STAFF

Ken Sampley, Water Systems Engineering Manager
Theresa Connor, Water Engineering Field Operations Mrg
Shane Boyle, Civil Engineer III
Lance Smith, Utilities Strategic Finance Director
Judy Schmidt, Legal

SUBJECT

Second Reading of Ordinance No. 076, 2019, Approving, Affirming and Ratifying Funding of the Non-City Share of the NECCO Project by Offering to Owners and Developers of Property Within the NECCO Area a Proportionate Buy-In to Connect to the NECCO Project.

EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on June 4, 2019, adopts the cost share concept whereby development and redevelopment draining into the Northeast College Corridor Outfall (NECCO) stormwater system are required to pay their proportional cost share of the NECCO improvements if they choose to use the NECCO system in lieu of constructing separate stormwater facilities. The NECCO stormwater system (or NECCO Project) was designed to provide an adequate stormwater outfall for the area north of Vine Drive and east of College Avenue in order to alleviate existing drainage problems and to facilitate development and redevelopment in the area.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS

1. First Reading Agenda Item Summary, June 4, 2019 (w/o attachments) (PDF)
2. Ordinance No. 076, 2019 (PDF)
Agenda Item 11

First Reading of Ordinance No. 076, 2019, Approving, Affirming and Ratifying Funding of the Non-City Share of the NECCO Project by Offering to Owners and Developers of Property Within the NECCO Area a Proportionate Buy-In to Connect to the NECCO Project.

The purpose of this item is to adopt the cost share concept whereby development and redevelopment draining into the Northeast College Corridor Outfall (NECCO) stormwater system are required to pay their proportional cost share of the NECCO improvements if they choose to use the NECCO system in lieu of constructing separate stormwater facilities. The NECCO stormwater system (or NECCO Project) was designed to provide an adequate stormwater outfall for the area north of Vine Drive and east of College Avenue in order to alleviate existing drainage problems and to facilitate development and redevelopment in the area.

Staff recommends adoption of the Ordinance on First Reading.

Project History

The Northeast College Corridor Outfall (NECCO) Project was initiated in response to large development potential north of Vine Drive and east of College Avenue. At that time, there was no adequate stormwater outfall for this area of the city, which created a significant hinderance to development and redevelopment. There were also drainage problems in this area from existing development, mainly due to a lack of stormwater regulations when this area of the City originally developed. The NECCO area map is Exhibit A to Ordinance No. 076, 2019.

In response to development interest in the area, design was initiated on a stormwater system that would help mitigate existing drainage issues in the area, as well as provide an adequate stormwater outfall. The NECCO stormwater design was managed by the City’s Stormwater Capital Improvement Program group and was completed in 2009. The NECCO stormwater system schematic is Attachment 1 to this AIS. Construction of the “backbone” storm sewer system occurred in 2016-2017 and the regional pond was constructed in 2018. Other portions of the NECCO stormwater system have been completed by development, and were funded partially through the Developer Repay program and partially through the NECCO buy-in paid by the development. Another section of the system is under design and will be constructed as part of Planning, Development and Transportation’s Suniga Road capital project.

Cost Share Concept
Entities proposing to develop in this area (Developers) can choose to connect into the NECCO stormwater system in order to receive the benefits of the system. Developers that choose to connect pay a proportionate share of the NECCO stormwater system cost as described below. Developers that choose not to connect to the NECCO stormwater system are required to meet typical stormwater requirements without the benefit of NECCO. Since the NECCO proportionate cost for a development only covers its respective share of the NECCO stormwater system, all properties still pay the standard stormwater plant investment fees (PIFs) in addition to their respective share of the NECCO stormwater system cost.

The NECCO area was originally analyzed to determine which portions of the area are developed and undeveloped. To define proportionate cost shares, the NECCO stormwater system was broken down into individual project components and the cost of each component was divided among the area benefitting from that component (e.g., only those areas receiving a benefit from the regional pond pay for the regional pond). The analyses determined that the City’s share of the NECCO Project would be approximately 49% and the appropriate developer share would be approximately 51%. The NECCO stormwater system cost allocation spreadsheet is Exhibit B to Ordinance No. 076, 2019.

