

ORDINANCE NO. 095, 2021  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING CONVEYANCE OF A PERMANENT NON-EXCLUSIVE UTILITY  
EASEMENT ON PROPERTY JOINTLY OWNED BY THE CITY AND THE CITY OF  
LOVELAND AT THE NORTHERN COLORADO REGIONAL AIRPORT FOR THE  
DISCOVERY AIR DEVELOPMENT

WHEREAS, the City of Fort Collins ("Fort Collins") and the City of Loveland ("Loveland") (collectively, the "Cities") jointly own property located in Loveland, Colorado (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 Discovery Air 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 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 that 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 and the Developer's lease and development of Airport property, both of which were 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 by enabling the construction and operation of new on-Airport development at 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 at 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 rent 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 Mayor is hereby authorized to execute the Easement Agreement substantially in the form attached hereto 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 20th day of July, A.D. 2021, and to be presented for final passage on the 4th day of August, A.D. 2021.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Interim City Clerk



Passed and adopted on final reading on this 4th day of August, A.D. 2021.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Interim City Clerk



# EXHIBIT A1

A PARCEL OF LAND SITUATE IN THE EAST HALF OF SECTION 33, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN; TOWN 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:

**COMMENCING** AT THE NORTHEAST CORNER OF SECTION 33 FROM WHICH THE EAST QUARTER CORNER OF SECTION 33 BEARS S00°24'16"E A DISTANCE OF 2,599.35 FEET AND CONSIDERING ALL BEARINGS HEREIN RELATIVE THERETO;

THENCE ON THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 33, S00°24'16"E A DISTANCE OF 1964.13 FEET;

THENCE S89°35'44"W A DISTANCE OF 40.49 FEET TO THE **POINT OF BEGINNING**;

THENCE S70°50'42"W A DISTANCE OF 1182.50 FEET;

THENCE S20°15'13"E A DISTANCE OF 47.25 FEET;

THENCE S70°13'51"W A DISTANCE OF 216.15 FEET;

THENCE S19°43'04"E A DISTANCE OF 1107.97 FEET;

THENCE N70°16'56"E A DISTANCE OF 924.60 FEET;

THENCE N00°02'13"E A DISTANCE OF 815.53 FEET;

THENCE ON A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 09°37'55", A RADIUS OF 865.0 FEET, AN ARC LENGTH OF 145.42 FEET, AND A CHORD THAT BEARS N04°51'11"E A DISTANCE OF 145.24 FEET;

THENCE N09°40'05"E A DISTANCE OF 280.23 FEET TO THE **POINT OF BEGINNING**;

SAID PARCEL CONTAINS 29.9 ACRES (1,301,431.40 SQUARE FEET) MORE OR LESS AND IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS, AND RESTRICTIONS NOW IN USE OR OF RECORD.

DATE: JULY 06, 2021  
JOB NO. 0732.0381.00  
SHEET 1 OF 1

**TST** TST, INC. CONSULTING ENGINEERS

748 Wholers Way, Suite 200  
Fort Collins, Colorado  
Phone: 970.228.0557

# EXHIBIT A2

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

EARHART RD.

LINDERBERG DR.  
1964.13'

LEAR DR.

S89°35'44"W  
40.49'

GULFSTREAM CT.

POINT OF  
BEGINNING

AVIATION AVE.

STEARMAN ST.

S70°50'42"W 1182.50'

N09°40'05"E  
280.23'

N00°24'16"W 2599.35'  
BASIS OF BEARING

S20°15'13"E  
47.25'

CIRRUS ST.

$\Delta=9^{\circ}37'55''$   
 $R=865.00'$   
 $L=145.42'$   
 $CH=145.24'$   
 $N04^{\circ}51'11''E$

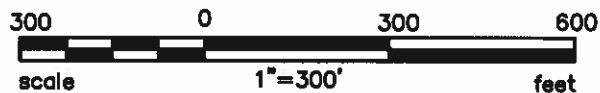
S70°13'51"W  
216.15'

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

S19°45'04"E 1107.97'

N00°02'13"E  
815.53'

N70°16'56"E 924.60'



DATE: JULY 06, 2021  
JOB NO. 0732.0381.00  
SHEET 1 OF 1

**TST** TST, INC. CONSULTING ENGINEERS

748 Wholen Way, Suite 200  
Fort Collins, Colorado  
Ph. no: 970.2280557

# EXHIBIT B1

A PARCEL OF LAND SITUATE IN THE EAST HALF OF SECTION 33, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN; TOWN 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:

**COMMENCING** AT THE NORTHEAST CORNER OF SECTION 33 FROM WHICH THE EAST QUARTER CORNER OF SECTION 33 BEARS S00°24'16"E A DISTANCE OF 2,599.35 FEET AND CONSIDERING ALL BEARINGS HEREIN RELATIVE THERETO;

THENCE ON THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 33, S00°24'16"E A DISTANCE OF 2,599.35 FEET;

THENCE S00°37'06"W A DISTANCE OF 349.93 FEET TO THE **POINT OF BEGINNING**;

THENCE N 89°06'46" W A DISTANCE OF 101.02 FEET;

THENCE S 0°53'14" W A DISTANCE OF 10.00 FEET;

THENCE S 89°06'46" E A DISTANCE OF 100.85 FEET;

THENCE N 0°06'04" W A DISTANCE OF 10.00 FEET TO THE **POINT OF BEGINNING**;

SAID PARCEL CONTAINS 0.023 ACRES (1,009 SQUARE FEET) MORE OR LESS AND IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS, AND RESTRICTIONS NOW IN USE OR OF RECORD.

