

RESOLUTION 85-221
OF THE COUNCIL OF THE CITY OF FORT COLLINS
SETTING FORTH THE INTENTION
OF THE CITY OF FORT COLLINS, COLORADO
TO ISSUE INDUSTRIAL DEVELOPMENT REVENUE BONDS
FOR REFUNDING OF
CITY OF FORT COLLINS, COLORADO
INDUSTRIAL DEVELOPMENT REVENUE BONDS SERIES 1983
(OLD TOWN FORT COLLINS PROJECT II)

WHEREAS, the City of Fort Collins, Colorado (the "City") issued and sold its City of Fort Collins, Colorado Industrial Development Revenue Bonds Series 1983 (Old Town Fort Collins Project II) (the "1983 Bonds") under an Indenture of Trust, dated as of December 1, 1983, between the City and United Bank of Fort Collins, National Association, as Trustee (the "Indenture"); and

WHEREAS, the proceeds from the sale of the 1983 Bonds were loaned to Old Town Partners II, a Wisconsin Limited Partnership (the "Partnership"), for the purpose of financing a project consisting of the acquisition, construction and equipment of a parcel of land, buildings and other improvements thereon, suitable for retail and office space (the "1983 Project"), pursuant to the Colorado County and Municipality Development Revenue Bond Act as set forth in Article 3, Title 29, Colorado Revised Statutes 1973, as amended (the "Act"); and

WHEREAS, the aggregate principal amount outstanding on the 1983 Bonds is \$7,020,000; and

WHEREAS, the 1983 Bonds are subject to redemption prior to maturity under the terms of the Indenture on any December 1 or June 1 on or after December 1, 1985 and before November 30, 1988 or any time on or after December 1, 1990 and before November 30, 1993; and

WHEREAS, the Partnership has advised the City of the benefits to be derived from refunding, paying and discharging the 1983 Bonds in order to reduce the net effective interest rate, reduce the total interest payable by issuing bonds at a lower net interest cost or having a lower net effective interest rate; reduce the total principal and interest payable thereon in any particular year or years or effect other economies; or any combination of the foregoing; and

WHEREAS, the Partnership desires to have the City refund the 1983 bonds by the issuance of refunding bonds pursuant to §29-3-116, C.R.S. 1973, as amended; and

WHEREAS, the City Council of the City (the "City Council") desires to indicate its intent to proceed with refunding of the 1983 Bonds through the issuance of refunding bonds.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT COLLINS, COLORADO:

Section 1. In order to refund, pay and discharge the 1983 Bonds, the City shall, subject to the provisions hereof, take all necessary or advisable steps to effect the issuance of refunding bonds (the "1985 Refunding Bonds") pursuant to the Act in the maximum aggregate principal amount of Eight Million Dollars (\$8,000,000.00) or such lesser amount as shall be determined and agreed upon by the Partnership and the City. The 1985 Refunding Bonds will not be general obligations of the City. The 1985 Refunding Bonds, including interest thereon, shall not constitute the debt or indebtedness of the City within the meaning of any limitation of the Constitution or statutes of the State of Colorado or the Home Rule Charter of the City, nor give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers. The 1985 Refunding Bonds shall be payable solely from and secured by a pledge of revenues derived from and payable by the Partnership pursuant to financing agreements with the City.

Section 2. No cost or expenses, whether incurred by the City or any other party in connection with the issuance of the 1985 Refunding Bonds, the preparation of any documents relating thereto, or in connection with services provided by any legal or financial consultants retained in connection therewith, shall be borne by the City. All such costs or expenses shall be paid from the proceeds of the 1985 Refunding Bonds or otherwise borne by the Partnership.

Section 3. Prior to the execution of a financing agreement, mortgage and indenture of trust, bond purchase agreement or any other necessary documents and agreements in connection with such 1985 Refunding Bonds, such documents and/or agreements shall be submitted for approval to the City, and, if satisfactory to the City, their execution shall be authorized by ordinance of the City Council pursuant to law.

Section 4. Nothing contained in this resolution shall constitute the debt or indebtedness of the City within the meaning of any limitation of the Constitution or statutes of the State of Colorado or the Home Rule Charter of the City, nor give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers.

Section 5. Prior to further action by the City Council, the applicant shall furnish a recognized bond counsel opinion supporting the legality of the refunding of the 1983 Bonds and utilization of the proceeds of the 1985 Refunding Bonds.

Section 6. All resolutions, or parts thereof, in conflict with this resolution are hereby repealed to the extent of such conflict. This repealer shall not be construed to revive any resolution, or part thereof, heretofore repealed.

Section 7. All commitments of the City contained herein are subject to the condition that within thirty-six (36) months of the date hereof, unless otherwise extended by agreement between the City and the Partnership, the bonds to be issued pursuant hereto shall be issued and sold. In the event that said bonds are not issued and sold within thirty-six (36) months, the City of Fort Collins shall be under no obligation to perform any of the terms and conditions contained herein.

Section 8. If any section, paragraph, clause or provision of this resolution with the exception of any section, paragraph, clause or provision of this resolution limiting the City's financial obligation shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this resolution.

Section 9. This resolution shall take effect immediately upon its introduction and passage.

Section 10. The agreements of the City set forth above are expressly conditioned upon the ability and willingness of the City to issue the bonds as tax exempt obligations under the Federal Income Tax laws existing on the date of the issuance of the bonds. Nothing contained in this resolution shall be construed as requiring the City to issue the bonds and the decision to issue the bonds shall be in the complete discretion of the City.

Passed and adopted at a regular meeting of the City Council held this 19th day of November, A.D. 1985.

Barbara A. Rutoteni
Mayor

ATTEST:

Wanda M. Kravicek
City Clerk