy, the City may support the formation of a metropolitan district where it will deliver extraordinary public benefits that align with the goals and objectives of the City. In determining whether the district delivers extraordinary public benefits, the City may consider:

1. Ways in which the proposed improvements exceed the City’s minimum requirements and standards
2. Ways in which the existence of the district facilitates the public benefits and whether the benefits are feasible without the district
3. Ways in which the proposed extraordinary benefits work together as a system to deliver greater benefit to the community than individually
4. Any other factors the City deems relevant under the circumstances.

In addition to requiring extraordinary public benefits, those districts proposed to serve predominately residential development shall be evaluated under the Residential Metro Districts Evaluation Points System table that is part of the City’s policy. The Residential Metro Districts Evaluation Points System applies to Cottonwood’s proposed development. Ultimately, it is Council’s sole discretion whether or not to approve proposed Metro Districts’ Service Plan.

### Process Overview

The process for reviewing and considering approval of Metro Districts generally proceeds as follows:

1. Applicant submits Letter of Interest

2. Staff reviews Letter of Interest and provides an informal, non-binding response
3. Council Conceptual Review is conducted, where Council considers and discusses the public benefits proposed in the Letter of Interest
4. If Applicant decides to proceed, Applicant submits formal application for Metro District(s) along with Service Plan
5. Staff reviews application and Service Plan
6. Council Finance Committee reviews submittal and provides feedback to applicant
7. Council considers application and Service Plan at a public hearing

Staff received an initial Letter of Interest from the applicant on November 27, 2023. After reviewing the Letter of Interest, the applicant team and Staff review team met to discuss Staff's initial comments. Staff compiled their comments and submitted a formal response to the applicant team on January 9, 2024. The applicant amended their Letter of Interest based on Staff feedback and submitted a revised Letter of Interest on February 5, 2024.

It should be noted that the applicant has previously submitted a Letter of Interest, which was set for a conceptual review hearing before Council on February 15, 2022. However, the applicant withdrew its application and no hearing was held.

### Development Overview

Strauss Lakes is a proposed mixed-use development of approximately 185 acres located at the northeast corner of Horsetooth and Zeigler Road (the Property) in and immediately adjacent to Fort Collins city limits. The majority of the subject property is not yet annexed into the City. As the applicant states in the Letter of Interest:

*"Cottonwood is proposing to redevelop the Property into a mixed-use development with a wide variety of housing options. These options will include single family and multifamily homes offered at a variety of price points including some affordable housing. In addition to housing, the proposed development would include a diverse array of business and commercial uses. It will also increase the community's access to recreational opportunities, including multimodal transportation options. Cottonwood is proposing a multiple metropolitan district structure to accommodate the diversity of uses within the districts as well multiple planned phases of development. Cottonwood asserts that the development will be economically feasible through a metropolitan district financing structure."*

### Letter of Interest

The applicant's Letter of Interest contains all of the necessary sections in conformance with the Metro District Policy. They also provided the required notices to the property owners and public as required by the City's policy.

According to the applicant's Letter of Interest the Strauss Lakes Metro Districts will meet the requirements of the evaluation scorecard in the following ways:

Category	Min. Points Required	Points Expected	Proposed Public Benefits
Housing	5	5	1(B) Limit unit size – 3 points . 2(A) - 10% affordable rental housing - 2 points

Category	Min. Points Required	Points Expected	Proposed Public Benefits
Energy Conservation and Renewables	10	10	1(A) - DOE Zero Energy Ready (ZER) Home Performance Path Certified with balanced mechanical whole dwelling ventilation - 4 points (for both affordable and market) · 2(A) Heat with electric heat – 2 points (affordable only). 2(C) - Air-tight homes with balanced whole dwelling ventilation with heat or energy recovery - 1 point (market only) · 2(E) - Installing qualified connected thermostats - 1 point (both affordable and market) · 2(F) Air source heat pump electric water heater – 2 points (affordable only) · 2(G) EV-installed charging for R-1 or R-2 occupancies – 1 point (both affordable and market) · 3(A) - Installing solar to meet 50-75% of overall energy need - 3 points (market only)
Indoor Water Conservation	3	3	4(b) – Install leak detection and notification system - 1 point · 4(C) - Sub-metering - 1.5 points · 4(D) Efficient plumbing design - .5 points
Outdoor Water Conservation	7	7	5(A) - Efficient residential irrigation systems - 2 points · 5(B) - Water efficient landscaping for residential front yards - 2 points · 5(C) - Separate drip systems for trees within parkways and medians - 2 points · 5(E) – Stormwater Innovation- 1 point
Neighborhood Livability	5	5	1(A) - Off-site trail connections - 1 point · 1(C) - Level 3 EV charging stations - 1 point · 1(D) - Trail connection provided to a school - 1 point · 2(C) - Community gathering spaces - 1 point · 3(A) - Access to parks & open spaces - 1 point

Section 5 (Pg 8) of the Letter of Interest also addresses the overall Additional Public Benefits that Cottonwood proposes to meet the baseline of providing community benefits, not just those related to housing and residential development.

### Staff Comments

As an important reminder, the scorecard above was provided by the applicant as a self-assessment and does not reflect substantive analysis by City Staff. Additionally, Staff has not conducted formal Development Review processes, as those processes are outside the scope of this Conceptual Review process and will occur at such time the applicant submits actual development proposals. The applicant's proposed means of accumulating points may meet the threshold requirements of the evaluation system, however, some areas of note include:

To achieve the points for providing solar energy to the development, Strauss Lakes will have to achieve the energy generation targets for the development, not just certain phases of the development.

- Staff will require more detail on the proposed air source heat pump water heaters to determine if Strauss Lakes will score points.
- As the project moves forward, Staff will want to understand the size, amenities and qualitative aspects of each park and open space to ensure each qualifies as a park or open space. Additionally, Staff will evaluate access through an equity lens to ensure all residents have equal access to parks and open space through an interconnected system of sidewalks, trails, pedestrian bridges, and bike lanes.

### **CITY FINANCIAL IMPACTS**

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None.

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

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None.

### **PUBLIC OUTREACH**

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Required notice was published, and a letter sent to the property owner.

### **ATTACHMENTS**

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1. Letter of Interest Resubmittal
2. Letter of Interest Response
3. Affidavit of Publication of Council Conceptual Review
4. Letter to Property Owner
5. Metropolitan District Policy with Exhibits A & B
6. Applicant Presentation
7. Staff Presentation



February 5, 2024

City of Fort Collins  
Attention: Kim Meyer, AICP, Principal Planner  
Via Email: kimeyer@fcgov.com

## LETTER OF INTEREST

### Strauss Lakes Metropolitan Districts

Dear Ms. Meyer:

Our firm represents Cottonwood Land and Farms, LLC (“**Cottonwood**”) with respect to its interest in organizing the proposed Strauss Lakes Metropolitan Districts (the “**Districts**”). As required under Section 3.B. of the City of Fort Collins’s (the “**City’s**”) Policy for Reviewing Service Plans for Metropolitan Districts (the “**Policy**”), Cottonwood submits this Letter of Interest for the City’s review.

#### 1. Summary Narrative of Proposed Development and District

Cottonwood currently owns approximately 185 acres at the northeast corner of Horsetooth Road and Ziegler Road (the “**Property**”) in and immediately adjacent to the City, which is proposed to be included in the Districts. In the past, the Property has been used for sand and gravel mining, as well as a concrete batch plant. In conjunction with and supported by the proposed Districts, Cottonwood is proposing to redevelop and change the use of the Property in a way that will deliver significant community-wide benefits.

Cottonwood’s proposed development plans for the Property contemplate a mixed-use development with a wide variety of housing options. Specifically, the development will include a mix of high-quality single-family and multi-family residences that will be offered with a diversity of price points accommodating both market rate attainable housing, as well as affordable housing. The development will be made economically feasible through a metropolitan district financing structure.

In addition to the housing outlined above, the mixed-use development proposed would support a diverse array of business and commercial utilizations, including neighborhood support service uses. Because Cottonwood’s goal for the development is to create a community



where employment and housing options are harmoniously integrated, these business and commercial uses would be intentionally developed to complement surrounding housing options.

The proposed development also represents a prime opportunity to increase the community's access to recreational opportunities as well as utilization of the City's open space. Multimodal transportation options will be highly emphasized. Cottonwood envisions transforming the property into a walkable and bikeable community with multiple connections from housing, business, and commercial uses to surrounding open spaces, community parks, and trail systems. Cottonwood will collaborate with the City on trail and road connections to provide appropriate access to these amenities, responsibly maximizing their use and beneficial impacts on the community, including the possibility of making this area an alternative transportation hub for residents with convenient bus access to and from the park and Colorado State University.

Cottonwood is proposing a multiple metropolitan district structure to accommodate the diversity of uses within the Districts, as well as the multiple planned phases of development. As detailed herein, Cottonwood anticipates that the Districts will conform to the City's Model Service Plan.

**2. Sketch Plan – Please see attached Exhibit 1 for the current sketch plan.**

**3. Why Districts Are Needed**

The development within the Districts (the “**Project**”) involves and necessitates construction of significant public infrastructure, including, as an example, the reconstruction of the intersection at Horsetooth and Zeigler and several bridges over the Fossil Creek Reservoir Inlet Ditch (“**FCRID**”). Considering the extensive investment into public infrastructure required, the Project would not be workable using solely private financing methods.

The organization of the Districts would enable the development to provide the necessary capital infrastructure through the issuance of tax-exempt bonds for the Project. The financing structures that the Districts may access to finance construction of the public infrastructure make the Project as a whole economically feasible, including the additional public benefits that are only included in the Project because of the Districts. Access to lower cost public financing enables the provision of additional public improvements and extends the project's capability to provide valuable public benefits, as described in more detail below.

Additionally, in financing public improvements through metropolitan district financing, residents and property owners of the Districts ultimately pay their proportionate share of the public improvements over a 30-year period of time, as opposed to having those costs front-loaded through lot prices or premiums, or through special assessments imposed by a master homeowners' association. Further, those property owners within the Districts itemizing their taxes may be able to deduct their tax payments for the capital infrastructure on their individual tax returns. Further, residents and business owners within the Districts will realize benefits through the Districts, as opposed to a homeowners' association or other entity, by means of: (1) enhanced transparency and accountability above and beyond that which is required in the association context; (2) the ability to collect operational revenues through taxes (resulting in the same deduction benefits referenced above); and (3) lower, more cost-efficient operational costs.

#### 4. **Explanation of Public Benefits and Satisfaction of Exhibit B Residential Evaluation Points System**

The planned development within the Project is anticipated to provide significant public benefit to the City and the community at large. The dynamic mixed-use ecosystem contemplated by Cottonwood would increase the number of employment opportunities available in the City, as well as decreasing motor vehicle traffic as compared with the City's more traditional zoning designations because residents can work in the same community in which they live. Cottonwood has also pledged to collaborate with the City on trail and road connections to provide appropriate access to both the new recreation and open space amenities to be created on the Property, as well as existing City resources in the vicinity.

In addition to the substantial public benefits provided by the critical public infrastructure and extensive public improvements outlined above, the Project will also meet and exceed the City's Residential Evaluation Points System ("REPS") requirements, as detailed below. The development team is committed to achieving at least the minimum required points in each category. However, potential design shifts are possible as the development team and builders work with City staff through the development application process, which may require adjustments among the categories REPS points.

##### *a. Housing – 5 Points Required - 5 Points Expected*

HOUSING (Points Required: 5)	
	Points Achieved
<b>1. Housing Supply, Diversity, and Choice</b>	
A. 10% Home Ownership at <120% AMI	--
B. Limit Unit Size for 20% single family homes	3
C. Accessory Dwelling Units (ADU's)	--
<b>2. Affordable Rental Housing</b>	
A. 10% Affordable Rental Housing	2
B. 10% Affordable Rental Housing that does not utilize competitive funding sources	--
<b>Points Achieved</b>	<b>5</b>

Housing Supply, Diversity, and Choice (3 Points). Cottonwood is working with its homebuilder partners to ensure that 20% of the single-family homes within the Project will be of limited size that will not exceed 2,200 square feet,<sup>1</sup> and at least 5% of the attached or detached single family units will fall within two of the City's identified breakpoint ranges (currently targeting 5% between 1,300 to 1,600 square feet and 5% between 1,600 and 2,200 square feet) (2

<sup>1</sup> Consistent with industry standards that are reflected on the Larimer County Tax Assessor's website, Realtor.com, Zillow.com, and other realtor group publications, unfinished basements are not included in the density calculations for allotted square footage that have been used by the applicant in preparation of this LOI. Please see **Exhibit 2** for additional information.

points). Additionally, the housing units within the Project will meet the DOE Zero Energy Ready (ZER) standard, earning the additional point under this category (1 point).

Affordable Rental Housing (2 Points). Cottonwood is exploring the conveyance of approximately 7.5 acres of the Property to McDermott Properties LLC (“**McDermott**”). Cottonwood anticipates this portion of the Property will be developed by McDermott to include at least 10% of the total dwelling units for the Project as affordable rental units serving an income average that does not exceed 60% AMI, as prescribed under the City’s affordable housing regulations.

*b. Energy Conservation and Renewables – 10 Points Required – 10 Points Expected*

ENERGY CONSERVATION & RENEWABLES (Points Required: 10)		
	Points - Affordable Builder	Points - Market Builder
1. Enhanced Energy Performance		
A. DOE Zero Energy Ready (ZER) Home Performance Path Certified with balanced mechanical whole dwelling ventilation	4	4
B. OR HERS index of 47 or less without solar and single family detached and attached dwellings must achieve 2.0 or less ACH50 and provide balanced mechanical whole dwelling ventilation	--	--
C. OR Energy Rating Index (ERI) path single family detached and attached dwellings must achieve 2.0 or less ACH50 with balanced mechanical whole dwelling ventilation	--	--
D. OR Net Zero Energy Home Performance Path - HERS of 0 or less with balanced mechanical whole dwelling ventilation	--	--
2. Energy Components		
A. Heat homes with efficient electric heat	2	--
B. Build to Passive House Standard	--	--
C. Build airtight homes with balanced whole dwelling ventilation with heat or energy recovery	--	1
D. District Heating and Cooling for Neighborhood	--	--
E. Install qualifying connected thermostat	1	1
F. Install air source heat pump electric water heater	2	
G. Provide EV-Installed charging for buildings containing R-1 or R-2 occupancies	1	1
3. Renewable		

A. Install % of total energy need in solar (50/75/100%)	--	3
B. Smart storage and grid interactivity	--	--
Points Achieved	10	10

#### Market Homebuilder Single-Family Product.

Cottonwood is in discussions with several market homebuilders to construct homes within the Project. The homebuilder has indicated that it would be able to incorporate the following Energy Conservation and Renewables benefits into the residential units it constructs within the Project: (1) DOE Zero Energy Ready (ZER) Home Performance Path Certified with balanced mechanical whole dwelling ventilation (4 points); (2) air tight homes with balanced whole dwelling ventilation with heat or energy recovery (1 point); (3) qualifying connected thermostats (1 point); and (4) installation of 100% of total energy need in solar (3 points).

#### Affordable and Other Product.

McDermott and Cottonwood have indicated that they would be able to incorporate the following Energy Conservation and Renewables benefits into the residential units they construct within the Project, including the affordable housing units: (1) DOE Zero Energy Ready (ZER) Home Performance Path Certified with balanced mechanical whole dwelling ventilation (4 points); (2) heat homes with efficient electric heat (2 points); (3) qualifying connected thermostats (1 point); and (4) air source heat pump electric water heater (2 points).

#### Project-Wide Benefits.

Additionally, Cottonwood and its building partners will provide EV-Installed charging for 7% of the total parking spaces for buildings containing R-1 or R-2 occupancies, earning an additional point under this category for the project as a whole.

