

# AGENDA ITEM SUMMARY

City Council



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## STAFF

Marc Virata, Senior Manager, Civil Engineering  
Monica Martinez, Financial Planning and Analysis Manager  
Andy Smith, Redevelopment Program Manager

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## SUBJECT

**Second Reading of Ordinance No. 068, 2024, Appropriating Prior Year Reserves in the Transportation Capital Expansion Fee Fund for Eligible Reimbursement to the Waters Edge Second Filing Developer for Construction of Turnberry Road, Brightwater Drive, and Morningstar Way Improvements.**

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## EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on May 21, 2024, appropriates \$612,027 of Transportation Capital Expansion Fee (TCEF) Funds for expenditure from the Transportation Capital Expansion Fee Program Budget to reimburse the Waters Edge Second Filing developer, Waters Edge Development Inc. (Developer), for its oversizing construction of Turnberry Road, Brightwater Drive, and Morningstar Way. As part of the development plans and development agreement for Waters Edge Second Filing and permitted for construction under the Waters Edge Third Filing Development Construction Permit, the Developer has constructed to City standards Turnberry Road as a two-lane arterial, and Brightwater Drive and Morningstar Way as collectors 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 Turnberry Road, Brightwater Drive, and Morningstar Way not attributed to the local portion obligation.

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## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

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## BACKGROUND / DISCUSSION

The TCEF Program (formerly Street Oversizing), instituted by ordinance in 1979, was established to manage the construction of new arterial and collector streets, and is an "Impact Fee" funded program. The TCEF Program determines and collects impact fees from development and redevelopment projects. The collection of these impact fees contributes funding for growth's related share towards City Capital Projects, including the City's Active Modes Plan, and reimburses development for constructing roadway improvements above the local street access standards. Section 24-112 of the City Code allows for reimbursement to developers for the construction of collector and arterial streets.

Waters Edge (marketed as Sonders Fort Collins) is a development on the west side of Turnberry Road between Douglas Road and Country Club Road built by Waters Edge Development Inc. (Developer). This

reimbursement is for the Developer's construction above the local street access standards of Turnberry Road (2-lane arterial), Brightwater Drive (collector), and Morningstar Way (collector) as part of the Waters Edge Second Filing and permitted for construction under the Waters Edge Third Filing Development Construction Permit.

Portions of pavement, landscaping, and sidewalk for all three streets are eligible for reimbursement and are depicted in the "Waters Edge Second Filing Street Oversizing/Repay" and itemized between City (TCEF) and local (developer/adjacent parcel owner) responsibility in "Street Reimbursement Agreement" and "Street Reimbursement Agreement City-Developer Cost Breakdown"

Staff has reviewed the documentation provided by the Waters Edge developer and agrees that the requested reimbursement meets the requirements under City Code Section 24-112 for appropriation from TCEF funds. There are presently adequate funds in TCEF to reimburse the Developer and Staff recommends reimbursement in the amount of \$612,027.

Waters Edge has metro districts that were established with City Council approving the consolidated service plan for Waters Edge Metropolitan Districts Nos. 1-5 by adoption of Resolution 2018-084 on September 18, 2018. Staff has identified on the review of this reimbursement request that, as part of the metro district service plan for Waters Edge, the Developer may be eligible to seek reimbursement from the metro districts for these same street improvements that the Developer is requesting from TCEF funds. The Board of Directors of Districts 1 and 2 adopted a joint resolution affirming that the Districts shall not reimburse the Developer, and the Districts' accountant shall ensure that the Districts do not reimburse the Developer. Additionally, the accountant issued an affidavit to Districts 1 and 2 affirming that Districts 1-5 have not reimbursed the Developer, and that the districts cannot reimburse the Developer for street oversizing costs that the City has already reimbursed, nor can the districts acquire such improvements. Resolutions declaring Districts 3, 4, and 5 as inactive were adopted on December 2019, and Districts 3, 4, and 5 are intended for future development (separate from Sonders Fort Collins) east of Turnberry Road. These districts are not associated with the Waters Edge Filings and the associated street improvements that the Developer is requesting from TCEF funds. Special district notices declaring the continued inactive status of Districts 3, 4, and 5 were provided to the City in December 2023.

The City Manager is recommending this supplemental appropriation and has determined it will not cause the total amount appropriated in 2024 in the Transportation Improvement Fund, the fund into which TCEF revenues are deposited and from which these appropriated funds will be expended, to exceed the current estimate of actual and anticipated and all other funds to be received in the Transportation Improvement Fund during the 2024 fiscal year.

In addition, this reimbursement under the TCEF program is subject to the Council's approval of this Ordinance to appropriate the needed funds, which approval is within the Council's sole discretion.

### **CITY FINANCIAL IMPACTS**

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This item appropriates \$612,027 of TCEF Funds into the Transportation Capital Expansion Fee Program Budget for reimbursement to the Waters Edge Second Filing developer.

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

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Council Finance Committee recommended approval at its May 2nd, 2024, meeting.

### **PUBLIC OUTREACH**

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Public outreach is not required or contemplated in the requirements for reimbursement to developers as described under Municipal Code Sec. 24-112. – Transportation improvements reimbursement program.

## **ATTACHMENTS**

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First Reading attachments not included.

1. Ordinance for Consideration