

ORDINANCE NO. 006, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING PRIOR YEAR RESERVES IN THE TRANSPORTATION CAPITAL
EXPANSION FEE FUND FOR ELIGIBLE REIMBURSEMENT TO THE NORTHFIELD
DEVELOPER FOR CONSTRUCTION OF SUNIGA ROAD IMPROVEMENTS

WHEREAS, City Code Section 7.5-32 establishes a transportation capital expansion fee (“TCEF”) that is one of the City’s capital expansion fees that are imposed on development at the time of building permit issuance to ensure that new growth and development in the City bears a proportional share of the City’s costs for certain capital improvements, including streets and related transportation improvements; and

WHEREAS, Code Section 7.5-32 also provides that the TCEF revenues are to be deposited into the City’s Transportation Improvement Fund established in City Code Section 8-87 (the “TCEF Fund”); and

WHEREAS, Code Section 8-87 directs that the monies in the TCEF Fund are to be used as provided in Division 2 of Article III of City Code Chapter 24 (“Division 2”)

WHEREAS, Division 2 provides that the revenues in the TCEF Fund are to be used by the City to fund certain transportation improvements, including arterial and collector streets, either directly or as reimbursement to developers of real property who have constructed such improvements; and

WHEREAS, in order for a developer to be eligible for reimbursement of its costs for qualifying transportation improvements it has constructed, Division 2 requires the developer to submit proof of its costs to the City for the City Engineer’s review and approval consistent with the requirements of Division 2; and

WHEREAS, DFC Northfield, LLC, is the developer of the Northfield development (the “Developer”) and as part of that development, has constructed a portion of the City’s Suniga Road as a four-lane arterial street (“Suniga Road Improvements”); and

WHEREAS, the Developer has submitted its request to the City for a reimbursement of \$2,081,548 representing its costs for the oversized portion of the Suniga Road Improvements (the “Reimbursement Request”); and

WHEREAS, the City Engineer has reviewed the Reimbursement Request and determined it meets the requirements of Division 2 and that the Developer is eligible to be reimbursed for the amount requesting in its Reimbursement Request, but Code Section 24-112(c) provides that all reimbursements under Division 2 must first be appropriated from the TCEF Fund by City Council; and

WHEREAS, the monies necessary to satisfy the Reimbursement Request have not been appropriated from the TCEF Fund by Council, so this Ordinance must be adopted by Council before the reimbursement can be made to the Developer; and

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

WHEREAS, the City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the TCEF Fund and will not cause the total amount appropriated in the TCEF Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in the Fund during this fiscal year; and

WHEREAS, this appropriation benefits the public health, safety and welfare of the residents of Fort Collins and serves the public purpose of reimbursing the Northfield Developer for the costs it incurred to construct a portion of the City's Suniga Road to arterial standards, which standards the Developer was not legally required to satisfy considering the impacts of its development.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That there is hereby appropriated from prior year reserves in the TCEF Fund the sum of TWO MILLION EIGHTY-ONE THOUSAND FIVE HUNDRED FORTY-EIGHT DOLLARS (\$2,081,548) to be expended in the TCEF Fund to pay such amount to the Developer in reimbursement for constructing the oversized portion of the Suniga Road Improvements.

Introduced, considered favorably on first reading, and ordered published this 17th day of January, 2023, and to be presented for final passage on the 7th day of February, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 7th day of February, 2023.

Mayor

ATTEST:

City Clerk