

**SUBJECT**

First Reading of Ordinance No. 075, 2011, Appropriating Funds from the City's General Fund Reserves for Transfer to the Fort Collins Urban Renewal Authority for the Purpose of Providing a Second Loan for the North College Marketplace Project.

**EXECUTIVE SUMMARY**

The Urban Renewal Authority (URA) is seeking a loan in the amount of \$3 million from the City to fulfill the remaining reimbursement obligation for the North College Marketplace granted by the URA Board in September 2008. The first appropriation for \$5 million was received in April 2009 for Off Site Street Infrastructure, Wetlands Mitigation, and Demolition/Site Preparation. The requested loan amount from the City of Fort Collins' General reserves to the URA will be \$3 million and reimbursed to the project for the On-Site public improvements. The URA will utilize the City's Interfund Borrowing program that was formally added to the City's investment policies in 2008. This program enables the City to use a portion of its investment portfolio to assist City Departments and related entities (e.g., the URA) to access funds at a competitive interest rate while still providing a market based yield to the City investment portfolio.

**BACKGROUND / DISCUSSION**

The City and the URA entered into an intergovernmental agreement on August 15, 2006 allowing the City to advance fund to the URA in support of its activities. Any such advance of funds shall be evidenced in writing in the form of a loan memorialized by a promissory note or a grant, which transaction shall not be valid until first having been approved by both the City Council and the URA Commission."

On September 16, 2008 the URA Board approved Resolution No. 011, authorizing a Redevelopment Agreement between the URA and the developer to provide financial assistance for the North College Marketplace. It was determined at that time that the URA would need to borrow the funds to pay for the public improvements and then bond against that amount in the future. The City loaned the URA funds in the amount of \$5 million on April 21, 2009 for those public improvements associated with the first three line items of Exhibit C of the Redevelopment Agreement (Attachment 1).

Below are the line items listed in Exhibit C for the initial appropriation of \$5 million:

Off Site Street Infrastructure	\$ 2,812,620
Demolition, Property Clean up and Site Preparation Cost	\$ 366,650
Wetlands Mitigation, Landscaping, Unsuitable Materials and Payment to the Wetlands' Reserve Fund	\$ 1,763,206
Contingency (initial amount)	\$ 57,524
	\$ 5,000,000

The remaining line items listed in Exhibit C are requested for this appropriation of \$3 million:

On Site Utilities (Sanitary, Storm, Water, Dry)	\$1,022,861
Gateway/Landscaping/Pedestrian Connection/Grading/ North South Circulation and College Avenue Public Access Easement/Paving of Grape Street	\$1,702,128
Relocation Assistance (Up to 1,000 per residence)	\$ 10,000
Contingency (remaining)	\$ 265,011
	\$3,000,000

Exhibit C from the Redevelopment Agreement lists the public improvements included as potential eligible costs (Attachment 1).

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**FINANCIAL / ECONOMIC IMPACTS**

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The Project was determined by the URA Board to be a qualified project for tax increment financing and consistent with the North College URA Plan as well as the North College Corridor Plan. Over the remaining life of the plan area, the project will generate an estimated \$15.5 million in property tax increment. This action approves the loan agreement between the City and URA to finance the commitment made by the URA Board for the North College Marketplace.

URA funding for the Project's second appropriation amount totals \$3,000,000. This loan is a 20-year term loan.

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**STAFF RECOMMENDATION**

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Staff recommends adoption of the Ordinance on First Reading.

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**ATTACHMENTS**

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1. Exhibit C to the North College Marketplace Redevelopment Agreement – List of estimated costs for public improvements.
2. Powerpoint presentation.

**Exhibit C**  
to  
the North College Marketplace  
Redevelopment Agreement

<b>Public Improvement</b>	<b>Total Cost</b>
<b>Off Site Street Infrastructure (Local Street Portion)</b>	\$2,812,620*
<b>Demolition, Property Cleanup and Site Preparation Cost</b>	\$366,650
<b>Wetlands Mitigation, Landscaping, Unsuitable Materials and Payment to Wetlands' Reserve Fund</b>	\$1,763,206
<b>On-Site Utilities (Sanitary, Storm, Water, Dry)</b>	\$1,022,861
<b>Gateway / Landscaping / Pedestrian Connection / Grading / North/South Circulation and College Avenue Public Access Easement / Paving of Grape Street</b>	\$1,702,128
<b>Relocation Assistance (Up to \$1,000 per residence)</b>	\$10,000
<b>Contingency</b>	\$322,535
<b>Total Cost for Improvements</b>	<b>\$8,000,000</b>

\*\$900,000 is potential reimbursement to the URA from adjacent properties as they develop/redevelop.  
Note: All cost numbers contained herein are based on preliminary cost estimates and are subject to change based upon final design and cost fluctuations.