To date, the City has been constructing improvements and is being repaid for a pro-rata share of costs for the developer share of the Project as development occurs through development and/or repay agreements. It is anticipated the City will stop collecting allocated costs once the appropriate developer shares of NECCO improvements have been received. Current costs are based on a combination of estimated and actual construction costs. The cost estimate will be updated to reflect actual construction costs as improvements are constructed.

Although the NECCO Project has a long history and is partially constructed, the purpose of the proposed Ordinance is to formalize the allocation of costs between the City and benefitted development, and the allocation of the developer share of improvement costs among benefitted properties as they develop or redevelop.

**CITY FINANCIAL IMPACTS**

The intent of this Ordinance is to establish a cost sharing mechanism that allows the City to recover the portion of costs incurred to date for this project that is associated with new development and anticipated redevelopment. To date the City has recovered $1M of the $6M developer’s share of project cost. While this project is a very cost-effective solution to the required stormwater infrastructure for future development and redevelopment, there is the possibility that future development may choose to build alternative stormwater drainage. Staff considers this risk to be minimal based on the alternatives considered before constructing this project and the participation of development to date.

**BOARD / COMMISSION RECOMMENDATION**

At its February 21, 2019 meeting, the Water Board unanimously recommended that City Council adopt the Ordinance. ([Attachment 2](#))

At its April 15, 2019 meeting, the NECCO Stormwater system funding approach was presented to the Council Finance Committee (CFC) which supported going forward with this topic for Council consideration. ([Attachment 3](#))

**PUBLIC OUTREACH**

Significant public outreach has been completed over the course of the NECCO planning and various capital projects since inception in 2008 to the present. Outreach has been focused on property owners in the vicinity of the NECCO infrastructure that can be served by the improvements, the North College Citizen’s Advisory Group, and the Urban Renewal Authority.
ATTACHMENTS

1. Pipe Schematic (PDF)
2. Water Board minutes, February 21, 2019 (PDF)
3. Council Finance Committee minutes, April 15, 2019 (PDF)
ORDINANCE NO. 076, 2019
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROVING, AFFIRMING AND RATIFYING FUNDING OF THE NON-CITY SHARE OF THE NECCO PROJECT BY OFFERING TO OWNERS AND DEVELOPERS OF PROPERTY WITHIN THE NECCO AREA A PROPORTIONATE BUY-IN TO CONNECT TO THE NECCO PROJECT

WHEREAS, on June 1, 2004, City Council adopted Ordinance No. 057, 2004, adopting updated Master Drainage Plans for the City, including the Dry Creek Master Plan, December 2002, which identified stormwater drainage improvement projects within the basin; and

WHEREAS, on December 21, 2004, City Council adopted Resolution 2004-151 finding the area in and around North College Avenue described therein (the “North College Area”) to be blighted and Resolution 2004-152 approving the North College Avenue Urban Renewal Plan to facilitate elimination and prevention of such blight and promote the redevelopment, conservation, and rehabilitation of the North College Area under the governance of the Urban Renewal Authority (“URA”), all in accordance with the Colorado Urban Renewal Law (CRS Section 31-25-1010, et seq.); and

WHEREAS, the City designed and constructed the Dry Creek Drainage Improvements (consisting of the Douglas Dam fuseplug, Flood Control Basins 1 and 2, improvements to the Larimer and Weld Canal, a SCADA system at the Larimer and Weld Canal headgate motors, and the East Vine Diversion channel) to reduce and mitigate flooding risks in the drainage basin; and

WHEREAS, on June 17, 2008, the Federal Emergency Management Agency (FEMA) adopted a new, reduced 100-year Dry Creek floodplain in conjunction with a Physical Map Revision that identified reduction of flooding risk because of the Dry Creek Drainage Improvements; and

WHEREAS, the Dry Creek Master Plan, December 2002 did not identify stormwater improvements for the North College Area, a portion of which came to be referred to as the Northeast College Corridor Outfall (“NECCO”) project; and

