

ORDINANCE NO. 035, 2025
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING A DEVELOPMENT CONTRIBUTION TO
CONSTRUCTION AND AUTHORIZING TRANSFERS OF
APPROPRIATIONS FOR THE VINE AND LEMAY BNSF
OVERPASS PROJECT AND RELATED ART IN PUBLIC PLACES

A. The purpose of this item is to appropriate development contributions to construction that the City collected in 2025 from the developer of The Landing at Lemay development project to the Vine and Lemay Burlington Northern Santa Fe Railroad (“BNSF”) Overpass capital project (the “Project”).

B. In 2024, TTRES CO Fort Collins Vine, LLC (“Developer”) entered into a Development Agreement (“DA”) with the City. The DA sets forth the requirements and conditions for the development of The Landing at Lemay property bounded by North Lemay Avenue (to the west), Duff Drive (to the south), and the future extension of Cordova Road (to the east). The DA contemplates that the Developer would make a development contribution to construction payment for improvements on North Lemay Avenue (DA Section II.D.4).

C. The Landing at Lemay’s development contribution for North Lemay Avenue is for the reimbursement to the City for the local access portion of construction of the Project along The Landing at Lemay development’s frontage. After the substantial completion of the Project in December 2021, there have been changes to the Public Right-of-Way Accessibility Guidelines (PROWAG) and the Colorado Department of Public Health and Environment (CDPHE) groundwater discharge permit requirements. The changes impacted the Project during the warranty period and led to significant additional costs, including a traffic signal and needs brought on by PROWAG to rework the accessible ramps and pedestrian push buttons to meet the updated standards. The CDPHE groundwater discharge permitting rules led to significant groundwater monitoring costs not contemplated during design and construction. The development contribution to the Project will help to offset these unforeseen costs.

D. Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, to make a supplemental appropriation by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriation, in combination with all previous appropriations for that fiscal year, do not exceed the current estimate of actual and anticipated revenues and all other funds to be received during the fiscal year.

E. The City Manager has recommended the appropriation described herein and determined that the funds to be appropriated are available and previously unappropriated from the Transportation Services fund and the Capital Projects fund that this appropriation will not cause the total amounts appropriated in the Transportation Services fund and the Capital Projects fund to exceed the current estimate of actual and

anticipated revenues and all other funds to be received in these funds during this fiscal year.

F. Article V, Section 10 of the City Charter authorizes the City Council, upon recommendation by the City Manager, to transfer by ordinance any unexpended and unencumbered appropriated amount or portion thereof from one fund or capital project to another fund or capital project, provided that the purpose for which the transferred funds are to be expended remains unchanged, the purpose for which the funds were initially appropriated no longer exists, or the proposed transfer is from a fund or capital project in which the amount appropriated exceeds the amount needed to accomplish the purpose specified in the appropriation ordinance.

G. The City Manager has recommended the transfer of \$290,163 from the Transportation Services fund to the Capital Projects fund and determined that the purpose for which the transferred funds are to be expended remains unchanged.

H. This Project involves construction estimated to cost more than \$250,000 and, as such, City Code Section 23-304 requires one percent of these appropriations to be transferred to the Cultural Services and Facilities Fund for a contribution to the Art in Public Places ("APP") program.

I. The total project cost of \$290,163 has been used to calculate the contribution to the APP program.

J. The amount to be contributed in this Ordinance will be \$2,902.

K. Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a capital project that such appropriation shall not lapse at the end of the fiscal year in which the appropriation is made but continue until the completion of the capital project.

L. The City Council wishes to designate the appropriation herein for the Project as an appropriation that shall not lapse until the completion of the Project.

M. The appropriations in this Ordinance benefit public health, safety, and welfare of the residents of Fort Collins and the traveling public and serve the public purpose of improving transportation infrastructure, safety, and accessibility within 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 as follows:

Section 1. There is hereby appropriated from new or other revenue in the Transportation Services Fund the sum of TWO HUNDRED NINETY THOUSAND ONE HUNDRED SIXTY-THREE DOLLARS (\$290,163) to be expended in the Transportation

Services fund for Transfer to the Capital Projects fund to be expended therein for the Vine and Lemay BNSF Overpass Project.

Section 2. The unexpended and unencumbered appropriated amount of TWO THOUSAND TWO HUNDRED SIXTY-FOUR DOLLARS (\$2,264) in the Capital Projects fund is hereby authorized for transfer to the Cultural Services and Facilities fund and appropriated and expended therein to fund art projects under the APP program.

Section 3. The unexpended and unencumbered appropriated amount of FIVE HUNDRED EIGHTY DOLLARS (\$580) in the Capital Projects fund is hereby authorized for transfer to the Cultural Services and Facilities fund and appropriated and expended therein for the operation costs of the APP program.

Section 4. The unexpended and unencumbered appropriated amount of FIFTY-EIGHT Dollars (\$58) in the Capital Projects fund is hereby authorized for transfer to the Cultural Services and Facilities fund and appropriated and expended therein for the maintenance costs of the APP program.

Section 5. The appropriation herein for the Vine and Lemay BNSF Overpass Project is hereby designated, as authorized in Article V, Section 11 of the City Charter, as an appropriation that shall not lapse at the end of this fiscal year but continue until the completion of the Project.

Introduced, considered favorably on first reading on March 4, 2025, and approved on second reading for final passage on March 18, 2025.

Mayor

ATTEST:

City Clerk

Effective Date: March 28, 2025

Approving Attorney: Heather N. Jarvis