

# AGENDA ITEM SUMMARY

## FORT COLLINS CITY COUNCIL

ITEM NUMBER: 32

DATE: October 21, 2008

STAFF: Kathleen Bracke  
Patrick Rowe

### SUBJECT

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Second Reading of Ordinance No. 124, 2008, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands Necessary for the Construction of Public Trail Improvements in Connection with the Mason Corridor Trail Project.

### RECOMMENDATION

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Staff recommends adoption of this Ordinance on Second Reading.

### EXECUTIVE SUMMARY

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The final phase of the Mason Trail project provides a critical connection between Colorado State University, the existing Mason Trail between Harmony Road and the Spring Creek Trail, and the City's community wide trail system (through connections with the Spring Creek Trail and the Fossil Creek Trail). Due to the importance of this connection, staff is seeking authorization to use the eminent domain process to acquire the necessary property interests in the event that good faith negotiations are not successful; staff is hopeful and optimistic that the private property acquisition will be accomplished by negotiated agreement. This Ordinance, adopted on First Reading by a vote of 6-1 (nays: Brown) will authorize staff, if absolutely necessary and only if extensive good faith negotiations are not successful, to use eminent domain to acquire the necessary property interests for the proposed trail improvements.

### ATTACHMENTS

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1. Copy of First Reading Agenda Item Summary - October 7, 2008.  
(w/o original attachments)

**AGENDA ITEM SUMMARY**  
**FORT COLLINS CITY COUNCIL**

**ITEM NUMBER: 19**

**DATE: October 7, 2008**

**STAFF: Kathleen Bracke  
Patrick Rowe**

**COPY**

**SUBJECT**

First Reading of Ordinance No. 124, 2008, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands Necessary for the Construction of Public Trail Improvements in Connection with the Mason Corridor Trail Project.

**RECOMMENDATION**

Staff recommends adoption of the Ordinance on First Reading.

**FINANCIAL IMPACT**

Property acquisition costs will be covered by available project funds, whether or not eminent domain is required.

This phase of the Mason Corridor Trail project will rely on grant funding administered through the Colorado Department of Transportation.

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**EXECUTIVE SUMMARY**

The final phase of the Mason Trail project provides a critical connection between Colorado State University, the existing Mason Trail between Harmony Road and the Spring Creek Trail, and the City's community wide trail system (through connections with the Spring Creek Trail and the Fossil Creek Trail). Due to the importance of this connection, staff is seeking authorization to use the eminent domain process to acquire the necessary property interests in the event that good faith negotiations are not successful; staff is hopeful and optimistic that the private property acquisition will be accomplished by negotiated agreement.

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**BACKGROUND**

In October 2000, the Fort Collins City Council approved the overall Master Plan for the Mason Transportation Corridor, including planned bicycle/pedestrian trail improvements. As of September 2006, the City completed the first phase of these trail improvements which extend from Harmony Road north to the Spring Creek Trail.

The current phase, and the last independent segment of the Mason Trail (north of Prospect Road the trail is combined with the Mason Corridor Bus Rapid Transit guideway) continues the existing trail alignment along the west side of the Burling Northern Santa Fe (BNSF) Railway corridor from the Spring Creek Trail, north to Prospect Road a distance of approximately one-half mile. As currently designed, the proposed segment of trail passes through three separate Colorado State University (CSU) ownerships and one private property. This Ordinance only pertains to the private property owner.

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The purpose of this Ordinance is to permit staff, if absolutely necessary and only if extensive good faith negotiations are not successful, to use eminent domain to acquire the necessary property interests for the proposed trail improvements. Over the past two years the City has had numerous cooperative and constructive conversations with the property owner, and has every indication that negotiations will be successful. The property owner favors the trail and has made significant efforts to include the trail in the owner's pending re-development plans. However, due to the transportation importance of the bicycle/pedestrian link between Colorado State University, the existing Mason Trail, the Spring Creek Trail and the City's community wide trail system, and in deference to the Colorado Department of Transportation's preference to have eminent domain authorization present prior to formal negotiations, staff recommends adoption of this Ordinance.

**ATTACHMENTS**

1. Location Map

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ORDINANCE NO. 124, 2008  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING ACQUISITION BY EMINENT DOMAIN PROCEEDINGS OF CERTAIN  
LANDS NECESSARY FOR THE CONSTRUCTION OF PUBLIC TRAIL IMPROVEMENTS  
IN CONNECTION WITH THE MASON CORRIDOR TRAIL PROJECT

WHEREAS, the initial phase of the Mason Corridor Trail Project (the "Project"), adjacent to the Burlington Northern Santa Fe Railway corridor and extending from Harmony Road to a point along the Spring Creek Trail, was completed in September 2006; and

WHEREAS, Phase II of the Project will extend the Mason Corridor Trail from the Spring Creek Trail to Prospect Road; and

WHEREAS, the Project provides a critical transportation connection between Colorado State University, the existing Mason Corridor Trail, the Spring Creek Trail, and the City's community-wide trail system; and

WHEREAS, in order to construct the Project it is necessary for the City to acquire certain property interests (the "Property") as described on Exhibit "A", attached hereto and incorporated herein by this reference; and

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

WHEREAS, the acquisition of the Property is desirable and necessary for the construction of the Project, is in the City's best interest and enhances public health, safety, and welfare; and

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

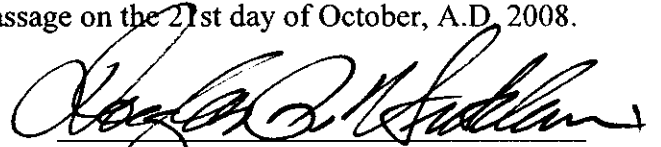
NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby finds and determines that it is necessary and in the public interest to acquire the Property described on Exhibit A for the purpose of constructing the Mason Corridor Trail Project.

Section 2. That the City Council hereby authorizes the City Attorney and other appropriate officials of the City to acquire the Property for the City by eminent domain.

Section 3. That the City Council finds, in the event that acquisition by eminent domain of the Property described in this Ordinance is commenced, that immediate possession is necessary for the public health, safety and welfare.

Introduced, considered favorably on first reading, and ordered published this 7th day of October, A.D. 2008, and to be presented for final passage on the 21st day of October, A.D. 2008.

  
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Mayor

ATTEST:

  
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Chief Deputy City Clerk

Passed and adopted on final reading on the 21st day of October, A.D. 2008.

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Mayor

ATTEST:

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City Clerk