

ORDINANCE NO. 105, 2019
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE ACQUISITION BY EMINENT DOMAIN PROCEEDINGS
OF CERTAIN LANDS NECESSARY TO CONSTRUCT PUBLIC IMPROVEMENTS
IN CONNECTION WITH THE REALIGNED LEMAY AVENUE BRIDGE OVER VINE
DRIVE AND BURLINGTON NORTHERN SANTA FE RAILROAD TRACKS

WHEREAS, in June 2019, City Council approved Ordinance No. 074, 2019 authorizing the use of \$9.1 million in Transportation Capital Expansion Fee (“TCEF”) funds to continue design and move forward with construction of portions of the Realigned Lemay Avenue Bridge over Vine Drive and Burlington Northern Santa Fe (“BNSF”) railroad tracks (the “Project”); and

WHEREAS, that \$9.1 million is currently being used to continue design, secure a construction contractor, and secure the additional property interests to construct the Project; and

WHEREAS, there are three parcels south of the BNSF tracks that the City needs to acquire property from to complete the Project and City staff has met with the property owners on multiple occasions over the past few years to discuss the impacts of the Project to their property; and

WHEREAS, the City intends to begin Project construction of embankment, rock walls, utilities, bridge foundations and other preliminary items in spring of 2020, which construction will impact these three parcels; and

WHEREAS, to construct this portion of the Project, the City will need to acquire certain property rights from these three parcels, as described on Exhibits “A” through “E”, attached hereto and incorporated herein by this reference (the “Property Rights”); and

WHEREAS, the City will negotiate in good faith for the acquisition of the Property Rights from the owners thereof; and

WHEREAS, the acquisition of the Property Rights is desirable and necessary for the construction of the Project, is in the City’s best interest, and enhances public health, safety, and welfare because it will allow for the construction of needed public infrastructure within the City; and

WHEREAS, the acquisition of the Property Rights may, by law, be accomplished through eminent domain.

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 and determines that is necessary in the public interest to acquire the Property Rights described herein for the purpose of constructing the Project.

Section 3. That the City Council hereby authorizes the City Attorney and other appropriate officials of the City to acquire the Property Rights for the City by eminent domain proceedings.

Section 4. The City Council further finds that, in the event acquisition by eminent domain of the Property Rights or any of them is commenced, immediate possession is necessary for the public health, safety and welfare.

Introduced, considered favorably on first reading, and ordered published this 20th day of August, A.D. 2019, and to be presented for final passage on the 3rd day of September, A.D. 2019.



Mayor


ATTEST:



City Clerk



Passed and adopted on final reading on the 3rd day of September, A.D. 2019.



Mayor

ATTEST:



City Clerk