#### *c. Indoor Water Conservation – 3 Points Required – 3 Points Expected*

4. Indoor Water * (Points Required: 3)	
	Points Achieved
A. WaterSense fixtures performing above code	--
B. Install leak detection and notification system	1
C. Sub-metering	1.5
D. Efficient plumbing design	0.5
E. Indoor Water Use Innovation	--
Points Achieved	3.0

Within the Project, Cottonwood and its building partners intend to satisfy the Indoor Water REPS requirements with the following: (1) leak detection and notification systems (1 point), (2) sub-metering for multifamily units throughout the development (1.5 points), and (3) efficient

plumbing design through achievement of Section 3.3 of WaterSense New Home Specifications (1 point).

d. *Outdoor Water Conservation – 7 Points Required – 7 Points Expected*

5. Outdoor Water (Points Required: 7)	
	Points Achieved
A. Efficient Residential irrigation systems	2
B. Water efficient landscaping for residential front yards	2
C. Separate drip system for trees within parkways and medians	2
D. Common area water use performing above code	--
E. Stormwater Innovation	1
F. Rain barrels	
G. Outdoor Water Use Innovation	
Points Achieved	7

To meet the Outdoor Water REPS requirements, Cottonwood and its building partners plan to include (1) efficient residential irrigation systems, including WaterSense certified pressure reducing heads and weather-based irrigation controllers throughout the Project (2 points), (2) water efficient landscaping for residential front yards, with an average of 10 gallons or less of water usage per square foot, including high efficiency nozzles, flow sensors and master valves (2 points), (3) separate drip system for trees in all landscape areas (2 points), and (4) stormwater innovation, including Low Impact Development, as defined and illustrated in the City's LID Implementation Manual (1 point).

Cottonwood acknowledges the City's requirement that the Project treat 75% of the stormwater it generates through filtration devices. Though the Project is still in preliminary design, Cottonwood and its building partners plan to provide a high level of Low Impact Development (LID) integration that exceeds the City's requirement through the strategic utilization of the scale, layout, and drainage patterns of the Property. Vegetated buffers and bioswale features along the site perimeters will direct storm flows through LID features. Storm sewers will be limited to conveying flows from roadways and building sites to the primary surface conveyance features, such as bioswales. The mixed-use, apartment, and paired home project sites will treat runoff via rain gardens, sand filters, permeable pavers, or similar LID methods on individual sites prior to discharge. A mixture of permeable pavers and rain gardens on Townhome sites will coordinate with planned vegetated buffers, bioswale, and rain garden features on the adjacent out lot and park spaces to drain stormwater. Single family home lots will drain through vegetated buffers prior to entering drainage swales or similar features. The overall approach plans to integrate the LID features from the point sources through the project downstream to the detention facility and discharge from the Property. Cottonwood will work closely to investigate and utilize the current best management practices and LID techniques.

e. *Neighborhood Livability – 5 Points Required – 5 Points Expected*

NEIGHBORHOOD LIVABILITY (Points Required: 5)	
1. Transportation	
	Points Achieved
A. Off-site Trail Connection	1
B. Exemplary Bicycle and Pedestrian Improvements	--
C. Level 3 EV Charging Stations	1
D. Trail Connection provided to a School	1
E. Transportation Innovation	--
2. Neighborhood Amenities	
A. Access to Essential Neighborhood Services	--
B. Vertical Mixed-Use Buildings	--
C. Community Gathering Spaces	1
D. Community Workspace	--
E. Common Areas Food Production	--
F. Innovative Neighborhood Amenities	--
3. Natural Environment	
A. Access to Parks & Open Spaces	1
B. Enhanced Habitat	--
C. Expansion of Adjacent Natural Habitat	--
D. Innovation in Natural Environment Protection	--
4. Health, Culture & Education	
A. Universal Design	--
B. 0.5% for Arts & Culture	--
C. Sustained Educational Programing	--
D. Excellence in Community Engagement	--
E. Health, Culture or Education Innovation	--
Points Achieved	5

Cottonwood's plans for the Project are anticipated to exceed the City's REPS requirements in the category of Neighborhood Livability. The Project is anticipated to include (1) numerous off-site trail connections to the Poudre Trail and existing city trails, including trails along William Neal and the two irrigation canals that run through the Project, as well as bike lanes on Ziegler Road (1 point); (2) level 3 EV Charging Stations in the mixed-use area (1 point); (3) connection to on-street and off-street trails to Fort Collins High School (1 point); (4) access to essential neighborhood services in the mixed-use area (1 point); (5) vertical mixed-use buildings anticipated in mixed use area (2 points); (6) community gathering spaces in the neighborhood parks as discussed in more detail below (1 point); (7) and access to parks and open space through East Community Park (1 point).

The open space plan for the Project is one that the development team is very proud of. It has been designed to ensure that every residential unit within the community is located within 1320 feet (a five-minute walk) or less from at least one of the Project's four parks. This design feature is illustrated in **Exhibit 3** to this submittal. The four parks within the Project will be the Silver Poplar Park, Flatiron Pond Park, Morrison Park, and Pollinator Park, and the Project will include numerous pedestrian and vehicular connections to the City's East Community Park. Silver Poplar Park, will be centrally located, and silver poplars will be propagated and incorporated prominently into the landscape design. Flatiron Pond Park, a site that would qualify for fill and development, would instead serve as an active recreation site for fishing, canoeing and paddle boarding, and would include walking trails for residents and the general public. Morrison Park will be designated for more passive recreation, while Pollinator Park will include plants and gardens that are intended to support pollinator species within the community. Other qualitative aspects of the Open Space Plan include a plaza/outdoor gathering space in mixed-use area, a number of tree-lined trails, and intentional placement of landscape along streets with ornamental grasses, low water, and low maintenance native plants as opposed to traditional turf in tree lawns.

## **5. Additional Public Benefits**

In addition to the other public benefits mentioned above, all of which are synchronized with Exhibit B of the City's service plan policy, the Cottonwood has also, and through the development of the Project, will deliver additional considerable Public Benefits that align with the examples contemplated in Exhibit A of the City's service plan policy. These examples include the following:

### **Historical – Open Space, Parks, and Water**

- Donation of the Strauss Cabin and surrounding property for preservation.
- Donation of 200+ acres of Open Space, now the Riverbend Ponds Natural Area.
- Donation of approximately 200 acres of Open Space, now the Running Deer Natural Area.
- Donation of 15 acres to the City. Now the Hageman Earth Cycle Operation.
- Bargain Sale and Donation of topsoil and fill material for the East Community Park. Estimated total gift value of approximately \$2,600,000.00.
- Coordination with the City on the removal of 700,000 yards of fill from the Rigden Reservoir to maximize storage capacity. Estimated total cost savings to the City of \$1,800,000.00.
- Donation of access easements to the POE Natural Area and East Community Park.
- The Foothills drainage channel and Drake drainage channel conveyances to City.

### **Future – Environmental Sustainability**

- District Wide DOE Zero Energy Ready (ZER) Home Performance Path Certified compliance.
- Wider than required sidewalks and enhanced pedestrian crossings will be constructed throughout the project including over the FCRID and Box Elder Ditches.
- Up to 9 new bridges will be constructed over the Foothills Drainage Channel, FCRID and Box Elder Ditches, as well as removing and replacing the Horsetooth Road Bridge.

- Multiple electric vehicle charging stations will be located in the development.
- Limit individual yards. Replacing them with individual xeriscape courtyards, low water pocket parks and greenspaces (see additional detail below).

#### **Future – Critical Public Infrastructure**

- East Community Park access points through vehicle, bike and pedestrian connections.
- Contribute to the improvement of the Horsetooth and Zeigler intersection.
- Contribute to the improvement of Horsetooth Road east to the Box Elder Ditch so it meets Larimer County Street standards. Including the Horsetooth FCRID bridge.
- Contribute to the improvement of Zeigler Road including signalization at the William Neal Parkway intersection, and sidewalk improvements on the east side of Zeigler Rd.
- Construction of the Foothills Drainage Channel Auto/Bike/Pedestrian Bridge.
- Construction of a Bike/Pedestrian Bridge from the corner parcel to the east.
- Construction of a Bike/Pedestrian Bridge over FCRID along William Neil Parkway.
- Construction a multiple Bike/Pedestrian trails throughout the development to connect subdivisions to the west of Zeigler Road to the East Community Park.
- Contribute to the improvement of trails to connect to the Poudre River Trail.

#### **Future – High Quality and Smart Growth Management**

- Alley loaded construction.
- Smaller lot size, including use by easement of neighbors' lots.
- Live/Work units.
- Increased Multifamily Development and Attached Single Family homes.
- Wider than required sidewalks.
- Enhanced pedestrian crossings, trails, and bridges.
- Trail system enhancements.
- Improved bus stop on William Neal.
- Four parks along with multiple greenspaces throughout the development.
  - Flatiron Pond Park (approximately 22 acres)
  - Pollinator Park (approximately 1.5 acres)
  - Silver Poplar Park (approximately 1.6 acres)
  - Morrison Park (approximately 2.0 acres)

#### **Future – Strategic Priorities**

- Affordable Housing for AMI's ranging from 30-60% at least 10% of the total developed units.
- Consolidate wetlands.
- Facilitate job growth and sales tax.

### **6. Service Plan Specifics**

Cottonwood anticipates that the Districts' powers, purpose, and maximum mill levies will conform to the corresponding provisions outlined in the City's Model Service Plan.



Likewise, the term of the Districts will conform to the parameters in the City's Model Service Plan. Cottonwood anticipates that one or more of the Districts will operate certain of the Public Improvements not dedicated to other governmental entities, so such Districts would continue to operate those Public Improvements until such operations are no longer necessary. The build-out period for the Project is estimated to be 20 years. Cottonwood hopes to work with the City for approval of the Districts' Service Plan in time to proceed with an organizational election on November 5, 2024. As mentioned above, the property within the Project is currently zoned industrial, and development approvals related to re-zoning of the property for the Project are proceeding through the City's review processes concurrently with the City's review of the proposed Districts.

The Project will require significant public infrastructure, both off-site and on-site. Based on current plans, and subject to revisions based on discussions with the City's Planning and Zoning team, on-site public infrastructure is anticipated to include water, storm and sanitary sewer, streets, landscaping, parks, recreation, and trail improvements. Off-site improvements are expected to include reconstruction of the Horsetooth and Zeigler intersection; demolition and replacement of the Horsetooth Road; sidewalk and road improvements to Zeigler Road and Horsetooth Road; construction of two additional bike and pedestrian bridges over FCRID; and construction of bike and pedestrian trails connecting to the Poudre River Trail and to Rigden Farm. Based on current plans, and subject to revisions based on discussions with the City's Planning and Zoning team, Cottonwood currently estimates the cost of the public improvements related to and required for the Project will be approximately \$92,482,466.95.

We appreciate the City's time in reviewing this Letter of Interest and look forward to answering any questions that you may have. Cottonwood will deliver to the City the Letter of Interest Submittal Fee in the amount of \$2,500 in conjunction with this submittal. Under the City's Policy, Staff is anticipated to provide a written response to the Letter of Interest within 30 days of receipt of the Letter of Interest and related Fee. Please let us know as soon as possible if the City anticipates that additional time may be needed. Should you have any questions or need any additional information, please do not hesitate to contact us.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert G. Rogers".

Robert G. Rogers, Esq.  
WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law

Enclosures

**Exhibit 1**  
**Strauss Lakes Sketch Plan**



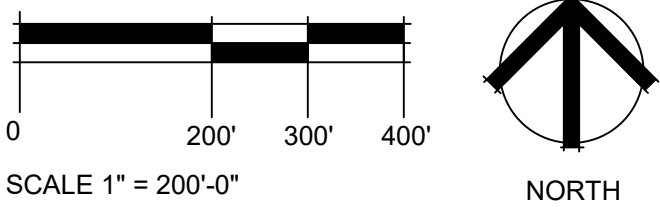
# STRAUSS LAKES SKETCH PLAN

01.25.24

## LEGEND

- PROPERTY BOUNDARY
- CONCEPTUAL DEVELOPMENT BUBBLES
- 50' DITCH BUFFER (TOP OF BANK)  
100' FLATIRON POND OFFSET
- POTENTIAL FUTURE CONNECTION
- CONCEPTUAL PARK LOCATIONS

RESIDENTIAL DENSITY CALCULATIONS	
GROSS ACREAGE (EXCLUDING EAST COMMUNITY PARK)	182.91 AC
NET ACREAGE	130.19 AC
NATURAL HABITATS AND FEATURES	45.34 AC
PARKS AND OPEN SPACE	5.33 AC
DEDICATED PEDESTIRAN / BICYCLE PATH CONNECTIONS	2.05 AC
TOTAL UNITS	1,323 UNITS
GROSS RESIDENTIAL DENSITY	7.23 DU/AC
NET RESIDENTIAL DENSITY	10.16 DU/AC





**Exhibit 2**  
**Square Footage Information**

## **Basement Discussion**

1. How is actual square footage determined?

The Assessor's Office uses exterior measurements of homes and buildings. This may cause the Assessor's estimate of square footage to differ from that estimated by the builder or realtor since they frequently use interior measurements. The valuation procedures used by the Assessor are adjusted to account for the use of exterior measurements, which helps to assure correct values.

Source: [larimer.gov/assessor/faq](http://larimer.gov/assessor/faq)

2. Generally, appraisers and listing agents don't count a basement toward the overall square footage of a home. Most appraisers will never count a basement if it's below grade, meaning it is beneath ground level.

Source: [FastExpert.com](http://FastExpert.com)

3. As a general rule of thumb, listing agents and appraisers don't count a finished basement toward the overall square footage, especially if the basement is completely below grade—a term that means below ground level.

Source: [Realtor.com](http://Realtor.com)

4. What is not included in a home's square footage?

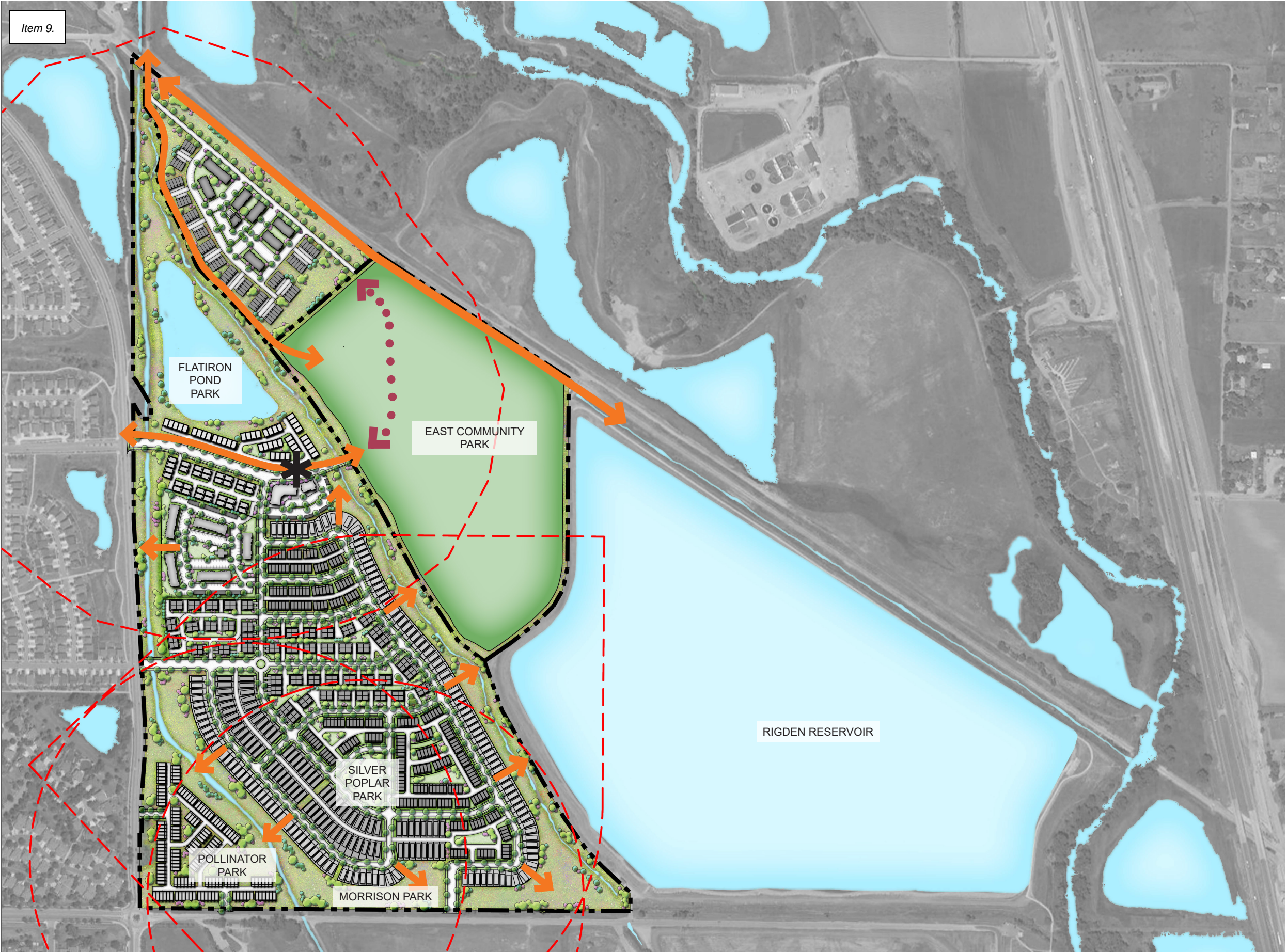
All unfinished areas in the home are not included in the home's square footage. These typically include the following:





- Garage
- Attic
- Rooms with a sloping ceiling
- Unfinished basement
- Separate storage area
- Pool House
- Guesthouse
- Detached in-law quarters

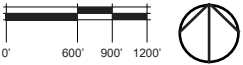
Source: [raleighrealityhomes.com/blog/measure-square-footage/](http://raleighrealityhomes.com/blog/measure-square-footage/)

**Exhibit 3**  
**Strauss Lakes Open Space Plan**





-  BUS STOP
-  1,320' RADIUS
-  PROPOSED TRAILS
-  PROPOSED CONNECTION



# STRAUSS LAKES - OPEN SPACE PLAN





Sustainability Services  
222 Laporte Ave  
PO Box 580  
Fort Collins, CO 80522  
970-221-6324  
jbirks@fcgov.com

January 9, 2024

Robert G Rodgers, ESQ.

