

# AGENDA ITEM SUMMARY

City Council



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## STAFF

Aaron Ehle, Airport Planning & Development Specialist

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## SUBJECT

**Second Reading of Ordinance No. 065, 2024, Authorizing the Conveyance of a Permanent Non-Exclusive Sewer Easement on Property Jointly Owned by the City of Fort Collins and the City of Loveland at the Northern Colorado Regional Airport.**

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## EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on May 7, 2024, authorizes a conveyance of an easement to the Sanitation District to allow for a sewer service line for the terminal. The easement is over a portion of the Northern Colorado Regional Airport property, which is owned jointly by the City of Fort Collins and the City of Loveland.

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## STAFF RECOMMENDATION

Staff recommends adoption the Ordinance on Second Reading.

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## BACKGROUND / DISCUSSION

Northern Colorado Regional Airport is a public facility jointly owned and operated by the Cities of Fort Collins and Loveland. In 2015, the Cities entered into an intergovernmental agreement that formed the Northern Colorado Regional Airport Commission, which delegated certain powers and authority to operate and maintain the Airport. However, only the Cities' Councils have the authority to grant easements as permanent property rights at the Airport.

In connection with the construction of the new terminal, South Fort Collins Sanitation District ("Sanitation District") requires the City of Fort Collins, the City of Loveland, and the Sanitation District to execute an Agreement for Purchase of Sewer Tap ("Tap Agreement"). Because the Tap Agreement is an agreement between the Cities and the Sanitation District, it is an intergovernmental agreement. The price for the sewer tap is \$49,600. Fort Collins City Code ("City Code") Section 1-22 allows that intergovernmental agreements may be approved by Council by either ordinance or resolution. A resolution is presented here to expedite execution of the Agreement because it is necessary for the completion of the terminal project, which has been approved by Council. The Tap Agreement presented with the Resolution is the Sanitation District's form Agreement as revised by the Cities' attorneys.

Along with the Tap Agreement, the Sanitation District requires that the Cities grant a permanent, non-exclusive easement across Airport property to allow for the installation and maintenance of a sewer line to the terminal ("Easement"). The total area of the associated sewer easement is 10,722 square feet. The

Easement Agreement included with the Ordinance is the Sanitation District's form easement as revised by the Cities' attorneys.

Under City Code Section 23-111, Council may sell, convey, exchange, or otherwise dispose of any and all interests in City-owned real property if Council finds, by ordinance, that such sale or disposition is in the best interests of the City. City Code Section 23-114 requires that any sale, lease, or other conveyance of property must be for an amount equal to or greater than the fair market value of such interest unless Council or City Manager, as applicable, determines that such sale or lease serves a bona fide public purpose because:

- (1) *The use to which the property will be put promotes health, safety or general welfare and benefits a significant segment of the citizens of Fort Collins;*

The Airport is a public use facility jointly owned by Fort Collins and Loveland. The Easement will allow for public investment and development that will bring improvements to the Airport and the users it serves.

- (2) *The use to which the property will be put supports one (1) or more of the City Council's goals, adopted policies, projects or plans;*

The Easement will allow for public development of the site in alignment with the Airport Master Plan, which was approved by Council.

- (3) *The financial support provided by the City through the below-market disposition of the property will be leveraged with other funding or assistance;*

The City would benefit from granting the easement because doing so will allow the Sanitation District to install and maintain utility infrastructure necessary for the terminal project. In addition to federal grant funding and Airport revenue being used for the terminal, both Cities individually contributed \$1,000,000 towards the project.

- (4) *The sale or lease will not result in any direct financial benefit to any private person or entity, except to the extent such benefit is only an incidental consequence and is not substantial relative to the public purpose being served; and*

The Easement will simply allow the Sanitation District to provide service to the new public terminal. The Airport and two Cities benefit from utilities running to the public terminal, which add value to the Airport.

- (5) *Selling or leasing the property for less than fair market rent will not interfere with current City projects or work programs, hinder workload schedules or divert resources needed for primary City functions or responsibilities.*

Authorizing the conveyance of the Easement will not interfere with City projects or work programs, workload schedules, or resources needed for primary City functions or responsibilities.

As the conveyance of the Easement meets the above criteria, Airport staff and the Airport Commission recommend approval because the easement allows for the Sanitation District to install and maintain the sewer infrastructure required to serve the new public facility. The new terminal is in alignment with the Airport Master Plan, which has been approved by Council.

## **CITY FINANCIAL IMPACTS**

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The Tap Agreement authorizes the Cities to purchase a sewer tap from the Sanitation District for \$49,600. This cost has been budgeted as part of the terminal project. There are no material financial impacts to the City.

The cost of the legal description and exhibit for the easement is \$500, to be paid from the terminal project budget. There are no material financial impacts to the City.

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

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The Northern Colorado Regional Airport Commission and Councils of Fort Collins and Loveland have approved the 2020 Airport Master Plan, which prominently features plans for the new terminal facility.

The Fort Collins and Loveland Councils have each appropriated \$1.0 million in support of the new terminal.

The Airport Commission unanimously voted at its January 18, 2024, meeting to recommend Council approve the easement. At that time, airport staff were unaware that the Sanitation District would require the Tap Agreement. Also at the January 18th meeting, the Airport Commission unanimously voted to recommend Council approve a Memorandum of Agreement for Purchase of Water Tap (“MOA”) with the Fort Collins-Loveland Water District, and to recommend the granting of an easement to the Water District for a water line. The Tap Agreement is substantially the same form as the MOA recommended by the Commission. Accordingly, airport staff conclude that although the Tap Agreement was not sent to the Commission, the Commission would have almost certainly recommended its approval because its terms are essentially the same as the MOA and because the easement is only functional if a sewer tap is purchased and installed.

## **PUBLIC OUTREACH**

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The development of the 2020 Airport Master Plan, which took more than two years to complete, included numerous public meetings and significant outreach by the Airport, far exceeding what is recommended by the Federal Aviation Administration (FAA).

## **ATTACHMENTS**

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First Reading attachments not included.

1. Ordinance for Consideration
2. Exhibit A to Ordinance