

ORDINANCE NO. 035, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE RELEASE OF RESTRICTIVE COVENANTS
ON PROPERTY AT 2850 SYKES DRIVE, DEVELOPED BY FORT
COLLINS HABITAT FOR HUMANITY

A. On April 13, 2023, the City of Fort Collins entered into a Development Contract (the “Agreement”) for HOME Investment Partnership (“HOME”) funding with Fort Collins Habitat for Humanity.

B. The Agreement provided for the payment of \$80,000 in HOME funding to support the construction costs of a single-family home built in partnership with the Geometry in Construction program at Poudre High School. The property is located at 2850 Sykes Drive (the “Property”).

C. The HOME funding was secured by a Promissory Note, Deed of Trust and Agreement of Restrictive Covenants ensuring the Property would be transferred to an income eligible buyer and remain affordable for a period of 20 years (the “Covenant”).

D. Funding under the Agreement was to be provided as a reimbursement of eligible construction costs to reduce the purchase price of the Property for the income-qualified buyer. No payments have been made by the City under the terms of the Agreement.

E. At the time of execution of the Agreement, an income eligible buyer (“Buyer”) had been selected through Habitat for Humanity’s selection process. The Buyer has since completed all program requirements and contributed the required physical work towards the building of the home on the Property.

F. On January 5, 2024, Habitat for Humanity requested termination of the Agreement so it can sell the Property to the Buyer, who now does not meet applicable income requirements. Termination of the Agreement and release of the Covenant would allow Habitat for Humanity to sell the Property to the Buyer. Further, there is no negative financial impact to the City because City staff will add the unpaid HOME funding to the funds distributed through the Social Sustainability’s annual competitive process.

G. The City’s right under the Covenant to restrict the use of the Property constitutes an interest in real property owned by the City that the City would be giving up by releasing the Covenant.

H. City Code Section 23-111(a) states that the City Council is authorized to sell, convey or otherwise dispose of any interest in real property owned by the City, provided that the City Council first finds, by ordinance, that such sale or other disposition is in the best interests of the City.

I. Authorizing the release of the Covenant in these circumstances provides flexibility to Habitat for Humanity to administer its affordable housing program, allowing it to both honor its commitment to the Buyer and to maximize its creation of new affordable housing in Fort Collins. Accordingly, the City Council hereby finds that releasing the Covenant on the Property on the terms and conditions described herein is in the best interests of the City.

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 the City Council hereby authorizes the City Manager to execute such documents as are necessary to release the Property from the Covenant on terms and conditions consistent with this Ordinance, along with such other terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary and appropriate to protect the interests of the City or effectuate the purposes of this Ordinance.

Introduced, considered favorably on first reading on February 20, 2024, and approved on second reading for final passage on March 5, 2024.

Mayor

ATTEST:

Interim City Clerk

Effective Date: March 15, 2024
Approving Attorney: Ted Hewitt