

# AGENDA ITEM SUMMARY

City Council



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## STAFF

Jonathan Piefer, Senior Real Estate Specialist  
Ralph Campano, Real Estate Services Manager  
Matt Simpson, Civil Engineer III

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## SUBJECT

**Second Reading of Ordinance No. 050, 2024, Approving the Conveyance of a Temporary Construction Easement for the Construction of Permanent Stormwater Improvements on City Property to DHIC-Enclave, LLC.**

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## EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on April 2, 2024, approves an Ordinance that would permit the conveyance of a Temporary Construction Easement (the “Easement”) on approximately 4.36 acres (189,996 sf) of City property known as the Redwood Detention Pond and the Redwood Channel (collectively, the “City Property”) to DHIC – Enclave, LLC (“Developer”), in exchange for the construction of permanent stormwater master plan improvements on the City Property.

Please note that this Second Reading Agenda Item Summary has been amended to address concerns brought up by Councilmember Ohlson at First Reading (see below).

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## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

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## BACKGROUND / DISCUSSION

### **Redwood Detention Pond and Redwood Channel**

A portion of the City Property was dedicated to the City for public use on June 7, 1977, as part of the Replat of Evergreen Park Second Filing (the “Redwood Detention Pond”). Redwood Detention Pond is a regional detention pond currently serving various properties in the Dry Creek Basin. Redwood Detention Pond currently provides stormwater runoff detention, water quality treatment, and a stormwater outfall for new and existing developments in the area. Approximately 54 acres of existing developed area within the City drain to the existing Redwood Detention Pond. The enlargement of the existing Redwood Detention Pond is specified in the Northeast College Corridor Outfall plan (NECCO) and will provide important flood protection to existing residences immediately south of the existing Redwood Detention Pond as well as flood protection to southern portions of the Dry Creek Basin.

The other portion of the City Property was purchased by the City on July 20, 1990, from Century Bank, and is 2.064 acres, more or less (the “Redwood Channel”). The Redwood Channel was originally constructed

to provide stormwater drainage from northern properties into the City Evergreen Detention Pond, located to the east of Redwood Detention Pond.

### **Development Project**

The Easement is required as part of the development review process for the Developer's adjoining development known as the Enclave at Redwood, being a 238 unit residential development (the "Development") of approximately 30.178 acres originally purchased by the Developer on December 16, 2021, (the "Developer Property"). The Developer has submitted plans to the City for the Development, which is currently in the final stages of the development review process. A portion of the Development, being approximately 1/5th of the Developer Property, will also use Redwood Detention Pond as an off-site stormwater detention facility.

Under the terms of the Easement, the Developer will enlarge Redwood Detention Pond to provide an additional 6 acre-feet of stormwater storage, but only approximately 1.5 acre-feet are needed for the Development.

### **The Easement**

The Easement is required for the Developer to access the City Property to construct the master drainage plan improvements (the "Stormwater Improvements") to the existing Redwood Detention Pond, which include the removal of existing stormwater infrastructure, significant regrading, increased storage capacity, improved functionality, enhanced natural habitat, trees, and vegetation. The estimated total cost of the Stormwater Improvements, excluding revegetation and restoration, is \$408,846, which shall be borne solely by the Developer. However, the City will be providing a repayment to the Developer for "enhanced vegetation" and the costs of the storm main(s), and such costs would normally be expenses incurred by the City. The Easement will provide that any damaged surface areas, including any trees, will be restored in accordance with a City plans, specifications, and requirements.

Staff have relied primarily on the Developer and/or its contractors to provide accurate surveys, legal descriptions, and title review for the Easement.

### **Easement Valuation**

The City Property is presently valued at approximately \$189,996, being \$1.00/sf because Redwood Detention Pond is restricted for public use and Redwood Channel is irregularly shaped and non-buildable as a stand-alone parcel. The Easement is valued at \$75,998, being 40% of the value of the City Property, or 10% per year of Developer's occupancy for a total of four (4) years. There are no other improvements that will be negatively impacted as part of the Easement because all existing stormwater improvements and landscaping will be replaced according to the Final Development Plans.

