

AGENDA ITEM SUMMARY

September 30, 2014

Urban Renewal Authority Board

STAFF

Wanda Nelson, City Clerk

SUBJECT

Consideration and Approval of the Minutes of the May 6, 2014 Urban Renewal Authority.

EXECUTIVE SUMMARY

The purpose of this item is to approve the minutes from the May 6, 2014 Urban Renewal Authority meeting.

ATTACHMENTS

1. May 6, 2014 (PDF)

May 6, 2014

Urban Renewal Authority

A meeting of the Fort Collins Urban Renewal Authority was held on Tuesday, May 6, 2014, at 10:48 p.m. in the Council Chambers of the City of Fort Collins City Hall. Roll Call was answered by the following Boardmembers: Campana, Cunniff, Horak, Overbeck, Poppaw, Troxell, and Weitkunat.

Staff Members Present: Atteberry, Nelson, Roy.

Agenda Review

Executive Director Atteberry stated there were no changes to the published agenda.

Citizen Participation

Eric Sutherland, 3520 Golden Currant, discussed state Urban Renewal Authority statutes. The State Senate approved a House Bill which included a requirement that cities and counties pledge sales and property tax at the same percentage.

**Consideration and Approval of the April 15, 2014
Urban Renewal Authority Minutes, Adopted**

Chair Weitkunat withdrew from the discussion of this item due to a conflict of interest.

Boardmember Cunniff made a motion, seconded by Boardmember Poppaw, to approve the minutes of the April 15, 2014 Urban Renewal Authority meeting. Yeas: Campana, Cunniff, Horak, Overbeck, Poppaw, and Troxell. Nays: none.

THE MOTION CARRIED.

Resolution No. 070

**Approving an Amendment to the Redevelopment And Reimbursement Agreement with the City, Walton Foothills Holdings VI, L.L.C., and the Foothills Metropolitan District
Regarding the Redevelopment of Foothills Mall, Adopted**

The following is the staff memorandum for this item.

“EXECUTIVE SUMMARY

The purpose of this item is to amend the Foothills Mall Redevelopment Agreement. The Developer has asked to amend Section 3.1 - Conditions Precedent to Issuance of District Bonds of the Agreement, to allow the Metro District Bonds to be issued with 155k square feet of executed leases vs. the 240k square feet required in the current agreement. The Developer is also asking for clarification to Section 4.3 - Construction of Residential Component of Project: Affordable Housing, concerning the period of time the Developer may be required to make payments to the City if there is a delay in the completion of the residential units.

BACKGROUND / DISCUSSION

Amendment to Section 3.1(c)

Section 3.1 - Conditions Precedent to Issuance of District Bonds was included in the agreement to provide the City assurance that prior to the City granting authorization to the District to issue the bonds that the project financing is in place and all project approvals have been received. Section 3.1 details 7 conditions that must be met by the Developer prior to the issuance of the District Bonds. The seven conditions are summarized below:

- a. District Financing Plan approved by the City Manager.*
- b. Provide evidence that the Developer has obtained all equity and private financing necessary to construct the non-residential components of the Project.*
- c. Obtain 240k square feet of executed leased space with 120k square feet of tenants new to Fort Collins at an average sales per square foot of \$375.*
- d. Add-On PIF imposed in accordance with Section 4.7.*
- e. Obtain all Development Approvals for the Project.*
- f. Satisfactory opinion by District's bond counsel.*
- g. No event of default shall have occurred.*

The Developer has indicated they are prepared to meet 6 of these conditions and are requesting a modification to 3.1(c), concerning the square footage of lease space required before issuance. The Developer currently has approximately 90k square feet of leases executed and anticipates having approximately 195k square feet leased by May 2014. A combination of factors has negatively impacted the current volume of executed leases:

- 1. The delay from an anticipated 2014 opening to a 2015 opening.*
- 2. Timing uncertainty of the 2015 opening until the Redevelopment Agreement was signed in January of 2014.*
- 3. A leasing strategy that focuses on critical retailers first, who once signed, will attract other quality retailers.*
- 4. Retailers are currently focused on leases for 2014 openings and will focus on leases to support 2015 openings later in this year.*

The Developer has requested an amendment to the agreement that would allow for the issuance of District bonds with 155k square feet leased including 90k square feet of tenants new to Fort Collins. However, only \$23M of the \$53M of bond proceeds would be released to the project. The remaining \$30M of bond proceeds would be held in escrow by the Bond Trustee and would only be released in tranches to the project as additional leases are executed by the developer.