**This Public Improvements budget is supported by the Public Improvements Summary dated September 4, 2008, as amended.**

# Loan Agreement between City and URA for North College Marketplace Project

City Council Meeting  
June 7, 2011



1



2

## Previous Actions

- URA Approved September 2008 Redevelopment Agreement in the amount of \$8 million for public improvements
- Council and URA Approved a loan agreement in April 2009 which appropriated Phase 1 in the amount of \$5 million.

3



## Tonight's Council Action

- 1<sup>st</sup> reading of Ordinance to loan the URA the remaining \$3 million for the North College Marketplace to pay for eligible public improvements

4



## Eligible Public Improvements

Off Site Street Infrastructure	\$2,812,620
Demolition and Property Clean up	\$366,650
Wetlands Mitigation	\$1,763,206
On Site Utilities	\$1,022,861
North/South Circulation	\$282,125
Gateway/Landscaping/connection	\$1,420,003
Relocation Assistance	\$10,000
Contingency	\$322,535
Total	\$8,000,000

5



## Eligible Public Improvements

Loan Phase 1:

Off Site Street Infrastructure	\$2,812,620
Demolition and Property Clean up	\$366,650
Wetlands Mitigation	\$1,763,206
Contingency (portion)	\$57,524
Total	\$5,000,000

6



## Eligible Public Improvements

### Loan Phase 2:

On Site Utilities	\$1,022,861
North/South Circulation	\$282,125
Gateway/Landscaping/connection	\$1,420,003
Relocation Assistance	\$10,000
Contingency (remaining)	\$265,011
Total	<u>\$3,000,000</u>

7



## Construction Photos



May 2010

July 2010



8







## Loan Facts

- City will administer financing charges of approximately \$1.3 million to the URA
  - based on Treasury Bill rate
  - actual rate be set at execution\*
- Payments from the URA will come out of the property tax increment generated by the project.



## Tonight's Council Action

- 1<sup>st</sup> reading of Ordinance to enter into a loan agreement with the URA for \$3,000,000.
- URA assumes the debt and reimburses the funds to the City over time.
- Loan will have a 18-year term with no pre-payment penalty.
- City will capture \$1.3 M\* in interest associated with the loan.

ORDINANCE NO. 075, 2011  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROPRIATING FUNDS FROM THE CITY'S GENERAL FUND RESERVES  
FOR TRANSFER TO THE FORT COLLINS URBAN RENEWAL AUTHORITY  
FOR THE PURPOSE OF PROVIDING A LOAN FOR THE  
NORTH COLLEGE MARKETPLACE PROJECT

WHEREAS, the Fort Collins Urban Renewal Authority (the "URA") was created on January 5, 1982 to prevent and eliminate conditions related to certain blight factors in the City; and

WHEREAS, the City Council, by Resolution 2004-152, has made findings required by Colorado Revised Statutes Part 1 of Title 31, Article 25 and declared the area described in Resolution 2004-151 as blighted and approved the Urban Renewal Plan for the North College Avenue Corridor (the "Plan"); and

WHEREAS, on August 15, 2006, the City Council adopted Resolution 2006-082 authorizing an intergovernmental agreement between the City and the URA whereby the City will provide support services to the URA and will advance funds to the URA so long as the advance of such funds is evidenced in writing by a promissory note; and

WHEREAS, the 1908 North College, LLC (the "Developer") owns property in the Plan area and has nearly completed the construction of the North College Marketplace on property located northeast of the intersection of North College Avenue and East Willox Lane (the "Project"); and

WHEREAS, the Project included the construction and installation of public infrastructure such as street and utility improvements as well as gateway, landscaping and pedestrian improvements within the North College Urban Renewal Area; and

WHEREAS, on September 16, 2008, the Board of Commissioners of the URA adopted Resolution No. 011 approving a financial assistance agreement with the Developer; and

WHEREAS, the URA must borrow funds to pay for its portion of the Improvements related to the Project as provided in Resolution No. 011, and has opted to borrow these funds in two phases; and

WHEREAS, on May 5, 2009, the City Council adopted Ordinance No. 46, 2009, approving a loan in the amount of \$5,000,000 for Phase One of the funding; and

WHEREAS, City staff has been advised, and has confirmed, that the Developer is nearing completion of the Project, and the URA is therefore in need of obtaining the second phase of funding; and

WHEREAS, City staff has prepared a proposed promissory note (the "Note") and loan agreement in the form entitled "Loan Agreement Between the City of Fort Collins and the Fort

