

AGENDA ITEM SUMMARY

City Council



STAFF

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SUBJECT

Second Reading of Ordinance No. 002, 2025, Authorizing the Conveyance of a Temporary Construction Easement on Whitewater Park to Public Service Company of Colorado for Construction of Infrastructure Improvements at the Poudre River Regulator Station H-111-A.

EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on January 7, 2025, authorizes the conveyance of a Temporary Construction Easement (the TCE) on 0.469 acres (the "TCE Area") being a portion of City property presently known as the Poudre River Whitewater Park and located at 201 East Vine Drive. The TCE will be used by Public Service Company of Colorado d/b/a Xcel Energy ("Xcel") for required infrastructure improvements at the Poudre River Regulator Station H-111-A.

This Agenda Item Summary addresses questions raised by Council on First Reading; see underlined areas.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

FIRST READING BACKGROUND / DISCUSSION

CITY PROPERTY

Poudre River Whitewater Park ("Whitewater Park") is comprised of approximately 11.12 acres, more or less, being all of Lot 1 of the Plat of Poudre River Whitewater Park recorded July 17, 2018, at Reception No. 20180043314, Clerk and Recorder's Records, Larimer County, Colorado, save and except 4.091 acres known as the Main Parcel of the Powerhouse Energy Campus Lease.

Whitewater Park was initially acquired by the City in several transactions throughout multiple decades to be used by City Light and Power. The land comprising a majority of the TCE Area was conveyed to the City by Clarence Darras, Administrator for C.J. Darras, Deceased, in the Deed dated October 6, 1955, as recorded at Book 1004, Page 65, Clerk and Recorder's Records, Larimer County, Colorado. The remaining lands within the TCE Area were dedicated to the City by Public Service Company of Colorado in that certain Deed of Dedication dated August 10, 2017, recorded at Reception No. 20170056675, Clerk and Recorder's Records, Larimer County, Colorado.

The area in question was purchased by Light & Power in 1955, and ownership and management of the area was subsequently transferred to the Parks and Recreation Department in 1987, being five years prior to the formal creation of the Natural Areas Department in 1992. Whitewater Park was formally created in 2019 and is currently managed by the Parks Department. No Natural Areas funds were used to purchase the land involved in the TCE Area.

XCEL PROPERTY

The Poudre River Regulator Station H-111-A (the “Regulator Station”) is located entirely on Lot 3 of the Plat of Poudre River Whitewater Park recorded July 17, 2018, at Reception No. 20180043314, Clerk and Recorder’s Records, Larimer County, Colorado, and is entirely surrounded by Whitewater Park.

The Regulator Station parcel was conveyed to Colorado-Wyoming Gas Company, being a predecessor to Xcel, by LeEtta May Marshall in the Quit Claim Deed dated January 21, 1964, recorded at Book 1234, Page 586, Clerk and Recorder’s Records, Larimer County, Colorado.

As the Regulator Station is entirely surrounded by Whitewater Park, there are five easements across Whitewater Park that service the Regulator Station; three underground gas transmission easements, one underground electric transmission easement, and one shared access easement.

Xcel intends to access the TCE Area and Regulator Station via the easement conveyed by the City to Public Service Company of Colorado, in that certain Shared Access Easement Deed and Agreement dated August 22, 2017, recorded at Reception No. 20170056673, Clerk and Recorder’s Records, Larimer County, Colorado, which provides for the repair and restoration of any damaged areas on City Property.

Xcel also intends to conduct a portion of the work for the Project within the boundaries of that certain Right of Way Easement from the City to Colorado-Wyoming Gas Company dated September 25, 1962, recorded at Book 1183, Page 485, Clerk and Recorder’s Records, Larimer County, Colorado (the “Intake Easement”).

THE PROJECT

The purpose of the Project is to comply with US Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) “Mega Rule” regulations, which requires that natural gas operators ensure pipelines in their system meet specific guidelines to improve record keeping activity and safety. The updates would not increase capacity or supply of the current natural gas distribution system.

