

ORDINANCE NO. 037, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CONVEYANCE TO N COLLEGE 1311, LLC, OF A
PORTION OF THE CITY PROPERTY DESIGNATED AS THE FUTURE
HICKORY DETENTION POND IN EXCHANGE FOR ADJOINING
PROPERTY AND OTHER VALUABLE CONSIDERATION

A. The City owns a 7.53 acre tract of land on Hickory Street (the “City Property”) purchased in 2010 as the site for a future regional stormwater detention pond (the “Hickory Detention Pond”). The Hickory Detention Pond will collect stormwater draining from existing properties to the north and west that do not currently have adequate stormwater infrastructure and release it into 2,350 feet of new storm sewer along the future North Mason Street right-of-way. N College 1311, LLC, (“Owner”) owns a tract of land adjacent to the City Property (the “1311 Property”). The City Property and 1311 Property are shown on Exhibit “A”, attached and incorporated herein by reference.

B. The 1311 Property is the proposed site for the Fort Collins Rescue Mission’s new 24/7 shelter for persons experiencing homelessness (the “Shelter Project.”).

C. The Owner has proposed exchanging a 2.43 acre portion of the 1311 Property for a 1.31 acre portion of the City Property. While this exchange is not essential for either project, it would facilitate development of both the Shelter Project and the Hickory Detention Pond by optimizing the configuration of both Properties for their proposed uses.

D. The property that the City would convey to the Owner (the “Conveyed Parcel”) and the property the Owner would convey to the City (the “Received Parcel”) are both shown on Exhibit “B”, attached and incorporated herein by reference. The configuration of the City Property and the 1311 Property after the proposed exchange are shown on Exhibit “C”, attached and incorporated herein by reference. Surveyed legal descriptions of both the Conveyed Parcel and the Received Parcel would be created before the parties close on the exchange of the Parcels.

E. Portions of both the City Property and the 1311 Property are within 500 feet of an area or feature identified as a natural habitat or feature pursuant to Division 3.4 of the City’s Land Use Code (a “Natural Habitat Buffer Zone” or “NHBZ”). A NHBZ limits development but can be reduced in one area and expanded in another. Therefore, the Owner is asking the City to agree to accept more of the NHBZ on the City Property to increase the developable area on the 1311 Property. City staff does not object to this proposal, as the NHBZ should not limit the City’s ability to construct the Hickory Detention Pond.

F. The current locations of the NHBZ on both Properties is shown on Exhibit “D”, and the location of the NHBZ on the City Property after the proposed property exchange and relocation of the NHBZ is shown on Exhibit “E”, both attached and incorporated herein by reference.

G. 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; and, with respect to real property which is a part of the City's water or utility systems, the City Council must also find that the disposition will not materially impair the viability of the particular utility system as a whole and that it will be for the benefit of the citizens of the City.

H. 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.

I. City staff has determined through an outside appraisal prepared using the "before and after" methodology that the City Property is currently worth approximately \$1.57 million. But even though the Received Parcel is larger than the Conveyed Parcel, after the proposed exchange the fair market value of the City Property would be approximately \$250,000 less than it is now, primarily because the exchange would include the transfer of additional Natural Habitat Buffer Zone onto the City Property, limiting its potential for development and therefore reducing its value.

J. The Owner has agreed, however, as additional consideration for the land exchange, to be responsible for the design, excavation, clearing, and grading of a portion of the Hickory Detention Pond and restoration of the NHBZ on the City Property as part of the work on the Shelter Project. The Owner will be able to use dirt removed from such excavation as fill on the 1311 Property.

K. The Owner or its contractor may require a license to enter or temporary construction easement over the City Property shown on Exhibit C for work on the Hickory Detention Pond.

L. The value to the City of the Received Parcel plus the work the Owner has agreed to do on the City Property, less the value of the Conveyed Parcel, results in a net gain to the City of approximately \$370,000. The Owner's design work for the Hickory Detention Pond is not included in this amount but provides additional value to the City; staff therefore recommends that the City not charge the Owner any additional monetary consideration for the proposed exchange.

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's conveyance of the Conveyed Parcel and a temporary construction easement or license to enter to the Owner, plus the City's acceptance of additional Natural Habitat Buffer Zone on the City Property, in exchange for the Received Parcel plus additional services to be provided to the City by the Owner on the City Property is in the best interests of the City, will not materially impair the viability of the

City's stormwater utility system as a whole, and will be for the benefit of the citizens of the City.

Section 2. The City Council hereby authorizes the Mayor to execute such documents as are necessary to convey the Conveyed Parcel to the Owner 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 Conveyed Parcel, as long as such changes do not materially increase the size or change the character of the interest to be conveyed.

Section 3. The City Council also authorizes the Mayor or City Manager, as appropriate, to execute such additional documents as may be necessary to (i) convey a temporary construction easement or license to enter to the Owner for the purpose of doing work on the Hickory Detention Pond, and (ii) accept or allow transfer of additional Natural Habitat Buffer Zone onto the City Property as shown on Exhibit E, 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 property interests involved, as long as such changes do not materially increase the size or change the character of the interests to be conveyed.

Section 4. The City Council's approval of the property exchange described herein does not signify the Council's approval of the Shelter Project, which must comply with all applicable standards and requirements of the City's development review process.

Introduced, considered favorably on first reading on February 20, 2024, and approved on second reading for final passage on March 19, 2024.

Mayor

ATTEST:

Interim City Clerk

Effective Date: March 29, 2024
Approving Attorney: Ingrid Decker