Collins Urban Renewal Authority for Funding the North College Marketplace Project (Phase Two)” (the “Loan Agreement”) attached hereto as Exhibit A and incorporated herein by this reference; and

WHEREAS, the City has funds available in its General Fund Reserves to fund the loan to the URA and finds it is in the best interests of the City to authorize execution of the Loan Agreement and certain related documents; and

WHEREAS, Article V, Section 9, of the City Charter permits the City Council to appropriate by ordinance at any time during the fiscal year such funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated; and

WHEREAS, the City Manager recommends funding the loan to the URA from the General Fund and it is the desire of the City Council to appropriate the sum of \$3,000,000 from General Funds Reserves for transfer to the URA, as a loan.

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

Section 1. That there is hereby appropriated from General Fund Reserves an amount not to exceed THREE MILLION DOLLARS (\$3,000,000) for expenditure as a loan to the Fort Collins Urban Renewal Authority.

Section 2. That the use of this sum for the purpose of funding a loan to the URA, according to the terms and conditions of the Note and Loan Agreement, will provide necessary improvements to public infrastructure and will be beneficial for all City citizens.

Section 3. That the Note, Loan Agreement and related documents are hereby approved on substantially the terms and conditions contained therein, subject to modifications in form or substance as the Mayor may, in consultation with the City Attorney, deem to be desirable and necessary to protect the interests of the City.

Introduced, considered favorably on first reading, and ordered published this 7th day of June, A.D. 2011, and to be presented for final passage on the 5th day of July, A.D. 2011.

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Mayor

ATTEST:

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City Clerk

Passed and adopted on final reading on the 5th day of July, A.D. 2011.

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Mayor

ATTEST:

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City Clerk

**LOAN AGREEMENT BETWEEN THE CITY OF FORT COLLINS  
AND THE FORT COLLINS URBAN RENEWAL AUTHORITY  
FOR FUNDING THE NORTH COLLEGE MARKETPLACE PROJECT  
(PHASE TWO)**

THIS LOAN AGREEMENT (the "Agreement") made this \_\_\_\_ day of \_\_\_\_\_, 2011, by and between the CITY OF FORT COLLINS, COLORADO, a municipal corporation, (the "City"), and FORT COLLINS URBAN RENEWAL AUTHORITY, a public body corporate and politic of the State of Colorado, (the "Borrower").

**RECITALS**

A. Borrower is an urban renewal authority for the City, created pursuant to Colorado Revised Statutes Part 1 of Title 31, Article 25, as amended (the "Act").

B. Borrower was created on January 5, 1982 to prevent and eliminate conditions related to certain "blight factors" in the community. The Act gives the Borrower broad powers to carry out its statutory mandate. Included are the powers to enter into contracts, borrow or lend funds and to acquire property, among others. Urban renewal projects may be financed in a variety of ways and urban renewal authorities are authorized to borrow money, issue bonds, and accept grants from public or private sources.

C. By Resolution 2004-151, the City Council for the City (the "City Council") found and declared the area described therein (the "Area") to be a blighted area as defined in the Act, and appropriate for inclusion in an urban renewal project.

D. By Resolution 2004-152, the City Council made findings and approved the urban renewal plan (the "Plan") for the North College Avenue Corridor.

E. By the Intergovernmental Agreement approved by City of Fort Collins Resolution 2006-082, the City may advance funds to the Borrower in support of its activities so long as any such advance of funds is evidenced in writing in the form of a loan memorialized by a promissory note, which transaction shall not be valid until first having been approved by both the City Council and the URA Commission.

F. Borrower will incur certain costs relating to the design, installation, construction and financing of public improvements in the Area (the "Project") and has requested and applied to City for a loan to provide funding for these costs not to exceed

Three Million Dollars (\$3,000,000) and City is willing to make a loan on the terms and conditions hereinafter set forth (the "Loan").

G. Tax increment financing for the Project is specifically permitted pursuant to Section 7 of the Plan.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

Section 1. The Loan. After the effective date of this Agreement, the adoption of the required resolutions by the City and Borrower, and the execution of a promissory note and other documents as may reasonably be required the City will loan the Borrower the sum of Three Million Dollars (\$3,000,000) from the City's investment portfolio (the "Loan").

Section 2. Interest. Interest on the Loan will accrue at a rate equal to \_\_\_\_%.

Section 3. Payment. Principal and accrued interest will be due and payable by the Borrower to the City on an annual basis from the effective date of the Agreement. Borrower, in its sole discretion, may prepay all or any portion of the Loan at any time and without any prepayment penalty. If a prepayment is made, the funds will go first toward any interest which has accrued and the balance then applied to the reduction of principal.

