

ORDINANCE NO. 124, 2013
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING A PATIO LEASE AND CONVEYANCE OF AN ACCESS
EASEMENT ON CITY PROPERTY TO 201 S COLLEGE, LLC

WHEREAS, in the mid 1970s a portion of Oak Street directly west of College Avenue was closed to vehicular traffic and converted into a pedestrian plaza (the "Plaza"); and

WHEREAS, in 2006, the City entered into an agreement with the property owners adjacent to the Plaza; and

WHEREAS, under the agreement, the adjacent owners agreed that if the City vacated the right-of-way underlying the Plaza, the owners would convey the vacated right-of-way back to the City, so that the City would own the fee simple title to the Plaza and could manage it as an urban park instead of as right-of-way; and

WHEREAS, in 2006 the City Council passed ordinance No. 134, 2006, vacating that portion of Oak Street; and

WHEREAS, the adjacent property owners, the Fort Collins Museum of Contemporary Art ("MCA") on the south and the Nojourni family on the north, then conveyed the vacated right-of-way back to the City; and

WHEREAS, in a separate transaction, MCA also conveyed to the City a strip of land between the north wall of MCA's building at 201 South College (the "Old Post Office") and the former right-of-way; and

WHEREAS, the property now owned by the City and known as Oak Street Plaza Park is described on Exhibit "A", attached and incorporated herein by this reference (the "City Property"); and

WHEREAS, the Old Post Office has since been sold and converted into three condominium units; and

WHEREAS, 201 S College, LLC, (the "Owner") is the owner of the lower unit of the Old Post Office, described as Unit 100, Old Post Office Condos (the "Owner's Property"), located adjacent to the City Property; and

WHEREAS, the Owner's Property is accessible through two doors in the lower level of the Old Post Office, one near the northwest corner of the building, and the other at the northeast corner of the building; and

WHEREAS, the Owner has requested a patio lease (the "Lease") on the City Property, in the area outside of the northwest door, for the benefit of a future restaurant tenant; and

WHEREAS, the area the Owner wishes to lease consists of 797 square feet, as described on Exhibit “B”, attached and incorporated herein by reference (the “Lease Area”); and

WHEREAS, the proposed Lease Area will consist of a fenced and gated patio area that would be used for dining, landscaping and art display purposes; and

WHEREAS, the Owner would pay the City \$3,300.00 per year as rent for the Lease Area and a one-time fee of \$1,000 for staff processing time; and

WHEREAS, the lease term would be for a period of ten years with an option to renew for two additional 5-year terms; and

WHEREAS, the lease would be terminable by the City if the City observes or receives complaints about noise or nuisance problems in the Lease Area that the Owner does not satisfactorily control, or if the Owner’s Property is rented for some purpose other than a restaurant; and

WHEREAS, the Owner has also requested an access easement over the City Property to provide legal access from the public rights-of-way across the City Property to the entrances to the Owner’s Property; and

WHEREAS, the Access Easement will cover the entire City Property, as it is not reasonable to expect the Owner and the Owner’s tenants and invitees to follow a particular path across the City Property to reach the Owner’s Property; and

WHEREAS, City staff is recommending that the Owner not be charged for the conveyance of the Access Easement, as it was not the City’s intent to eliminate the legal access to the Owner’s Property when MCA conveyed its portion of the City Property to the City in 2006, and it would have been appropriate for MCA to reserve an access easement from that conveyance; and

WHEREAS, the Access Easement will not create any impact on the City Property that is different from or greater than the current use by the general public; and

WHEREAS, Section 23-111(a) of the City Code provides that the City Council is authorized to sell, convey, 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 other 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 leasing of the Lease Area and the conveyance of the Access Easement on the City Property to 201 S College, LLC, as provided herein are in the best interests of the City, as the City will receive revenue from the lease of the Lease Area.

Section 2. That the Mayor is hereby authorized to execute a negotiated lease agreement for the Lease Area and such documents as are necessary to convey the Access Easement to 201 S College, LLC, 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 Lease Area or the Access Easement, as long as such changes do not materially increase the size or change the character of the Lease Area or Access Easement.

Introduced, considered favorably on first reading, and ordered published this 3rd day of September, A.D. 2013, and to be presented for final passage on the 17th day of September, A.D. 2013.

