

ORDINANCE NO. 142, 2017
OF THE COUNCIL OF THE CITY OF FORT COLLINS
WAIVING CERTAIN FEES FOR HOUSING CATALYST'S VILLAGE ON
HORSETOOTH AFFORDABLE HOUSING PROJECT AND APPROPRIATING
PRIOR YEAR RESERVES IN VARIOUS CITY FUNDS TO PAY SPECIFIED FEES

WHEREAS, Housing Catalyst ("HC"), also known as the Fort Collins Housing Authority, was formed by the City Council in 1970 pursuant to the authority contained in Section 29-4-101, et seq. of the Colorado Revised Statutes, for the purpose of providing affordable, safe and sanitary housing in the City that is within the means of families of low or moderate income; and

WHEREAS, by adoption of Ordinance No. 065, 1999, the City Council exempted from the imposition of the City's capital improvement expansion fees the land development projects of housing authorities formed pursuant to the provisions of Section 29-4-101, et seq., and specified various other City fees from which such projects are also to be exempted; and

WHEREAS, the financial impact of such fee waivers on the City can be substantial, depending upon the size of the project that is exempted, and whether the lost fee revenues need to be replaced by the City; and

WHEREAS, on March 19, 2013, the City Council adopted Ordinance No. 037, 2013 (the "2013 Ordinance"), which made amendments to the City Code and Land Use Code limiting the types of projects for which HC could request fee waivers, and specifying that those waivers are to be granted at the discretion of City Council upon a determination that proposed waivers will not jeopardize the financial interests of the City or the timely construction of capital improvements to be funded by the fees; and

WHEREAS, the 2013 Ordinance also authorized and directed the Mayor to enter into an intergovernmental agreement between the City and HC documenting HC's intent to limit future fee waiver applications to affordable housing projects that meet the criteria established by such Ordinance (the "Intergovernmental Agreement"); and

WHEREAS, the Intergovernmental Agreement was executed on July 3, 2013; and

WHEREAS, the 2013 Ordinance states that the City Council can waive, by ordinance, fees that would otherwise be imposed for an affordable housing project wholly or partially owned by a housing authority only if the City Council determines that: (1) the proposed project is intended to house homeless or disabled persons, as such terms are defined by the Department of Housing and Urban Development (HUD), or households with an annual income that does not exceed 30% of the area median income (AMI) for the applicable household size in the Fort Collins-Loveland metropolitan statistical area, as published by HUD; and (2) the proposed waiver will not jeopardize the financial interests of the City or the timely construction of the capital improvements to be funded by the fees for which a waiver is sought; and

WHEREAS, HC is seeking the waiver of certain development and capital improvement expansion fees for the Village on Horsetooth, a 96-unit affordable housing community being constructed at 1506 West Horsetooth Road in Fort Collins (the "Project"); and

WHEREAS, HC is constructing the Project on property it acquired from the City as part of the City's Affordable Housing Land Bank Program; and

WHEREAS, the City has established affordable housing production goals in the 2015-2019 Affordable Housing Strategic Plan (Plan) with an annual production goal for this five-year plan of 188 units; and

WHEREAS, the Project will deliver 96 units, 51% of the City's annual goal for new affordable housing units; and

WHEREAS, 43 of the Project units (or 45% of the total development) will be dedicated to households making no more than 30% of AMI; and

WHEREAS, HC is therefore requesting waivers totaling \$352,319, which represents 45% of the total waivable Project fees based on the number of units eligible for such fee waivers; and

WHEREAS, the Project is partially owned by HC, as HC is the sole member of a limited liability company that has a .009% ownership interest in a limited liability, limited partnership that owns the Project; and

WHEREAS, the Project fits the definition of a project eligible for fee waivers under the City Code and Land Use Code as amended by the 2013 Ordinance, and the Intergovernmental Agreement; and

WHEREAS, City Finance staff has determined that waiver of these fees will not jeopardize the financial interests of the City or the timely construction of the capital improvements to be funded by the fees for which the waiver is sought; and

WHEREAS, HC has already paid certain building permit and development review fees, for the Project, and if the City Council approves the waiver request City staff proposes offsetting the amount that would be due as a refund to HC against the remaining Project fee amounts still due from HC; and

WHEREAS, if City Council grants the fee waivers, staff is requesting the appropriation of \$292,345 from General Fund reserves and the Community Capital Improvement Fund to cover the capital improvement expansion fees waived, as follows:

General Fund	\$179,845
Community Capital Improvement Fund	<u>\$112,500</u>
Total	\$292,345

and

WHEREAS, Article V, Section 9, of the City Charter permits the City Council to

appropriate by ordinance at any time during the fiscal year such funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated; and

WHEREAS, City staff have determined that the appropriations as described herein are available and previously unappropriated in the various funds.

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 45% of the Project is intended to house households with an annual income that does not exceed 30% of the area median income for the applicable household size in the Fort Collins-Loveland metropolitan statistical area, as published by HUD.

Section 3. That the City Council further finds that the fee waiver requested by HC will not jeopardize the financial interests of the City or the timely construction of the capital improvements to be funded by the fees for which a waiver is sought.

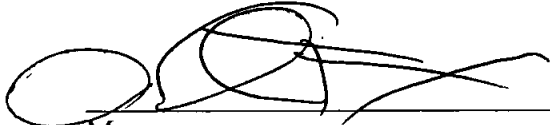
Section 4. That the City Council hereby approves the waiver of \$352,319 in fees that were previously paid to the City or would otherwise be payable to the City upon the issuance of building permits for the Project, consisting of:

Development Review Fees	\$ 17,296
Building Fees	35,922
Capital Improvement Expansion Fees	292,345
Utilities - Stormwater Review Fee	<u>6,756</u>
Total	\$ 352,319

Section 5. That there is hereby appropriated for expenditure from reserves in the General Fund the sum of ONE HUNDRED SEVENTY-NINE THOUSAND EIGHT HUNDRED FORTY-FIVE DOLLARS (\$179,845) to cover a portion of the waived Capital Improvement Expansion Fees for the Village on Horsetooth Affordable Housing Project.

Section 6. That there is hereby appropriated for expenditure from reserves in the Community Capital Improvement Fund the sum of ONE HUNDRED TWELVE THOUSAND FIVE DOLLARS (\$112,500) to cover a portion of the waived Capital Improvement Expansion Fees for the Village on Horsetooth Affordable Housing.

Introduced, considered favorably on first reading, and ordered published this 7th day of November, A.D. 2017, and to be presented for final passage on the 21st day of November, A.D. 2017.



Mayor

ATTEST:



City Clerk



Passed and adopted on final reading on the 21st day of November, A.D. 2017.



Mayor

ATTEST:



City Clerk

