

ORDINANCE NO. 090, 2022
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CONVEYANCE OF AN EMERGENCY ACCESS EASEMENT TO
POUDRE FIRE AUTHORITY ON CITY-OWNED PROPERTY AT
430 NORTH COLLEGE AVENUE

WHEREAS, the City is the owner of real property located at 430 North College Avenue, which is the site of the Old Power Plant (the “Property”); and

WHEREAS, the Property is owned by the City’s electric utility but is no longer needed, except incidentally, for utility purposes; and

WHEREAS, since February 2012 the City has leased the Property to the Colorado State University Research Foundation (“CSURF”) for use as the Colorado State University (“CSU”) Engines and Energy Conversion Laboratory (the “Engines Lab”), also known as the Powerhouse Energy Campus, pursuant to Ordinance No. 183, 2011; and

WHEREAS, prior to 2012, CSU had leased a portion of the Property for the Engines Lab since 1994; and

WHEREAS, CSURF has submitted plans to the City to make improvements to the Property to support a hydrogen fueling station and turbine generator; and

WHEREAS, as a condition of approval of CSURF’s plans, the City, as property owner, must convey an emergency access easement to Poudre Fire Authority (PFA) to provide access for fire trucks and other emergency equipment (the “Easement”); and

WHEREAS, the location of the proposed Easement, which is over an existing driveway, is shown and described on Exhibit “A”, attached and incorporated herein by reference; and

WHEREAS, Section 23-111 of the City Code authorizes the City Council 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 and, with respect to property which is part of the City’s utility systems, that the disposition will not materially impair the viability of the particular utility system as a whole and will be for the benefit of the citizens of the City; and

WHEREAS, as consideration for the City’s conveyance of the Easement CSURF has agreed to pay the City an administrative fee of \$500 and assume responsibility for maintaining the surface of the Easement; and

WHEREAS, City staff is recommending that the City not charge CSURF or PFA full fair market value for the Easement as the conveyance serves a bona fide public purpose under Section 23-114 of the City Code because:

- (1) The use of the Easement for emergency access by PFA, and CSURF's continued use of the Property for research and development of alternate energy solutions, promotes health, safety or general welfare and benefits a significant segment of the citizens of Fort Collins;
- (2) The use to which the Property will be put supports one or more of the City Council's goals, adopted policies, projects or plans by continuing the support the City Council has previously shown for the Engines Lab through the minimal rent (\$25 per year) the City charges CSURF under the 2012 lease;
- (3) The financial support provided by the City through the below-market conveyance of the Easement will be leveraged with other funding or assistance from CSURF;
- (4) Conveyance of the Easement will not result in any direct financial benefit to any private person or entity, except to the extent such benefit is only an incidental consequence and is not substantial relative to the public purpose being served; and
- (5) Conveying the Easement for less than fair market value will not interfere with current City projects or work programs, hinder workload schedules or divert resources needed for primary City functions or responsibilities.

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 the City's conveyance of the Easement to PFA as described herein is in the best interests of the City, will not impair the viability of the electric utility system as a whole, and will be for the benefit of the citizens of the City.

Section 3. That the City Council hereby authorizes the Mayor to execute such documents as are necessary to convey the Easement to PFA on terms and conditions consistent with this Ordinance, together with such terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the interests of the City, including, but not limited to, any necessary changes to the legal description of the Easement, as long as such changes do not materially increase the size or change the character of the interest to be conveyed.

Introduced, considered favorably on first reading and ordered published this 16th day of August, A.D. 2022, and to be presented for final passage on the 20th day of September, A.D. 2022.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 20th day of September, A.D. 2022.

Mayor

ATTEST:

City Clerk