### **CITY FINANCIAL IMPACTS**

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Other than staff time and related expenses, the only additional cost to the City associated with the Easement is the waiver of the \$75,998 in potential revenue for the Easement, which is offset by the \$408,846 estimated total cost of the Stormwater Improvements. The City will reimburse the Developer for the enhanced vegetation and costs of storm mains, which would ordinarily be City expenses.

Staff recommends that the Easement be granted for no monetary consideration because the Fort Collins Utilities ratepayers will be adequately compensated as summarized above.

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

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This Water Commission does not need to consider or approve of this Ordinance.

## PUBLIC OUTREACH

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None.

## QUESTIONS RAISED AT FIRST READING

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### **Question 1 – Why is the City paying for the “enhanced vegetation” costs?**

The Redwood Detention pond is a regional facility that is owned and maintained by the City. Public Regional Detention ponds are expected to be multi-purpose public amenities, with stormwater flood control, water quality treatment, enhanced vegetation, habitat value and trails, if appropriate. The Redwood Pond is being designed to take this into account and will improve stormwater quality through naturalistic stormwater design and include “enhanced vegetation.” A sinuous wetland channel bottom and an extended detention slow release from the outlet structure will provide water quality treatment for existing City areas and provide additional habitat value. Stormwater Staff has worked extensively with City Planning, Environmental Planning, and Forestry Staff to update the previous 2009 concept design to incorporate the wetland bottom as well as preserve an existing emergent wetland and tree grove near the northeast corner of the parcel.

### **Question 2 – What does “enhanced vegetation” mean?**

If this were to be a private detention pond, it could be designed as a dryland pond in accordance with the City’s “Landscape Design Standards and Guidelines for Stormwater and Detention Facilities.” As a City-owned, regional pond, Redwood Detention Pond will have “enhanced vegetation,” which is above and beyond standard requirements for a dryland detention pond, and for this facility includes 54 new trees, 92 new shrubs, and four tailored seed mixes. Attached is the Redwood Pond Landscaping plan for reference.

### **Question 3 -- What are the shared responsibilities with the developer, the developer’s responsibilities, and what is the level of vegetation and habitat, etc. -- in descriptive and financial terms?**

City Code allows for private development to construct City master plan drainage improvements and receive a reimbursement once constructed and accepted. In this situation, the Enclave Development is required to construct the public A2 and A3 stormwater mains, which cross the site, with the option of constructing the adjacent Redwood pond enlargement.

Since the Developer requested to construct the Redwood pond in exchange for the earthwork, the City is only providing repayment for the “enhancement trees and shrubs.” The developer is responsible for all other items, including re-establishment of all grasses and wetlands – with the ‘four tailored seed mixes’ - and all the civil construction.

The following list summarizes the construction cost breakdown and distribution between the City Stormwater department and the Developer. This shows that the majority of the cost for the City regional stormwater pond will be borne by the Developer.

#### **Developer Costs:**

- Civil work (earth work and concrete work): \$408,846 (estimated)
- Revegetation, wetland bottom, and restoration: \$72,081 (estimated)
- Temporary irrigation system: \$87,000 (estimated)

**City Costs (via post-project repayment):**

- Permanent irrigation system: \$52,000 (estimate and being negotiated)
- Water development fees for permanent irrigation service on City parcel - \$65,000
- Enhanced Vegetation (54 trees and 92 shrubs): \$33,000 (estimate and being negotiated)

In addition, the Developer will owe the City approximately \$286,000 in NECCO repayment fees. These repay the City for the design and construction of the NECCO backbone stormwater main and outfall.

**ATTACHMENTS**

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First Reading attachments not included.

1. Ordinance for Consideration
2. Exhibit A to Ordinance
3. Exhibit B to Ordinance
4. Enclave at Redwood Landscape Plan