

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

EXHIBIT A

A PARCEL OF LAND LOCATED IN THE EAST HALF OF SECTION 33, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN; CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO; BEING A PORTION OF TRACT B, BARNSTORM SECOND ADDITION TO THE CITY OF LOVELAND, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: BEARINGS ARE BASED ON THE EAST LINE, OF THE NORTHEAST CORNER OF SAID SECTION 33, WHICH IS ASSUMED TO BEAR S00°24'16"E

COMMENCING AT THE NORTHEAST CORNER OF SECTION 33;

THENCE ON THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 33, S00°24'16"E A DISTANCE OF 1989.53 FEET;

THENCE S89°35'44"W A DISTANCE OF 115.34 FEET TO THE **POINT OF BEGINNING**;

THENCE N 14°26'48" E A DISTANCE OF 203.95 FEET;

THENCE N 75°33'12" W A DISTANCE OF 10.00 FEET;

THENCE S 14°26'48" W A DISTANCE OF 204.19 FEET;

THENCE S 70°50'24" W A DISTANCE OF 774.79 FEET;

THENCE N 19°09'03" W A DISTANCE OF 171.50 FEET;

THENCE S 70°50'57" W A DISTANCE OF 26.44 FEET;

THENCE S 19°09'03" E A DISTANCE OF 10.00 FEET;

THENCE N 70°50'57" E A DISTANCE OF 16.44 FEET;

THENCE S 19°09'03" E A DISTANCE OF 166.69 FEET;

THENCE N 70°51'01" E A DISTANCE OF 793.25 FEET TO THE **POINT OF BEGINNING**;

SAID PARCEL CONTAINS 0.185 ACRES MORE OR LESS.

I, CHAD R. WASHBURN, A PROFESSIONAL LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE PROPERTY DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED UNDER MY RESPONSIBLE CHARGE, AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, ARE CORRECT.

CHAD R. WASHBURN, PROFESSIONAL LAND SURVEYOR
COLORADO NO. 37963
FOR AND ON BEHALF OF WASHBURN LAND SURVEYING, LLC

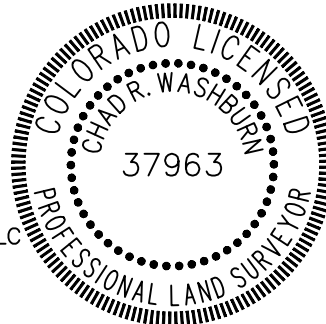


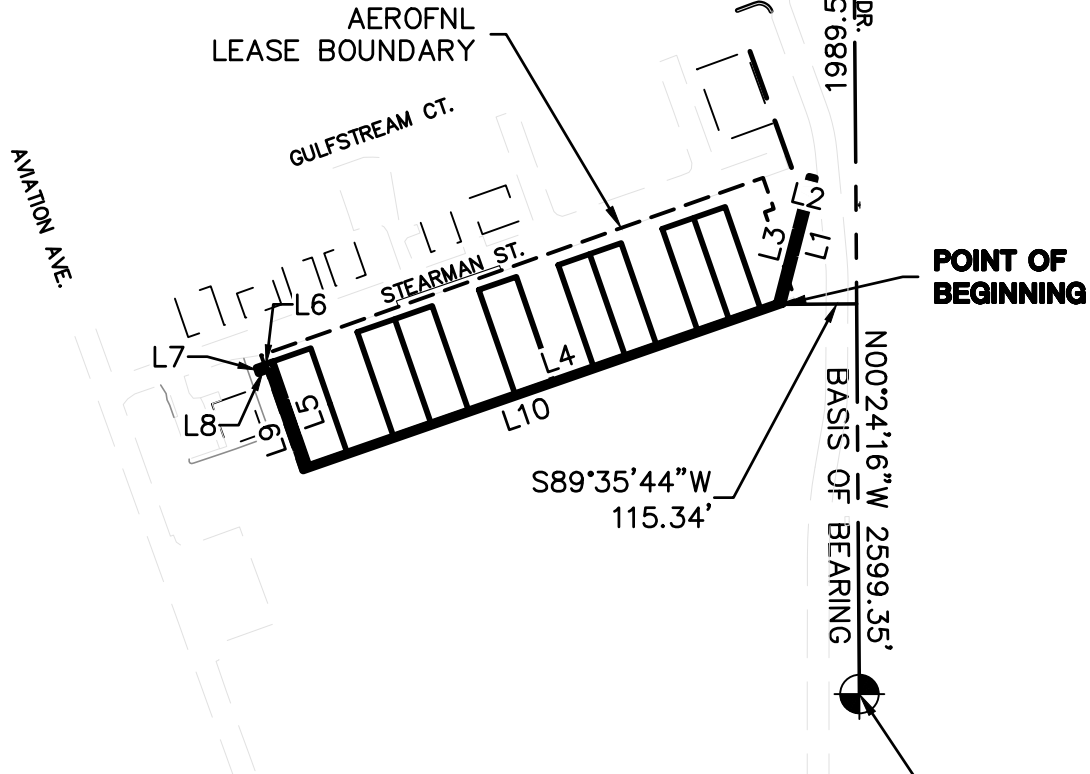
EXHIBIT A
DATE: AUGUST 01, 2023
JOB NO. 1232.0001.01
SHEET 1 OF 1



