

**DATE:** May 7, 2013  
**STAFF:** Darin Atteberry  
Josh Birks, Tom Leeson

**AGENDA ITEM SUMMARY**  
FORT COLLINS CITY COUNCIL

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**SUBJECT**

Resolution 2013-045 Regarding the Redevelopment of Foothills Mall and Regarding Cooperation and Partnership with Larimer County on Economic Revitalization Efforts and the Use of Tax Increment Financing.

**EXECUTIVE SUMMARY**

In an effort to address some of the concerns raised by Larimer County with regards to the use of tax increment financing, the proposed resolution directs the City and the Urban Renewal Authority (URA) to remit an amount equal to 50% of the property tax increment generated from the residential units associated with the Foothills Mall redevelopment project in each year that those funds are available after payment of debt service requirements for the District Bonds, as well as the personal property tax increment revenues from the Mall.

**BACKGROUND / DISCUSSION**

Representatives of the City of Fort Collins and Larimer County have been engaged for several months in a discussion of the potential impacts to the County of the use by the City and the URA of tax increment financing, and in particular, for the Foothills Mall redevelopment project. Both the City and County agree that the redevelopment of the Foothills Mall is important to both the City of Fort Collins and Larimer County because of the public benefits such a project will provide the citizens, including blight remediation, civic pride, premier regional shopping and entertainment opportunities, and an increase in community investment.

Furthermore, the City and the URA recognize that residential development generally is expected to have greater impact on County services than commercial development. Given that the Foothills Mall redevelopment includes a substantial residential component, the City agrees to remit an amount equal to 50% of the property tax increment generated from the residential portion of the project in each year that those funds are available after payment of debt service requirements for the District Bonds, subject to annual appropriation. The Resolution authorizes the Mayor to execute an intergovernmental agreement to carry out this commitment.

Additionally, the City Manager will work with the Authority and the County to develop an agreement through which the Authority will agree to remit to the County the portion of the property tax increment received by the Authority from the Foothills Mall that represents the County's share of the personal property tax increment paid from the Foothills Mall. The County will be required to provide an accounting reasonably satisfactory to the City and the Authority of both personal and real property tax collected, at the County's cost.

The potential fiscal impacts to the County resulting from the use of tax increment financing are analyzed by a jointly developed fiscal impact model. A number of the assumptions within the fiscal impact have come into question, and there is a desire for an impact analysis model that allows for a more robust and holistic analysis. To this end, the City and the URA have agreed to work cooperatively with the County and, to the extent practicable, with other municipalities in the County, to develop an appropriate fiscal impact analysis model for evaluating financial impacts associated with the formation of tax increment financing districts, the redevelopment of lands within the city, and the annexation of property into the city that will support further discussions with the County regarding these issues. The Mayor is also authorized to execute an intergovernmental agreement to carry out this joint study.

**FINANCIAL / ECONOMIC IMPACTS**

This proposal will result in less revenue available to the URA to pledge to the Foothills Mall Redevelopment bond repayment.

**STAFF RECOMMENDATION**

Staff recommends adoption of the Resolution.

RESOLUTION 2013-045  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
REGARDING THE REDEVELOPMENT OF FOOTHILLS MALL  
AND REGARDING COOPERATION AND PARTNERSHIP WITH LARIMER COUNTY  
ON ECONOMIC REVITALIZATION EFFORTS AND  
THE USE OF TAX INCREMENT FINANCING

WHEREAS, on June 6, 1978, the Council of the City of Fort Collins (“City Council”) adopted Resolution 78-49, adopting findings and establishing a Fort Collins Urban Renewal Authority (the “Authority”); and

WHEREAS, by Resolution 2011-080, which was adopted on September 6, 2011, the City Council found and declared that the area described in such resolution (the “Midtown Area”) is a blighted area as described in the Colorado Urban Renewal Law, Sections 31-25-101, et seq., C.R.S. (the “Act”) and is appropriate for an urban renewal project; and

WHEREAS, by Resolution 2011-081, which was adopted on September 6, 2011, the City Council approved an urban renewal plan for the Midtown Area in Fort Collins (the “Urban Renewal Plan”), which area includes an existing shopping mall in Fort Collins known as the Foothills Mall (also referred to as “the “Mall”); and