Mayor

ATTEST:

Chief Deputy City Clerk

Passed and adopted on final reading on the 17th day of September, A.D. 2013.

Mayor

ATTEST:

City Clerk

Exhibit "A"

City Property Description

That portion of the east 134.00 feet of Oak Street, lying west of the West Right of Way line of College Avenue and abutting that portion of Lot 16, Block 112, City of Fort Collins, Larimer County, Colorado that is owned by Grantor, from the northern lot line of Lot 16 to the centerline of Oak Street, as shown on the Original Plat of the City of Fort Collins, in Larimer County, State of Colorado.

AND ALSO:

The east 134.00 feet of Oak Street, lying west of the West Right of Way line of College Avenue and abutting Lot 1, Block 111, City of Fort Collins, Larimer County, Colorado, as shown on the Original Plat of the City of Fort Collins, from the southern lot line of Lot 1 to the centerline of Oak Street, in Larimer County, State of Colorado.

AND ALSO:

Two tracts of land located in the Southeast quarter of Section 11, Township 7 North, Range 69 West of the Sixth Principal Meridian, City of Fort Collins, Larimer County, Colorado, the said tracts are also located in Lots 13 thru 16 of Block 112 City of Fort Collins, being more particularly described as follows;

Considering the east line of the said Block 112 as bearing South 00 degrees 19 minutes 02 seconds West based upon found 7 feet by 7 feet brass cap block corner off-sets, GPS observation and City of Fort Collins coordinate base, and with all bearings contained herein relative thereto;

Commencing at the northeast corner of Block 112;

THENCE along the north line of the said Block 112, North 89 degrees 39 minutes 01 seconds West for a distance of 82.85 feet to the TRUE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE continuing along the said north line of Block 112, North 89 degrees 39 minutes 01 seconds West for a distance of 51.11 feet;

THENCE leaving the said north line, South 00 degrees 19 minutes 02 seconds West for a distance of 11.66 feet to the westerly extension of the north line of the granite face of the existing building (being the old Post Office building) on the said Lots 13 thru 16 Block 112;

THENCE along the said westerly extension, South 89 degrees 47 minutes 38 seconds East for a distance of 7.03 feet;

THENCE leaving the said extension, North 00 degrees 12 minutes 22 seconds East for a distance of 2.00 feet;

THENCE South 89 degrees 47 minutes 38 seconds East for a distance of 11.64 feet;

THENCE South 00 degrees 12 minutes 22 seconds West for a distance of 2.00 feet to the said north building face;

THENCE along the said building face, South 89 degrees 47 minutes 38 seconds East for a distance of 32.51 feet;

THENCE leaving the said building face, North 00 degrees 03 minutes 13 seconds West for a distance of 11.53 feet to the point of beginning. Containing 570 square feet more or less.

TOGETHER WITH:

With the above described basis of bearings;

Commencing at the said northeast corner of Block 112, the said northeast corner is also the TRUE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE along the east line of the said Block 112, South 00 degrees 19 minutes 02 seconds West for a distance of 34.54 feet;

THENCE leaving the said east line, North 89 degrees 40 minutes 58 seconds West for a distance of 2.69 feet;

THENCE South 00 degrees 20 minutes 11 seconds West for a distance of 2.41 feet;

THENCE North 89 degrees 42 minutes 47 seconds West for a distance of 19.30 feet;

THENCE North 00 degrees 19 minutes 09 seconds East for a distance of 27.60 feet;

THENCE North 89 degrees 47 minutes 38 seconds West for a distance of 9.32 feet

THENCE South 00 degrees 12 minutes 22 seconds West for a distance of 2.00 feet to the above described north granite face of the existing building;

THENCE along the said north building face, North 89 degrees 47 minutes 38 seconds West for a distance of 30.31 feet;

THENCE leaving the said building face, North 01 degrees 03 minutes 29 seconds East for a distance of 11.48 feet to the north line of the said Block 112;

THENCE along the said north line of Block 112, South 89 degrees 39 minutes 01 seconds East for a distance of 61.48 feet to the point of beginning. Containing 1240 square feet more or less.