WHEREAS, the North College Drainage Improvement Design Report, February 2006 (Ayres Associates), identified master planned regional stormwater improvements serving the North College Area and the NECCO area; and

WHEREAS, on March 20, 2007, City Council adopted Resolution 2007-032 adopting the updated North College Corridor Plan as an element of the City’s Comprehensive Plan, recognizing resolution of Dry Creek flooding issues in the North College Area by completion of a system of upstream facilities over multiple years, citing lack of adequate drainage as the primary obstacle to creation of the desired street patterns and development within the Area and including regional detention ponds to eliminate the need for on-site detention in individual (re)development projects and provide a simple and efficient stormwater solution; and
WHEREAS, in response to a proposed development in 2009, which was not subsequently completed, Stormwater Utility staff completed engineering plans for construction of the NECCO project as a unified regional stormwater system for an area east of College Avenue to Lemay Avenue and South of Willox Avenue to East Vine Drive, including a regional detention pond west of Redwood Drive, (the “NECCO Area”) generally depicted on attached Exhibit “A,” which is incorporated by this reference, and an outfall pipe connecting the pond to the East Vine Drive Diversion channel east of Lemay Avenue (collectively, the “NECCO Project”)

WHEREAS, on May 4, 2010, City Council adopted Resolution 2010-023 approving the North College Infrastructure Funding Plan as a framework for coordinating work efforts and decision-making related to a prioritized list of infrastructure projects needed in the North College Area, including the NECCO Project; and

WHEREAS, the City Stormwater Utility purchased the real property for the NECCO regional pond in June 2010; and

WHEREAS, City Council subsequently approved a loan in the amount of $326,472 from the Stormwater Utility to the URA (Resolution 2011-032) and appropriated the funds for that loan (Ordinance No. 061, 2011) for the URA’s contribution to the cost of acquiring the NECCO pond site to facilitate regionalized stormwater control in the NECCO Area, facilitate redevelopment and improve watershed health impacted by uncontrolled runoff from the Area; and

WHEREAS, based on an analysis of the existing drainage issues and regional stormwater needs, the existing state of development within the area (developed v. undeveloped), the future development/redevelopment stormwater needs in the NECCO Area and an analysis of the benefit to the properties available for development/redevelopment, Utility Stormwater staff developed a system of allocating the estimated costs of the NECCO Project to be borne by the City (49% of the total estimated cost, referred to as the “City Share”) and by the properties available for new development (and redevelopment) within the NECCO Area (51% of the total estimated costs, referred to as the “Non-City Share”); and

WHEREAS, the cost of each individual component of the NECCO Project included in the Non-City Share was further allocated among the areas benefitting from that component (for example, the Non-City Share of the cost of the regional pond is allocated among property within the NECCO Area based on the benefit received from the regional pond), as shown on the map of the NECCO Area attached as Exhibit “A,” to calculate the “Development Proportionate Buy-In”; and

WHEREAS, the methodology for calculating the Development Proportionate Buy-In for benefitted properties is generally illustrated on Exhibit “B” attached hereto (although dollars shown are estimates in some cases and are not intended to be fixed); and

WHEREAS, in the 2013-2014 budget cycle, Council’s approved budget included funding of $1.1M for the NECCO Regional Pond (BFO Offer 202.2 NECCO); and
WHEREAS, on November 21, 2013, the City entered into a Development Agreement with Breckenridge Group Fort Collins Colorado, LLC for the Aspen Heights project pursuant to which the Developer constructed certain off-site stormwater improvements that are part of the NECCO Project at a total cost $1,021,030 and the City agreed to repay the developer for that portion of the regional improvements in excess of the development’s agreed upon portion of costs ($372,569), up to a maximum repayment of $648,461; and

WHEREAS, in the 2015-2016 budget cycle, Council’s approved budget included funding of $.5M - $2.5M in 2015 and $2.5M in 2016 for the NECCO Project (2015-2016 BFO – Offer 71.2 Utilities Capital Project: Stormwater NECCO Improvements (phase 2)); and

