

Application Procedures for Easements or Rights of Way on City of Fort Collins Natural Areas and Conserved Lands

March 2012

IMPORTANT NOTE: This document was created to accompany the *City of Fort Collins Natural Areas and Conserved Lands Easement Policy (January 2012)*. This document should be used in tandem with the *Application Checklist for Utility Easements or Rights of Way on the City of Fort Collins Natural Areas and Conserved Lands* and the important documents listed on the checklist. To the extent possible, this document serves to guide the applicant through the procedures required to obtain an easement or right-of-way on City of Fort Collins Natural Areas and/or conserved land. Additionally, it addresses pre-construction, construction, and post-construction requirements after an easement is granted. The document provides a detailed explanation of the checklist items and/or directs the applicant to the appropriate guiding document(s). The length of time it will take to process an easement will vary with the size, scope, and location of the easement proposal. The expected average timeframe for processing an easement request from application to granted easement is between four and six months. Some proposals will take longer while smaller proposals may be processed more quickly. **Please allow for at least four to six month to process an easement request.**

1. Initial Steps

A. Contact the Natural Areas Department to Discuss Easement Needs

Natural Areas and other conserved lands were acquired by the City for a wide variety of conservation purposes (see Easement Policy 2012). To establish initial contact with the NAD regarding an easement or right-of-way proposal, please contact the City of Fort Collins, Natural Areas Department, Land Management Senior Environmental Planner, Daylan Figgs via email at dfiggs@fcgov.com or by phone at 970.416.2814. Anyone seeking an easement or right-of-way across a Natural Area, lands managed in-full or in-part by the Natural Areas Department (NAD), or on private lands with a Conservation Easement held by the NAD, herein referred to as “conserved property/conserved land/conserved area,” is required to have an initial meeting and site visit to discuss the proposal with the NAD.

B. Schedule Meeting & Site Visit to discuss proposal and to walk the proposed easement alignment and/or alternative alignments

It is the applicant’s responsibility to schedule and coordinate a meeting and site visit with NAD staff. During the meeting and site visit NAD staff will discuss the Natural Areas Easement Policy and associated easement documents, ask why the easement is needed across the City’s conserved property, and ask what other viable options may be available to avoid the conserved area. Staff will identify potential impacts to the conserved property and discuss ways to avoid and/or ways to minimize impacts to the conserved property. NAD staff will also want to walk the proposed alignment and any proposed alternative alignments to look at and discuss the various alternatives to avoid the conserved property. Following the site visit NAD staff will provide comments including general site information and important “known” natural, cultural, archeological,

geological, and recreational features associated with the area of impact on the conserved property.

C. Resource Protection Requirements

All projects on the NAD's conserved land are bound by and must comply with the requirements set forth in the *General Resource Protection Standards for Easements or Rights of Way on City of Fort Collins Natural Areas and Conserved Land*. Not all resource protection standards are applicable to every proposed project. In the application packet, the applicant is required to acknowledge receipt of the General Resource Protection Standards (**GRPS**) document and petition the NAD to exempt any non-applicable resource protection standards for the proposed project. It is the applicant's responsibility to comply with the standards set forth in the GRPS document. Resource protection standard requirements will vary depending on the location, size and scope of the proposal.

The applicant should have a basic understanding of the site's general characteristics and important features based on the initial meeting, site visit, and documentation provided by the NAD. To ensure the highest level of resource protection the applicant is required to become familiar with any and all documents associated with the site including but not limited to the site's specific management plan, guiding documents, and conservation easements. This information should serve as a starting point to help the applicant comply with the GRPS requirements and the site specific management goals.

The applicant should, to the greatest extent possible, complete the necessary requirements identified in the GRPS document before submitting an application. The applicant must obtain from the NAD a Special Use Permit which will grant permission to enter the NAD property for any and all survey work associated with the GRPS. When field investigations are necessary, the applicant should hire an independent, qualified, third-party biological consultant to assess the site.