**NORTHERN
ENGINEERING**

ADDRESS:
200 S. College Ave. Suite 10
Fort Collins, CO 80524

PHONE: 970.221.4158

FAX: 970.221.4159

WEBSITE:
www.northernengineering.com

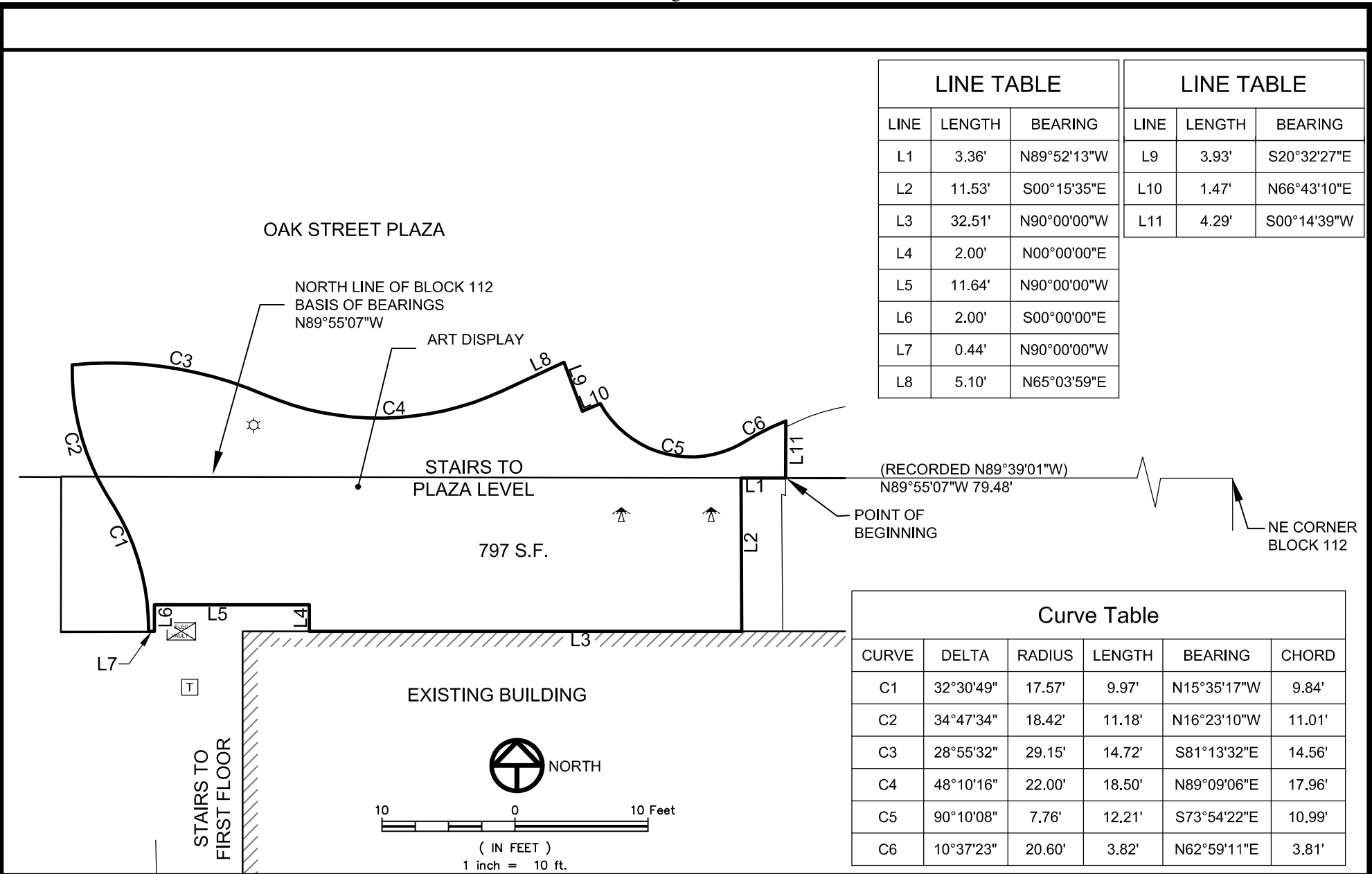
DESCRIPTION: PATIO LEASE AREA

A parcel located in the Southeast Quarter of Section 11, Township 7 North, Range 69 West of the 6th P.M., City of Fort Collins, County of Larimer, State of Colorado being more particularly described as follows:

