ORDINANCE NO. 079, 2013
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE USE OF THE NOONAN TRACT AND THE BOWES HOMESTEAD TRACT AS MATCH FOR A NEOTROPICAL MIGRATORY BIRD CONSERVATION ACT GRANT ADMINISTERED BY THE U.S. FISH AND WILDLIFE SERVICE

WHEREAS, in March 2008, the City Council adopted Ordinance No. 037, 2008, authorizing the use of the City's Zimmerman Conservation Easement as a matching contribution for a Neotropical Migratory Bird Conservation Act Grant administered by the U.S. Fish and Wildlife Service ("FWS"); and

WHEREAS, in April 2009, the City Council adopted Ordinance No. 032, 2009, authorizing the use of a 440-acre portion of Bernard Ranch as a matching contribution for a Neotropical Migratory Bird Conservation Act Grant administered by the FWS; and

WHEREAS, in May, 2010, the City Council adopted Ordinance No. 053, 2010, authorizing the use of a different 660-acre portion of Bernard Ranch as a matching contribution for a Neotropical Migratory Bird Conservation Act Grant administered by the FWS; and

WHEREAS, the City has worked cooperatively with the Rocky Mountain Bird Observatory ("RMBO") to carry out the terms of the previous grant projects involving the study of neotropical birds, a category of bird species that includes high priority grassland birds found on Soapstone Prairie Natural Area; and

WHEREAS, two recent additions to Soapstone Prairie known as the Noonan tract and the Bowes Homestead tract, as shown on Exhibit "A", attached and incorporated herein by this reference (collectively, the "Property"), have been identified as an appropriate area to be conserved as habitat for neotropical birds in the region; and

WHEREAS, RMBO, together with other grant partners, is continuing to study neotropical birds and has applied for an additional grant of $200,000 from FWS; and

WHEREAS, RMBO hopes to use this new grant to continue its neotropical bird study as part of the Laramie Foothills Mountain to Plains Project, which includes Soapstone and other geographical areas that the birds inhabit; and

WHEREAS, the FWS grant terms will require RMBO to match the grant funds awarded; and

WHEREAS, the funds already expended by the City to purchase the Property may be used to match the grant funds awarded by FWS to RMBO; and

WHEREAS, in order to commit the Property as the matching contribution for the FWS grant, FWS will require that the City record a Notice of Grant Requirements in the real property records of the Larimer County Clerk and Recorder for the Property; and

WHEREAS, the Notice of Grant Requirements requires the City to be bound by the terms of the grant agreement between FWS and RMBO, including the obligation to ensure the long term conservation of the Property and to obtain the consent of the FWS prior to conveying or encumbering the Property; and

WHEREAS, the City's consent to these restrictions on its property constitutes an encumbrance on the City's real property; and

WHEREAS, the City will also enter into an agreement with RMBO requiring RMBO to comply with the terms of the grant agreement between FWS and RMBO; and

WHEREAS, the data acquired from the study will allow City staff to more effectively form conservation strategies and manage high priority grassland birds that are found at Soapstone; and

WHEREAS, under Section 23-111 of the Code of the City of Fort Collins, the City Council is authorized to sell or otherwise dispose of any and all interests in real property owned in the name of the City, provided that the City Council first finds, by ordinance, that such sale or disposition is in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the Council hereby finds that use of the Noonan and Bowes Homestead tracts as a match towards a U.S. Fish and Wildlife Service Grant to the Rocky Mountain Bird Observatory, including execution and recording of a Notice of Grant Requirements as described herein, is in the best interests of the City.

Section 2. That the Mayor is hereby authorized to execute a Notice of Grant Requirements consistent with the terms of this Ordinance, along with such other terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the best interests of the City, including, but not limited to, any necessary changes to the legal description of the Property to be encumbered, as long as such changes do not materially increase the size or change the character of the Property.

Introduced, considered favorably on first reading, and ordered published this 4th day of June, A.D. 2013, and to be presented for final passage on the 18th day of June, A.D. 2013.

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Mayor

ATTEST:

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City Clerk

Passed and adopted on final reading on the 18th day of June, A.D. 2013.

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Mayor

ATTEST:

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City Clerk