White Bear Ankele Tanaka & Waldron  
2154 East Commons Ave, Suite 2000  
Centennial, CO 80122

Dear Robert,

Thank you for submitting the Letter of Interest for the proposed Strauss Lakes Metro District. We respond to this letter to you in accordance with Section 3 (B) of the City's Metro District Policy.

We plan to submit the LOI for City Council's consideration as part of their pre-application meeting for the proposed Metro District on March 5, 2024. Our staff team has reviewed the Letter of Interest (LOI) and seeks clarity on the following elements. In order to meet the deadlines for that March 5<sup>th</sup> meeting, please update the information submitted to the City to sufficiently address the following comments no later than Monday, February 5, 2024:

#### Housing

1. To obtain points in Section 2 for rental housing, 10% of the total units in the development will need to be deed restricted and affordable for a minimum of 20 years. Please clarify how many units are planned for the total development and of those, how many will be deed restricted as affordable. The PUD document that was presented at the December 21, 2023, Planning & Zoning Commission hearing illustrates 1,323 units, which differs from the attachment to this LOI document.
2. Thank you for stating the intention to income-average the affordable rental housing to 60% of Area Median Income (AMI). Please include the AMI range you anticipate for the affordable component of the project as well if that is available (for example, units ranging between 30-80% AMI, income-averaged to 60% AMI).
3. To obtain points in Housing Section 1(B), only single-family detached and single-family attached units qualify. Your letter states that at least 5% of the single-family units will be between 1,300 to 1,600 square feet and another 5% between 1,600 and 2,200 square feet. Please clarify how the project will achieve the required 20% of single-family homes being of limited size.

#### Energy Conservation and Renewables



4. Please explain how the EV-installed charging for the R-1 and R-2 occupancies exceed City requirements?

#### Indoor Water Conservation

5. Please confirm that all buildings throughout the development will use WaterSense toilets that use 1.0 gallons or less per flush and shower heads throughout the development that use 1.5 gallons of water per minute or less.

#### Outdoor Water Conservation

6. FYI - WaterSense (WS) Certified pressure reducing heads and weather-based irrigation controllers are required for all residential irrigation systems. Equipment not certified by WS, including high efficiency nozzles, flow sensors and master valves, are also required. Staff can send more details on these standards to you upon request. For residential front yards, staff will calculate the average water use on a lot-by-lot basis. All residential lots throughout the entire development may use no more than 10 gallons per square foot to score 2 points.
7. Please clarify how you plan to obtain points for stormwater innovation and how the plan exceeds the City's existing stormwater standards. The standard is that development treats 75% of the stormwater it generates through some sort of filtration device. Please provide some clarity on how you will utilize Low Impact Development (LID) to achieve this result.

#### Neighborhood Livability

8. For all the measures listed in this section, staff encourages the applicant team to critically consider how it plans to ensure these elements are integrated into the development plans, as there will be guarantees and timing triggers for these public benefits documented through a Public Benefits Agreement.

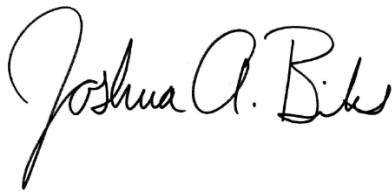
#### Extraordinary Public Benefits

9. Sections 1.D and 2.A.1 of the City's metropolitan district policy indicate the requirement that a district deliver "extraordinary public benefits." Please elaborate on your answer in paragraph 4 of your LOI on those elements of the proposed development that are anticipated to provide benefits to the greater community, beyond what might be generally required by current codes and standards. You may revisit Exhibit A of the policy for some examples of such benefits. This is required for any approved District and is in addition to the Residential Evaluation Point System.

For this matter to be ready for City Council consideration of the Letter of Intent, you must comply with the notice requirements in the City's Metropolitan District Policy. Notice must be provided no later than 30 days before the hearing. Please provide us with copies of the Notice, the mailing letter list and proof of newspaper publication. The 30-day deadline before hearing date for March 5 would be February 3, 2024.

Since full development details were not provided in the LOI, staff reserves the right to provide additional comments based on the actual plans. Please let us know if you have any questions, comments, or concerns on the above. We look forward to receiving your response with clarifications as requested.

Happy New Year. Best regards,

A handwritten signature in black ink that reads "Joshua A. Birks". The signature is written in a cursive, flowing style.

**Josh Birks**

Deputy Sustainability Director

O: 970-221-6324



Colorado

PO Box 631823 Cincinnati, OH 45263-1823

GANNETT

**PROOF OF PUBLICATION**

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 Centennial CO 80122-1880

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01/26/2024

and that the fees charged are legal.  
 Sworn to and subscribed before on 01/26/2024

*Kygan Laven*  
 Legal Clerk

*M. V. V. V.*  
 Notary, State of WI, County of Brown

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 Notary Public  
 State of Wisconsin

**NOTICE OF HEARING RE CITY COUNCIL CONCEPTUAL REVIEW**

STRAUSS LAKES METROPOLITAN DISTRICTS, CITY OF FORT COLLINS, LARIMER COUNTY, STATE OF COLORADO

NOTICE IS HEREBY GIVEN that, a public conceptual review hearing in connection with the proposed formation of the Strauss Lakes Metropolitan Districts (the "Districts") will be held by the City Council (the "City Council") of the City of Fort Collins on March 5, 2024, at 6:00 P.M. at the Council Chambers at City Hall West, 300 Laporte Avenue, Fort Collins, Colorado, or as soon thereafter as the City Council may hear such matter.

The purpose of the hearing is to present the proposal for the Districts and for the City Council and the public to provide preliminary comments.

A general description of the land contained within the boundaries of the proposed Districts are as follows: approximately 185 acres at the northeast corner of Horsetooth Road and Ziegler Road in the City of Fort Collins, Colorado to serve a mixed-use development (the "Project"). The purpose of the Districts will be to fund, operate, and maintain public improvements associated with the Project.

Additional information regarding the hearing may be obtained by contacting our offices or by visiting the City's website in advance of the hearing.

By: WHITE BEAR ANKELE  
 TANAKA & WALDRON

Attorneys at Law

General Counsel to the proposed Districts

9769130

Coloradoan

Jan. 26, 2024



Robert G. Rogers  
Shareholder

303-858-1800  
rrogers@wbapc.com

January 22, 2024

**VIA FIRST CLASS U.S. MAIL**

Cottonwood Land and Farms, LLC  
c/o William McDowell  
PO Box 229  
Boulder, CO 80306

Dear Mr. McDowell:

Our firm serves as legal counsel to Cottonwood Land and Farms, LLC ("**Cottonwood**") in connection with the proposed formation of the Strauss Lakes Metropolitan Districts (the "**Districts**"). Cottonwood intends to organize the Districts on approximately 185 acres at the northeast corner of Horsetooth Road and Ziegler Road in the City of Fort Collins, Colorado (the "**City**") to serve a mixed-use development. As the fee title owner of property within the proposed Districts' boundaries, please be advised that a Letter of Interest ("**Letter of Interest**") to organize the Districts has been filed with the City. A copy of the Letter of Interest is enclosed herewith. A hearing on the proposal contained within the Letter of Interest will be held on March 5, 2024, at 6:00 P.M. at the Council Chambers at City Hall West, 300 Laporte Avenue, Fort Collins, CO. Additional information regarding the hearing may be obtained by contacting our offices or by visiting the City's website in advance of the hearing.

Sincerely,

WHITE BEAR ANKELE TANAKA & WALDRON

A handwritten signature in blue ink, appearing to read 'Rob Rogers', written over a horizontal line.

Robert G. Rogers  
Shareholder

Enclosures

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## NOTICE OF HEARING RE CITY COUNCIL CONCEPTUAL REVIEW

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STRAUSS LAKES METROPOLITAN DISTRICTS, CITY OF FORT COLLINS, LARIMER COUNTY, STATE OF COLORADO

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NOTICE IS HEREBY GIVEN that, a public conceptual review hearing in connection with the proposed formation of the Strauss Lakes Metropolitan Districts (the “Districts”) will be held by the City Council (the “City Council”) of the City of Fort Collins on March 5, 2024, at 6:00 P.M. at the Council Chambers at City Hall West, 300 Laporte Avenue, Fort Collins, Colorado, or as soon thereafter as the City Council may hear such matter.

The purpose of the hearing is to present the proposal for the Districts and for the City Council and the public to provide preliminary comments.

A general description of the land contained within the boundaries of the proposed Districts are as follows: approximately 185 acres at the northeast corner of Horsetooth Road and Ziegler Road in the City of Fort Collins, Colorado to serve a mixed-use development (the “Project”). The purpose of the Districts will be to fund, operate, and maintain public improvements associated with the Project.

Additional information regarding the hearing may be obtained by contacting our offices or by visiting the City’s website in advance of the hearing.

By: WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law  
General Counsel to the proposed Districts

*Published in: Coloradoan*  
*Published on: January 26, 2024*



November 27, 2023

City of Fort Collins  
Attention: Kim Meyer, AICP, Principal Planner  
Via Email: kimeyer@fcgov.com

## LETTER OF INTEREST

### Strauss Lakes Metropolitan Districts

Dear Ms. Meyer:

Our firm represents Cottonwood Land and Farms, LLC (“**Cottonwood**”) with respect to its interest in organizing the proposed Strauss Lakes Metropolitan Districts (the “**Districts**”). As required under Section 3.B. of the City of Fort Collins’s (the “**City’s**”) Policy for Reviewing Service Plans for Metropolitan Districts (the “**Policy**”), Cottonwood submits this Letter of Interest for the City’s review.

#### 1. Summary Narrative of Proposed Development and District

Cottonwood currently owns approximately 185 acres at the northeast corner of Horsetooth Road and Ziegler Road (the “**Property**”) in and immediately adjacent to the City, which is proposed to be included in the Districts. In the past, the Property has been used for sand and gravel mining, as well as a concrete batch plant. In conjunction with and supported by the proposed Districts, Cottonwood is proposing to redevelop and change the use of the Property in a way that will deliver significant community-wide benefits.

Cottonwood’s proposed development plans for the Property contemplate a mixed-use development with a wide variety of housing options. Specifically, the development will include a mix of high-quality single-family and multi-family residences that will be offered with a diversity of price points accommodating both market rate attainable housing, as well as affordable housing. The development will be made economically feasible through a metropolitan district financing structure.

In addition to the housing outlined above, the mixed-use development proposed would support a diverse array of business and commercial utilizations, including neighborhood support service uses. Because Cottonwood’s goal for the development is to create a community where employment and housing options are harmoniously integrated, these business and commercial uses would be intentionally developed to complement surrounding housing options.

The proposed development also represents a prime opportunity to increase the community’s access to recreational opportunities as well as utilization of the City’s open space.

Multimodal transportation options will be highly emphasized. Cottonwood envisions transforming the property into a walkable and bikeable community with multiple connections from housing, business, and commercial uses to surrounding open spaces, community parks, and trail systems. Cottonwood will collaborate with the City on trail and road connections to provide appropriate access to these amenities, responsibly maximizing their use and beneficial impacts on the community, including the possibility of making this area an alternative transportation hub for residents with convenient bus access to and from the park and Colorado State University.

Cottonwood is proposing a multiple metropolitan district structure to accommodate the diversity of uses within the Districts, as well as the multiple planned phases of development. As detailed herein, Cottonwood anticipates that the Districts will conform to the City's Model Service Plan.

2. Sketch Plan – Please see attached **Exhibit 1** for the current sketch plan.
3. Why Districts Are Needed

The development within the Districts (the “**Project**”) involves and necessitates construction of significant public infrastructure, including, as an example, the reconstruction of the intersection at Horsetooth and Zeigler and several bridges over the Fossil Creek Reservoir Inlet Ditch (“**FCRID**”). Considering the extensive investment into public infrastructure required, the Project would not be workable using solely private financing methods.

The organization of the Districts would enable the development to provide the necessary capital infrastructure through the issuance of tax-exempt bonds for the Project. The financing structures that the Districts may access to finance construction of the public infrastructure make the Project as a whole economically feasible, including the additional public benefits that are only included in the Project because of the Districts. Access to lower cost public financing enables the provision of additional public improvements and extends the project's capability to provide valuable public benefits, as described in more detail below.

Additionally, in financing public improvements through metropolitan district financing, residents and property owners of the Districts ultimately pay their proportionate share of the public improvements over a 30-year period of time, as opposed to having those costs front-loaded through lot prices or premiums, or through special assessments imposed by a master homeowners' association. Further, those property owners within the Districts itemizing their taxes may be able to deduct their tax payments for the capital infrastructure on their individual tax returns. Further, residents and business owners within the Districts will realize benefits through the Districts, as opposed to a homeowners' association or other entity, by means of: (1) enhanced transparency and accountability above and beyond that which is required in the association context; (2) the ability to collect operational revenues through taxes (resulting in the same deduction benefits referenced above); and (3) lower, more cost-efficient operational costs.

4. Explanation of Public Benefits and Satisfaction of Residential Evaluation Points System

The planned development within the Project is anticipated to provide significant public benefit to the City and the community at large. The dynamic mixed-use ecosystem

contemplated by Cottonwood would increase the number of employment opportunities available in the City, as well as decreasing motor vehicle traffic as compared with the City's more traditional zoning designations because residents can work in the same community in which they live. Cottonwood has also pledged to collaborate with the City on trail and road connections to provide appropriate access to both the new recreation and open space amenities to be created on the Strauss Lakes Property, as well as existing City resources in the vicinity.

In addition to the substantial public benefits provided by the critical public infrastructure and extensive public improvements outlined above, the Project will also meet and exceed the City's Residential Evaluation Points System ("REPS") requirements, as detailed below. The development team is committed to achieving at least the minimum required points in each category. However, potential design shifts are possible as the development team and builders work with City staff through the development application process, which may require adjustments among the categories REPS points.

*a. Housing – 5 Points Required - 5 Points Expected*

HOUSING (Points Required: 5)	
	Points Achieved
<b>1. Housing Supply, Diversity, and Choice</b>	
A. 10% Home Ownership at <120% AMI	--
B. Limit Unit Size for 20% single family homes	3
C. Accessory Dwelling Units (ADU's)	--
<b>2. Affordable Rental Housing</b>	
A. 10% Affordable Rental Housing	2
B. 10% Affordable Rental Housing that does not utilize competitive funding sources	--
<b>Points Achieved</b>	<b>5</b>

Housing Supply, Diversity, and Choice (3 Points). Cottonwood is working with its homebuilder partners so that 20% of the single-family homes within the Project will be of limited size, satisfying the requirements for Section 1.B. under REPS. At least 5% of the attached or detached single family units will fall within two of the identified breakpoints (currently targeting 5% between 1,300 to 1,600 square feet and 5% between 1,600 and 2,200 square feet). Additionally, the housing units within the Project will meet the DOE Zero Energy Ready (ZER) standard, earning the additional point under this category.

