

ORDINANCE NO. 068, 2024  
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 WATERS EDGE SECOND FILING  
DEVELOPER FOR CONSTRUCTION OF TURNBERRY ROAD,  
BRIGHTWATER DRIVE, AND MORNINGSTAR WAY IMPROVEMENTS

A. 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.

B. City 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”).

C. City 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”).

D. 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.

E. 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.

F. Waters’ Edge Development, Inc. is the developer of the Waters Edge Second Filing development (“Developer”) and as part of that development, has constructed portions of Turnberry Road as a two-lane arterial street, and Brightwater Drive and Morningstar Way as collector streets (collectively, “Road Improvements”).

G. The Developer has submitted its request to the City for a reimbursement of \$612,027 representing its costs for the oversized portions of the Road Improvements (the “Reimbursement Request”).

H. 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 requested in its Reimbursement Request, but City Code Section 24-112(c) provides that all reimbursements under Division 2 must first be appropriated from the TCEF fund by City Council.

I. 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.

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

K. The City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the Transportation Capital Expansion Fee Fund and will not cause the total amount appropriated in the Transportation Capital Expansion Fee Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year.

L. This appropriation benefits the public health, safety and welfare of the residents of Fort Collins and serves the public purpose of reimbursing the Developer for the costs it incurred to construct the Road Improvements to oversized standards, which standards the Developer was not legally required to satisfy considering the impacts of the development.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that there is hereby appropriated from prior year reserves in the Transportation Capital Expansion Fee Fund the sum of SIX HUNDRED TWELVE THOUSAND TWENTY-SEVEN DOLLARS (\$612,027) to be expended in the Transportation Capital Expansion Fee Fund for eligible reimbursement to the Developer for construction of Turnberry Road, Brightwater Drive, and Morningstar Way improvements beyond local access standards.

Introduced, considered favorably on first reading on May 21, 2024, and approved on second reading for final passage on June 4, 2024.

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Mayor

ATTEST:

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Interim City Clerk

Effective Date: June 14, 2024

Approving Attorney: Ryan Malarky