DATE: JULY 12, 2021  
JOB NO. 0732.0381.00  
SHEET 1 OF 1

**TST** TST, INC. CONSULTING ENGINEERS

748 Whalers Way, Suite 200  
Fort Collins, Colorado  
Phone: 970.228.0557

# EXHIBIT B2

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



S00°24'16"E 2599.35'  
BASIS OF BEARING

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

DISCOVERY AIR  
LEASE BOUNDARY

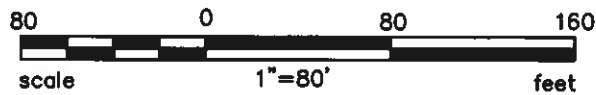
S00°37'06"W  
349.93'

N89°06'46"W  
100.85'

S00°53'14"W  
10.00'

N00°06'04"W  
10.00'

S89°06'46"E  
101.02'



DATE: JULY 12, 2021  
JOB NO. 0732.0381.00  
SHEET 1 OF 1

**TST** TST, INC. CONSULTING ENGINEERS

748 Whalers Way, Suite 200  
Fort Collins, Colorado  
Phone: 970.228.0557

K:\732\381\05 Drawings\Exhibits\Lease Boundary\Electric Easement\0381\_Easement Boundary Offsite

## GRANT OF UTILITY EASEMENT

THIS GRANT OF UTILITY EASEMENT is made and entered into by and between the CITY OF LOVELAND, COLORADO, a Colorado home rule municipal corporation ("Loveland") and the CITY OF FORT COLLINS, COLORADO, a Colorado home rule municipal corporation ("Fort Collins") (jointly "Grantor"), and LOVELAND, with an address of 500 E. Third Street, Loveland, Colorado 80537. This Grant of Utility Easement is effective as of the date of Loveland's Official Acceptance in the signature blocks below.

### WITNESSETH:

FOR GOOD AND VALUABLE CONSIDERATION, the adequacy and receipt of which is hereby acknowledged, Grantor has this day bargained, sold, conveyed, transferred, and delivered unto Loveland, 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 Loveland-owned utility systems across, through, upon, and under the real property described on the attached Exhibits A and B (the "Easement Areas"); provided, however, that Loveland shall restore the ground surface to its prior condition after any disturbance of such surface. The term "Loveland-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, water, wastewater, communications, and stormwater systems that are owned and operated by Loveland.

Grantor is prohibited from constructing or placing on any part of the Easement Area without prior written approval from the Director of the Northern Colorado Regional Airport in consultation with the Loveland Department of Water and Power, any fence or gate, building, above or below ground utility systems or appurtenances not owned or maintained by Loveland, or any other permanent or substantial structure. Grantor is prohibited from making or permitting any use of the Easement Areas that would impair, impede, or interfere with Loveland's access to or along the easement, or Loveland's full free use and exercise of the easement. Loveland shall be permitted to immediately remove without liability for damages any obstruction prohibited by this easement that interferes with Loveland's access to Loveland-owned utility systems or impairs Loveland's full free use and exercise of the easement.

The Grantor or their successors and assigns or lessees owns the trees and other vegetation on the Easement Areas, and the Grantor acknowledges, for itself and for all successors and assigns, that this easement provides Loveland with the authority to cut and remove trees and other vegetation that encroaches upon the Easement Areas if, in the sole discretion of Loveland, such trees or vegetation interfere with Loveland's use and enjoyment of this easement.

The Easement Areas hereby granted, situated in Larimer County, Colorado, are described as follows:

- Exhibit A – Blanket Easement Area A Legal Description (A1) and Drawing (A2)
- Exhibit B – Easement Area B Legal Description (B1) and Drawing (B2)



Due to the "blanket" nature of Easement Area A of this Grant of Utility Easement, as the Loveland-owned utility systems are installed within the Easement Area A over time, Loveland shall provide Grantor with amendments to this Grant of Utility Easement consisting of revised legal descriptions that identify the particular utility easement areas within Easement Area A in which the utilities have been constructed. Loveland may require the Lessee listed below to provide such legal descriptions at Lessee's sole cost and expense. Such amendments shall be executed by the Director of the Northern Colorado Regional Airport and accepted by Loveland and recorded as amendments to this Grant of Utility Easement. Upon completion of each phase of Lessee's project as such phases are defined in the Lease (as defined below), or December 31, 2026, whichever date is earlier, the Blanket Easement Area A described above in Exhibit A shall be deemed modified in accordance with the legally described easement areas set forth in the amendments executed and recorded on or before that earlier date.

TO HAVE AND TO HOLD said easement unto Loveland, its successors, and assigns forever. This perpetual easement and the rights, benefits, and obligations created hereby constitute a burden upon the estate of Grantor in the underlying lands and shall run with the land and be binding upon Grantor and its successors, personal representatives, assigns, and heirs. Grantor does hereby covenant with Loveland that it is lawfully seized and possessed of the real property above described, that it has a good and lawful right to convey the easement herein granted, that the easement is free and clear of all liens and encumbrances, and that it will forever warrant and defend the title thereto against lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, Grantor has executed this Grant of Utility Easement on the date below.

**CITY OF LOVELAND, COLORADO**  
**a Colorado home rule municipal corporation:**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVE AS TO FORM:

Assistant City Attorney

**CITY OF FORT COLLINS, COLORADO**  
**a Colorado home rule municipal corporation**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Judy Schmidt, Senior Assistant City Attorney

