

ORDINANCE NO. 051, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROVING THE CONVEYANCE OF A PERMANENT EASEMENT FOR
STORMWATER DRAINAGE, A TEMPORARY CONSTRUCTION EASEMENT
FOR THE CONSTRUCTION OF STORMWATER DRAINAGE
IMPROVEMENTS, AND A TEMPORARY CONSTRUCTION EASEMENT FOR
THE CONSTRUCTION OF SEWER FACILITIES TO PS-POUDRE RIVER, LLC

A. The City owns a parcel of real property located north of East Lincoln Avenue and adjacent to the Poudre River as shown and described on Exhibit “A”, attached and incorporated herein by reference, upon which is located the City’s Buckingham Park (the “City Property”).

B. PS-Poudre River, LLC (“PSPR”) intends to develop a vacant parcel of land (the “Development”) to the north of adjacent to the City Property (the “PSPR Property”).

C. PSPR has submitted plans for the Development to the City (the “Development Plans”), which have been reviewed by City staff. As part of the development review process City staff asked PSPR to acquire necessary easements for the Development, including three easements on the City Property.

D. These easements (collectively, “the Easements”) include:

1. A perpetual drainage easement to PSPR over 62,419 square feet of the City Property to allow for the right to store 100-year flood water and stormwater drainage from the Development as shown and described on Exhibit “B”, attached and incorporated herein by reference (the “Drainage Easement”). After the completion of grading and re-grading to allow for such storage pursuant to the Drainage TCE identified below, the Drainage Easement will not allow for any further alteration of the easement area or the installation of any permanent improvements.
2. A temporary construction easement to PSPR for a period of up to four years over 40,648 square feet of the City Property as shown and described on Exhibit “C”, attached and incorporated herein by reference (the “Drainage TCE”). The majority of the Drainage TCE area lies within the boundaries of the Drainage Easement and will allow PSPR the temporary ability to perform work to re-grade the surface to accommodate stormwater runoff from the Development. Work under the Drainage TCE will also include PSPR’s removal of unwanted concrete and other debris from the City’s prior levy construction for Buckingham Park. The re-grading and debris removal substantially benefits the drainage and future development of the park.
3. A temporary construction easement to PSPR for a period of up to four years over 4,562 square feet of the City Property as shown and described on Exhibit “D”, attached and incorporated herein by reference (the “Sewer

TCE”). The Sewer TCE is located entirely within the Drainage Easement and will allow PSPR to install an underground sanitary sewer line connecting the Development sewer line to the City’s sanitary sewer system. After installation, PSPR will convey the sewer line to the City.

E. Section 23-111(a) 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.

F. In addition, Section 23-114 of the City Code requires that any sale or other conveyance of property interests approved under section 23-111(a) be for an amount equal to or greater than the fair market value of such interest.

G. City staff estimates the value of the Easements at \$18,615; however, staff also estimates that the work PSPR will do on the City Property in the Easements – including grading and re-grading, importing topsoil, removal of concrete and debris, modifications to the city’s irrigation system, and installation of a sewer line – has a value of approximately \$68,558 and substantially benefits the drainage and future development of Buckingham Park. Therefore, staff has recommended that the City convey the Easements to PSPR for no additional monetary compensation.

H. Because the work contemplated in the Easements must still obtain development review approval from the City, City staff recommends the actual conveyance of the Easements be conditional upon PSPR, or its successors and assigns, obtaining such approval.

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. The City Council finds that granting the Easements to PSPR on the terms and conditions described herein is in the best interests of the City.

Section 2. The City Council authorizes the Mayor to execute such documents as are necessary to convey the Easements to PSPR on terms and conditions consistent with this Ordinance, together with such additional 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 descriptions of the Easements, as long as such changes do not materially increase the size or change the character of the interests to be conveyed.

Introduced, considered favorably on first reading on April 2, 2024, and approved on second reading for final passage on April 16, 2024.

Mayor

ATTEST:

Interim City Clerk

Effective Date: April 26, 2024

Approving Attorney: Ryan Malarky