Table A

	Tranche	Lease Space Sq Ft		Funds Released		Percent of...	
		Total	New to Fort Collins	Funds Released	Assigned to City Improv	Orig 240k	Mall (less Macy's)
Current							
		240k	120k	\$ 53	\$ 8	100%	47%
Request							
	1	155k	90k	\$ 23	\$ 3	65%	30%
	2	205k	120k	33	1	85%	40%
	3	255k	130k	43	2	106%	50%
	4	310k	150k	53	2	129%	60%

Table A details the additional square feet of executed leases required by the developer to receive additional funding. As each 50k of additional leases are executed, combined with a corresponding increase in leases associated with tenants new to Fort Collins, funding will be released by the Bond Trustee in increments of \$10M. In comparison to the original agreement, the Developer must now obtain 310k square feet of executed leases (60% of the total Mall) before all funds are made available (vs. 240k square feet (47% of the total Mall) in the original agreement). The amount of leased space to tenants new to Fort Collins has also increased from 120k to 150k. In addition, a portion of each tranche released would be assigned to the Underpass and Foothills Activity Center portion of the project.

Waiting until the developer has obtained the required 240k square feet of leased space prior to the issuance of the bonds could have multiple adverse effects on the project:

1. The equity partner and the construction financier require all funding be closed simultaneously. A delay in the issuance of the District Bonds will delay the closing on the construction financing.
2. A delay in the close of the project financing opens the possibility of rising interest rates adding significant cost to the project.
3. Construction timing is critical, a delay of several weeks in closing all financing will delay construction start-up which in turn will delay the opening in 2015.
4. A delay in the 2015 mall opening will void current executed leases which specify a 2015 opening.
5. A delay in the 2015 mall opening will put at risk other interested retailers given the projects timing uncertainty. Some of these retailers may elect to locate elsewhere within the northern Colorado region and be lost to the Mall project indefinitely.

The Developer's Equity Partner, has agreed to provide additional security and financing to support the project and maintain the current timeline. Current equity investment in the project is

approximately \$57M and will most likely increase by the time all financing is closed. This is 40% to 50% higher than their original intentions. In addition, the Equity Partner has agreed to provide 100% recourse vs. the normal 50% recourse on the \$100M plus construction loan. Both actions demonstrate confidence in the project.

Risks and Implications Associated with the Amendment to Section 3.1(c):

Risks and implications associated with the amendment vary by party associated with the agreement. Risks revolve around what can be described as “Start-Up Risk”. Start-Up Risk can be defined as the bonds are issued but something catastrophic occurs that prevents the mall from being completed and fully leased out.

City Risk/Implications - In the event the bonds are issued and the mall is not completed, there is no financial obligation on the part of the City beyond the pledge of Sales Tax Increment from sales at the Mall. Issuing the bonds with 155k vs. 240k square feet of leased space does not increase financial risk to the City. The structure of financing was intentionally set up to issue the bonds via the Metro District, avoid creating a debt obligation on the part of the City and allow the City to avoid the Start-Up Risk.

Interest Rate Risk - Current macro-economic indicators point to a rising interest rate environment in the near term. A delay in the issuance of the bonds in a rising rate environment could have a significant impact on the financing cost of the project. A 1% increase in interest rates on the bonds (all else held constant) would require an additional \$17M of Sales Tax Increment from the URA to meet the bond payments. The Developer would also potentially experience additional financing costs associated with the construction loan.

