

January 15, 2013

**Urban Renewal Authority**

A meeting of the Fort Collins Urban Renewal Authority was held on Tuesday, January 15, 2013, at 9:40 p.m. in the Council Chambers of the City of Fort Collins City Hall. Roll call was answered by the following Boardmembers: Horak, Kottwitz, Manvel, Ohlson, Poppaw, Troxell and Weitkumat.

Staff Members Present: Atteberry, Nelson, Roy.

Vice-President Ohlson withdrew Item No. 7, *Resolution No. 049, Ratifying and Confirming the Redevelopment Agreement between the Fort Collins Urban Renewal Authority and RMI2 Properties, LLC, As Signed by the Executive Director on October 1, 2012*, from the Consent Calendar.

**Citizen Participation**

Eric Sutherland, 3520 Golden Currant, discussed deficiencies in the 2013 URA budget. He stated it does not account for certain expenses which should be part of the budget.

**Consideration and Approval of the Minutes of the  
November 8 and November 20, 2012 Urban Renewal Authority Meetings, Approved**

Boardmember Manvel made a motion, seconded by Boardmember Poppaw, to adopt and approve all items not withdrawn from the Consent Calendar. Yeas: Weitkumat, Manvel, Kottwitz, Ohlson, Poppaw, Horak and Troxell. Nays: none.

THE MOTION CARRIED.

**Resolution No. 049**

**Ratifying and Confirming the Redevelopment Agreement between the  
Fort Collins Urban Renewal Authority and RMI2 Properties, LLC, As  
Signed by the Executive Director on October 1, 2012, Adopted**

The following is staff's memorandum for this item.

***“EXECUTIVE SUMMARY***

*The Urban Renewal Authority (Authority) Board is being asked to ratify and confirm changes to the Redevelopment Agreement between the Authority and and RMI2 Properties, LLC, for the Rocky Mountain Innosphere project, as approved by the Executive Director and City Attorney and signed and executed on October 1, 2012.*

## **BACKGROUND / DISCUSSION**

### **Background:**

The Authority Board adopted Resolution No. 020, approving a Redevelopment Agreement (the "Agreement") between the Authority and RMI2 Properties, L.L.C. ("RMI2") for the Rocky Mountain Innosphere (RMI) project on October 6, 2009, so as to authorize \$2.8 million of tax increment financing ("TIF") assistance for construction of a new business incubator facility. Although it was staff's intent to finalize and sign the Agreement upon adoption of the Resolution, staff determined in early 2012 that no signed document could be located. In the course of preparing the Agreement document for signatures, staff identified provisions in the Agreement that did not accurately reflect the intent of the parties, were ambiguous, or did not address matters of implementation that would ultimately require clarification. Accordingly, staff prepared a modified version of the Redevelopment Agreement, reviewed it with RMI2, the Colorado Housing Finance Authority, and other stakeholders in the New Market Tax Credit Financing for the RMI project, and then proceeded to circulate the Agreement document for signing. The Agreement is dated "nunc pro tunc" October 7, 2009, meaning that it is understood and intended by the parties to be effective as of the date of October 7, 2009. See Exhibit A to the Resolution.

Authority Resolution No. 020, authorized the Authority Executive Director to sign a Redevelopment Agreement "in substantially the form [of the Exhibit to the Resolution] . . . subject to minor modifications in form or substance consistent with this Resolution that the Executive Director, in consultation with legal counsel, may determine to be necessary in order to further the purposes of the Agreement." See Attachment 1.

The following summarizes key changes:

- Revised the concept of "special fund" to instead use a "dedicated account" in order to avoid unintended accounting issues with the former;
- Clarified that the "related documents" include the City to Authority loan documents so that funds received by the Authority from the owner can be used to pay debt service on the City's loan to the Authority;
- Modified references language to more clearly explain the relationship between the funds loaned and/or granted by the Authority and the costs of the improvements to be constructed by the owner;
- Revised language regarding the payments to be made by the Authority to specify quarterly payments and to conform to the other changes noted above;
- Added bookkeeping and inspection provisions to assist the Authority in enforcing the terms of the Agreement;
- Modified language regarding how funds will be received and managed;
- Modified the way "pledged revenues" are described to be more consistent with the way the transaction was described and presented to the Board; and
- Added language conditioning the credit of the "pledged revenues" of \$2.8 million toward the owner's obligations so that the credit only happens if the owner refinances its obligations to the Authority; this originally was described as part of the transaction but was not embodied in the Agreement document presented to the Board.