Resource protection standards apply to each phase of an easement project, however all applicable pre-project GRPS requirements should be completed prior to the public meeting. If the applicant is unable to complete all pre-project GRPS requirements prior to the public meeting, the applicant should provide detailed information to the public about the resources (biological, cultural, recreational and aesthetic) potentially affected by the proposed easement or right-of-way. The application packet should thoroughly incorporated and reflect compliance with the GRPS and the site specific guiding documents.

2. Administrative Fee and Easement Application Packet Requirements

A. Administrative Fee

A non-refundable base administrative fee of \$1500 is charged to process each easement request. Please include the administrative fee with the completed application packet. All checks should be made out to the City of Fort Collins Natural Areas Department – Utility Easement. The following description outlines the specific information required in the application packet.

Application Packet Requirements

B. Application Letter

The first item in the application packet should be a cover letter addressed to Daylan Figgs, Land Management Senior Environmental Planner, Natural Areas Department, City of Fort Collins. This letter should address several topics: 1) briefly summarize the easement proposal including a general project location, the NAD affected property(s), and why it is essential to cross the NAD conserved property; 2) briefly explain the potential alternatives; 3) provide a general timeline; and 4) introduce all parties associated with the proposal and explain if all parties are in agreement with the proposal.

C. Alternatives Analysis

Requirements for the Alternatives Analysis section of the application are outlined in the *Guidance Document: Alternatives Analysis for Easements on City of Fort Collins Natural Areas and Conserved Lands (December 2011)*. Briefly, as stated in the aforementioned document and the 2012 Easement Policy, applications for an easement or right-of-way must identify and evaluate the environmental impact, engineering feasibility, and the cost of alternatives that do not affect the city-owned natural area or conserved land. Depending on the type of proposal, alternatives will need to consider both alternative locations for the facility as well as alternative designs.

D. Conceptual Plans

This information is also addressed in the *General Resource Protection Standards* documents. As stated in the aforementioned document, the conceptual plans must be submitted on an aerial photo at a scale of 1" = 100' and must include 1' - 2' contours; property lines with adjoining property ownership shown; approximate location of all wetlands, streams, ditches, prairie dog colonies, and riparian areas; all existing man made structures; and all existing utilities. Additionally, the conceptual plans should show the location(s) of easements needed for construction staging areas; access and utility line installation; the construction's limits of disturbance; and the location(s) of alternative alignments.

E. Resource Protection Compliance

All projects on the NAD's conserved land are bound by and must comply with the resource protection requirements set forth in the *City of Fort Collins Natural Areas and Conserved Lands Easement Policy (January 2012)* and in the *General Resource Protection Standards for Easements or Rights of Way on City of Fort Collins Natural Areas and Conserved Land*. In addition to complying with the Easement Policy and the General Resource Protection Standards requirements the applicant should become familiar with the Natural Area's site specific management plan and any associated regional plan. See section 1C above—Resource Protection Requirements—for more information about resource protection requirements. Resource protection requirements will vary depending on the location, size, and scope of the proposal. Based on the initial meeting and site visit, documentation provided by the NAD, and review of the site's guiding documents, the applicant should have a thorough grasp of the site and its important biological, geological, cultural, and recreational features. As such, this section of the application packet should include 1) acknowledgement of receipt and review of the General Resource Protection Standards document; 2) a statement that the applicant will comply with all applicable resource protection requirements; 3) any petition to the NAD

regarding any Protection Standards that are not applicable to the project and why they should not apply; and 4) address how the project will affect the management goals outlined in the site specific management plan.