Developer Risk/Implications - The Developer will not have a financial gain with the proposed amendment. The benefit to the Developer is the project would proceed on the current planned timeline without the adverse impact of the effects of a delay described above.

Metro District Risk/Implications - The risk to the District is related to Start-Up Risk and when such an event occurred relative to the square footage of executed leases.

If an event occurred after 240k square feet of leases are executed, in the current agreement, all \$72M of bonds would be issued and outstanding. In the amended agreement, only \$33M of the bond proceeds would have been disbursed and the remaining \$20M of proceeds would be available for an extraordinary redemption of outstanding bonds, thereby reducing the future obligations of the District. If the event occurred prior to the Developer achieving 255k square feet of executed leases, the amended agreement would be beneficial to the District. If such an event occurred after 310k square feet of executed leases were obtained, there is no difference between the two alternatives.

If an event occurred after 155k square feet of leases were executed but before 240k square feet of leases were executed, in the current agreement, no bonds would have been issued. In the amended agreement, \$23M to \$33M of the bond proceeds would have been disbursed and the remaining \$20M to \$30M of proceeds would be available for an extraordinary redemption of the outstanding bonds. There is risk in the amended agreement during the time it takes the Developer to move from 155k to 240k square feet of leased space. Again, there is no financial risk to the City in this case. This risk can be evaluated based on two factors - probability and severity. The

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probability of an event occurring during the 4-6 months it will take the Developer to acquire the 240k square feet of leases vs. the 155k square feet of leases is very low. The severity could be high. Approximately \$41M of bonds would be outstanding plus additional capitalized interest would be incurred if \$30M of proceeds were used for an early redemption. The Start-Up Risk exists with the current agreement and with the amended agreement, the difference relates to whether an event would occur during the next 4-6 months that would ultimately cause the Bonds to not be issued.

Because (1) there is no added risk to the City, (2) the risk to the District is not significantly different between authorizing bonds with 240k of leased space vs. authorizing bonds with 155k of lease space and putting funds in escrow that can only be fully released once 310k of space is leased,(3) the risk of delay to the construction timeline would most likely adversely impact the projects lease opportunities and completion dates, and 4) potential higher interest rates with a late 2014 issuance would require additional sales tax increment to cover bond payments, staff recommends making the requested modifications to the agreement.

Amendment to Section 4.3

Section 4.3 - Construction of Residential Component of Project: Affordable Housing. of the agreement was intended to provide a partial offset to lost residential property tax increment in the event the developer does not meet the construction completion dates described in section 4.3. The 50% payments of the lost property tax revenue by the developer was intended to only be in effect until the residential units are completed and property tax revenue begins to flow to the URA and then to the Metro District.

The current wording in the agreement has been questioned by the District bond council, who interpret the current wording to require the developer to continue making the 50% payments after the residential units are complete if the original construction completion dates in the agreement are not met.

Staff concurs this was not the intent of this section and agree clarification is needed to indicate the 50% payment is only required if the construction completion dates within the agreement are not met and only until the residential units are complete and tax revenue is realized by the Metro District.

The Council Finance Committee will review this item on Friday, April 11. Draft minutes from that meeting will be provided in the read-before packet on Tuesday, April 15.”

Chair Weitkumat withdrew from the discussion of this item due to a conflict of interest.

Boardmember Campana made a motion, seconded by Boardmember Troxell, to adopt Resolution No. 070.

Boardmember Troxell noted the URA has attempted to have conversations with Larimer County and stated it is unfortunate the Commissioners chose to go to the State legislature for resolution.

Executive Director Atteberry discussed a countywide conversation regarding purpose and objectives of tax increment financing and stated additional information will be forthcoming.

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The vote on the motion was as follows: Yeas: Campana, Cunniff, Horak, Overbeck, Poppaw, and Troxell. Nays: none.

THE MOTION CARRIED.

Adjournment

The meeting adjourned at 10:58 p.m.

Vice-Chair

ATTEST:

Secretary