ORDINANCE NO. 10 , Series 2013
INTRODUCED BY: COUNCILOR d'ORONZIO

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAFAYETTE, COLORADO, AUTHORIZING THE LEASE OF CITY PROPERTY TO LAFAYETTE SOLAR LLC, DOING BUSINESS AS BASELINE SOLAR, FOR THE CONSTRUCTION AND OPERATION OF A SOLAR FACILITY

WHEREAS, the City of Lafayette ("City") owns approximately 9.66 acres of undeveloped land at the location of 750 East County Line Road, Lafayette, which property is adjacent to the City's Wastewater Treatment Facility; and

WHEREAS, Lafayette Solar LLC, doing business as Baseline Solar ("Baseline Solar"), desires to lease the land from the City to construct and operate an electrical generating facility for the conversion of solar energy to electricity ("Solar Facility"); and

WHEREAS, the City and Baseline Solar shall enter into a Power Purchase Agreement arising from the lease whereby the City shall purchase 95% of the Solar Facility's solar production credits, with the remaining 5% of the credits to be awarded to low income participants; and

WHEREAS, in accordance with Xcel Energy's Solar Rewards Community Rules and Regulations, the City will receive a credit on its monthly Xcel Energy statement for the solar production credits it purchases from the Solar Facility; and

WHEREAS, to obtain such benefits the City thus desires to enter into a lease agreement with Baseline Solar for the construction and operation of a Solar Facility.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAFAYETTE, COLORADO, AS FOLLOWS:

Section 1. The "Solar Energy Lease Agreement" between the City of Lafayette and Lafayette Solar LLC, doing business as Baseline Solar, is authorized in substantially the same form as set forth in Exhibit A, which is attached hereto and made a part of this ordinance. The Mayor is authorized to execute the lease on behalf of the City.

Section 2. If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

Section 4. The repeal or modification of any provision of the Code of Ordinances of Lafayette, Colorado by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 5. This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 6. This ordinance shall become effective upon the latter of the 10th day following enactment, or the day following final publication of the ordinance.

INTRODUCED AND PASSED ON FIRST READING THE 7TH DAY OF MAY, 2013.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THE 16TH DAY OF JULY, 2013.

CITY OF LAFAYETTE, COLORADO

_____
Carolyn D. Cutler, Mayor

ATTEST:

_____
Susan Koster, CMC
City Clerk

APPROVED AS TO FORM:

_____
David S. Williamson,
City Attorney