Affordable Rental Housing (2 Points). Cottonwood is exploring the conveyance of approximately 7.5 acres of the Property to McDermott Properties LLC ("McDermott"). Cottonwood anticipates this portion of the Property will be developed by McDermott to include at least 10% of the total dwelling units for the Project as affordable rental units serving an income average that does not exceed 60% AMI, as prescribed under the City's affordable housing regulations.

*b. Energy Conservation and Renewables – 10 Points Required – 10 Points Expected*



ENERGY CONSERVATION & RENEWABLES (Points Required: 10)		
	Points - McDermott & Others	Points - Nat'l Builder
1. Enhanced Energy Performance		
A. DOE Zero Energy Ready (ZER) Home Performance Path Certified with balanced mechanical whole dwelling ventilation	4	4
B. OR HERS index of 47 or less without solar and single family detached and attached dwellings must achieve 2.0 or less ACH50 and provide balanced mechanical whole dwelling ventilation	--	--
C. OR Energy Rating Index (ERI) path single family detached and attached dwellings must achieve 2.0 or less ACH50 with balanced mechanical whole dwelling ventilation	--	--
D. OR Net Zero Energy Home Performance Path - HERS of 0 or less with balanced mechanical whole dwelling ventilation	--	--
2. Energy Components		
A. Heat homes with efficient electric heat	2	--
B. Build to Passive House Standard	--	--
C. Build air tight homes with balanced whole dwelling ventilation with heat or energy recovery	--	1
D. District Heating and Cooling for Neighborhood	--	--
E. Install qualifying connected thermostat	1	1
F. Install air source heat pump electric water heater	2	
G. Provide EV-Installed charging for buildings containing R-1 or R-2 occupancies	1	1
3. Renewable		
A. Install % of total energy need in solar (50/75/100%)	--	3
B. Smart storage and grid interactivity	--	--
Points Achieved	10	10

National Homebuilder Single-Family Product.

Cottonwood is in negotiations with a well-known national homebuilder to construct homes within the Project. The homebuilder has indicated that it would be able to incorporate the following Energy Conservation and Renewables benefits into the residential units it constructs within the Project: (1) DOE Zero Energy Ready (ZER) Home Performance Path Certified with balanced mechanical whole dwelling ventilation (4 points); (2) air tight homes with balanced whole dwelling ventilation with heat or energy recovery (1 point); (3) qualifying connected thermostats (1 point); and (4) installation of 100% of total energy need in solar (3 points).

McDermott and Other Product.

McDermott and Cottonwood have indicated that they would be able to incorporate the following Energy Conservation and Renewables benefits into the residential units they construct within the Project, including the affordable housing units: (1) DOE Zero Energy Ready (ZER) Home Performance Path Certified with balanced mechanical whole dwelling ventilation (4 points); (2) heat homes with efficient electric heat (2 points); (3) qualifying connected thermostats (1 point); and (4) air source heat pump electric water heater (2 points).

Project-Wide Benefits.

Additionally, Cottonwood and its building partners will provide EV-Installed charging for 7% of the total parking spaces for buildings containing R-1 or R-2 occupancies, earning an additional point under this category for the project as a whole.

c. *Indoor Water Conservation – 3 Points Required – 4.5 Points Expected*

4. Indoor Water * (Points Required: 3)	
	Points Achieved
A. WaterSense fixtures performing above code	2
B. Install leak detection and notification system	1
C. Sub-metering	1.5
D. Efficient plumbing design	--
E. Indoor Water Use Innovation	--
Points Achieved	4.5

Within the Project, Cottonwood and its building partners intend to satisfy the Indoor Water REPS requirements with the following: (1) WaterSense fixtures performing above code (2 points), (2) leak detection and notification systems (1 point), and (3) sub-metering for multifamily units throughout the development (1.5 points).

d. *Outdoor Water Conservation – 7 Points Required – 7 Points Expected*

5. Outdoor Water (Points Required: 7)	
	Points Achieved

A. Efficient Residential irrigation systems	2
B. Water efficient landscaping for residential front yards	2
C. Separate drip system for trees within parkways and medians	2
D. Common area water use performing above code	--
E. Stormwater Innovation	1
F. Rain barrels	
G. Outdoor Water Use Innovation	
Points Achieved	7

To meet the Outdoor Water REPS requirements, Cottonwood and its building partners plan to include (1) efficient residential irrigation systems, including WaterSense certified pressure reducing heads and weather-based irrigation controllers throughout the Project (2 points), (2) water efficient landscaping for residential front yards, with an average of 10 gallons or less of water usage per square foot, including high efficiency nozzles, flow sensors and master valves (2 points), (3) separate drip system for trees in all landscape areas (2 points), and (4) stormwater innovation, including Low Impact Development, as defined and illustrated in the City's LID Implementation Manual (1 point).

*e. Neighborhood Livability – 5 Points Required – 5 Points Expected*

NEIGHBORHOOD LIVABILITY (Points Required: 5)	
1. Transportation	
	Points Achieved
A. Off-site Trail Connection	1
B. Exemplary Bicycle and Pedestrian Improvements	--
C. Level 3 EV Charging Stations	1
D. Trail Connection provided to a School	1
E. Transportation Innovation	--
2. Neighborhood Amenities	
A. Access to Essential Neighborhood Services	--
B. Vertical Mixed-Use Buildings	--
C. Community Gathering Spaces	1
D. Community Workspace	--
E. Common Areas Food Production	--
F. Innovative Neighborhood Amenities	--
3. Natural Environment	
A. Access to Parks & Open Spaces	1
B. Enhanced Habitat	--

C. Expansion of Adjacent Natural Habitat	--
D. Innovation in Natural Environment Protection	--
4. Health, Culture & Education	
A. Universal Design	--
B. 0.5% for Arts & Culture	--
C. Sustained Educational Programing	--
D. Excellence in Community Engagement	--
E. Health, Culture or Education Innovation	--
Points Achieved	5

Cottonwood's plans for the Project are anticipated to exceed the City's REPS requirements in the category of Neighborhood Livability. The Project is anticipated to include (1) numerous off-site trail connections to the Poudre Trail and existing city trails, including trails along William Neal and the two irrigation canals that run through the Project, as well as bike lanes on Ziegler Road (1 point); (2) level 3 EV Charging Stations in the mixed-use area (1 point); (3) connection to on-street and off-street trails to Fort Collins High School (1 point); (4) access to essential neighborhood services in the mixed-use area (1 point); (5) vertical mixed-use buildings anticipated in mixed use area (2 points); (6) community gathering spaces in the neighborhood parks as discussed in more detail below (1 point); (7) and access to parks and open space through East Community Park (1 point).

The open space plan for the Project is one that the development team is very proud of. It has been designed to ensure that every residential unit within the community is located within 1320 feet (a five-minute walk) or less from at least one of the Project's four parks. This design feature is illustrated in **Exhibit 2** to this submittal. The four parks within the Project will be the Silver Poplar Park, Flatiron Pond Park, Cottonwood Park, and Pollinator Park, and the Project will include numerous pedestrian and vehicular connections to the City's East Community Park. Silver Poplar Park, will be centrally located and named for one of the oldest popular tree groves in Fort Collins, and silver poplars will be propagated and incorporated prominently into the landscape design. Flatiron Park, a site that would qualify for fill and development, would instead serve as an active recreation site for fishing, canoeing and paddle boarding, and would include walking trails for residents and the general public. Cottonwood Park will be designated for more passive recreation, while Pollinator Park will include plants and gardens that are intended to support pollinator species within the community. Other qualitative aspects of the Open Space Plan include a plaza/outdoor gathering space in mixed-use area, a number of tree-lined trails, and intentional placement of landscape along streets with ornamental grasses, low water, and low maintenance native plants as opposed to traditional turf in tree lawns.

#### 5. Service Plan Specifics

Cottonwood anticipates that the Districts' powers, purpose, and maximum mill levies will conform to the corresponding provisions outlined in the City's Model Service Plan. Likewise, the term of the Districts will conform to the parameters in the City's Model Service Plan. Cottonwood anticipates that one or more of the Districts will operate certain of the Public

Improvements not dedicated to other governmental entities, so such Districts would continue to operate those Public Improvements until such operations are no longer necessary. The build-out period for the Project is estimated to be 20 years. Cottonwood hopes to work with the City for approval of the Districts' Service Plan in time to proceed with an organizational election on November 5, 2024. As mentioned above, the property within the Project is currently zoned industrial, and development approvals related to re-zoning of the property for the Project are proceeding through the City's review processes concurrently with the City's review of the proposed Districts.

The Project will require significant public infrastructure, both off-site and on-site. Based on current plans, and subject to revisions based on discussions with the City's Planning and Zoning team, on-site public infrastructure is anticipated to include water, storm and sanitary sewer, streets, landscaping, parks, recreation, and trail improvements. Off-site improvements are expected to include reconstruction of the Horsetooth and Zeigler intersection; demolition and replacement of the Horsetooth Road, Environmental Drive and Percheron Drive Bridges over FCRID; sidewalk and road improvements to Zeigler Road, Horsetooth Road and Environmental Drive; construction of two additional bike and pedestrian bridges over FCRID; and construction of bike and pedestrian trails connecting to the Poudre River Trail and to Rigden Farm. Based on current plans, and subject to revisions based on discussions with the City's Planning and Zoning team, Cottonwood currently estimates the cost of the public improvements related to and required for the Project will be approximately \$92,482,466.95.

We appreciate the City's time in reviewing this Letter of Interest and look forward to answering any questions that you may have. Cottonwood will deliver to the City the Letter of Interest Submittal Fee in the amount of \$2,500 in conjunction with this submittal. Under the City's Policy, Staff is anticipated to provide a written response to the Letter of Interest within 30 days of receipt of the Letter of Interest and related Fee. Please let us know as soon as possible if the City anticipates that additional time may be needed. Should you have any questions or need any additional information, please do not hesitate to contact us.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert G. Rogers".

Robert G. Rogers  
WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law

Enclosures

**Exhibit 1**  
**Strauss Lakes Sketch Plan**





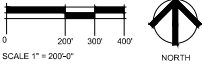
# STRAUSS LAKES SKETCH PLAN

09.25.23

**LEGEND**

- PROPERTY BOUNDARY
- CONCEPTUAL DEVELOPMENT BUBBLES
- 50' DITCH BUFFER (TOP OF BANK)
- 100' FLATIRON POND OFFSET
- POTENTIAL FUTURE CONNECTION
- CONCEPTUAL PARK LOCATIONS

RESIDENTIAL DENSITY CALCULATIONS	
GROSS ACREAGE (EXCLUDING EAST COMMUNITY PARK)	182.91 AC
NET ACREAGE	130.19 AC
NATURAL HABITATS AND FEATURES	45.34 AC
PARKS AND OPEN SPACE	5.33 AC
DEDICATED PEDESTRIAN / BICYCLE PATH CONNECTIONS	2.06 AC
TOTAL UNITS	1,307 UNITS
GROSS RESIDENTIAL DENSITY	7.15 DU/AC
NET RESIDENTIAL DENSITY	10.64 DU/AC



**Exhibit 2**  
**Strauss Lakes Open Space Plan**





## CITY OF FORT COLLINS POLICY FOR REVIEWING SERVICE PLANS FOR METROPOLITAN DISTRICTS

April 20, 2021

### Introduction.

This policy establishes the criteria, guidelines and processes to be followed by City Council and City staff in considering and by applicants in submitting to the City service plans for the organization of metropolitan districts or amendments to those plans ("Policy"), as provided in Colorado's Special District Act in Article 1 of Title 32 of the Colorado Revised Statutes (the "Act"). The Act provides that metropolitan districts are quasi-municipal corporations and political subdivisions ("District") that can be organized within the boundaries of a municipality provided the municipality's governing body approves by resolution the proposed service plan for the District. Under the Act, the service plan constitutes the document that delineates the specific powers and functions the District can exercise, including the facilities and services it can provide, the taxes it can impose and its permitted financial arrangements (the "Service Plan"). The Act requires Districts to conform to their Service Plans.

### Section 1 – Policy Objectives and Statements.

- A. This Policy generally supports the formation of a District where it will deliver extraordinary public benefits that align with the goals and objectives of the City whether such extraordinary public benefits are provided by the District or by the entity organizing the District because the District exists to provide public improvements.
- B. A District, when properly structured, can enhance the quality of development in the City. The City is receptive to District formation that provides extraordinary public benefits which could not be practically provided by the City or an existing public entity, within a reasonable time and on a comparable basis. It is not the intent of the City to create multiple entities which would be construed as competing or duplicative.
- C. **The approval of a District Service Plan is at the sole discretion of City Council**, which may reject, approve, or conditionally approve Service Plans on a case-by-case basis. Nothing in this Policy is intended, nor shall it be construed, to limit this discretion of City Council, which retains full authority regarding the approval, terms, conditions and limitations of all Service Plans.
- D. **Policy Objectives for All Districts.**

The City will evaluate any proposed District and its Service Plan based on the District's ability to deliver public benefits through extraordinary development outcomes, specific examples are provided in **Exhibit A** and generally occur in the following four focus areas:

1. Environmental Sustainability Outcomes: Development of public improvements that deliver or facilitate the delivery of specific and measurable environmental outcomes, including but

- not limited to: (i) reduction of Green House Gases (“GHG”), (ii) conservation of water or energy, (iii) encourage multimodal transportation, (iv) enhance community resiliency – against future environmental events (e.g., flooding, drought, etc.); (v) increase renewable energy capacity; and/or (vi) deliver other environmental outcomes.
2. Critical Public Infrastructure: Development of public improvements that address or facilitate addressing significant infrastructure challenges previously identified by the City, either within or proximate to the District, whether such improvements address a locally-significant challenge or a City-wide challenge.
  3. Smart Growth Management: Development of public improvements that deliver or facilitate the delivery of specific design components that: (i) increase the density of development within the District; (ii) establish, enhance or address the walkability and pedestrian friendliness of the District; (iii) increase the availability of transit and/or multimodal oriented facilities; (iv) create compelling public spaces; and/or (v) encourage mixed-use development patterns.
  4. Strategic Priorities: Development of public improvements that deliver or facilitate the delivery of strategic priorities specified in the City’s existing long-term strategic planning documents, such as City Plan, Affordable Housing Plan, Economic Health Strategic Plan, and applicable Sub-Area Plans. These priorities include, but are not limited to:
    - a. Affordable Housing: Deliver or facilitate the delivery of additional affordable housing units at the City’s defined level of Area Median Income (“AMI”) or below. The City defines Affordable Housing as units affordable to a household earning 80 percent of AMI.
    - b. Workforce Housing: Deliver or facilitate the delivery of workforce housing units in the City’s defined range of AMI. For purposes of this policy, Workforce Housing units shall be defined as units affordable to a household earning between 81 percent and 120 percent of AMI.
    - c. Infill/Redevelopment: Enable the infill or redevelopment of property within the City, especially when such development is consistent with City Plan.
    - d. Economic Health Outcomes: Enable delivery of specific and measurable economic outcomes, such as: (i) job growth; (ii) retention of an existing business; and/or (iii) construction of a missing economic resource.

In determining whether a proposed District delivers extraordinary public benefits, the City may consider: (i) ways in which the proposed improvements exceed the City’s minimum requirements and standards; (ii) ways in which the existence of the District facilitates the extraordinary public benefits and whether the extraordinary benefits are feasible without the District; (iii) ways in which the proposed extraordinary benefits work together as a system to



deliver greater benefit to the community than individually; and (iv) any other factors the City deems relevant under the circumstances.