F. Description of conceptual restoration and mitigation plans

An applicant requesting an easement or right-of-way on the NAD owned or managed property needs to provide a conceptual restoration and mitigation plan. The restoration plan should explain how the applicant will restore the affected areas to a condition that is equal to or better than the condition at the time the easement is granted. The *General Resource Protection Standards and Standards and Guidelines for Restoration of Utility Easements* are documents that should be referenced and used to help develop a conceptual restoration plan. The *Guidance Document: Compensation and Mitigation Requirements for Easements* explains the various ways applicants are required to compensate and mitigate for the proposed easement or right-of-way. As the guidance document explains, the City charges a restoration fee and an ecological service fee to compensate for disturbances to the conserved property. The document also states that the NAD may require cash compensation and/or on-site or off-site mitigation as compensation for the ecological service fee. Potential mitigation projects include additional habitat or vegetation restoration beyond the disturbed area, trail construction or repair, NAD facility upgrades or repairs, or removal or undergrounding of above ground features. NAD staff will do an analysis of the project area to assess the land cover type impacted by the easement or right-of-way and the associated costs for lost ecosystem goods and services. The NAD will provide a written description to the applicant of the analysis of ecological service costs. Fees associated with impacted ecosystem services are collected with the signed easement agreement.

G. Additional Documentation

Additional documents required for a complete application packet include: 1) a legal description of the proposed easement(s); 2) survey maps of the project area; 3) requested temporary construction easement(s) area and final easement(s) area; 4) a site map; 5) a proposed construction schedule; 6) information demonstrating coordination with other entities and 7) pertinent GIS shape files. When creating a construction schedule please refer to the Wildlife Section of the *General Resource Protection Standards* document. This section has specific wildlife standards and requirements depending on the wildlife and wildlife habitat associated with the project site. If applicable, the applicant must contact other utility service providers in the project vicinity to determine if they have current or future plans for additional facilities in the area. Applicants must provide copies of this communication to NAD staff as a condition of approval. NAD staff will also need pertinent GIS shapefiles including, GIS shape files for all alternative alignments, the proposed alignment across the NAD's conserved property, the location of the easement on the City's property including the location of temporary construction easements and access easements, the location of mitigation activities, the project's boundaries, significant wildlife areas, recreational features, and structures.

3. Initial Review of Easement Application

A. City Staff Review / Evaluation, Presentation Determination, and Feedback

Upon receiving a complete application packet, NAD staff will review and evaluate the application against the requirements specified in the Easement Policy including land use consistency, master plan consistency, as well as coordination with other entities, compliance with existing easements, and compliance with the GRPS document. After the initial review and evaluation, NAD staff will notify the applicant about the timeline for presentation and review by the Land Conservation Stewardship Board and City Council. The applicant is encouraged to attend all applicable presentations and meetings and to assist with preparation of the presentations to the LCSB and City Council. After the initial review, evaluation, and public meeting, NAD staff will provide feedback with regard to the initial application including required revisions, updates and/or modifications.

B. Public Meeting

Applicants requesting an easement on NAD owned or managed property are required to arrange a public meeting where information regarding the proposed easement and related projects are presented in a public forum. The applicant is responsible for providing timely and meaningful notification to the general public and NAD staff in advance of any such public meeting and must provide documentation of that notification to NAD staff. The meeting provides the public the opportunity to ask questions related to easement proposals on the City's conserved lands. The applicant is required to provide answers to the public's questions to the greatest extent practicable. All questions, answers, and input received at the public meeting should be summarized, documented, and copies of the documentation should be provided to the NAD staff. Additionally, if the project changes significantly from the time of the public meeting to the final proposed project, NAD staff at their sole discretion may require an additional public meeting to present changes in the project.

4. Easement Approval Process

A. Submit Final Plans, Final Studies, and All Permits

Based on NAD staff feedback and information gathered at the public meeting, the applicant must prepare and submit all final plans, final studies, and all applicable permits. The GRPS document outlines these requirements. In summary, the applicant should submit final construction plans and profiles with applicable GRPS included as notes; excavation and 404 permits; final surveys and/or completed studies done in association with wildlife, plants, recreational features, and structures; erosion control plans; a detailed description of the project's compliance with the GRPS; a final restoration and mitigation plan; and all pertinent GIS shape files. Clearance letters from the United States Fish and Wildlife Service are accepted for Threatened and Endangered Species.