The Regulator Station operates to reduce pressures of the incoming natural gas utility line that feeds the City of Fort Collins. The facility operates autonomously and, due to redundancy of the natural gas system, can be taken off-line without loss of service to the community. The proposed Project would allow for a continued supply of safe and reliable energy to existing customers.

The majority of work for the Project, including any excavation, shall be conducted within the boundaries of the Regulator Station and the Intake Easement. The primary purpose of the TCE is for the storage and staging of materials and equipment.

The main components of the Project are the removal and replacement of natural gas utility infrastructure, including approximately 210 linear feet of above-ground piping, 145 linear feet of below ground piping, an in-line heater, valves, fittings, and other operational components. The Project also includes removal of approximately 420 square feet of unused concrete foundations, the depths of which are unknown. Removal of the foundations include backfilling to match existing, surrounding grades. Approximately 230 linear feet of new below-ground piping and 75 linear feet of above-ground piping will be installed along with valves, fittings, insulating kits, and other operational components. Most of the existing fence surrounding the Regulator Station will remain in place. A portion of the fence will be removed temporarily during construction and will be re-erected upon completion.

THE TCE

The TCE Area surrounding the Regulator Station will be used to store equipment and materials throughout construction of the Project. However, portions of the TCE Area may require vegetation removal and stripping as well as segregation of topsoil for use in reclamation. The TCE will provide that any damaged surface areas, including any trees or shrubs, will be restored in accordance with City plans, specifications, and requirements. Xcel has provided a Reclamation Plan Draft (“Reclamation Plan”) that has been approved by Forestry and Parks staff, which will be finalized prior to the commencement of construction.

Although the construction phase of the Project is currently estimated to be 10-12 weeks, the initial TCE term will be for twelve (12) months, with an option to extend for an additional twelve (12) months, and the TCE will contain provisions permitting entry for any additional time necessary to ensure compliance with the Reclamation Plan.

Although portions of park pathways will be closed only during the construction period, all parking spaces and secondary access routes throughout the park will remain open throughout the entire term of the TCE.

ENVIRONMENTAL IMPACT

The overall impact to Whitewater Park would be relatively minimal and temporary. Temporary impacts are anticipated to be minor and mainly limited to revegetation activities and infrequent maintenance. However, other potential temporary impacts include surface water runoff during precipitation events, groundwater discharge during construction, avian habitat disruption, and restoration of Whitewater Park to its pre-construction condition. The site will be routinely inspected following application of seed and mulch to ensure reclamation success.

SURFACE WATERS: Potential impacts to the Poudre River will be minimized using best management practices during construction and through reclamation. Conditions outlined in the Floodplain Use Permit and Erosion Control Materials required by the City will be followed to further protect water quality.

VEGETATION: Temporary construction staging will likely disturb existing vegetation, but disturbances will be contained to the proposed TCE Area. Large trees will be protected from construction impacts. Smaller trees and shrubs installed by Parks have been inventoried and Xcel will repair or replace any damages in accordance with the Reclamation Plan. Following construction, the disturbed areas will be restored with vegetation to match the existing species on site. The Reclamation Plan includes requirements for seed mix, application rates, and soil preparations or amendments.

WETLANDS: An informal wetland delineation was performed by a wetland scientist in the Spring of 2024. Construction staging will not occur within any areas that were identified as potential wetlands.

WILDLIFE: Impacts to protected wildlife are expected to be negligible.

If vegetation removal will occur within the nesting season for migratory songbirds, a qualified avian biologist will conduct nest surveys. During a preliminary raptor and eagle survey conducted in 2024, no raptor/eagle nests were encountered. Another raptor/eagle nest survey will be conducted prior to construction in 2025 to ensure there are no active nests within the Colorado Parks and Wildlife recommended buffer distances of the Project. Additional wildlife surveys may be performed if deemed necessary by the City of Fort Collins.

CITY PERMITTING AND COORDINATION

FORESTRY: Xcel and Parks have coordinated with Forestry on inventory of vegetation and restoration plans.

Applicable Permits

FLOODPLAIN USE PERMIT: Required for temporary construction activities within the 100-year floodplain of the Poudre River. Xcel has discussed the Project with the City's floodplain management team throughout the design process and is working toward applying for and securing a Floodplain Use Permit.