**E. Policy Objectives for Residential Districts:**

1. In addition to being evaluated under the applicable policy objectives in Section 1.D. and the evaluation criteria in Section 2.A., those Districts proposed to serve predominately residential development, shall also be evaluated under the Residential Metro Districts Evaluation Points System table attached hereto as **Exhibit B** and incorporated herein by reference (the “Residential Evaluation Points System”).
2. For purposes of this Policy, a District shall be considered to serve predominately residential development if more than ten percent (10%) of the estimated assessed value of the development to be served by the district will be residential development (“Residential District”).
3. The objective in applying the Residential Evaluation Points System to Residential Districts is to ensure that the developments served by Residential Districts provide certain minimum extraordinary public benefits in the areas of housing, energy conservation and renewables, indoor and outdoor water conservation, and neighborhood livability, in order to help the City achieve its goals set for these areas in the City’s adopted policy plans

**F. Policy Statements:**

1. Limited Use: The City wishes to exact a high standard of use for Districts thereby limiting their use. An applicant project is expected to deliver extraordinary benefits across multiple City objectives two or more of the objectives described in Section 1.D. of this Policy.
2. Broad and Demonstrable Public Benefit: Districts are expected to provide broad public benefit and the applicant will be asked to demonstrate and provide assurances of those benefits. The City will utilize the Service Plans, development agreements, and other contractual agreements to document and enforce District commitments.
3. District Governance: It is the intent of the City that owner/resident control of Districts occur as early as feasible. Service Plans should include governance structures that encourage and accommodate this. The use of control Districts (also known as “service” or “managing” Districts) that allow developers to control the other Districts that provide the tax revenues beyond the time needed to repay the issued debt, is to be discouraged.
4. Basic Infrastructure Improvements: A District proposing to fund basic infrastructure improvements will not be favorably received except when used to offset higher costs associated with delivering public benefit through extraordinary development outcomes (see **Exhibit A** for examples).

5. Minimum District Size: A District proposed to issue less than \$7 million of authorized debt will not be considered.

## Section 2 – Evaluation Criteria

- A. To provide City Council with information and an assessment consistent with this Policy, staff will review and report on all District proposals in the following areas:
  1. Public Benefit Assessment and Triple Bottom Line Scan: To comprehensively and consistently evaluate District proposals, an interdisciplinary staff team, inclusive of representatives from Planning, Economic Health, Sustainability, and other Departments as appropriate, will be formed. This team will rely on the City's Triple Bottom Line evaluation approach, and other means, to assess a District proposal consistent with this Policy and City goals and objectives more broadly.
  2. Financial Assessment: All District proposals are required to submit a Financial Plan to the City for review. Utilizing the District's Financial Plan, and other supporting information which may be necessary, the City will evaluate a District's debt capacity and servicing ability. Additionally, should a District desire to utilize District funding for basic infrastructure improvements, as determined by the City in its sole discretion, staff will assess the value of this benefit against public benefits received in exchange.
  3. Residential Districts: All proposals for a Residential District are required to submit to the City a written report and analysis of how the Residential District and the development it will serve will achieve the minimum points required under the Residential Evaluation Points System.
  4. Policy Evaluation: All proposals will be evaluated by City staff against this Policy and the City's "Model Service Plan" attached as **Exhibit "C"** for single-district Service Plans and as **Exhibit "D"** for multi-district Service Plans, with any areas of difference being identified, evaluated and reported to City Council.

## Section 3 – Application Process

- A. Process Overview: The application process is designed to provide early feedback to an applicant, adequate time for a comprehensive staff review, and the appropriate steps and meeting opportunities with decision makers.
- B. Letter of Interest: Applicant will provide City with a Letter of Interest and pay the Letter of Interest fee (refer to fees below). The Letter of Interest shall contain the following:
  1. Summary narrative of the proposed development and District proposal.
  2. Sketch plan showing: property location and boundaries; surrounding land uses; proposed use(s); proposed improvements (buildings, landscaping, parking/drive areas, water treatment/detention, drainage); existing natural features (water bodies, wetlands, large trees, wildlife, canals, irrigation ditches); utility line locations (if known); and photographs (helpful

but not required).

3. Clear justification for why a District is needed.
  4. Explanation of public benefits, making specific reference to this Policy and other relevant City documents. For Residential Districts this shall include a preliminary analysis of how the proposal will achieve the minimum points required under the Residential Evaluation Points System.
  5. District proposal and Service Plan specifics, including: District powers and purpose; District infrastructure and costs; mill levy rate (both debt and, operations and maintenance); term of District; forecasted period of build-out; proposed timeline for formation; and current development status of project.
- C. Staff Response to Letter of Interest: Staff will provide a written response to a Letter of Interest within thirty (30) days of receipt and payment of the Letter of Interest fee.
  - D. Preliminary Staff Meeting with Applicant: Based on an initial review of the Letter of Interest, staff shall meet with the applicant to discuss the District proposal, potential public benefits, initial staff feedback, the evaluation process, fees, and other application elements.
  - E. City Council Conceptual Review: Prior to the applicant submitting its formal application to the City for City Council's consideration of a proposed Service Plan, a hearing shall be scheduled before City Council at which staff and the applicant shall present to City Council the applicant's Letter of Interest for the proposed District(s). No later than thirty (30) days before the hearing, written notice of it shall be mailed by the applicant by first-class mail to all fee title owners of real property within the boundaries of the proposed District(s) and of any future inclusion area proposed in the Letter of Interest. The notice shall also be published once in a newspaper of general circulation. In addition to stating the date, time and location of the hearing, the mailed and published notices shall identify the property to be served by the District(s) and generally describe the proposed District(s) and the development it will serve. The purpose of the hearing will be for City Council members and the public to provide preliminary comments in response to the Letter of Interest to be used by the applicant in determining whether to submit a formal application and, if so, the contents of that application. Also, the City Council may consider at the end of the hearing adopting a motion expressing its opinion whether the Service Plan proposed in the Letter of Interest should be brought forward to City Council for its formal consideration. That motion may also include any recommendations City Council may have concerning what should or should not be included in the applicant's formal application for its proposed Service Plan. Any such motion adopted and any comment, suggestion or recommendation made by any City Council member concerning the Letter of Interest shall not bind or otherwise obligate any City Council member or other City decision maker to any course of conduct or decision pertaining to the any subsequent formal application under this Policy.
  - F. Formal Application and Service Plan Submittal: After taking into account any motion adopted by City Council in the conceptual review hearing conducted under Section 3.E. and any comments from City Council

members, the public and City staff, applicant may submit a formal application for consideration following the requirements specified in the City's District Application, including the Service Plan in which the applicant shall highlight the substantive provisions that deviate from this Policy and the applicable Model Service Plan attached as **Exhibit "C"** or **Exhibit "D"**. The formal application and application fees must be received by the City no later than the third Tuesday of December in the preceding year for a spring election (May) or the third Tuesday of May for a fall election (November). The City cannot commit to timely processing of applications submitted after these dates for their respective elections.

- G. Formal Staff Review: An interdisciplinary staff team will review the applicant submittal along with any follow-up documentation that is requested in order to assess the application according to this Policy and other appropriate City policy. Applicants should expect several rounds of feedback and review from City staff.
- H. Council Finance Committee Meeting: The Council Finance Committee will review all formal applications for a District and provide feedback and recommendations.
- I. Public Hearing Notice: The Service Plan Applicant must cause a written notice of the public hearing to be mailed by first-class mail to all fee title owners of real property within the boundaries of the proposed District(s) and of any future inclusion area proposed in the Service Plan and such notice shall be mailed no later than thirty (30) days before the scheduled hearing date. A notice shall also be published once in a newspaper of general circulation in the City no later than thirty (30) days before the scheduled hearing date. The mailed and published notices shall include the following information:
  - 1. A description of the general nature of the public improvements and services to be provided by the District;
  - 2. A description of the real property to be included in the District and in any proposed future inclusion area, with such property being described by street address, lot and block, metes and bounds if not subdivided, or such other method that reasonably apprises owners that their property will or could be included in the District's boundaries;
  - 3. A statement of the maximum amount of property tax mill levy that can be imposed on property in the District under the proposed Service Plan;
  - 4. A statement that property owners desiring to have the City Council consider excluding their properties from the District must file a petition for exclusion with the Fort Collins City Clerk's Office no later than ten (10) days before the scheduled hearing date in accordance with Section 32-1-203(3.5) of the Colorado Revised Statutes;
  - 5. A statement that a copy of the proposed Service Plan can be reviewed in the Fort Collins City Clerk's Office; and



6. The date, time and location of the City Council's public hearing on the Service Plan.

J. Council Public Hearing: The City Council will conduct a noticed public hearing at a regular or special Council meeting to consider resolution approval of Service Plan. This hearing will occur no later than thirty (30) days prior to the final submittal date to the District Court to order an election. By way of example, for a fall election City Council, which meets on the first and third Tuesdays of the month, must conduct the public hearing no later than the third Tuesday in August.

K. Proceedings at Public Hearing: The hearing shall be conducted under and in accordance with the applicable procedures of the City Council's adopted "Rules of Procedure Governing the Conduct of City Council Meetings and Work Sessions," except that the order of the proceedings of the public hearing on the service plan shall be as follows:

1. Announcement of item;
2. Consideration of any procedural issues;
3. Explanation of the application by City staff;
4. Presentation by the applicant;
5. Public testimony regarding the application;
6. Rebuttal testimony by the applicant;
7. Councilmember questions of City staff and the applicant; and
8. Motion, discussion and vote by City Council.

#### Section 4 –Service Plan

A. Purpose: In addition to the requirements of the Act, a Service Plan should memorialize the understandings and agreements between the District and the City, as well as the considerations that compelled the City to authorize the formation of the District. The Service Plan must also include all applicable information required by the Act.

B. Compliance with Applicable Law: Any Service Plan submitted to the City for approval must comply with all state, federal and local laws and ordinances, including the Act.

C. Model Service Plan: To clearly communicate City requirements and streamline legal review, the City will require the use of the applicable Model Service Plan attached as **Exhibit "B"** or **Exhibit "C"**. With justification, the City may consider deviations in the proposed Service Plan, but generally all Service Plans should include the following:

1. Eminent Domain NOT Authorized: The Service Plan shall contain language that prohibits the District from exercising the power of eminent domain. However, the City may choose to

exercise its power of eminent domain to construct public improvements within the District in which case the District and the City will enter into an intergovernmental agreement concerning the public improvements and funding for that use of eminent domain.

2. Maximum Mill Levy: The Service Plan shall restrict the District's total mill levy authorization for both debt service and operations and maintenance to fifty (50) mills, subject to adjustment as provided below. A portion of the Maximum Mill Levy may be utilized by the District to fund operations and maintenance functions, including customary administrative expenses incurred in operating the District such as accounting and legal expenses and otherwise complying with applicable reporting requirements. No more than ten (10) mills may be used for operations and maintenance (the "Operations and Maintenance Mill Levy").
  - a. Increased mill levies may be considered for Districts that are predominately commercial in use, at the sole discretion of the City Council.
  - b. The Maximum Mill Levy may be adjustable from the base year of the District as provided for in the Model Service Plan, so that to the extent possible, the actual tax revenues generated by the District's mill levy, as adjusted, for changes occurring after the base year, are neither diminished nor enhanced as a result of the changes.
3. Debt Term Limit: A District shall be allowed no more than forty (40) years for the levy and collection of taxes used to service debt unless a majority of the Board of Directors of the District imposing the mill levy are residents of such District and have voted in favor of a refunding of a part or all of the Debt and such refunding is for one or more of the purposes authorized in C.R.S. Section 11-56-104.
4. District Dissolution: Perpetual Districts shall not be allowed except in cases where ongoing operations and maintenance are required. Except where ongoing operations and maintenance has been authorized, a District must be dissolved as soon as practical upon:
  - a. The payment of all debt and obligations; and
  - b. The completion of District development activity.

In addition, Districts shall have no more than three years from approval of the Service Plan to secure City Council approval by resolution of an intergovernmental agreement and/or a development agreement documenting the public benefits described in the Service Plan. Staff will inform City Council, in writing, of any Districts that have not obtained this approval ninety (90) days in advance of the expiration of the three-year period. This written notice will provide a status update on the Districts progress towards obtaining Council approval and the other activities of the Districts.

5. District Fees: Impact fees, development fees, service fees, and any other fees must be identified with particularity in the District Service Plan. Impact and development fees must not be levied or collected against the end user – i.e., residents and/or non-developer owners.

6. Notice Requirements: The Service Plan shall require that the District use reasonable efforts to assure that all developers of the property located within the District provide written notice to all purchasers of property in the District regarding the District's existing mill levies, its maximum debt mill levy, as well as a general description of the District's authority to impose and collect rates, fees, tolls and charges. The form of notice shall be filed with the City prior to the initial issuance of the debt of the District imposing the mill levy and shall be substantially in the form of **Exhibit E** attached hereto and incorporated by reference.
  7. Annual Report: The Service Plan must obligate the District to file an annual report not later than September 1 of each year with the City Clerk for the year ending the preceding December 31, the requirements of which may be waived in whole or in part by the City Manager. Details of the Annual Report are included in the Model Service Plan.
- D. Service Plan Requirements: In addition to all other information required in a Service Plan by the Act, a Service Plan must include the following:
1. Financial Plan: The Service Plan must include debt and operating financial projections prepared by an investment banking firm or financial advisor qualified to make such projections. The financial firm must be listed in the Bond Buyers Marketplace or, in the City's sole discretion, other recognized publication as a provider of financial projections. The Financial Plan must include debt issuance and service schedules and calculations establishing the District's projected maximum debt capacity (the "Total Debt Limitation") based on assumptions of: (i) Projected Interest Rate on the debt to be issued; (ii) Projected Assessed Valuation of the property within the District; and (iii) Projected Rate of Absorption of the assessed valuation within the District. These assumptions must use market-based, market comparable valuation and absorption data and may use an annual inflation rate of three percent (3%) or the Consumer Price Index for the preceding 12-month period for the Denver-Boulder-Greeley statistical region as prepared by the U.S. Department of Labor Statistics, whichever is lesser.
    - a. Total Debt Limitation: The total debt authorized in the Service Plan must not exceed 100% of the projected maximum debt capacity as shown in the Financial Plan.
    - b. Administrative, Operational and Maintenance Costs: The Financial Plan must also include foreseeable administrative, operational and maintenance costs.
  2. Public Improvements and Estimated Costs: Every Service Plan must include, in addition to all materials, plans and reports required by the Act, a summary of public improvements to be constructed and/or installed by the district (the "Public Improvements"). The description of these Public Improvements must include, at a minimum:

1. A map or maps, and construction drawings of such a scale, detail and size as required by the Planning Department, providing an illustration of public improvements proposed to be built, acquired or financed by the District;
2. A written narrative and description of the public improvements; and
3. A general description of the District's proposed role with regard to the same.

Due to their preliminary nature, the Service Plan must indicate that the City's approval of the Public Improvements shall not bind the City, its boards and commissions, and City Council in any way relating to the review and consideration of land use applications within the District.

3. Intergovernmental Agreement: Any intergovernmental agreement which is required or known at the time of formation of the District to likely be required, to fulfill the purposes of the District, must be described in the Service Plan, along with supporting rationale. The Service Plan must provide that execution of intergovernmental agreements which are likely to cause substantial increase in the District's budget and are not described in the Service Plan will require the prior approval of City Council.
4. Extraterritorial Service Agreement: The Service Plan must describe any planned extraterritorial service agreement. The Service Plan must provide that any extraterritorial service agreement by the District that are not described in the Service Plan will require prior approval of City Council.

## Section 5 – Regional Improvements

- A. Purpose: A Service Plan may include a section addressing the planning, design, acquisition, funding, construction, installation, relocation and/or redevelopment of Regional Improvements. Such section is intended to ensure that the privately-owned properties to be developed in a District that benefit from the Regional Improvements pay a reasonable share of the associated costs.
- B. Eligible Improvements: The City, to facilitate transparency, will include a list or exhibit in any Service Plan including a Regional Improvements section that clearly identifies the improvements to be funded, in part or whole, by a Regional Mill to be levied by the District. In selecting improvements to be included in a Service Plan the City will apply the following standards:
  1. Benefit to End User – Regional Improvements should have a clear benefit to the privately-owned properties funding the Regional Mill Levy. The City may establish this connection either through previous identification of the infrastructure need and/or through a technical analysis, such as a traffic impact analysis.
  2. Specificity – When possible, the City should include as much specificity about the Regional Improvements to be included in a Service Plan as possible, while noting that any details are preliminary and may be subject to change as planning, design, acquisition, funding,

construction, installation, relocation and/or redevelopment of the Regional Improvements occurs.

3. No Other Funding Exists – The City will exclude improvements, either in part or whole, for which funding mechanisms exists to support the planning, design, acquisition, funding, construction, installation, relocation and/or redevelopment. By way of example, the City collects Capital Expansion Fees to support street oversizing, however, several bridge structures necessary to facilitate grade separated crossings of railroad infrastructure were not included in the calculation of these Fees; therefore, the bridges would be and eligible Regional Improvement, where the road surface itself would not.