WHEREAS, in the 2017-2018 budget cycle, Council’s approved budget included funding of $3.3M - $1.6M in 2017 and $1.7M in 2018 for the NECCO Project (2017-2018 BFO – Offer 8.21 Capital Project – Utilities: Stormwater Phase 3); and

WHEREAS, it is anticipated the remainder of the NECCO Improvements will be funded by a combination of City Capital Improvement Projects and Development Proportionate Buy-In; and

WHEREAS, the City and Sasick Properties (doing business as Raw Urth) entered into a Development Agreement dated March 24, 2016, pursuant to which the developer agreed to pay a Development Proportional Buy-In of $26,047 for development of its property within the NECCO Area; and

WHEREAS, the City and Crowne at Old Towne North entered into a Development Agreement dated April 4, 2018, pursuant to which the developer constructed a portion of the NECCO Improvements and the City agreed to reimburse the developer in an amount not to exceed $298,339 for the City’s Share of such Improvements, with the unreimbursed cost being the agreed upon Development Proportional Buy-In in exchange for its right to connect its property to the NECCO Project; and

WHEREAS, the City and OTN FC, LLC (Old Town North Third) entered into a Development Agreement dated April 11, 2018, pursuant to which the developer agreed to pay its applicable Development Proportionate Buy-In, to be allocated to and paid with building permit fees for each lot in the development in exchange for its right to connect its property to the NECCO Project; and

WHEREAS, City stormwater utility staff continues to offer (re)developments of property in the NECCO Area the opportunity to pay its Development Proportionate Buy-In in order to connect to the NECCO Project in lieu of providing separate stormwater facilities to meet City development standards; and

WHEREAS, the City Stormwater Utility desires to formalize the arrangement to offer (re)development in the NECCO Area Development Proportionate Buy-In moving forward and recommends that Council formally approve, affirm and ratify this approach to funding the Non-City Share of the NECCO Project estimated costs of 51% ($6,445,155), which portion is available
to serve the stormwater needs of private development/redevelopment within the NECCO Area that may otherwise be required to provide private stormwater facilities on site to meet City development standards.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes any and all determinations and findings contained in the recitals set forth above.

Section 2. That the City Council hereby approves, affirms and ratifies funding the Non-City Share of the NECCO Project by offering to owners and developers of property within the NECCO Area the opportunity to pay its Development Proportionate Buy-In in order to connect to the NECCO Project in lieu of providing separate stormwater facilities to meet City development standards; and

Section 3. That the City Council hereby authorizes the City Manager or his designee to enter into development agreements with and as requested by developers and owners of property within the NECCO Area that include payment of a Development Proportionate Buy-In calculated in accordance with the methodology generally illustrated on Exhibit “B” attached hereto as a condition to connecting to and utilizing the NECCO PROJECT to serve such property, in lieu of providing private stormwater facilities to meet City development standards.

Introduced, considered favorably on first reading, and ordered published this 4th day of June, A.D. 2019, and to be presented for final passage on the 2nd day of July, A.D. 2019.

ATTEST:

Mayor Pro Tem

City Clerk

Passed and adopted on final reading on the 2nd day of July, A.D. 2019.

ATTEST:

Mayor

City Clerk
NECCO Cost Breakdown Analysis

By: SB
Date: 1/23/2011 (Updated 5-17-2018 to reflect actual costs for backbone and regional pond)

