

ORDINANCE NO. 115, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CONVEYANCE OF A PERMANENT NON-EXCUSIVE UTILITY
EASEMENT ON PROPERTY JOINTLY OWNED BY THE CITY OF FORT COLLINS AND
THE CITY OF LOVELAND AT THE NORTHERN COLORADO REGIONAL AIRPORT FOR
THE AEROFNL DEVELOPMENT

WHEREAS, the City of Fort Collins (“City”) and the City of Loveland (“Loveland”) (collectively, the “Cities”) jointly own property located in Loveland (the “Property”) known as the Northern Colorado Regional Airport (the “Airport”); and

WHEREAS, the Cities currently operate and maintain the Airport pursuant to that certain Amended and Restated Intergovernmental Agreement for the Joint Operation of the Fort Collins-Loveland Airport dated January 22, 2015, as amended (the “IGA”); and

WHEREAS, in connection with the planned development of certain undeveloped real property on the Airport leased to and to be developed by IC Loveland Investors, LLC, (“Developer”) for aeronautical uses, Loveland Utilities has requested a permanent non-exclusive easement for installation of Loveland-owned utility systems to serve the Developer’s leased property (the “Easement”) over and across that portion of the Airport property legally described on Exhibit A and depicted on Exhibit B attached hereto and incorporated herein by this reference (the “Easement Property”); and

WHEREAS, the Cities desire to grant the Easement on the terms and conditions more fully set forth in the Grant of Utility Easement attached hereto as Exhibit C and incorporated herein by this reference (the “Easement Agreement”); and

WHEREAS, City Code Section 23-111(a) authorizes the City Council to sell, convey or otherwise dispose of any interest in real property owned by the City, provided the City Council first finds, by ordinance, that such sale or other disposition is in the best interest of the City.

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 on the terms and conditions set forth in the Easement Agreement for less than fair market value serves a bona fide public purpose and is in the best interests of the City as required by City Code Section 23-114 because:

- a. The use to which the Easement Property will be put promotes health, safety or general welfare and benefits a significant segment of the citizens of Fort Collins by facilitating

private investment in and improvement of the Airport and the users it serves, including provision of many important emergency response and safety functions, such as medevac flights and aerial firefighting operations, and the improvements to be constructed by Developer will provide revenue and revert to the Cities and continue to serve the Airport after the expiration of the lease;

- b. The use to which the Easement Property will be put supports one (1) or more of the City Council’s goals, adopted policies, projects or plans, including the Airport Master Plan, which was approved by Council;
- c. The financial support provided by the City through the below-market disposition of the Easement Property will be leveraged with other funding or assistance enabling the construction and operation of new on-Airport development at the Developer’s cost, which will provide an ongoing revenue stream to the Airport;
- d. The sale or lease 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 because it will enable development of the Airport for the benefit of the Cities and the Developer will not receive any benefit different from that afforded to all customers to which Loveland provides utility services; and
- e. Granting 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 and will ultimately benefit the Airport and the Cities.

Section 3. That the City Council hereby authorizes the Mayor to execute the Easement Agreement substantially in the form attached hereto as “Exhibit A” with such modifications or 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 or effectuate the purposes of this Ordinance.

Introduced, considered favorably on first reading, and ordered published this 5th day of September, 2023, and to be presented for final passage on the 19th day of September, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on this 19th day of September, 2023.

Mayor

ATTEST:

City Clerk