## Section 5 – Fees

- A. No request to create a Metro District shall proceed until the fees set forth herein are paid when required. All checks are to be made payable to the City of Fort Collins and sent to the Economic Health Office.
  1. Letter of Interest Submittal Fee: A Letter of Interest is to be submitted to the City’s Economic Health Office and a non-refundable \$2,500 fee shall be paid at the time of submittal of the Letter.
  2. Application Fee: An application along with a draft Service Plan (based on the Model Service Plan) is to be submitted to the City’s Economic Health Office and a \$7,500 non-refundable fee along with a \$7,500 deposit towards the City’s other expenses shall be paid at the time of submittal of the Application and draft Service Plan.
  3. Annual Fee: Each District shall pay an annual fee for the City’s on-going monitoring of each Metro District. This annual fee shall be \$500 or if multiple Districts exist serving a single project, then the annual fee shall be \$500 plus \$250 for each additional District beyond the first (e.g., the annual fee for Consolidated ABC Metro Districts 1 to 7 shall be \$500 plus \$250 times six or \$2,000).
  4. Non-Model Service Plan Fee: A District proposal requesting a substantial deviation from this Policy or the applicable Model Service Plan, shall pay an additional non-refundable fee of \$5,000 at the time of submitting its application; the City shall in its sole and reasonable discretion determine if a draft Service Plan proposes a substantial deviation from this Policy or the applicable Model Service Plan.
  5. Other Expenses: If the deposits paid in subsections 2 and 6 are not sufficient to cover all the City’s other expenses, the applicant for a District shall pay all reasonable consultant, legal, and other fees and expenses incurred by the City in the process of reviewing the draft Service Plan or amended Service Plan prior to adoption, documents related to a bond issue and such other expenses as may be necessary for the City to incur to interface with the District. All such fees and expenses shall be paid within 30 days of receipt of an invoice for these additional fees and expenses.

6. Service Plan Amendment Fee: If a proposed amendment to a Service Plan is submitted to the City's Economic Health Office, it should be submitted with a non-refundable \$2,500 fee along with a \$2,500 deposit towards the City's other expenses and shall be paid at the time of submittal of the application and draft amended Service Plan.

## EXHIBIT A

### PUBLIC BENEFIT EXAMPLES

The following list of examples is meant to be illustrative of the types of projects that deliver the defined public benefits in this policy. Projects that deliver similar or better outcomes will also be considered on their merits.

Category / Sub-Category	Example Projects
<b>Environmental Sustainability Outcomes</b>	
1. Green House Gas Reductions	- See subsequent sub-categories
2. Water and/or Energy Conservation	<ul style="list-style-type: none"> <li>- District-wide non-potable water system(s)</li> <li>- District-wide renewable energy systems(s)</li> <li>- Delivery of 20% or more rooftop solar</li> <li>- Greywater reuse system(s) - if allowed by law</li> </ul>
3. Multimodal Transportation	<ul style="list-style-type: none"> <li>- Buffered bike lanes</li> <li>- Wider than required sidewalks</li> <li>- Enhanced pedestrian crossings</li> <li>- Underpass(es)</li> </ul>
4. Enhance Community Resiliency	<ul style="list-style-type: none"> <li>- Significant stormwater improvements (previously identified)</li> <li>- Improvements to existing bridges</li> </ul>
5. Increase Renewable Energy Capacity	<ul style="list-style-type: none"> <li>- District-wide renewable energy systems(s)</li> <li>- Set aside land for community solar garden(s)</li> <li>- Utility scale renewable project(s)</li> </ul>
<b>Critical Public Infrastructure</b>	
1. Within District Area	<ul style="list-style-type: none"> <li>- Community Park Land (beyond code requirements)</li> <li>- Regional Stormwater Facilities</li> <li>- Major arterial development</li> <li>- Parking Structures (Publicly Accessible)</li> </ul>
2. Adjacent to Proposed District	<ul style="list-style-type: none"> <li>- Contribution to major interchange/intersection</li> <li>- Contribution to grade separated railroad crossings</li> </ul>

*(Continued on next page)*



Category / Sub-Category	Example Projects
<b>High Quality and Smart Growth Management</b>	
1. Increase density	<ul style="list-style-type: none"> <li>- Alley load construction</li> <li>- Smaller Lot Size</li> <li>- Increased multifamily development</li> </ul>
2. Walkability & Pedestrian Friendliness	<ul style="list-style-type: none"> <li>- Wider than required sidewalks</li> <li>- Enhanced pedestrian crossings</li> <li>- Underpass(es)</li> <li>- Trail system enhancements</li> </ul>
3. Increase availability of Transit	<ul style="list-style-type: none"> <li>- Improved bus stops</li> <li>- Restricted access guideways for bus operations</li> <li>- Transfer facilities</li> </ul>
4. Public Spaces	<ul style="list-style-type: none"> <li>- Pocket Parks</li> <li>- Neighborhood Parks (beyond code requirements)</li> </ul>
<b>Strategic Priorities</b>	
1. Affordable Housing	<ul style="list-style-type: none"> <li>- Units permanently affordable to 80% Area Median Income</li> <li>- Land dedicated to City's land bank program</li> </ul>
2. Attainable Housing	<ul style="list-style-type: none"> <li>- Units permanently affordable to 81 to 120% Area Median Income</li> </ul>
2. Infill/Redevelopment	<ul style="list-style-type: none"> <li>- Address environmental contamination / concern</li> <li>- Consolidate wetlands or natural area (positive benefits)</li> </ul>
3. Economic Health Outcomes	<ul style="list-style-type: none"> <li>- Facilitate job growth (at or above County median income)</li> <li>- Retain an existing business</li> </ul>

# FORT COLLINS RESIDENTIAL METRO DISTRICTS EVALUATION POINTS SYSTEM

## Required Number of Points:

- Housing - 5 points
- Energy Conservaton and Renewables - 10 points \*
- Indoor Water Conservation - 3 points
- Outdoor Water Conservation - 7 points
- Neighborhood Livability - 5 points

\* At least one Enhanced Energy Performance option must also be selected

NOTES		Points
<b>HOUSING</b>		
<b>1. Housing Supply, Diversity, and Choice</b>		
A. 10% Home Ownership at <120% AMI	10% deed restricted, for-sale, single family units not to exceed 120% AMI  *Point multiplier: If all housing units meet DOE Zero Energy Ready (ZER) standard, 1 additional point received	4/5*
B. Limit Unit Size for 20% single family homes	A combination of Attached or detached, single family units based on at least 2 of the following breakpoints: 5% less than 800 SF 5% between 800 to 1,100 SF 5% between 1,100 to 1,300 SF 5% between 1,300 to 1,600 SF 5% between 1,600 and 2,200 SF **Option for Point multiplier: If 3 of the following breakpoints are selected, 1 additional point OR If all housing units meet DOE Zero Energy Ready (ZER) standard, 1 additional point received	2/3**
C. Accessory Dwelling Units (ADU's)	Detached or attached Accessory Dwelling Units between 300 and 800 SF in size for a minimum of 10% of the units within the development plan.	2
<b>2. Affordable Rental Housing</b>		
A. 10% Affordable Rental Housing	10% rental units serving an income average not to exceed 60% AMI	2
B. 10% Affordable Rental Housing that does not utilize competitive funding sources	10% rental units serving an income average not to exceed 60% AMI that does not utilize competitive funding sources, i.e.- local limited Private Activity Bonds, Low Income Housing Tax Credits (LIHTC) and City competitive grant process funding (CDBG/HOME/Affordable Housing Fund), or a development that otherwise demonstrates it contributes net-new units of affordable housing into the Fort Collins community.	3
Required number of Housing Points		5

NOTES		Points
<b>ENERGY, RENEWABLES &amp; WATER</b>		
<b>1. Enhanced Energy Performance</b>		
A. DOE Zero Energy Ready (ZER) Home Performance Path Certified with balanced mechanical whole dwelling ventilation	<p>Very similar to current code, but with more rigorous 3rd party inspection. Studies show incremental cost of building to ZER ranges from only 0.9-2.5%, with Fort Collins likely be on lower end with existing stricter building code. ZE and ZER levels of efficiency could be achieved without aggressive or cutting-edge envelope and HVAC solutions.<sup>1</sup></p> <p>Local example - REVIVE: Total Marginal Cost for Zero Ready (4.8%) - Increase monthly mortgage payment=\$84, Monthly savings=\$138. Projected monthly utility energy bill=\$20.<sup>2</sup></p> <p>1. Peterson, Gartman, Cordivae, The Economics of Zero Energy Homes, Rocky Mountain Institute, 2019 <a href="https://rmi.org/wp-content/uploads/2018/10/RMI_Economics_of_Zero_Energy_Homes_2018.pdf">https://rmi.org/wp-content/uploads/2018/10/RMI_Economics_of_Zero_Energy_Homes_2018.pdf</a></p> <p>2. McFaddin, Economics of Energy Performance – REVIVE Properties, 2019 <a href="https://www.fgov.com/greenbuilding/files/mcfaddin_green-finance-2019.pdf">https://www.fgov.com/greenbuilding/files/mcfaddin_green-finance-2019.pdf</a></p> <p>Building records confirm new homes in Fort Collins built to code are delivering scores of 58-62. Proficient builders are capable of achieving a HERS in the mid 40's resulting in an average annual energy cost savings of \$350-400 over a code built home.<sup>3</sup> For Multifamily development, the HERS score shall be in accordance with RESNET Guidelines for Multifamily Energy Ratings</p> <p>3. <a href="https://www.hersindex.com/">https://www.hersindex.com/</a></p>	4
B. <b>OR</b> HERS index of 47 or less without solar and single family detached and attached dwellings must achieve 2.0 or less ACH50 and provide balanced mechanical whole dwelling ventilation		4
C. <b>OR</b> Energy Rating Index (ERI) path single family detached and attached dwellings must achieve 2.0 or less ACH50 with balanced mechanical whole dwelling ventilation	<p>Energy Rating Index (ERI) of 40 or lower. ERI as a metric has a backstop to prevent builders from a reduced envelope performance. Must also achieve 2.0 or less ACH50 and</p>	3
D. <b>OR</b> Net Zero Energy Home Performance Path - HERS of 0 or less with balanced mechanical whole dwelling ventilation	Optional compliance paths that would replace all of the above requirements.	7

NOTES		Points
<b>ENERGY, RENEWABLES &amp; WATER</b>		
<b>2. Energy Components</b>		
A. Heat homes with efficient electric heat	Efficient electric heat is defined as a Geothermal Heat Pump or Cold Climate Air Source Heat Pump (ccASHP) with a COP of 1.9 or greater at a heating design temp of 5° F.  Product list of qualifying ccASHP's: <a href="https://neep.org/high-performance-air-source-heat-pumps/ccashp-specification-product-list">https://neep.org/high-performance-air-source-heat-pumps/ccashp-specification-product-list</a>	2
B. Build to Passive House Standard	5% of homes built to either International Passive House Association (IPHA) or Passive House Institute US (PHIUS) standard.	3
C. Build air tight homes with balanced whole dwelling ventilation with heat or energy recovery	Build homes to ≤ 1.5 ACH50 air tightness. Balanced mechanical whole dwelling ventilation via Heat Recovery Ventilator (HRV) or Energy Recovery Ventilator (ERV).	1
D. District Heating and Cooling for Neighborhood	Utilize electric-based centralized heating and cooling systems such as a neighborhood scale ground source heat pump. Usually more cost effective for commercial and mixed use and not residential SF.	3
E. Install qualifying connected thermostat	Install qualifying connected thermostat from Fort Collins Utilities Peak Partners demand response (DR) program. This bolsters the utilities DR effort by increasing the number of homes that can opt-in to the program.  <a href="https://peakpartnersfortcollins.com/">https://peakpartnersfortcollins.com/</a>	1
F. Install air source heat pump electric water heater	Fort Collins Utilities Peak Partners connected air source heat pump water heaters get the additional point (up to 3 pts).  <a href="https://peakpartnersfortcollins.com/">https://peakpartnersfortcollins.com/</a>	2-3
G. Provide EV-Installed charging for buildings containing R-1 or R-2 occupancies.	Provide EV-Installed charging for 7% of the total parking spaces for buildings containing R-1 or R-2 occupancies. Single family detached and single family attached are excluded as current code requires all new single family homes have EV ready conduit installed from the panel to a junction box located in a garage or carport.  <a href="https://www.swenergy.org/transportation/electric-vehicles/building-codes#who">https://www.swenergy.org/transportation/electric-vehicles/building-codes#who</a>	1
<b>3. Renewable</b>		
A. Install % of total energy need in solar (50/75/100%)	Installations may be on individual rooftops or in shared as in "solar gardens" and will be virtually net metered. These additional points cannot be used toward total if Enhanced Energy Performance item D - Net Zero Energy Home above is utilized.	1 - 3
B. Smart storage and grid interactivity	Install interactive grid storage system that allows owners to optimize renewable energy storage and energy utilization through smart grid technologies. Points are differentiated by size of battery, and capability of export to the grid (3 pts)	1 - 3
Required number of Energy Saving & Renewable Points		10

NOTES		Points
<b>ENERGY, RENEWABLES &amp; WATER</b>		
<b>4. Indoor Water *</b>		
A. WaterSense fixtures performing above code	New construction provides fixture efficiencies surpassing code standards and must all be WaterSense Certified. <ul style="list-style-type: none"> <li>1.0 GPF/600 gram MaP score toilets (dual flush code def) &amp;</li> <li>1.5 gpm showerheads</li> </ul>	2
B. Install leak detection and notification system	Each home or unit must be water shutoff valve enabled and installed by a licensed plumber. Flo by Moen and Phyn Plus Smart Water Assistant are two examples.	1
C. Sub-metering	Privately owned and maintained sub-metering is provided for individual units within multi-family development to help with water management and leak detection.	1.5
D. Efficient plumbing design	Meet Section 3.3 of the WaterSense New Home Specification, which requires that hot water distribution systems store no more than 0.5 gallons of water between the source of hot water and the furthest existing fixtures and provides inspection and compliance methods and details. This is also the standard used in DOE's Zero Energy Ready program.	0.5
E. Indoor Water Use Innovation	The project demonstrates indoor water use innovation and pursuit of building certifications. Points are achieved when applied to all applicable buildings within the development.	1
Required number of Indoor Water Points		3



NOTES		Points
<b>ENERGY, RENEWABLES &amp; WATER</b>		
<b>5. Outdoor Water *</b>		
A. Efficient Residential irrigation systems **	Install efficient irrigation systems for all residential sprinkler systems, WaterSense Certified (WS), where available: <ul style="list-style-type: none"> <li>• 2 Pressure reducing heads (WS) and high efficiency nozzles</li> <li>• 2 Weather-based irrigation controller (WS)</li> <li>• 2 Flow sensor</li> <li>• 2 Master valve</li> </ul>	2
B. Water efficient landscaping for residential front yards	Front yard - Create waterwise, plant friendly landscapes, including a water budget on a 10 gallon or less per SF basis within residential front yards. Consider plant selection, tree protection/selection, mirroring water budget table requirements on the commercial side, but less than 10 gpf	2
C. Separate drip system for trees within parkways and medians	Establish separate drip systems for trees in common areas to support urban forest health and resiliency, especially during water shortages.	2
D. Common area water use performing above code	12 gallons per sq. ft. max or sliding scale (e.g. – 3 pt for 8 gpf or less, 2pts for 9-11gpf, 1pt for 12-14 gpf or something similar). Align metrics to ELCO water budget table	1 - 3
E. Stormwater Innovation	Uses innovative stormwater techniques such as Low Impact Development (LID) or Green Infrastructure to capture and treat runoff at the source as defined and illustrated in the City's LID Implementation Manual. <a href="https://www.fcgov.com/utilities/img/site_specific/uploads/fscm-appendix-c.pdf?1549566344">https://www.fcgov.com/utilities/img/site_specific/uploads/fscm-appendix-c.pdf?1549566344</a>	1 - 2
F. Rain barrels	0.5 pt for every two, 100-gallon barrels. 1 pt maximum (CO State Law - 2 x100 gallons per residential unit on units 4 or fewer)	0.5 - 1
G. Outdoor Water Use Innovation	The project demonstrates outdoor water use innovation and pursuit of building certifications. Points are achieved when applied to all applicable buildings within the development:  For single family and duplex homes: HERS H20 (No minimum score, but certification required)  WERS (No minimum score, but certification required)	1
	Net Blue – offset 25% or more water use from new developments with water efficiency upgrades/retrofits to existing and/or the new development(s), per the Net Blue program	2
Required number of Outdoor Water Points		7

\*Compliance with these indoor and outdoor water standards do not alter a project's responsibility to satisfy water supply requirements of ELCO, FCLWD, Fort Collins Utilities or other governing water service district. To receive listed points, measures must be applied to all applicable areas, properties and buildings within the development.

