

RESOLUTION 2025-019
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROVING THE FIRST AMENDMENT TO THE “AGREEMENT
TO SECURE PUBLIC BENEFITS FOR MULBERRY
DEVELOPMENT AS PROVIDED IN SERVICE PLAN FOR
MULBERRY METROPOLITAN DISTRICT NOS. 1 THROUGH 6”

A. Mulberry Development LLC, a Colorado limited liability company (the “Developer”) is currently developing planned unit development (the “Bloom PUD”) of approximately 232 acres north of East Mulberry Street (Highway 14) along Greenfields Drive in proximity to the intersection of Mulberry Street and Interstate-25. The Planning and Zoning Commission approved the Bloom PUD in 2021, and City Council approved the extended vesting agreement in 2022.

B. In 2019, pursuant to the Colorado’s Special District Act, City Council approved the Mulberry Metropolitan District Numbers 1 through 6 (the “Metro District”). On April 16, 2019, City Council approved the Consolidated Service Plan with boundaries corresponding to the Bloom PUD for the Metro District (the “Service Plan”) via Resolution 2019-050. The Service Plan is general in nature, does not include specific detail, and is designed with sufficient flexibility to enable the Metro District to provide required improvements, services, and facilities. Exhibit I of the Service Plan describes public benefits to be provided, including affordable housing, critical on-site and off-site public infrastructure, high-quality and smart growth elements, and environmental sustainability.

C. Section IV.B.2. of the Service Plan requires that the Developer’s provision of the public benefits described in Exhibit I of the Service Plan be secured by an agreement between the City and the Developer that has been approved by resolution of the City Council before the Metro District can, among other things, impose any property taxes or issue any debt.

D. On March 23, 2021, City Council approved Resolution 2021-030. Shortly thereafter, the City and Developer executed the “Agreement to Secure Public Benefits for the Mulberry Development as Provided in Service Plan for Mulberry Metropolitan District Nos. 1 Through 6” (the “Public Benefits Agreement” or “PBA”) to more particularly define and describe certain public benefits generally described in Exhibit I of the Service Plan and to set the terms and conditions by which the Developer will provide those public benefits.

E. Since adoption of Resolution 2021-030, City staff and the Developer have identified a need to clarify a term in the Public Benefits Agreement relating to high quality and smart growth elements. Subsection I.B.3(ii) of the Public Benefits Agreement requires the Developer to include “alley access to the garages of at least 40% of the Total Dwelling Units.” The configuration and intended use of an “alley” is dictated by the adopted *Larimer County Urban Area Street Standards* and employing that specific design would require significant redesign of several proposed phases of Bloom, resulting in an overall loss of housing units.

F. The proposed First Amendment to the “Agreement to Secure Public Benefits for the Mulberry Development as Provided in Service Plan for Mulberry Metropolitan District Nos. 1 Through 6” (the “First Amendment”) modifies Subsection I.B.3(ii) of the Public Benefits Agreement to read, “(ii) non-street-facing garages must be provided for at least 45% of the Total Dwelling Units.” A “non-street-facing garage” means a garage accessed internal to a block, lot, or larger single-site development (such as a multiunit or mixed-use building). This change in description provides more flexibility in meeting the requirements of the PBA while meeting the design intent of minimizing the visual impact of garage doors to streetscapes.

G. Staff recommends City Council approve the First Amendment, attached hereto as Exhibit A, to better reflect the intent of the City and the Developer and provide greater clarity related to design and the City’s development review.

H. Under Subsection II.F. of the Public Benefits Agreement, the City and the Developer are authorized to amend the Public Benefits Agreement.

I. The City Council finds and determines that adoption of this resolution and approval of the First Amendment is in the City’s best interest and advances the public’s health, safety and welfare by facilitating the Developer’s delivery of the agreed upon public benefits.

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 hereby approves the First Amendment to the “Agreement to Secure Public Benefits for the Mulberry Development as Provided in Service Plan for Mulberry Metropolitan District Nos. 1 Through 6.”

Section 2. The City Manager is authorized to execute the First Amendment to the “Agreement to Secure Public Benefits for the Mulberry Development as Provided in Service Plan for Mulberry Metropolitan District Nos. 1 Through 6” on behalf of the City in substantially the same form attached to this resolution as Exhibit A, subject to minor modifications as the City Manager, in consultation with the City Attorney, may determine to be necessary and appropriate to protect the interests of the City or to effectuate the purposes of this resolution.

Section 3. Promptly after the effective date of this resolution, the Developer shall record a copy of this resolution with all attachments in the office of the Larimer County Clerk and Recorder, with all recording fees paid by the Developer.

Section 4. After execution by the City and the Developer, the Developer shall record a copy of the First Amendment to the “Agreement to Secure Public Benefits for the Mulberry Development as Provided in Service Plan for Mulberry Metropolitan District Nos.

1 Through 6" in the office of the Larimer County Clerk and Recorder, with all recording fees paid by the Developer.

Passed and adopted on March 18, 2025.

Mayor

ATTEST:

City Clerk

Effective Date: March 18, 2025

Approving Attorney: Heather N. Jarvis