

1 **Resolution No. 2024-28**

2 **A Resolution of the City of Lincoln City Granting and Underground Easement for**
3 **Electrical Utility Lines and Equipment to Service City Facilities**

4 **Recitals**

- 5 A. The City of Lincoln City is the legal owner of the Subject Property with improvements
6 located at Schooner Creek Discovery Park with Lots 8, 9, 10, 11, 12 and the South
7 42.1feet of Lot 13 and the North 22.4feet of Lot 7, Block 5, FIRST ADDITION TO
8 TAFT, in Lincoln County, Oregon. Assessor's Map No.: 07-11-27-DD Parcel No.:
9 03500-0.
- 10 B. Pacific Power (an assumed business name of Pacificorp, Inc.) and City desire to install
11 underground electric facilities to service the City's future community park on the subject
12 property and Pacific Power requires an easement for such purposes.
- 13 C. On Oct. 14, 2024, the Lincoln City City Council, in the Council Chambers at 801SW
14 Highway 101, Lincoln City, Oregon conducted an advertised public hearing on the
15 proposed conveyance of an easement interest in the subject property pursuant to ORS
16 221.725 and ORS 271.310.
- 17 D. The advertised purpose of the conveyance, and the reason the City Council finds it
18 necessary or convenient to convey the property, to Pacific Power is the City's desire to
19 provide safe and efficient provision of electrical service to the City's new park property.
- 20 E. The nature of the conveyance of an easement interest was duly advertised as a
21 conveyance to PacifiCorp of an easement interest five feet wide and 50 feet in
22 length, generally perpendicular to S.E. Keel Ave. (Exhibit 1)
- 23 F. The Oct 14, 2024 City Council public hearing and Resolution staff reports are
24 incorporated herein by this reference. All evidence of market value of this strip of land is
25 deemed low value and was fully disclosed and entered into the record at the public
26 hearing on Oct 14, 2024.
- 27 G. City is paying for cost of installation.
- 28 H. Pursuant to ORS 221.725, any resident of the City was provided with an opportunity to
present oral or written testimony on the subject of the sale ("conveyance") to the City
Council at the
public hearing.
- I. After hearing the staff report, public input, and due deliberation, Council made the
findings set forth herein and directed the conveyance of the easement interest in City real
property with the conditions identified in the staff report and this Resolution.

Section 1. Recitals. The above recitals are true and correct and are incorporated
herein by this reference.

Section 2. Findings.

The Council finds and determines that the relevant statutory criteria for disposition of City
real property are found in or referenced in ORS Chapter 271 (specifically ORS 271.310) as
well as ORS 221.725.

**ORS 271.310. Transfer or lease of real property owned or controlled by political
subdivision; Procedure in case of qualified title.**

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2 (1) Except as provided in subsection (2) of this section and subject to subsection (3) of this
3 section, whenever any political subdivision possesses or controls real property not needed
4 for public use, or whenever the public interest may be furthered, a political subdivision
5 may sell, exchange, convey or lease for any period not exceeding 99 years all or any part
6 of the political subdivision's interest in the property to a governmental body or private
7 individual or corporation. The consideration for the transfer or lease may be cash or real
8 property, or both.

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10 (4) Unless the governing body of a political subdivision determines under subsection (1)
11 of this section that the public interest may be furthered, real property needed for public
12 use by any political subdivision owning or controlling the property may not be sold,
13 exchanged, conveyed or leased under the authority of ORS 271.300 (Application and
14 administration of ORS 271.300 to 271.360) to 271.360 (Lease requirements), except that
15 it may be exchanged for property that is of equal or superior useful value for public use.
16 Any such property not immediately needed for public use may be leased if, in the
17 discretion of the governing body having control of the property, the property will not be
18 needed for public use within the period of the lease.

19 **221.725 Sale of city real property; publication of notice; public hearing.**

20 (1) Except as provided in ORS 221.727 (Alternative procedure for sale of city-owned real
21 property) and 221.729 (Sale of city-owned real property to develop affordable housing),
22 when a city council considers it necessary or convenient to sell real property or any
23 interest therein, the city council shall publish a notice of the proposed sale in a newspaper
24 of general circulation in the city, and shall hold a public hearing concerning the sale prior
25 to the sale.

26 (2) The notice required by subsection (1) of this section shall be published at least once
27 during the week prior to the public hearing required under this section. The notice shall
28 state the time and place of the public hearing, a description of the property or interest to
be sold, the proposed uses for the property and the reasons why the city council considers
it necessary or convenient to sell the property. Proof of publication of the notice may be
made as provided by ORS 193.070 (Proof of publication).

(3) Not earlier than five days after publication of the notice, the public hearing
concerning the sale shall be held at the time and place stated in the notice. Nothing in this
section prevents a city council from holding the hearing at any regular or special meeting
of the city council as part of its regular agenda.

(4) The nature of the proposed sale and the general terms thereof, including an appraisal
or other evidence of the market value of the property, shall be fully disclosed by the city
council at the public hearing. Any resident of the city shall be given an opportunity to
present written or oral testimony at the hearing.

(5) As used in this section and ORS 221.727 (Alternative procedure for sale of city-
owned real property), "sale" includes a lease-option agreement under which the lessee

1 has the right to buy the leased real property in accordance with the terms specified in the
2 agreement. [1983 c.216 §1; 2005 c.22 §164; 2021 c.624 §3]

3 The Council finds and determines that it has received all information necessary to make a
4 decision based on the Staff Report, public hearing testimony and the exhibits and evidence
5 received.

6 The Council finds and determines that this proposal to convey an easement interest in the
7 subject property to PacifiCorp for the purpose of providing underground utility service to the
8 City's property meets all applicable statutory minimum criteria for eligibility to convey real
9 property (or an interest therein), as more fully set forth herein.

10 Further the City Council finds and determines that the proposed disposition of an
11 easement interest in real property is deemed "necessary or convenient" to the City, and "furthers
12 the public interest" as the conveyance will further the City Council's desire to provide safe and
13 efficient provision of electric power to essential City utility facilities.

14 The Council further finds and determines that the easement portion of the City property
15 identified herein is not necessary for City use.

16 The findings herein are supported by competent substantial evidence in the whole record,
17 incorporated herein by this reference.

18 **Section 3. Order.**

19 Based on the above Findings set forth herein and based upon the evidence in the whole record,
20 the City Council hereby approves and directs the conveyance of an easement interest in the
21 subject real property, subject to all identified conditions, included or referenced herein. The real
22 property conveyance of an easement interest is delegated to the City Manager and City Attorney
23 who are authorized to execute such easement agreements, contracts, deeds and other documents
24 necessary to complete the authorized disposition of an interest in real property. The manager is
25 authorized to restrict access to adjacent lands (contrary to the general language of the proposed
26 easement). The City Attorney must approve all documents as to form. The City Manager is
27 expressly delegated the authority to sign documents for the City. The Manager is authorized to
28 expend funds necessary to effectuate the conveyance, including but not limited to purchase of
insurances and other title company services and products. When not specifically allocated to a
party, costs are split between the parties.

Section 4. Effective Date. This resolution is effective as of the date of its adoption and signature
by the Mayor.

PASSED AND ADOPTED by the City Council of the City of Lincoln City this 14th day of
October, 2024.

Susan Kay Wahlke

Susan Wahlke, Mayor

1 Attest:

2 *Jamie young*

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Jamie Young, City Recorder

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5 Approved as to form:

6 *David James Robinson*

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David Robinson, City Attorney

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