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*After review and discussion of whether the modifications that had been made to the Agreement fall within the scope of the authorization in Resolution 020 (quoted above), it was concluded that the agreement as modified could reasonably be interpreted to fall within the scope of the authorization. This was largely because many of the revisions serve to better describe the terms of the arrangements as they were envisioned to be implemented and as they were presented to the Authority Board. In addition, the changes are beneficial to the Authority and protect the interests of the Authority, and eliminate some agreement language that may have been difficult to implement or administer.*

*The Agreement provides only for a credit of up to \$2.8 million or such amount as represents the actual reimbursable project expenses (if less than \$2.8 million) to RMI2 in the event that RMI2 refinances the obligations incurred in connection with the New Market Tax Credit Financing for the RMI project prior to March 31, 2017. The repayment obligation to the Authority under the New Market Tax Credit Financing is a promissory note payable at the end of the full term of twenty years. This twenty-year loan commitment was part of the structure of the New Market Tax Credit Financing authorized by the Authority Board on October 6, 2009, in Resolution No. 019. By requiring that RMI2 refinance the twenty-year loan after seven years in order to obtain the approved reimbursement from TIF revenues, the Agreement substantially increases the likelihood that the Authority will be repaid early or on better terms than had been previously made clear in the earlier version of the Agreement.*

*The Agreement does include a specific reference, in Section 4.1, Authority Financing, as follows:*

*The Authority will use its reasonable best efforts to cooperate with and assist Owner in Owner's efforts to obtain financing sufficient to meet its obligations hereunder. In connection therewith, the Authority may advance funds in the amount of up to Five Million Three Hundred and Three Thousand, Nine Hundred and Thirty Nine Dollars (\$5,303,939), in exchange for the commitments and undertakings of the Owner and entities affiliated with the Owner hereunder and pursuant to the Related Documents or such other agreements as may be approved by the Authority. (Emphasis added.)*

*In the original form of the Agreement, as presented to the Board, Section 4.1 was more general, stating only that the Authority "will use its reasonable best efforts to obtain financing sufficient to meet its obligations under Related Documents." However, the term "Related Documents" was defined to mean "those documents the Board of the Authority approved, by Resolution No. 020, on October 6, 2009, including, without limitation, a Loan Agreement, a Promissory Note, and a Pledge, Assignment and Security Agreement between the Authority and CGRF Investor Fund Five, LLC." And, as with the revised Agreement, the amount of loan authorized in Resolution No. 019 on October 6, 2009, was Five Million Three Hundred and Three Thousand, Nine Hundred and Thirty Nine Dollars (\$5,303,939).*

*Consequently, the Agreement does not in any way increase the obligation of the Authority to RMI2, but rather limits and conditions the Authority's obligations as they relate to reimbursement of RMI project costs from TIF revenues.*

## **FINANCIAL / ECONOMIC IMPACTS**

*The revised agreement does not change the contributions made by the Authority to the RMI project. Therefore, this resolution has no financial or economic impact on the City or Authority greater than the original agreement."*

Josh Birks, Economic Health Director, reviewed the primary differences between the original and revised agreements, discussed the tax increment financing pledge, and described the twenty-year obligation between the Rocky Mountain Innosphere and the Urban Renewal Authority.

Eric Sutherland, 3520 Golden Currant, opposed the financing and cost to taxpayers. He stated that the building was gifted to a private entity at the cost of taxpayers.

Chairperson Weitkunat asked Mr. Sutherland to which building and entity he was referring. Mr. Sutherland replied the loan to RMI2 was set up in a manner such that payments are being made by the URA. He stated there was no down payment made by RMI2.

Boardmember Horak asked Mr. Sutherland what his suggestion would be for a course of action. Mr. Sutherland replied Council should bring in an impartial negotiator with financial expertise.

Vice-Chair Ohlson requested an explanation of the financial projection and reality variance. He asked if the \$1.5 million would have been used to pay for other improvements in the URA if the projections had been correct. Birks replied there were three items that contributed to the variance, including the 2010 versus the 2012 timing, a change in the assumed rate, and, the most significant contributor to the variance, the change in approach of project valuations. The \$1.5 million would have been available to the rest of the district to do other projects.

Mike Beckstead, Chief Financial Officer, stated the URA is financially solvent and stated that there were several bits of misinformation in Mr. Sutherland's statements.

Boardmember Horak requested clarification about the timing of the full TIF payment being due to an oversight. Birks replied there was a hope the building would be completed earlier and the original preliminary estimate did not include the two-year delay.

Boardmember Horak asked about the original valuation methodology and why it was selected over the DDA method. Birks replied there was consultation with the County; however, the County was not asked for an estimate. The original valuation methodology took into account project costs.

Boardmember Manvel made a motion, seconded by Vice-President Ohlson, to adopt Resolution No. 049.

Vice-Chair Ohlson asked if this agreement is, in any way, worse for the citizens and taxpayers of Fort Collins. Birks replied it is not, in his opinion. Beckstead replied this agreement is an improvement for the citizens of Fort Collins.

The vote on the motion was as follows: Yeas: Weitkunat, Manvel, Kottwitz, Ohlson, Poppaw and Troxell. Nays: Horak.

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THE MOTION CARRIED.

**Adjournment**

The meeting adjourned at 10:18 p.m.

Karen Weikusat  
Chairperson

ATTEST:

Wanda Nel  
Secretary

