

# AGENDA ITEM SUMMARY

December 4, 2018

City Council

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## STAFF

Ashley Macdonald, Real Estate Specialist I  
Adam Molzer, Grant & Community Partnership Coordinator  
Helen Matson, Real Estate Services Manager  
Ken Mannon, Operations Services Director  
Ryan Malarky, Legal

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## SUBJECT

Second Reading of Ordinance No. 142, 2018, Authorizing the Lease of City-Owned Property at 424 Pine Street for Up to 40 Years.

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## EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on November 20, 2018 obtains authorization from City Council to lease City-owned property to a nonprofit corporation, United Daycare Center dba Teaching Tree Early Childhood Learning Center, at a less-than-market lease rate of \$600 per year for a period of up to 40 years. The initial term is for 20 years, followed by the option for 4 additional 5-year terms at the City's discretion.

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## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

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## ATTACHMENTS

1. First Reading Agenda Item Summary, November 20, 2018 (w/o attachments) (PDF)
2. Ordinance No. 142, 2018 (PDF)

# AGENDA ITEM SUMMARY

City Council

November 20, 2018

## STAFF

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## SUBJECT

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First Reading of Ordinance No. 142, 2018, Authorizing the Lease of City-Owned Property at 424 Pine Street for Up to 40 Years.

## EXECUTIVE SUMMARY

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The purpose of this item is to obtain authorization from City Council to lease City-owned property to a nonprofit corporation, United Daycare Center dba Teaching Tree Early Childhood Learning Center, at a less-than-market lease rate of \$600 per year for a period of up to 40 years. The initial term is for 20 years, followed by the option for 4 additional 5-year terms at the City's discretion.

## STAFF RECOMMENDATION

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Staff recommends adoption of the Ordinance on First Reading.

## BACKGROUND / DISCUSSION

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The Social Sustainability Department collaborates with a local Colorado nonprofit corporation known as United Day Care Center that does business as Teaching Tree Early Childhood Learning Center. Teaching Tree provides affordable childcare programs to residents in the City. Teaching Tree currently occupies a portion of 424 Pine Street through a sublease with the United Way of Larimer County, Inc.

Teaching Tree desires to execute a lease with the City as the primary lessee to continue providing reduced cost childcare and early childhood education opportunities to residents. Teaching Tree and United Way are working together in collaboration with City staff on a potential sublease between Teaching Tree and United Way for United Way's continued use of a portion of 424 Pine Street. Concurrent with Teaching Tree's execution of the proposed lease, United Way will convey the existing building and related fixtures to the City, as required by United Way's current lease.

Teaching Tree has also expressed its intent to invest significant capital (over \$1 million) of its own funds into facility renovations and upgrades to double the number of children served.

Teaching Tree currently serves 101 children (infant through age 5), and their capacity would increase to 215 total childcare spots upon completion of the proposed renovation.

The expansion of quality, affordable childcare, especially for low-income families, is a focus for the Social Sustainability Department. The lease agreement requires that Teaching Tree will provide low-income families with reduced tuition, tuition reimbursements, scholarship opportunities or similar programs to no less than 20% of their enrollment for the duration of the lease.

The execution of the lease aligns with City Strategic Objective NLSH 1.2 by delivering a collaborative partnership between the City and Teaching Tree to address a high priority human service need.

BFO Budget Enhancement 27.19 (Childcare Services, 2017-2018) aligns with the proposed use of the facility. Funding has been expended and committed from Budget Enhancement 27.19 to support Teaching Tree's preliminary project scoping and design efforts prior to lease execution.

Goals and objectives of the Fort Collins Social Sustainability Strategic Plan that may benefit from the execution of the lease with Teaching Tree include:

- (a) Goal C2, as it is a collaborative effort of continuing support of childcare and early childhood education.
- (b) Goal C3, as it supports the objective to which promotes programs and initiatives providing residents with affordable, quality caregiving services

### **CITY FINANCIAL IMPACTS**

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Annual rent collected from this lease will result in at least \$600 per year in commercial rent revenue for a total of \$12,000 over the course of the initial term of twenty (20) years. Rent for this space is based on the lease rate determined by staff for a bona fide nonprofit organization. Teaching Tree will be responsible for expenses of all utilities, maintenance, communication services, trash services, janitorial services, and taxes. In addition, Teaching Tree will be responsible for any tenant finish costs. The City and Teaching Tree will share equally the costs of parking maintenance.

