

ORDINANCE NO. 032, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE RELEASE OF RESTRICTIVE COVENANTS ON PROPERTY
AT 1947 PHIA WAY DEVELOPED BY FORT COLLINS HABITAT FOR HUMANITY

WHEREAS, on September 1, 2020, the City entered into a Development Contract with Fort Collins Habitat for Humanity (“Habitat”), through which Habitat received from the City a loan of \$80,000 in HOME Investment Partnership (HOME) funding from the federal Department of Housing and Urban Development (HUD) to support the cost of constructing a single-family home (the “Project”) at 1947 Phia Way in Fort Collins (the “Property”) for an income-eligible homeowner; and

WHEREAS, the HOME funding was secured by a promissory note, deed of trust, and an Agreement of Restrict Covenants on the Property ensuring the home would be transferred to an income-eligible buyer and remain affordable for 20 years (the “Covenant”); and

WHEREAS, Habitat constructed the project in partnership with the Geometry in Construction program at Poudre High School, which began work on the project offsite, but construction was delayed for the 2020-21 school year because of the Covid pandemic; and

WHEREAS, the home was moved to the Property in the summer of 2022 and the selected homeowner and volunteers worked to complete the home on site; and

WHEREAS, by the time the home was completed in January 2023 the homeowner no longer met HUD’s HOME income requirements, which triggered a mandatory repayment of the HOME funds by Habitat to the City, which has been completed; and

WHEREAS, the City will add the repaid HOME funding to the funds distributed through the Social Sustainability’s annual competitive process; and

WHEREAS, with the funding repaid the City has no reason to burden the Property with the Covenant, and staff has requested that the City Council authorize release of the Covenant; and

WHEREAS, 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; and

WHEREAS, Section 23-111(a) of the City Code 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.

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 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.

Section 3. 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, and ordered published this 7th day of March, 2023 and to be presented for final passage on the 21st day of March, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on this 21st day of March, 2023.

Mayor

ATTEST:

City Clerk