



## AGENDA ITEM SUMMARY

City Council

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### STAFF

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Jonathan Piefer, Senior Real Estate Specialist  
Ralph Campano, Real Estate Services Manager  
John Gerwel, Civil Engineer I  
Susan Beck-Ferkiss, Social Policy and Housing Program Manager

### SUBJECT

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**Second Reading of Ordinance No. 028, 2024, Approving and Authorizing the Execution of an Amendment to a Reciprocal Stormwater Drainage Easement Agreement with Sun Foothills Fort Collins, LLC, and Ratifying the Original Conveyance.**

### EXECUTIVE SUMMARY

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This Ordinance, unanimously adopted on First Reading on February 6, 2024, authorizes the amendment of that certain Reciprocal Stormwater Drainage Easement Agreement (the "Original Easement") dated September 7, 2022, recorded at Reception No. 20220061510, Clerk and Recorder's Records, Larimer County, Colorado, by and between the City and Sun Foothills Fort Collins, LLC (the "Owner"), which originally conveyed a stormwater drainage easement to the Owner on City property in exchange for the City's right to retain stormwater on the Owner's property. The Amendment to the Original Easement (the "Amended Easement") will modify the legal description and revise language pertaining to access rights. Approval of the Ordinance would also ratify the Council's prior action in 2022 approving the easement exchange, the ordinance for which was missing its intended exhibits.

### STAFF RECOMMENDATION

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Staff recommends adoption of the Ordinance on Second Reading.

### BACKGROUND / DISCUSSION

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#### **The City Property**

The City property is approximately 17 acres located in the NW/4 of Section 13, Township 6 North, Range 69 West, Larimer County, Colorado, being currently held as a City of Fort Collins Land Bank property (the "City Property"). The City Property was purchased on October 18, 2002, as part of the Affordable Housing Land Bank Program.

The Land Bank Program is a long-term affordable housing program that ensures land will be available in the future to provide additional affordable housing units. The basic strategy of the program is to acquire undeveloped land and hold the land for several years until surrounding developments occur and adequate infrastructure is built for the eventual development of the City owned property. In theory, this will decrease the costs of development and increase the property value of the City owned property.

The property interests considered by the proposed Ordinance will allow for substantial infrastructure improvements to be installed for the benefit of the City Property.

### **The Project**

The Owner intends to develop the lands adjacent to the City Property (the “Development”) into approximately 200 housing units, including attainable housing, affordable housing units, and mobile homes. The Development is part of the Sun Communities real estate investment trust with more than 400 manufactured home and RV communities throughout the nation.

The Owner has submitted plans (the “Development Plans”) to the City for the Development, which have been reviewed by staff. The Original Easement was part of the Development and was requested from the Owner by staff as part of the development review process for the Development.

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

### **The Original Easement**

The Original Easement was authorized by Council by Ordinance No. 087, 2022, to permit the conveyance of increased stormwater due to the Development across the City Property and back onto a retention pond located within the Development (the “Retention Pond”), in exchange for the City’s right to store stormwater from the City Property within the Retention Pond.

The Original Easement consisted of approximately 44,658 square feet (1.025 acres) of City Property, but the subsequent final design of the stormwater facilities revealed that the boundaries of the Original Easement did not completely encompass said facilities. The Ordinance is for the approval to amend the drainage easement so that it matches the design of the facilities.

### **The Amended Easement**

The Amended Easement consists of approximately 45,352 square feet (1.04 acres) of City Property, being in the same general shape and location of the Original Easement, except for the additional 694 square feet to cover the actual location of the stormwater facilities, as finally designed. The Amended Easement will also alter certain language contained in the Original Easement pertaining to access to the City Property and the Retention Pond.

## **CITY FINANCIAL IMPACTS**

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Other than staff time and other expenses reimbursable to the City by the Owner, there is no cost to the City associated with the Amended Easement. When Council approved the exchange of the Original Easements in 2022, it was recommended, and Council approved, not charging the Owner for the 1.025-acre easement on the City Property, because the City was gaining use of the Owner’s 7.84-acre Retention Pond, which use is of substantially greater value to the City.

Staff estimates the fair market value of the additional lands included in the Amended Easement to total \$1,735 (the “Property Value”). However, the Amended Easement is only 1.5% larger, and its value is still outweighed by the value to the City of the easement the City gained for use of the Retention Pond.

Additionally, the Owner’s request for an amendment gave staff the opportunity to negotiate more detailed language regarding the Owner’s access across and use of the City Property. Therefore, City staff recommends that the Amended Easement should be conveyed to the Owner for no monetary consideration.

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

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The City's Planning Department and the Social Sustainability Department have reviewed and approved the Construction Plans and the Conveyance Documents.

## **PUBLIC OUTREACH**

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None.

## **ATTACHMENTS**

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First Reading attachments not included.

1. Ordinance for Consideration
2. Exhibit A to the Ordinance
3. Exhibit B to the Ordinance
4. Exhibit C to the Ordinance
5. Exhibit D to the Ordinance
6. Exhibit E to the Ordinance