

# AGENDA ITEM SUMMARY

July 18, 2017

City Council

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## STAFF

Beth Rosen, Affordable Housing Program Administrator  
Patrick Rowe, Redevelopment Program Coordinator

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## SUBJECT

Second Reading of Ordinance No. 087, 2017, Authorizing the Release of a Collateral Assignment of Note and Deed of Trust which Secures Performance of Certain Obligations Related to the 1999 Restoration of the Northern Hotel.

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## EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on July 5, 2017, authorizes the release of a collateral assignment of the Note and Deed of Trust made by Funding Partners/NDC, in favor of the City of Fort Collins which secures performance obligations contained within the Northern Hotel Restoration Agreement, dated November 15, 1999. The release of the collateral assignment is requested by the property owner, an affiliate of Funding Partners and the National Development Council, in order to facilitate the sale and transfer of ownership of the Northern Hotel to an affiliate of Hendricks Communities LLC, an affordable housing developer with a strong local presence.

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## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

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## ATTACHMENTS

1. First Reading Agenda Item Summary, July 5, 2017 (w/o attachments) (PDF)
2. Ordinance No. 087, 2017 (PDF)

## AGENDA ITEM SUMMARY

July 5, 2017

City Council

### STAFF

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Beth Rosen, Affordable Housing Program Administrator  
Patrick Rowe, Redevelopment Program Coordinator

### SUBJECT

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First Reading of Ordinance No. 087, 2017, Authorizing the Release of a Collateral Assignment of Note and Deed of Trust which Secures Performance of Certain Obligations Related to the 1999 Restoration of the Northern Hotel.

### EXECUTIVE SUMMARY

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The purpose of this item is to authorize the release of a collateral assignment of the Note and Deed of Trust made by Funding Partners/NDC, in favor of the City of Fort Collins which secures performance obligations contained within the Northern Hotel Restoration Agreement, dated November 15, 1999. The release of the collateral assignment is requested by the property owner, an affiliate of Funding Partners and the National Development Council, in order to facilitate the sale and transfer of ownership of the Northern Hotel to an affiliate of Hendricks Communities LLC, an affordable housing developer with a strong local presence.

### STAFF RECOMMENDATION

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Staff recommends adoption of the Ordinance on First Reading.

### BACKGROUND / DISCUSSION

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In the 1970s a fire left a majority of the Northern Hotel in a condition of vacancy and disrepair, and portions of the building were left in a condemned state. Following a series of failed attempts to restore the hotel, in the late 1990's, Funding Partners for Housing Solutions and the National Development Council (NDC) created a development partnership (the Developer) with the aim of restoring the hotel as a cornerstone of the downtown area while also adding affordable housing for the community. In support of this effort, the City and the Downtown Development Authority (DDA) pledged \$1,001,000 in support to the project (total project costs were estimated to be \$9,692,823). The public support was memorialized in the Northern Hotel Restoration Agreement (the Agreement) and was conditioned on the development of forty-seven (47) affordable residential units, which were to remain affordable for a twenty-year period, historic character facade improvements, the development of 13,800 square feet of commercial space, and other obligations. (**Attachments 2 and 3**)

To assure compliance of Restoration Agreement obligations, the City was collaterally assigned a note and deed of trust against the property, thereby providing the City the recourse of foreclosure in the event of default. Once the Restoration Agreement terms have been satisfied, the collateral assignment becomes null and void.

Recently the City received a request from Funding Partners for the release of the collateral assignment to facilitate the sale of the property to an affiliate of Hendricks Communities, a preferred affordable housing partner with a positive track record with the City. Hendricks Communities plans to acquire the property with a new allocation of low income housing tax credits, provide substantial rehabilitation to improve the livability of the units, and commit to an additional 20 years of affordability.