\*\*For water sources other than potable, additional requirements shall be included, such as water filtration, purple pipe and valve box, no cross contamination with potable supplies, and no drip irrigation on non-potable systems.

NOTES		Points
<b>NEIGHBORHOOD LIVABILITY</b>		
<b>1. Transportation</b>		
A. Off-site Trail Connection	Direct connections to off-site bicycle and pedestrian facilities, including but not limited to the regional paved trail system, the low-stress bicycle network and other local paved trail systems.	1
B. Exemplary Bicycle and Pedestrian Improvements	Provide pedestrian and bicycle circulation improvements exceeding Larimer County Urban Areas Street Standards (LCUASS) requirements. e.g. - buffered bicycle lanes, concrete crosswalks, enhanced intersection paving design, enhanced streetscape design, and pedestrian-oriented lighting.	1
C. Level 3 EV Charging Stations	Publicly-accessible Level 3 EV charging stations provided in convenient locations.	1
D. Trail Connection provided to a School	An off-site and off-street trail connection is provided to a neighboring public or private school.	1
E. Transportation Innovation	The project provides innovative transportation improvements.	1
<b>2. Neighborhood Amenities</b>		
A. Access to Essential Neighborhood Services	Includes at least two neighborhood-serving retail or service uses, e.g.- recreation facilities, childcare, daycare, and healthcare facilities in the project (1 point) , or three or more uses (2 points), and 3 points for a grocery store or supermarket.	1 - 3
B. Vertical Mixed-Use Buildings	A mixture of uses are provided in the same building. Lower floors typically include more public uses with private uses on the upper floors. Examples include ground floor retail or services, with remaining floors including residential units.	2
C. Community Gathering Spaces	Provides a plaza, public square, park or other similar public open space within the project that exceeds requirements of Section 4.5.	1
D. Community Workspace	Provide common neighborhood workspaces; (e.g., workshops, maker spaces, over/under live workspaces).	1
E. Common Areas Food Production	Provisions for community gardens, edible landscapes, and/or on-site urban agriculture.	1
F. Innovative Neighborhood Amenities	The project provides innovative neighborhood amenities.	1



NOTES		Points
<b>NEIGHBORHOOD LIVABILITY</b>		
<b>3. Natural Environment</b>		
A. Access to Parks & Open Spaces	Each resident is within 1,320 feet of a park and/or open space, including areas of respite (i.e., places that are quiet, beautiful, naturalistic).	1
B. Enhanced Habitat	Integrate pollinator corridors in design, create and/or enhance wildlife habitat/corridors, ecological restoration of degraded systems using native and adaptive landscaping in common areas.	1
C. Expansion of Adjacent Natural Habitat	If the site is contiguous or adjacent a natural area or natural habitat or feature, creates internally contiguous habitat opportunities a minimum of ten (10) percent greater than the requirements specified in 3.4.1.	1
D. Innovation in Natural Environment Protection	The project provides innovative measures to protect or enhance the Natural Environment.	1
<b>4. Health, Culture &amp; Education</b>		
A. Universal Design	Create interior spaces that are accessible to people with diverse ability levels and that support lifelong living (1 point), e.g.- doorways that provide 32 inches of clearance and a ground floor bathroom accommodating future installation of grab bars . Provide zero step entryways (2 points)	1 - 2
B. 0.5% for Arts & Culture	The amount equal to one half (0.5) percent of the total capital infrastructure construction costs of the Metro District for the planning, design and construction of public art, including "functional art" in community spaces, parks, plazas, playgrounds, or other areas viewable to the public.	1
C. Sustained Educational Programming	Provide long-term funding in infrastructure for ongoing community engagement and educational programming that support learners of all ages (e.g. High Plains Environmental Center, library branch, community college branch).	1
D. Excellence in Community Engagement	Community engagement process follows the National Charrette Institute (NCI) standards that engage diverse constituents in participatory design processes designed to understand and accommodate community aspirations and priorities for the specific site.	1
E. Health, Culture or Education Innovation	The project provides innovative techniques to promote health, culture or education.	1
Required Number of Neighborhood Livability Points		5

**EXHIBIT C**  
**MODEL SERVICE PLAN**

# Strauss Lakes Metropolitan Districts

Conceptual Review

March 5, 2024



# Project Team

## Cottonwood Land and Farms, LLC

Bill McDowell

## White Bear Ankele Tanaka & Waldron

Robert Rogers | Audrey Johnson

## TB Group

Cathy Mathis | Cavan Anton

## Brownstein Hyatt Farber Schreck

Carolynne White | Angela Hygh

## McDermott Properties

Arthur McDermott | Andy Seed

## Sanitas Group

Curtis Stevens

## Fehr & Peers

Ann Bowers

## Cedar Creek Associates

Jesse Dillon

## Anderson Consulting Engineers

Brad Anderson | Brian Smith



# Purpose of Hearing

An opportunity for City Council members and the public to provide comments in response to the Letter of Interest



# Background

- Cottonwood Land and Farms, LLC owns 185 acres located at the northeast corner of Horsetooth Road and Ziegler Road
- Property was previously used for sand and gravel mining, a concrete batch plant, and an asphalt plant



# Historical Benefits


## Open Space, Parks, and Water

- Donated Property to Open Space
  - Strauss Cabin and Surrounding Land
  - Riverbend Ponds Natural Area  
(~200+ acres)
  - Running Deer Natural Area  
(~200 acres)
  - Hageman Earth Cycle Operation  
(~15 acres)
- Bargain Sale and Donation of Topsoil and Fill Material for East Community Park
- Rigden Reservoir
  - Coordination with the City on the removal of 700,000 yards of fill to maximize storage capacity.
- Access Easements to the POE Natural Area and East Community Park
- Foothills and Drake Drainage Channels





## LOT SUMMARY

	LIVE / WORK LOTS .....	44
	LARGE TOWNHOMES .....	338
	SINGLE FAMILY HOMES .....	82
	CARRIAGE HOME LOTS .....	127
	SMALL TOWNHOMES .....	192
	MEDIUM TOWNHOMES .....	32
	CSU / COMMUNITY / WORK FORCE APARTMENTS .....	204
	PAIRED HOMES .....	144
	McDERMOTT AFFORDABLE HOUSING .....	144
	MIXED USE UNITS .....	16

TOTAL ..... 1,323



# Benefits of Metro Districts

## Growth Pays Its Own Way



- **Fill the Void** - no other public entity is able to fund public improvements necessary for development
  - Major Infrastructure Examples: Intersection at Horsetooth & Zeigler, multiple bridges over Fossil Creek Reservoir Inlet Ditch, significant drainage improvements
- **Reduce cost** of public improvements through access to low-cost, tax-exempt financing
- **Proportionate** – rather than front-loaded costs of public improvements on new home sales and affordable housing projects, costs are paid via tax-deductible property mill levies over 40 years
  - Homeowners pay proportionate share of use of improvements while they own property

# Residential Evaluation Points System

In addition to providing substantial public benefits in the form of critical public infrastructure, the Districts will also enable the Project to meet and exceed the City's requirements for the Residential Evaluation Points System ("REPS")

Category	Required Points	Project Points
<b>Housing</b>	—	5
<b>Energy Conservation and Renewables</b>	—	10
<b>Indoor Water Conservation</b>	3	3
<b>Outdoor Water Conservation</b>	7	7
<b>Neighborhood Livability</b>	5	5
<b>Total</b>	30	30

# Energy Conservation & Renewables

Category	Points (Affordable)	Points (Market)
<b>Enhanced Energy Performance:</b> DOE Zero Energy Ready Home Performance Path Certified with balanced mechanical whole dwelling ventilation	4	4
Heat homes with efficient electric heat	2	
Build airtight homes with balanced whole dwelling ventilation with heat or energy recovery		1
Qualifying connected thermostats	1	1
Air source heat pump electric water heaters	2	
Provide EV-installed charging for buildings containing R-1 or R-2 occupancies	1	1
Installation of 50-75% of total energy need in solar, depending on the phase of the project and associated housing type		3
<b>Totals</b>	<b>10</b>	<b>10</b>

# Indoor Water Conservation

Category	Required Points	Project Points
<b>Install leak detection and notification system</b>	—	1
<b>Submetering for individual condo and/or multi-family units</b>	—	1.5
<b>Efficient Plumbing Design (WaterSense Section 3.3 New Home Speciation)</b>		0.5
<b>Total</b>	<b>3</b>	<b>3.0</b>



# Outdoor Water Conservation

Category	Required Points	Project Points
<b>Efficient Residential Irrigation Systems</b>	—	2
<b>Water efficient Landscaping of residential front yards</b>	—	2
<b>Separate drip system for trees within parkways and medians</b>	—	2
<b>Stormwater Innovation</b>	—	1
<b>Total</b>	<b>7</b>	<b>7</b>

# Neighborhood Livability



Category	Required Points	Project Points
Off-Site Trail Connection	—	1
Level 3 EV Charging Stations	—	1
Trail Connection Provided to School	—	1
Community Gathering Spaces	—	1
Access to Parks and Open Spaces	—	1
Total	5	5



# Neighborhood Livability

## Parks & Open Space

- Every Residence is within a Five-Minute Walk to a Park
  - **Silver Poplar Park** – Focused on preservation and propagation of established silver poplar grove
  - **Flatiron Pond Park** – Active recreation (fishing, canoeing, trails)
  - **Morrison Park** – Passive recreation
  - **Pollinator Park** – Designed to support native pollinator species
- Plaza/Outdoor Gathering Spaces



# Housing

Category	Required Points	Project Points
<b>Limit Unit Size for 20% of Single-Family Homes</b>  *Includes 2 density breakpoints and the DOE multiplier	—	3
<b>10%+ Affordable Rental Housing</b>	—	2
<b>Total</b>	<b>5</b>	<b>5</b>





# Proposed Service Plan

## Financing Public Infrastructure

- Estimated Cost of Public Improvements:  
\$92,482,466
- On-Site: water, storm and sanitary sewer (including a lift station), streets, landscaping, parks, recreation, and trail improvements
- Off-Site:
  - Horsetooth & Zeigler Intersection
  - Extension of William Neal and Percheron Roads
  - Bridges over FCRID
  - Sidewalk and road improvements to Zeigler, Horsetooth Road
  - Construction of bike and pedestrian trails connecting to Poudre River Trail and Rigden Farm

## Adhering to City's Model

- The Districts' proposed Service Plan will conform to the City's Model Service Plan adopted on April 20, 2021
- Land use approvals related to annexation, re-zoning, etc. will proceed through the City's review process concurrently with City review of proposed Districts

# Additional Public Benefits

## Environmental Sustainability

- DOE Zero Energy Ready (ZER) Home Performance Path Certified
- Wide Sidewalks and Enhanced Pedestrian Crossings
- New Bridges over the Foothills Drainage Channel, FCRID and Box Elder Ditches
- Replacement of the Horsetooth Road Bridge
- Electric Vehicle Charging Stations
- Individual Xeriscape Courtyards, Low Water Pocket Parks, and Greenspaces

# Additional Public Benefits

## Critical Public Infrastructure

### Construction of Pedestrian Improvements:

- Access points to parks via cars, bikes, and pedestrians
- Bike/pedestrian bridges:
  - Foothills Drainage Channel
  - Corner Parcel to the East
  - Over FCRID along William Neil Parkway
- Bike/pedestrian trails connecting subdivisions to the west of Zeigler Road to the East Community Park

### Other Contributions:

- Intersection of Horsetooth and Zeigler
- Horsetooth Road east to the Box Elder Ditch
  - FCRID Bridge
- Zeigler Road
  - Signals at William Neal Parkway
  - Eastern Sidewalk Improvements
- Poudre River Trail Connections

# Additional Public Benefits

## High Quality Smart Growth

- Alley Loaded Construction
- Smaller Lot Size, including use by easement of neighbors' lots
- Live/Work Units
- Increased Multifamily Development and Attached Single Family Homes
- Enhanced Pedestrian Crossings, Trails, and Bridges
- Improved Bus Stop on William Neal
- Wider than required Sidewalks
- Trail System Enhancements
- Four Parks along with Multiple Greenspaces
  - Flatiron Pond Park (~15 acres)
  - Pollinator Park (~1.5 acres)
  - Silver Poplar Park (~1.6 acres)
  - Morrison Park (~2.0 acres)



# Additional Public Benefits

## Strategic Priorities

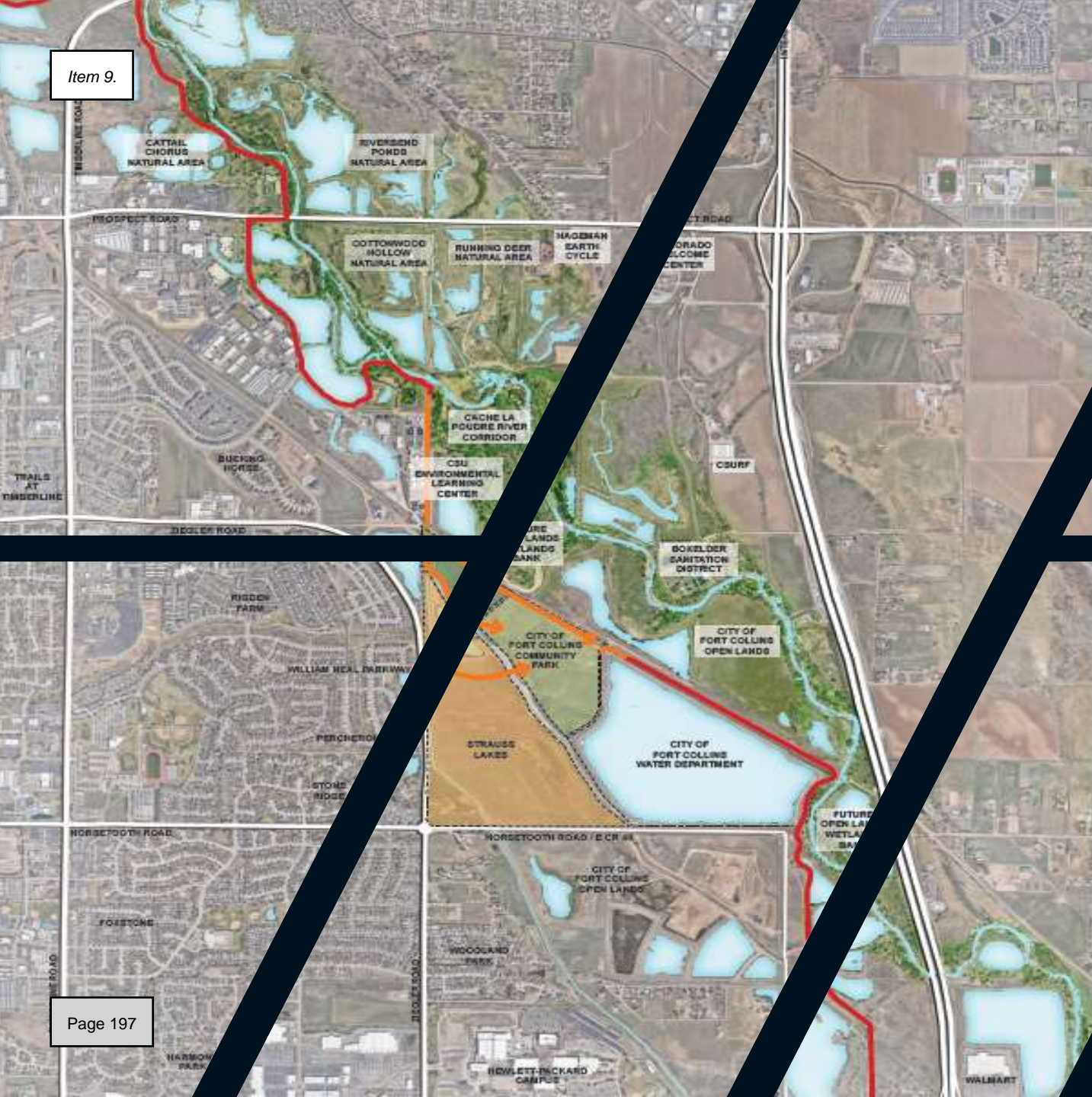
- Affordable Housing for AMI's ranging from 30-60% for at least 10% of the total developed units.
- Consolidation of Wetlands.
- Facilitation of job growth and sales tax growth.
- East Community Park access points through vehicle, bike and pedestrian connections.
- Contribute to the improvement of the Horsetooth and Zeigler intersection.
- Contribute to the improvement of Horsetooth Road east to the Box Elder Ditch so it meets Larimer County Street standards. Including the Horsetooth FCRID bridge.
- Contribute to the improvement of Zeigler Road including signalization at the William Neal Parkway intersection, and sidewalk improvements on the east side of Zeigler Rd.
- Construction of the Foothills Drainage Channel Auto/Bike/Pedestrian Bridge.
- Construction of a Bike/Pedestrian Bridge from the corner parcel to the east.