Considering the North line of Block 112, City of Fort Collins as bearing North 89° 55' 07" West and with all bearings contained herein relative thereto:

Commencing at the Northeast corner of said Block 112; thence along said North line, North 89° 55' 07" West, 79.48 feet to the POINT OF BEGINNING; thence, North 89° 55' 07" West, 3.36 feet; thence, South 00° 15' 35" East, 11.53 feet; thence, North 90° 00' 00" West, 32.51 feet; thence, North 00° 00' 00" West, 2.00 feet; thence, North 90° 00' 00" West, 11.64 feet; thence, South 00° 00' 00" East, 2.00 feet; thence North 90° 00' 00" West, 0.44 feet; thence along a non-tangent curve concave to the left having a central angle of 32° 30' 49" with a radius of 17.57 feet, an arc length of 9.97 feet and the chord of which bears North 15° 35' 17" West, 9.84 feet; thence along a curve concave to the right having a central angle of 34° 47' 34" with a radius of 18.42 feet, an arc length of 11.18 feet and the chord of which bears North 16° 23' 10" West, 11.01 feet; thence along a non-tangent curve concave to the right having a central angle of 28° 55' 32" with a radius of 29.15 feet, an arc length of 14.72 feet and the chord of which bears South 81° 13' 32" East, 14.56 feet; thence along a curve concave to the left having a central angle of 48° 10' 16" with a radius of 22.00 feet, an arc length of 18.50 feet and the chord of which bears North 89° 09' 06" East, 17.96 feet; thence, North 65° 03' 59" East, 5.10 feet; thence, South 20° 32' 27" East, 3.93 feet; thence, North 66° 43' 10" East, 1.47 feet; thence along a non-tangent curve concave to the left having a central angle of 90° 10' 08" with a radius of 7.76 feet, an arc length of 12.21 feet and the chord of which bears South 73° 54' 22" East, 10.99 feet; thence along a curve concave to the right having a central angle of 10° 37' 23" with a radius of 20.60 feet, an arc length of 3.82 feet and the chord of which bears North 62° 59' 11" East, 3.81 feet; thence along a non-tangent line, South 00° 14' 39" West, 4.29 feet to the POINT OF BEGINNING.

The above described parcel contains 797 square feet more or less and is subject to all easements and rights-of-way now on record or existing.



LINE TABLE		
LINE	LENGTH	BEARING
L1	3.36'	N89°52'13"W
L2	11.53'	S00°15'35"E
L3	32.51'	N90°00'00"W
L4	2.00'	N00°00'00"E
L5	11.64'	N90°00'00"W
L6	2.00'	S00°00'00"E
L7	0.44'	N90°00'00"W
L8	5.10'	N65°03'59"E

LINE TABLE		
LINE	LENGTH	BEARING
L9	3.93'	S20°32'27"E
L10	1.47'	N66°43'10"E
L11	4.29'	S00°14'39"W

(RECORDED N89°39'01"W)
N89°55'07"W 79.48'

POINT OF BEGINNING

NE CORNER
BLOCK 112

Curve Table					
CURVE	DELTA	RADIUS	LENGTH	BEARING	CHORD
C1	32°30'49"	17.57'	9.97'	N15°35'17"W	9.84'
C2	34°47'34"	18.42'	11.18'	N16°23'10"W	11.01'
C3	28°55'32"	29.15'	14.72'	S81°13'32"E	14.56'
C4	48°10'16"	22.00'	18.50'	N89°09'06"E	17.96'
C5	90°10'08"	7.76'	12.21'	S73°54'22"E	10.99'
C6	10°37'23"	20.60'	3.82'	N62°59'11"E	3.81'



**NORTHERN
ENGINEERING**

200 South College Avenue, Suite 010
Fort Collins, Colorado 80524

PHONE: 970.221.4158 FAX: 970.221.4159
www.northernengineering.com

DRAWN BY: M. Kinkade

SCALE: 1in=10ft (U.S. Survey Feet)

ISSUED: 26 June 2013

SHEET NO:

1