At present, all Restoration Agreement obligations have been satisfied with the exception of the remaining/ongoing requirement that the forty-seven (47) residential units remain affordable for a period of twenty (20) years from final certificate of occupancy of the project, determined to be November 15, 2021. In addition to the Restoration Agreement, the affordability of the forty-seven (47) units is separately assured through a separate Low-Income Housing Tax Credit Land Use Restriction Agreement (LURA) executed with the Colorado Housing and Finance Authority as a condition of receiving Low Income Housing Tax Credit Financing. The LURA warrants affordability of the 47 units through the year 2041. (**Attachment 4**)

Additionally, Hendricks Communities LLC has received funding allocations of \$675,000 in City Affordable Housing Fund dollars through the 2016 and 2017 Competitive Process, which also carry affordability restrictions. Both the Affordable Housing Board and Community Development Block Grant (CDBG) Commission recommended funding to be used towards necessary improvement costs. Upon deployment of these funds, the City and developer will execute a Promissory Note, Deed of Trust, and Agreement of Restrictive Covenants requiring an additional 20 years of affordability.

Although the City is forgoing the superior foreclosure recourse made available through the collateral assignment, staff believes the existing restrictions and planned future restrictions adequately protect the remaining 4 years of affordability required under the Restoration Agreement, and go much further by extending the affordability protections far into the future (2041 for the existing LURA restriction and an additional 20 years from award for City Affordable Housing Funds).

Given the positive benefits of the sale of the Northern Hotel to a community partner in affordable housing, the additional affordable restrictions related to the forty-seven (47) low income housing units, and the full satisfaction of the other Restoration Agreement obligations, staff recommends the collateral assignment be released and discharged.

### **CITY FINANCIAL IMPACTS**

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None. The City-DDA investment in the Northern Hotel renovation project was made in 1999 using City General Fund dollars and Downtown Development Authority tax increment.

### **BOARD / COMMISSION RECOMMENDATION**

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In both the 2016 and 2017 Competitive Process funding allocation cycles, the Affordable Housing Board and CDBG Commission recommended funding Hendricks Communities LLC \$250,000 and \$425,000 respectively for necessary repairs and improvements to the Northern Hotel. (**Attachments 5, 6, and 7**)

### **ATTACHMENTS**

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1. Northern Hotel location map and picture (PDF)
2. Restoration Agreement (PDF)
3. Restoration Agreement Compliance Summary, May 2, 2017 (PDF)
4. Land Use Restriction Agreement (PDF)
5. Affordable Housing Board Recommendations, March 2016 (PDF)
6. CDBG Commission Deliberations (excerpt), April 14, 2016 (PDF)
7. CDBG Recommendations(excerpt), April 2017 (PDF)

ORDINANCE NO. 087, 2017  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING THE RELEASE OF A COLLATERAL ASSIGNMENT OF NOTE AND  
DEED OF TRUST WHICH SECURES PERFORMANCE OF CERTAIN OBLIGATIONS  
RELATED TO THE 1999 RESTORATION OF THE NORTHERN HOTEL

WHEREAS, in the 1970s, a fire left most of the Northern Hotel (the “Hotel”) in a condition of vacancy and disrepair, and portions of it were left in a condemned state; and

WHEREAS, in the late 1990s, Funding Partners for Housing Solutions and the National Development Council created a development partnership (the “Developer”) to restore the Hotel as a cornerstone of the downtown area while also adding affordable housing for the community (the “Project”); and

WHEREAS, to support the Project, the City contributed \$1,001,000 toward the total Project costs of approximately \$9.7 million; and

WHEREAS, the City’s support of the Project was memorialized in a November 1999 Northern Hotel Restoration Agreement between the City and the Developer that was (the “Agreement”); and

WHEREAS, the Agreement required the Developer to satisfying several obligations related to the Project and future use of the Hotel, including the development of forty-seven affordable residential units in the Hotel to remain affordable for a twenty-year period, historic character facade improvements and the development of 13,800 square feet of commercial space in the Hotel (“Project Obligations”); and