ORDINANCE NO. 142, 2018  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING THE LEASE OF CITY-OWNED PROPERTY  
AT 424 PINE STREET FOR UP TO FORTY YEARS

WHEREAS, the City of Fort Collins is the owner of the property located at 424 Pine Street, Fort Collins, Larimer County, Colorado (the “Leased Premises”); and

WHEREAS, in 1983 the City Council approved Resolution 83-218 authorizing the lease of the Leased Premises to Larimer Community Services Corporation (“LCSC”) for the purpose of building a human services facility on the Leased Premises; and

WHEREAS, in April 1985, the City and LCSC entered into a Lease Agreement (the “1985 Lease”) that permitted construction of a building on the Leased Premises, but stipulated that upon termination of the Lease Agreement, the building would become the property of the City; and

WHEREAS, in 1994, with the City’s consent, United Way of Larimer County, Inc. (“United Way”) assumed LCSC’s rights under the 1985 Lease and became owner of the building; and

WHEREAS, in 2008 the City entered into a new lease with United Way, leasing the Leased Premises for human services purposes to benefit the community at large with an initial term of twenty years (the “2008 Lease”); and

WHEREAS, United Way currently subleases a portion of the Leased Premises to the United Day Care Center, doing business as Teaching Tree Early Childhood Learning Center (“Teaching Tree”), which provides affordable early childhood and education programs for the community at large; and

WHEREAS, United Way and Teaching Tree desire that Teaching Tree would become the primary lessee and occupant of the Leased Premises, and the parties intend that United Way will occupy a portion of the Leased Premises under a sublease with Teaching Tree; and

WHEREAS, concurrent with execution of a proposed new lease agreement between the City and Teaching Tree, United Way would terminate the 2008 Lease, convey the existing building and all other related fixtures to the City, and Teaching Tree and United Way would execute a sublease in a form acceptable to the City; and

WHEREAS, the proposed lease terms include an initial twenty-year lease term in exchange for a nominal rent in the amount of \$600.00 per year and compliance with certain terms and conditions including restrictions on the use of the Leased Premises and an obligation to maintain the Leased Premises; and

WHEREAS, the proposed lease agreement may be extended at the City’s discretion for four additional five-year terms for a maximum tenancy of forty years; and

WHEREAS, under Section 23-113(b) of the Code of the City of Fort Collins, the City Council is authorized to lease any and all interests in real Leased Premises owned in the name of the City, provided that the City Council first finds that the lease is in the best interests of the City;

WHEREAS, if the proposed term of the lease exceeds twenty years, the lease must be approved by the City Council by ordinance; and

WHEREAS, under Section 23-114 of the City Code, any sale or lease of City property interests must be for an amount equal to or greater than the fair market value of such interest unless the City Council determines that such sale or lease serves a bona fide public purpose, based on the five factors listed in Section 23-114; and

WHEREAS, staff believes that leasing the Leased Premises to Teaching Tree for less than fair market value serves a bona fide public purpose because:

- (1) The use to which the Leased Premises will be put promotes the health, safety, or general welfare and benefits a significant segment of the citizens of Fort Collins by providing affordable early childhood and education programs for the community at large;
- (2) The proposed lease supports Goal C.2 of the Fort Collins Social Sustainability Strategic Plan, which promotes the continuing support of childcare and early childhood education; and
- (3) The use to which the Leased Premises will be put supports Goal C.3 of the Fort Collins Social Sustainability Strategic Plan, which promotes programs and initiatives providing residents with affordable, quality caregiving services;
- (4) The financial support provided by the City through the below-market lease of the Leased Premises will be leveraged with other funding or assistance;
- (5) The 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; and
- (6) Leasing the Leased Premises 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.

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 leasing the Leased Premises at 424 Pine Street under the terms listed above is in the best interests of the City.

Section 3. That the City Council further finds that such lease for less than fair market value serves a bona fide public purpose for the reasons stated in the recitals above.

Section 4. That the City Manager is hereby authorized to execute a negotiated lease agreement consistent with the terms of this Ordinance, together with such additional terms and conditions consistent with the terms of this Ordinance, as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City, including any necessary changes to the legal description of the Leased Premises, as long as such changes do not materially increase the size or change the character of the Leased Premises.

Introduced, considered favorably on first reading, and ordered published this 20th day of November, A.D. 2018, and to be presented for final passage on the 4th day of December, A.D. 2018.

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Mayor

ATTEST:

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City Clerk

Passed and adopted on final reading on the 4th day of December, A.D. 2018.

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Mayor

ATTEST:

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City Clerk