748 Whalers Way, Suite 200
Fort Collins, Colorado
Phone: 970.226.0557

EXHIBIT B

NORTHEAST CORNER
SECTION 33,
T.6N., R.68W



POINT OF BEGINNING

EAST QUARTER
CORNER SECTION 33,
T.6N., R.68W

LINE TABLE		
LINE	LENGTH	DIRECTION
L1	203.95	N14°26'48"E
L2	10.00	N75°33'12"W
L3	204.19	S14°26'48"W
L4	774.79	S70°50'24"W
L5	171.50	N19°09'03"W
L6	26.44	S70°50'57"W
L7	10.00	S19°09'03"E
L8	16.44	N70°50'57"E
L9	166.69	S19°09'03"E
L10	793.25	N70°51'01"E

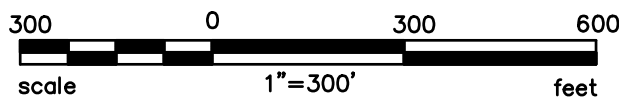


EXHIBIT B
DATE: AUGUST 01, 2023
JOB NO. 1232.0001.01
SHEET 1 OF 1



748 Whalers Way, Suite 200
Fort Collins, Colorado
Phone: 970.226.0557

GRANT OF UTILITY EASEMENT

THIS GRANT OF UTILITY EASEMENT is made and entered into by and between the City of Loveland, Colorado, a municipal corporation, with an address of 500 E. Third Street, Loveland, CO 80537, and the City of Fort Collins, Colorado, a municipal corporation (“Grantors”), with an address of 300 LaPorte, Fort Collins, CO 80521, and the CITY OF LOVELAND, COLORADO, a Colorado home rule municipal corporation (“City”), with an address of 500 E. Third Street, Loveland, Colorado 80537. This Grant of Utility Easement is effective as of the date of the City’s Official Acceptance in the City’s signature block below.

WITNESSETH:

FOR GOOD AND VALUABLE CONSIDERATION, the adequacy and receipt of which is hereby acknowledged, Grantors have this day bargained, sold, conveyed, transferred, and delivered unto the City, its successors, and assigns, in perpetuity, a non-exclusive easement in, over, under, through, and across the real property described below for purposes of constructing, repairing, replacing, relocating, inspecting, operating, maintaining, and accessing City-owned utility systems across, through, upon, and under the real property described on the attached Exhibits A and B (the “Easement Area”); provided, however, that the City shall restore the ground surface to its prior condition after any disturbance of such surface. The term “City-owned utility systems,” means above and below ground wires, lines, cables, ducts, conduits, pipes, pumps, pedestals, risers, poles, vaults, manholes, fire hydrants, pull boxes, and any other equipment, appurtenances, and structures associated with electric systems that are owned and operated by the City.

Grantors are prohibited from constructing or placing on any part of the Easement Area without prior written approval from the City any fence or gate, building, above or below ground utility systems or appurtenances not owned or maintained by the City, or any other permanent or substantial structure. Grantor is prohibited from making or permitting any use of the Easement Area that would impair, impede, or interfere with the City’s access to or along the easement, or the City’s full free use and exercise of the easement. The City shall be permitted to immediately remove without liability for damages any obstruction prohibited by this easement that interferes with the City’s access to the City-owned utility systems or impairs the City’s full free use and exercise of the easement.

This easement is and shall be subordinate to the provision of existing and future agreements between the Grantor and the United States relative to the operation or maintenance of the Northern Colorado Regional Airport (the “Airport”), the execution of which has been or may be required as a condition precedent to the obtaining or expenditure of federal funds for the benefit of the Airport.

The Grantors or their successors and assigns owns the trees and other vegetation on the Easement Area, and the Grantors acknowledge, for themselves and for all successors and assigns, that this easement provides the City with the authority to cut and remove trees and other vegetation that encroaches upon the Easement Area if, in the sole discretion of the City, such trees or vegetation interfere with the City’s use and enjoyment of this easement.

ATTEST:

City Clerk

Date