WHEREAS, to secure its performance of the Project Obligations, the Developer assigned to the City a \$1,001,000 promissory note and deed of trust encumbering the Hotel and did so under that Collateral Assignment of Note and Deed of Trust recorded with the Agreement on November 18, 1999, at Reception #0099098903 in the Larimer County, Colorado records (the “Collateral Assignment”); and

WHEREAS, the Collateral Assignment was subsequently amended and restated by the City and the Developer by that certain Amended and Restated Collateral Assignment of Note and Deed of Trust” dated May 10, 2000, recorded on May 22, 2000, at Reception #2000033228 in the Larimer County, Colorado records (the “Amended Collateral Assignment”); and

WHEREAS, the City has recently received a request from the Developer for the release of the Collateral Assignment and the Amended Collateral Assignment to facilitate the sale of the Hotel to an affiliate of Hendricks Communities, a preferred affordable housing partner with a positive track record with the City; and

WHEREAS, Hendricks Communities plans to acquire the Hotel with a new allocation of low-income housing tax credits in order to fund a substantial rehabilitation of the Hotel to improve the livability of its affordable housing units, which will require Hendricks to commit to

an additional twenty years of affordability for those units (“Tax Credit Affordability Obligation”); and

WHEREAS, all of the Project Obligations have been satisfied except for the requirement that forty-seven residential units in the Hotel remain affordable for twenty years from the date of the issuance of the final certificate of occupancy for the Project, which twenty-year period will end on November 15, 2021 (“City Affordability Obligation”); and

WHEREAS, in addition to the City Affordability Obligation, the affordability of the forty-seven units is currently required through a separate Low-Income Housing Tax Credit Land Use Restriction Agreement (the “LURA”) executed with the Colorado Housing and Finance Authority as a condition of receiving Low Income Housing Tax Credit Financing for the Project and the LURA requires affordability of the forty-seven units through the year 2041 (the “LURA Affordability Obligation”); and

WHEREAS, Hendricks Communities has also recently been approved for an award of \$675,000 in City Affordable Housing Fund dollars to be used for the proposed Hotel renovation awarded in the City’s 2016 and 2017 competitive process, and to receive these funds Hendricks Communities will be required to execute a promissory note, deed of trust, and a restrictive covenants agreement requiring an additional twenty years of affordability for the forty-seven affordable units (the “Affordable Housing Fund Obligation”); and

WHEREAS, while the release of the Collateral Assignment and the Amended Collateral Assignment will eliminate security helping to insure compliance with the City Affordability Obligation, the remaining LURA Affordability Obligation and the new Tax Credit Affordability Obligation and the Affordable Housing Fund Obligation will continue to provide security helping insure that the forty-seven affordable units in the Hotel will remain affordable for many years to come; and

WHEREAS, given the positive benefits of the sale of the Hotel to Hendricks Communities, a community partner in affordable housing, who will be making substantial improvements to the Hotel and considering that all but one of the Project Obligations have been satisfied, City staff recommends the Collateral Assignment and Amended Collateral Assignment be released and discharged; and

WHEREAS, since the Collateral Assignment and Amended Collateral Assignment constitute a lien against the Hotel, they are considered under Code Sections 23-110 and 23-111 to be an interest in real property that can only be disposed of by City Council by ordinance if Council first finds such disposition to be in the best interests of the City; and

WHEREAS, the City Council hereby finds that the release and discharge of the Collateral Assignment and the Amended Collateral Assignment is in the best interests of the City.

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 Manager is hereby authorized to execute such documents and to take such other actions as necessary to fully release and discharge any and all interests the City has in the Collateral Assignment and in the Amended Collateral Assignment, consistent with the terms and purposes of this Ordinance.

Introduced, considered favorably on first reading, and ordered published this 5th day of July, A.D. 2017, and to be presented for final passage on the 18th day of July, A.D. 2017.

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Mayor

ATTEST:

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City Clerk

Passed and adopted on final reading on the 18th day of July, A.D. 2017.

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Mayor

ATTEST:

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City Clerk