Section 4. Tracking. Borrower agrees to maintain a separate payable line-item within its accounting system to track the Loan.

Section 5. Alternative Financing. The Parties contemplate that at some point in the future the Borrower will obtain alternative financing (*e.g.* bond financing) and will diligently pursue that financing with a goal to reducing the outstanding balance of the Loan.

Section 6. Notice. Any notice required to be delivered in writing will be accomplished by personal delivery or mailing postage prepaid by the United States Postal Service, or other commercial carrier to the following addresses:

If to the City  
City of Fort Collins  
Director of Finance  
PO Box 580  
Fort Collins, CO 80522-0580

If to the Borrower  
Fort Collins Urban Renewal Authority  
Director of Advance Planning  
PO Box 580  
Fort Collins, CO 80522-0580.

Section 7. Entire Agreement. This Agreement will be construed according to its fair meaning, as if prepared by both Parties, and constitutes the entire understanding and agreement of the Parties related to the matters addressed in this Agreement.

**CITY:**

**CITY OF FORT COLLINS, COLORADO, a  
municipal corporation**

By: \_\_\_\_\_  
Douglas P. Hutchinson, Mayor

ATTEST:

By: \_\_\_\_\_  
Wanda Krajiceck, City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Assistant City Attorney



**BORROWER:**

FORT COLLINS URBAN RENEWAL  
AUTHORITY, a public body corporate and  
politic of the State of Colorado.

By: \_\_\_\_\_  
Executive Director

Exhibit A

**Urban Renewal Authority**  
 North College Market Place phase 2  
 Loan from General Fund to URA

Loan Amount	3,000,000.00
Interest Rate	4.010% *

Start Date	1-Aug-11 *
Matures	31-Dec-29
Years	18 5/12

Year of Loan	Date	Payment	Interest	Principal	Balance
0	1-Aug-11				3,000,000.00
0.42	31-Dec-11	50,125.00	50,125.00	-	3,000,000.00
1.42	31-Dec-12	237,172.64	120,300.00	116,872.64	2,883,127.36
2.42	31-Dec-13	237,172.64	115,613.41	121,559.23	2,761,568.13
3.42	31-Dec-14	237,172.64	110,738.88	126,433.76	2,635,134.37
4.42	31-Dec-15	237,172.64	105,668.89	131,503.75	2,503,630.62
5.42	31-Dec-16	237,172.64	100,395.59	136,777.05	2,366,853.57
6.42	31-Dec-17	237,172.64	94,910.83	142,261.81	2,224,591.76
7.42	31-Dec-18	237,172.64	89,206.13	147,966.51	2,076,625.25
8.42	31-Dec-19	237,172.64	83,272.67	153,899.97	1,922,725.28
9.42	31-Dec-20	237,172.64	77,101.28	160,071.36	1,762,653.92
10.42	31-Dec-21	237,172.64	70,682.42	166,490.22	1,596,163.70
11.42	31-Dec-22	237,172.64	64,006.16	173,166.48	1,422,997.22
12.42	31-Dec-23	237,172.64	57,062.19	180,110.45	1,242,886.77
13.42	31-Dec-24	237,172.64	49,839.76	187,332.88	1,055,553.89
14.42	31-Dec-25	237,172.64	42,327.71	194,844.93	860,708.96
15.42	31-Dec-26	237,172.64	34,514.43	202,658.21	658,050.75
16.42	31-Dec-27	237,172.64	26,387.84	210,784.80	447,265.95
17.42	31-Dec-28	237,172.64	17,935.36	219,237.28	228,028.67
18.42	31-Dec-29	237,172.62	9,143.95	228,028.67	-
		<u>4,319,232.50</u>	<u>1,319,232.50</u>	<u>3,000,000.00</u>	

\* Dates and rates are preliminary. Specifics will be set after the loan is authorized.

**PROMISSORY NOTE**

\$3,000,000

\_\_\_\_\_, 2011

FOR VALUE RECEIVED, FORT COLLINS URBAN RENEWAL AUTHORITY, a public body corporate and politic of the State of Colorado ("Borrower"), promises to pay to the order of THE CITY OF FORT COLLINS, COLORADO, a municipal corporation ("Lender"), at its office at 300 LaPorte Avenue, Fort Collins, Colorado 80524, in lawful money of the United States of America the principal amount of Three Million Dollars (\$3,000,000). This Promissory Note is issued pursuant to the Loan Agreement dated as of \_\_\_\_\_, 2011, between Borrower and Lender (the "Loan Agreement"). Capitalized terms used herein but not defined herein have the meanings given such terms in the Loan Agreement. The obligations of Borrower evidenced by this Promissory Note are payable in accordance with the terms and conditions of the Loan Agreement.