ELECTRICAL PERMIT: Xcel plans on updating existing exterior and internal light fixtures which does not require an electrical permit, but the lighting plan will be confirmed by the Zoning Department that it meets current Land Use Code lighting standards.

PARKS PERMIT: Xcel has worked closely with Parks during the design of the Project, and Parks will also issue a permit for the Project, as required by City Code.

TRAFFIC CONTROL PERMIT: Xcel will obtain a Traffic Control Permit for the construction of the Project. For the duration of construction, a portion of the paved interior walkways located within Whitewater Park will be closed to accommodate construction equipment and vehicles. However, all parking spaces and secondary access routes throughout the park will remain open during construction. A map of the proposed closure locations is included as an attachment hereto.

Permits, Not Applicable

The following permits and approvals were reviewed and determined by the City to be not applicable based on the proposed scope of Xcel's work:

BUILDING PERMIT: The Building Department advised that no building permits are required for the Project. There will be no construction or deconstruction of the existing utility buildings on site. Portions of the existing fence will be removed temporarily to accommodate construction. Removed sections of fence will be reinstalled unless infeasible, and if replacement is required, it will be done so with the same material and height and in the same location.

EROSION CONTROL MATERIALS: This project is within the City's Municipal Separate Storm Sewer System (MS4) Permit Area and subject to all applicable rules and regulations. Currently this Project requires no erosion control material submittal. In accordance with City Code Section 26-498, the construction areas must be swept and maintained to prevent dirt, saw cuttings, concrete wash, trash & debris, landscape materials and other pollutants from the potential of leaving the site and entering the storm sewer during the duration of the project. If complaints are received or site observation of the project indicates that pollutants are discharged off site, the City may require the project to install erosion and sediment control measures.

LOCATION & EXTENT OR DEVELOPMENT REVIEW: City of Fort Collins Planning Department reviewed the Project scope and advised that neither a formal development review nor the L&E review would be required as the scope of the work does not meet the definition of development.

VARIANCE APPROVALS: Park Planning and Development is in discussions with the Xcel team to address the existing security fencing. Depending on the outcome, appropriate building permits and/or variances will be applied for by the Xcel group.

AIR QUALITY: City and County air quality specialists have concluded that no air quality concerns will result as part of the Project.

ALTERNATIVE LOCATION ANALYSIS

No alternative location was considered due to the nature of the Project.

CITY FINANCIAL IMPACTS

Other than staff time and other expenses reimbursable to the City by Xcel, there is no cost to the City associated with the TCE. However, the City will be charging Xcel for the fair market value of the TCE (the “Easement Value”) and a flat fee to address expenses incurred as a direct result of this Project (the “Cost Recovery Fee”). The Easement Fee and the Cost Recovery Fee will be paid prior to the City’s execution of the TCE.

Real Estate Services staff completed an internal Reconnaissance Valuation to determine the Easement Value, with price per square foot at the lower end of the recent sales range due Flood Plain and Flood Way designations. City staff estimates the Easement Value to total \$8,169, and the Cost Recovery Fee will be set at \$4,000.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

The current policy for seeking Parks and Recreation Board approval is limited to large and impactful land purchases, sales, or policies, because the duties of Parks and Recreation Board relate to “rules, regulations, policies and administrative and budgetary matters”. This Agenda item for a temporary easement was evaluated to show minimal or no impact on the underlying uses of Whitewater Park. When temporary easements on Parks properties have minimal impact on the underlying property’s purpose and function, updates to the board are optional based on meeting agenda time and availability.

The Parks and Recreation Board staff liaison has been advised of the TCE, and Park Planning and Development staff will provide an update on this item at the January Parks and Recreation Advisory Board meeting. The City’s Planning and Zoning Departments have reviewed the Project and determined that the project does not rise to the level of Development Review.

PUBLIC OUTREACH

None.

ATTACHMENTS

First Reading attachments not included.

1. Ordinance for Consideration
2. Exhibit A to Ordinance