<table>
<thead>
<tr>
<th>NECCO Improvement</th>
<th>Total Cost</th>
<th>Contributing Areas (map color)</th>
<th>Area (acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pipe Network Into Regional Pond</td>
<td>$5,721,600</td>
<td>Pink, Orange, Red, Blue (Except Basins 126, 127, 526)</td>
<td>237.5</td>
</tr>
<tr>
<td>Regional Detention Pond</td>
<td>$1,310,000</td>
<td>Orange, Blue</td>
<td>187.0</td>
</tr>
<tr>
<td>WQ Volume (acre-ft)</td>
<td>10.44</td>
<td>Pink (Except Basin 102), Orange, Red, Blue</td>
<td></td>
</tr>
<tr>
<td>Detention Volume (acre-ft)</td>
<td>30.02</td>
<td>Orange, Blue</td>
<td></td>
</tr>
<tr>
<td>Redwood Pond and Outfall</td>
<td>$621,450</td>
<td>Green</td>
<td>118.2</td>
</tr>
<tr>
<td>Outfall From Regional Pond to Vine Drive</td>
<td>$4,990,000</td>
<td>All</td>
<td>647.3</td>
</tr>
</tbody>
</table>

Total Project Cost = $12,643,050

### Contributing Areas

#### PINK GROUP SUMMARY
- Basin: 75.7
- Areal %: 31.87%
- Area (acres): $1,823,685
- Contributing Cost: Yes
- WQ+Det Contribution: Yes
- Vol (ac-ft): 1.65
- Vol %: 4.08%
- Areal %: 0.00%
- Cost: $53,423
- Contributing? Yes
- Vol %: 0.00%
- Areal %: 0.00%
- Cost: $0
- Contributing? Yes
- Total Cost: $2,466,675
- Cost per acre: $32,506

#### ORANGE GROUP SUMMARY
- Basin: 118.6
- Areal %: 49.94%
- Area (acres): $2,857,186
- Contributing Cost: Yes
- WQ+Det Contribution: Yes
- Vol (ac-ft): 20.21
- Vol %: 49.94%
- Areal %: 63.42%
- Cost: $662,283
- Contributing? Yes
- Vol %: 18.32%
- Areal %: 18.26%
- Cost: $911,197
- Contributing? Yes
- Total Cost: $4,373,850
- Cost per acre: $36,879

#### BLUE GROUP SUMMARY
- Basin: 68.4
- Areal %: 18.19%
- Area (acres): $1,040,729
- Contributing Cost: Yes
- WQ+Det Contribution: Yes
- Vol (ac-ft): 49.94
- Vol %: 36.58%
- Areal %: 63.42%
- Cost: $654,194
- Contributing? Yes
- Vol %: 18.19%
- Areal %: 18.26%
- Cost: $911,197
- Contributing? Yes
- Total Cost: $2,222,215
- Cost per acre: $32,469

#### GREEN GROUP SUMMARY
- Basin: 118.2
- Areal %: 0.00%
- Area (acres): $0
- Contributing Cost: No
- WQ+Det Contribution: No
- Vol (ac-ft): 0
- Vol %: 0.00%
- Areal %: 0.00%
- Cost: $0
- Contributing? Yes
- Vol %: 0.00%
- Areal %: 100.00%
- Cost: $521,450
- Contributing? Yes
- Total Cost: $1,532,647
- Cost per acre: $12,967

#### YELLOW GROUP SUMMARY
- Basin: 228.6
- Areal %: 0.00%
- Area (acres): $0
- Contributing Cost: No
- WQ+Det Contribution: No
- Vol (ac-ft): 0
- Vol %: 0.00%
- Areal %: 0.00%
- Cost: $0
- Contributing? Yes
- Vol %: 35.32%
- Areal %: 35.32%
- Cost: $1,762,265
- Contributing? Yes
- Total Cost: $1,762,265
- Cost per acre: $7,709

#### GOLD GROUP SUMMARY
- Basin: 37.8
- Areal %: 0.00%
- Area (acres): $0
- Contributing Cost: No
- WQ+Det Contribution: No
- Vol (ac-ft): 0
- Vol %: 0.00%
- Areal %: 0.00%
- Cost: $0
- Contributing? Yes
- Vol %: 5.84%
- Areal %: 5.84%
- Cost: $291,398
- Contributing? Yes
- Total Cost: $291,398
- Cost per acre: $7,709

### Totals

- Total Cost: $12,643,050
- Cost per acre: $12,643,050

**NOTE:** dollars may be estimates for improvements not completed at any point in time and are subject to adjustment.