The rate of interest borne by this Promissory Note is a fixed rate equal to \_\_\_\_\_% per annum ("Interest Rate"). Final payment of all unpaid Principal and accrued interest will be due and payable on the Maturity Date. The annual interest rate of this Promissory Note is computed on a 360 day year basis, multiplied by the actual number of days elapsed.

The Loan may be drawn 100% upon execution of the Loan Documents, or in part from time to time, but not more frequently than monthly.

This Promissory Note shall mature on December 31, 2029. At such time all unpaid principal, interest, default interest, fees and charges owing under this Note shall be deemed payable in full.

Unless otherwise agreed or required by applicable law, payments will be applied first to any accrued interest; then to principal; then to any late charges; and then to any unpaid collection costs.

If Lender refers this Note to an attorney for collection or seeks legal advice following a default beyond all cure periods alleged under this Note, or the Lender is the prevailing party in any action instituted on this Note, or if any other judicial or non-judicial action, suit or proceeding is instituted by Lender or any future holder of this Note, and an attorney is employed by Lender to appear in any such action or proceeding, or to reclaim, seek relief from a judicial or statutory stay, sequester, protect, preserve or enforce Lender's interest in this Note, the Loan Documents or any other security for this Note (including, but not limited to, proceedings under federal bankruptcy law or in connection with any state or federal tax lien), then Borrower promises to pay reasonable attorneys' fees and reasonable costs and expenses incurred by Lender and/or its attorney in connection with the above-mentioned events. If not paid within ten (10) days after such fees become due and written demand for payment is made,

such amount shall be due on demand or may be added to the principal, at the Lender's discretion.

Should any payment or installment hereunder be not paid when the same becomes due and payable, Borrower recognizes that the Lender will incur extra expenses for both the administrative cost of handling delinquent payments and the cost of funds incurred by Lender after such due date as a result of not having received such payment when due. Therefore, Borrower shall, in such event, without further notice, and without prejudice to the right of Lender to collect any other amounts provided to be paid herein, including default interest or to declare a default hereunder, pay to Lender to cover such expenses incurred as a result of any installment payment due being not received within ten (10) days of its due date, a "late charge" of five percent (5%) of the amount of such delinquent payment.

Except as otherwise provided herein, the Borrower waives presentment and demand for payment, notice of acceleration or of maturity, protest and notice of protest and nonpayment, bringing of suit and diligence in taking any action to collect sums owing hereunder and agrees that its liability on this Note shall not be affected by any release or change in any security for the payment of this Note or release of anyone liable hereunder. No extension of time for the payment of this Note, or any installment or other modification of the terms made by the Lender with any person now or hereafter liable for the payment of this Note, shall affect the original liability under this Note of the Borrower, even provided the Borrower is a party to such agreement.

In no event whatsoever shall the amount paid, or agreed to be paid, to the holder of this Note for the use, forbearance or retention of the money to be loaned hereunder ("Interest") exceed the maximum amount permissible under applicable law. If the performance or fulfillment of any provision hereof or of any of the Loan Documents or any agreement between Borrower and the Lender of this Note shall result in Interest exceeding the limit for interest prescribed by law, then the amount of such Interest shall be reduced to such limit. If, from any circumstance whatsoever, the Lender of this Note should receive as Interest, an amount which would exceed the highest lawful rate, the amount which would be excessive Interest shall be applied to the reduction of the principal balance owing (or, at the option of the Lender, be paid over to Borrower) and not to the payment of Interest.

If any provision hereof or any of the Loan Documents shall, for any reason and to any extent, be invalid or unenforceable, then the remainder of the document or instrument in which such provision is contained and any of the other Loan Documents shall not be affected thereby but instead shall be enforceable to the maximum extent permitted by law.

Borrower and Lender hereby knowingly, voluntarily, and intentionally waive any rights they may have to a trial by jury in respect of any litigation based hereon or arising out of, under or in connection with this note or any course of conduct, course of dealing, statements (whether oral or written) or actions of the other party.

This Promissory Note shall be construed in accordance with the laws of the State of Colorado.

IN WITNESS WHEREOF, Borrower has duly executed this Promissory Note as of the day and year first above written.

**BORROWER:**

FORT COLLINS URBAN RENEWAL  
AUTHORITY, a public body corporate and politic  
of the State of Colorado.

By: \_\_\_\_\_  
Executive Director