

EMERGENCY ORDINANCE NO. 128, 2008
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CONVEYANCE OF A PORTION OF THE
ARAPAHO BEND NATURAL AREA
TO THE FORT COLLINS CAPITAL LEASING CORPORATION

WHEREAS, on September 24, 2008, the Town Board of the Town of Timnath (the "Town Board") passed a resolution finding that a petition it had received for the annexation of certain real property located at the southwest corner of the intersection of Interstate 25 and Harmony Road (the "Property") complies with state law, and on October 1, 2008, approved on first reading ordinances annexing and zoning the property (the "Ordinances"), without notice to the City; and

WHEREAS, on June 11, 2008, the Fort Collins Mayor and City Manager had appeared before the Town Board on June 11, 2008, and had expressed the City's strong concerns about this annexation (the "Timnath Annexation") because of its intrusion into the Fort Collins long-standing Growth Management Area ("GMA") and the Property's status as a principal gateway to the City; and

WHEREAS, before and after that date, Fort Collins Mayor Hutchinson and City Manager Atteberry have had numerous meetings and discussions with their Timnath counterparts to express the City's ongoing concerns about the Timnath Annexation and to explore ways in which the City and the Town could work collaboratively to cooperate in regional land use and transportation planning and, in particular, to establish mutually acceptable growth management boundaries; and

WHEREAS, on October 8, 2008, pursuant to the provisions of Section 24-32-3209(2.3)(a) of the Colorado Revised Statutes, the City has filed with the Town Board a formal objection to the Timnath Annexation and a request to mediate the City's and Town's dispute related thereto; and

WHEREAS, these efforts to persuade the Town Board not to annex the Property have been unsuccessful, and second reading of the Ordinances remains scheduled by the Town Board for October 29, 2008; and

WHEREAS, under the provisions of the Timnath charter, the Ordinances, if approved on second reading, would take effect immediately; and

WHEREAS, Timnath's annexation of the Property and other contiguous properties west of Interstate 25 would do irreparable harm to the long term interests of the City; and

WHEREAS, it is necessary, in the interest of the health, safety and welfare of the residents of the City, that the City Council immediately undertake all legally available measures and remedies to prevent the Timnath Annexation; and

WHEREAS, upon recommendation of the City Manager and City Attorney, the City Council believes that the conveyance of the City's ownership interest in a portion of the Arapaho Bend Natural Area (the "Natural Area"), more particularly described on Exhibit "A," attached hereto and

incorporated herein by this reference, to the Fort Collins Capital Leasing Corporation (the "Corporation") may facilitate that purpose; and

WHEREAS, Article II, Section 6 of the Charter of the City of Fort Collins authorizes the Council to adopt emergency ordinances, which shall be finally passed on first reading by the affirmative vote of at least five members of the Council and which shall contain a specific statement of the nature of the emergency; and

WHEREAS, under Section 23-111 of the City Code, the City Council is authorized to sell, convey or otherwise dispose of any and all interests in real property owned in the name of the City, provided that the City Council first finds, by ordinance, that such sale or other disposition is in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the conveyance of the City's ownership interest in the Natural Area to the Corporation is in the best interests of the City.

Section 2. That the Mayor is hereby authorized to execute such documents as are necessary to convey the Natural Area to the Corporation on terms and conditions consistent with this Ordinance, together with such additional terms and conditions as the Mayor, in consultation with the City Manager and City Attorney, determines to be necessary and appropriate to protect the interests of the City, including, but not limited to, any necessary corrections or revisions to the legal description of the Natural Area, as long as such changes do not materially increase the size or change the character of the property to be conveyed.

Section 3. That the City Clerk is hereby directed to cause the publication of this Ordinance in the Fort Collins Coloradoan no later than October 21, 2008.

Introduced, considered favorably by five (5) members of the Council of the City of Fort Collins and finally passed as an emergency ordinance and ordered published this 14th day of October, A.D. 2008.

Mayor

ATTEST:

City Clerk

EXHIBIT "A"

DESCRIPTION OF NATURAL AREA DESCRIPTION TO BE CONVEYED