

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 24

DATE: April 21, 2009

STAFF: Steve Roy

SUBJECT

Resolution 2009-037 Authorizing the City Attorney to Provide Legal Services to the Fort Collins Capital Leasing Corporation.

RECOMMENDATION

Staff recommends adoption of this Resolution..

EXECUTIVE SUMMARY

This Resolution authorizes the City Attorney to provide legal services to the Fort Collins Capital Leasing Corporation.

BACKGROUND

The Fort Collins Capital Leasing Corporation (FCCL) was created and registered with the Colorado Secretary of State on June 26, 1998, to facilitate the financing, acquisition, construction and installation of real and personal property for City purposes. The initial projects in which FCCL was involved included the issuance of certificates of participation (COPs) for the civic center parking structure and the City office building at 215 North Mason. Since then, COPs have been used by the City in connection with several other projects, including the Fort Collins Police Headquarters and the Soapstone Prairie Natural Area.

FCCL has also supported other City projects beyond the traditional financing for which it was created. For example, FCCL recently worked with the City in connection with the City's de-annexation and annexation of property near I-25 and Harmony Road. Other opportunities for FCCL assistance to the City include lease-purchase transactions and other real estate transactions requiring unusual ownership arrangements.

Because the kinds of transactions in which FCCL is involved have generally significant legal issues associated with them, and because the interests of the City and FCCL are almost always compatible, the FCCL Board has asked that the Council authorize the City Attorney's Office to provide legal services to FCCL, as permitted by Article VI, Section 2 of the City Charter. This Resolution would provide that authorization.

RESOLUTION 2009-037
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CITY ATTORNEY TO PROVIDE LEGAL
SERVICES TO THE FORT COLLINS CAPITAL LEASING CORPORATION

WHEREAS, the Fort Collins Capital Leasing Corporation ("FCCL") was created and registered with the Colorado Secretary of State on June 26, 1998, primarily for the purpose of facilitating the financing, acquisition, construction and installation of real and personal property for the City, especially with regard to the issuance of certificates of participation; and

WHEREAS, the City's ability to utilize certificates of participation and otherwise avail itself of the services of the FCCL has proved to be very beneficial to the Fort Collins community because it has made possible a number of important capital projects, including the Fort Collins Police Headquarters and the Soapstone Natural Area; and

WHEREAS, the FCCL may, under its articles of incorporation, engage in any lawful purpose, and such flexibility has also proved beneficial to the City; and

WHEREAS, there are significant legal issues involved in almost all of the transactions where the FCCL is utilized by the City and it is appropriate that the City assist the FCCL by providing the assistance of the City Attorney's Office with regard to those transactions; and

WHEREAS, Article VI, Section 2 of the City Charter states that the City Attorney is to perform all services incident to the position as may be required by the Charter, ordinances, or the Council; and

WHEREAS, the City Council believes it to be in the best interests of the City to authorize the City Attorney to serve as the legal advisor of the FCCL and its officers to the extent that such service is, in the judgment of the City Attorney, compatible with the interests of the City.

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

Section 1. That the City Attorney is hereby authorized to serve as the legal adviser of the FCCL at no cost to the FCCL.

Section 2. That if, in the judgment of the City Attorney or the Board of Directors of the FCCL, a particular situation or transaction presents a conflict of interest between the City and the FCCL, the City Attorney is hereby authorized to decline representation of the FCCL, in which event the FCCL shall, if necessary, obtain separate legal counsel to advise and represent the FCCL.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 21st day of April A.D. 2009.

Mayor

ATTEST:

City Clerk