B. Revegetation Fee and Ecosystem Goods and Services Costs

After receiving the final plans, final studies, all permits, and any additional required documentation, the NAD in conjunction with City of Fort Collins Real Estate Services, will provide a written description of the vegetative management costs associated with each vegetative cover type found within the project area. This communication will also

include a description of how the ecological goods and services costs were calculated. For more details about revegetation costs and ecosystem goods and services costs please see the *Guidance Document: Compensation and Mitigation Required for Easements on the City of Fort Collins Natural Areas and Conserved Lands (2011)*.

C. Preparation of Agreements and Legal Documentation

Once NAD staff has received the final plans, studies, and permits the City of Fort Collins Real Estate Service and Attorney's Office will prepare draft(s) of the temporary and permanent easement agreements including land compensation costs and vegetative management costs. These steps include 1) land appraisal and value findings of easement; 2) draft easement agreement prepared by Real Estate Services followed by review and approval by the City Attorney's Office; 3) draft easement sent to applicant for review; and 4) final easement submitted to the Land Conservation Stewardship Board and City Council.

D. LCSB and City Council Hearings and Approvals

Granting an easement or right-of-way conveys a property right, and must be approved by the City Council by ordinance. The Land Conservation and Stewardship Board (LCSB) reviews easement and right-of-way proposals and makes a recommendation in an advisory capacity to the City Council. NAD staff are required to complete the necessary steps for the LCSB and City Council hearings and approval. The steps for the LCSB recommendation process include 1) staff review of completed easement request and recommendations; 2) staff preparation of a board memo for the LCSB; 3) staff presentation to the LCSB; and 3) Board recommendations to City Council. Similarly, the steps for the City Council approval process include 1) staff preparation of a City Council Agenda Item Summary with staff and LCSB recommendations; 2) City Council's first reading; and 3) City Council's second reading and approval at subsequent meeting.

5. Pre-construction and Construction Approval Process

The following description outlines and provides details about the steps for the pre-construction and construction approval process and requirements during construction.

A. Submit final documentation and fees

Prior to beginning construction, the applicant must submit the final signed easement agreement(s) and payment for the appraised value of the easements, restoration fees, and ecological service fees (see the *Fee Schedule for Utility Easement Applications* document). The City will not sign the easement agreement until all final documentation and full payment has been received. The City can sign the easement agreement no sooner than ten days after the Ordinance is approved by City Council on Second Reading, and once the final plans are accepted.

B. Record of easement with the County Clerk

NAD staff is responsible for recording the easement with the Larimer County Clerk and Recorder. The easement will be effective once it is recorded.

C. Pre-construction meeting, construction approval letter, and limits of disturbance

Before construction can begin, the applicant is required to have a pre-construction meeting. A NAD representative must be in attendance to meet the contractors, discuss the

importance of the resource protection requirements, discuss the approved construction schedule, and establish the lines of communication to be used during construction. The applicant must receive written communication from the NAD stating that the project may proceed on NAD property. Actual construction may not begin until a NAD representative has approved the fence location / easement limits / limits of disturbance.

6. Construction Requirements

Throughout the duration of the project the applicant is required to maintain communication with NAD staff regarding progress, schedule changes, and problems. NAD staff will conduct periodic inspections of the construction site throughout the duration of the project including the restoration phase.

7. Project Completion & Drawing of Record

Once the project is complete a NAD representative must inspect the project site to verify that the project was completed and the site restored according to the plans and agreements. City staff will submit a letter verifying in writing that both the project and restoration work were completed according to the plans and agreements. Once accepted the NAD will take over the vegetation maintenance. The Drawing of Record must be submitted to the NAD within 60 days of project completion.