# Additional Public Benefits

## Strategic Priorities Cont.

- Construction of a Bike/Pedestrian Bridge over FCRID along William Neil Parkway.
- Construction a multiple Bike/Pedestrian trails throughout the development to connect subdivisions to the west of Zeigler Road to the East Community Park.
- Contribution to the improvement of trails to connect to the Poudre River Trail.
- Contribution to the improvement of Zeigler Road including signalization at the William Neal Parkway intersection, and sidewalk improvements on the east side of Zeigler Rd.
- Construction of the Foothills Drainage Channel Auto/Bike/Pedestrian Bridge.
- Construction of a Bike/Pedestrian Bridge from the corner parcel to the east.
- Construction of a Bike/Pedestrian Bridge over FCRID along William Neil Parkway.
- Construction a multiple Bike/Pedestrian trails throughout the development to connect subdivisions to the west of Zeigler Road to the East Community Park.
- Contribution to the improvement of trails to connect to the Poudre River Trail.

Item 9.



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# Thank you

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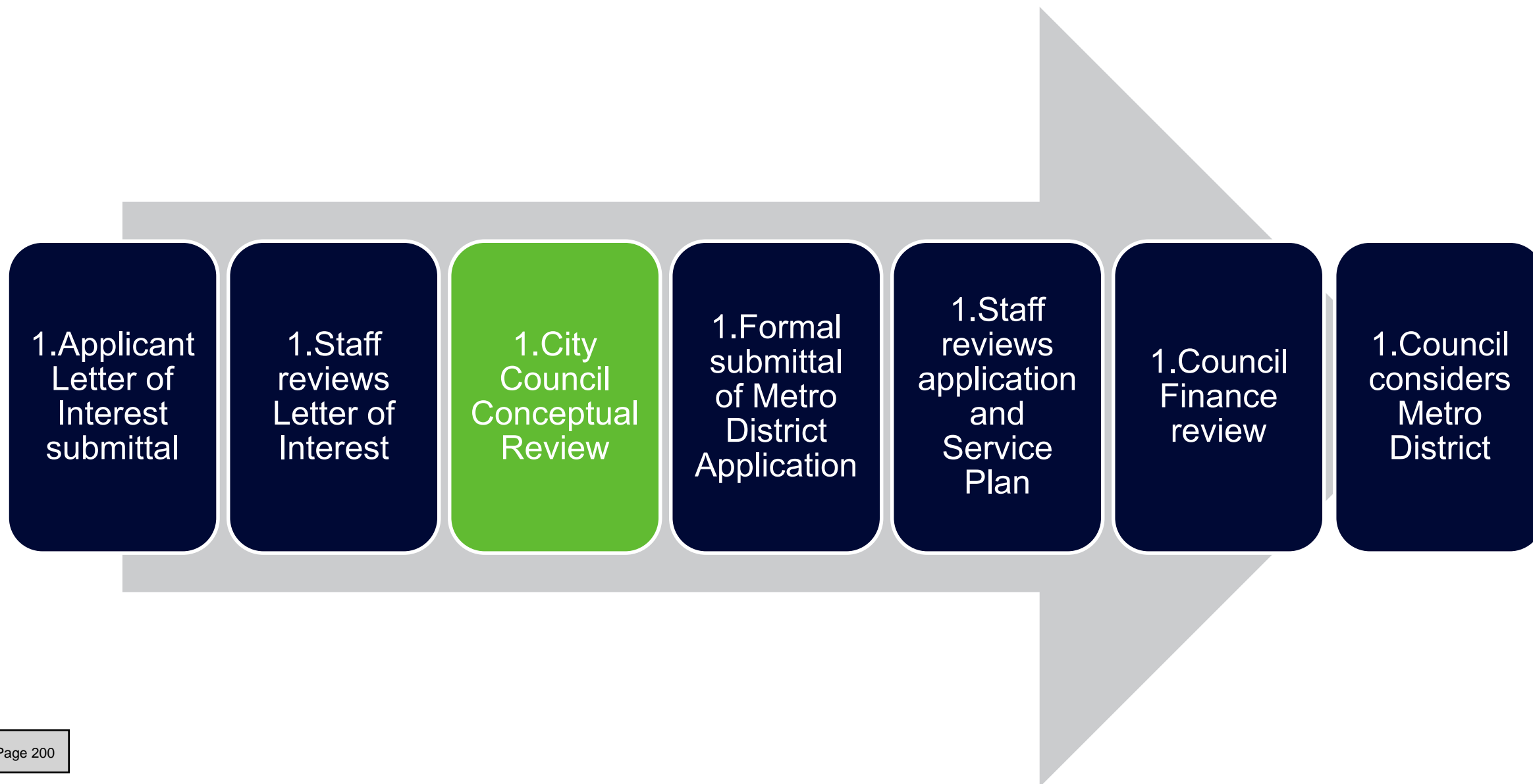
## Strauss Lakes Conceptual Review

For Metro District

Josh Birks, Deputy Director, Sustainability Services

03-05-2024

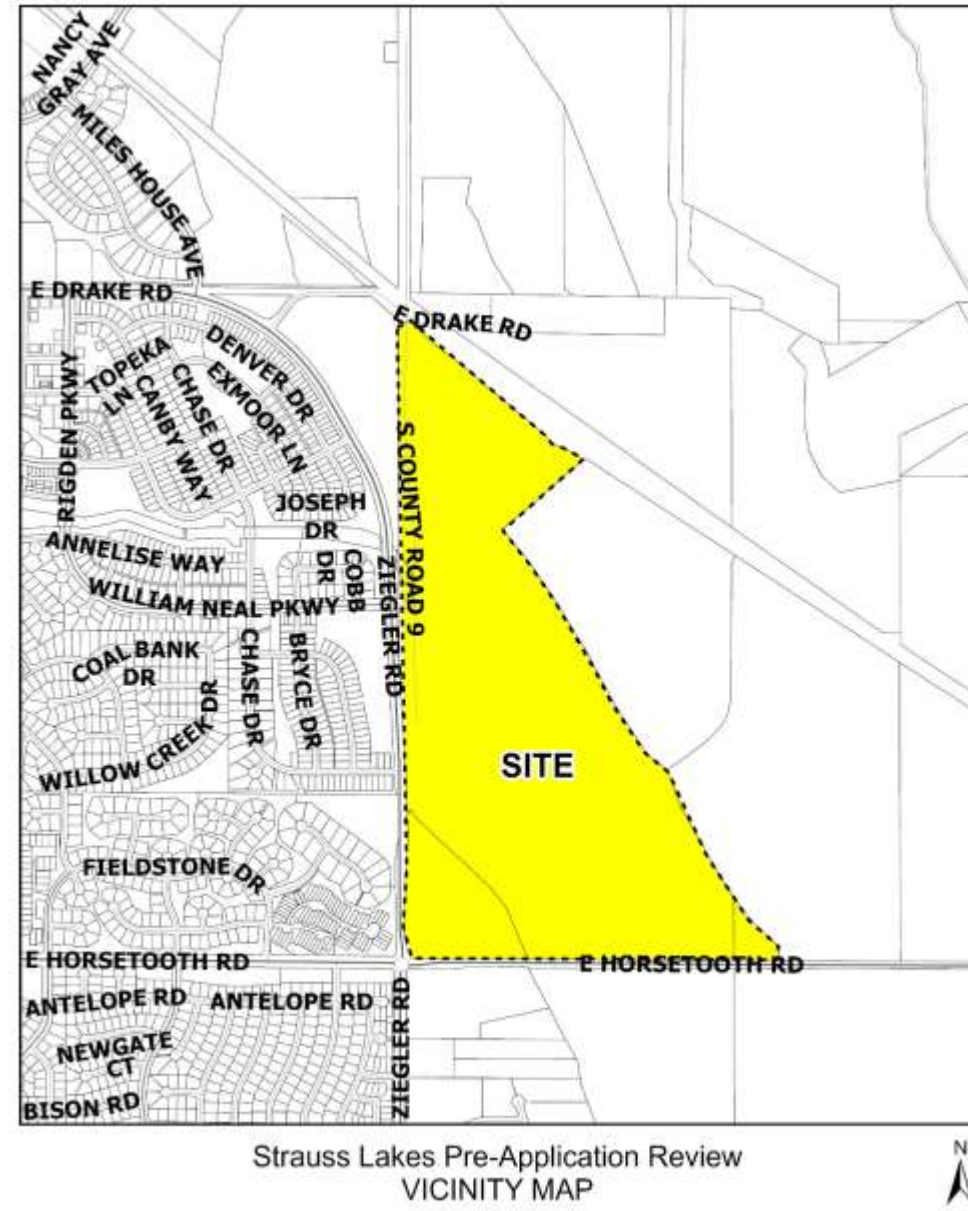
- Council adopted new Metro District policy in 2021
  - Metro Districts must provide extraordinary public benefits
    - Plus Residential Metro Districts use a score card to guide development of public benefits
- Conceptual Review with Council required
  - Direction and feedback on proposed public benefits
  - This is different from a conceptual review for the Development Review Process





# Development Location

At the northeast corner of Ziegler and Horsetooth





# Extraordinary Public Benefits

- Required for all Metro Districts

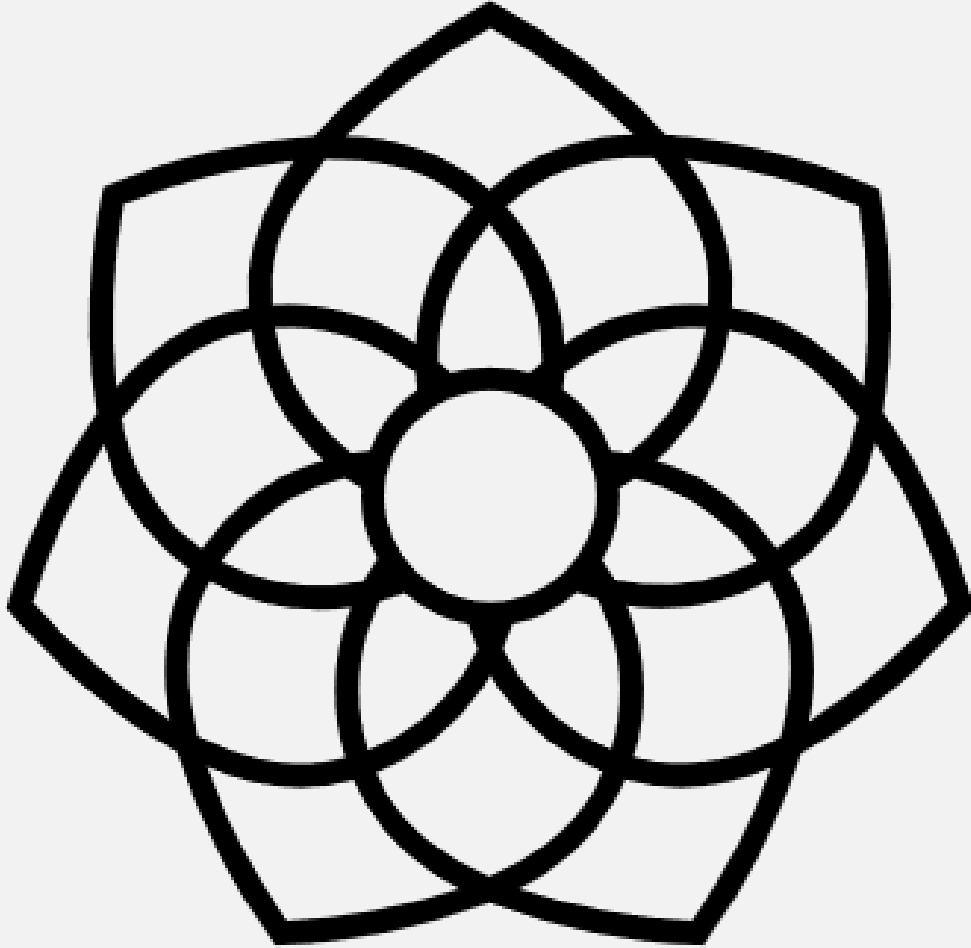
# Residential Evaluation Points System

- Required for Residential Metro Districts

Category	Min. Points Required	Points Expected	Proposed Public Benefits
<b>Housing</b>	5	5	<ul style="list-style-type: none"> <li>• 1(B) Limit unit size -3 points</li> <li>• 2(A) 10% affordable rental housing – 2 points</li> </ul>
<b>Energy Conservation and Renewables</b>	10	10	<ul style="list-style-type: none"> <li>• 1(A) – DOE Zero Energy Ready (ZER) Home Performance Path Certified with balanced mechanical whole dwelling ventilation – 4 points (both market and affordable)</li> <li>• 2(A) Electric Heat – 2 points (affordable only)</li> <li>• 2(C) – Air-tight homes with balanced whole dwelling ventilation with heat or energy recovery – 1 point (market only)</li> <li>• 2(E) – Installing qualified connected thermostats – 1 point (both market rate and affordable)</li> <li>• 2 (F) – Air source heat pump electric water heater- 2 points (affordable only)</li> <li>• 2(G) -Ev-installed charging for R1 or R2 – 1 point (both affordable and market)</li> <li>• 3(A) – Installing solar to meet 50-75% of overall energy need - 3 points (market only)</li> </ul>

<div>Item 9.</div> Category	Min. Points Required	Points Expected	Proposed Public Benefits
Outdoor Water Conservation	7	7	<ul style="list-style-type: none"> <li>5(A) – Efficient residential irrigation systems – 2 points</li> <li>5(B) – Water efficient landscaping for residential front yards – 2 points</li> <li>5(C) – Separate drip systems for trees within parkways and medians – 2 points</li> <li>5(E) – Stormwater Innovation– 1 point</li> </ul>
Neighborhood Livability	5	5	<ul style="list-style-type: none"> <li>1(A) – Off-site trail connections – 1 point</li> <li>1(C) – Level 3 EV charging stations – 1 point</li> <li>1(D) – Trail connection provided to a school – 1 point</li> <li>2(C) – Community gathering spaces – 1 point</li> <li>3(A) – Access to parks &amp; open spaces – 1 point</li> </ul>
Indoor Water Conservation	3	3	<ul style="list-style-type: none"> <li>4(B) – Leak Detection &amp; Notification System– 1 point</li> <li>4(C) – Sub-metering – 1.5 points</li> <li>4(D) Efficient plumbing design - .5 points</li> </ul>

## Staff Comments



Conforms to policy generally

Scorecard is self assessment and staff analysis done at next step of process

Formal Development Review Process next if applicant moves forward

More detail review required for numerous elements, including:

Energy & Renewables

Neighborhood Livability

I move that the City Council recommend to the applicant that it not proceed with its formal application for Council's consideration of the proposed service plan for the Strauss Lakes Metro Districts **unless that application includes the following: [Describe recommended modifications or additions to the formal application].**

Or

I move that the City Council recommend to the applicant that **it proceed** with its formal application for Council's consideration of its proposed service plan for the Strauss Lakes Metro Districts.

### Reminder:

**This Conceptual Review Hearing is an opportunity to provide feedback. It is not an opportunity to make specific recommendations on development aspects that may later come to Council for review and decision-making.**

**THANK YOU!**