WHEREAS, Walton Foothills Holdings VI, L.L.C., (the “Mall Owner”) has obtained certain development approvals from the City, and is making final plans and financial arrangements to proceed with the redevelopment of the Mall, and has submitted a proposal to the City and the Authority to redevelop the Mall by constructing approximately 735,000 square feet of commercial development and up to 800 multifamily residential units, together with related amenities and uses (the “Project”); and

WHEREAS, the City Council has determined that it is in the best interests of the City and its citizens to assist in the redevelopment of the Mall, in order to remedy blighted conditions within and around the Mall pursuant to the Urban Renewal Plan, using property and sales tax increment revenues, together with other public financing tools, to provide a catalyst for redevelopment in the Midtown Area, increase sales tax revenues and job opportunities, and provide other economic and social benefits to the City and surrounding community; and

WHEREAS, the City, the Authority, the Foothills Metropolitan District (the “District”), and the Mall Owner have negotiated certain terms and conditions related to the financing, construction and operation of the Mall that provide for issuance by the District of bonds (the “District Bonds”) to provide reimbursement for the construction of certain public improvements (the “Public Improvements”), and the pledge of Authority real property tax increment revenues and certain City sales tax increment revenues in support of the District Bonds; and

WHEREAS, such terms and conditions are outlined in a Redevelopment and Reimbursement Agreement (the “Agreement”), which has been approved on this date by the City Council with the adoption of Resolution 2013-042; and

WHEREAS, accordingly, the City Council has on this date also approved Resolution 2013-043, approving amendments to the Urban Renewal Plan to provide for the division of property and sales taxes generated on the Mall property, which would generate tax increment revenues and allow the City and Authority to carry out its obligations under the Agreement; and

WHEREAS, representatives of the City and Larimer County (the “County”) have been engaged for several months in a discussion of the potential impacts to the County of the use by the City and the Authority of tax increment financing pursuant to the Act (“TIF”), and in particular for the Mall Project; and

WHEREAS, in those discussions, the County has acknowledged that the redevelopment of the Mall is important to the County because of the public benefits that will result, including an increase in community investment and general property values and economic health, the presence of a new, premier regional shopping and entertainment center, and related increase in civic pride and general welfare; and

WHEREAS, the City Council recognizes that property tax revenues are the primary source of funding for the County and other taxing entities, and that the use of TIF in residential and commercial projects can have a negative impact on the County’s their ability to provide adequate infrastructure and services to such projects and to other areas of the County; and

WHEREAS, the City Council further recognizes that it is important to consider property tax revenue impacts in light of the increasing fiscal pressures experienced by the County and other local taxing entities, and the reductions in cash flow expected to result from the expiration of specific taxes such as the County’s jail tax; and

WHEREAS, as a consequence of the potential for impacts to the County and other taxing entities, the City Council has determined that the evaluation of impacts to County property tax funding for infrastructure and services from redevelopment using TIF is a critical factor that the City should take into consideration in reviewing and approving urban renewal plans and establishing TIF districts; and

WHEREAS, in order to appropriately evaluate the relative financial benefits and costs and other impacts for the City and the County related to development, redevelopment and annexation of areas, and how those impacts could or should be distributed or shared, a more holistic and broader analysis of those impacts is required; and

WHEREAS, the City Council wishes to work cooperatively with the Authority, the County and, to the extent practicable, other municipalities and taxing entities in the County, to develop improved methods for evaluating such potential impacts as the basis for discussing and developing agreements under which the City and County may in the future work in partnership to plan, support and appropriately finance economic revitalization efforts, annexations and other undertakings; and

WHEREAS, Article II, Section 16 of the City Charter empowers the City Council of the City, by ordinance or resolution, to enter into contracts with other governmental bodies to furnish

governmental services and make charges for such services or enter into cooperative or joint activities with other governmental bodies.

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

Section 1. It is the intent of the City Council, in light of the significant residential portion of the Foothills Mall redevelopment, that the City will remit to the County an amount equal to fifty percent (50%) of the real property tax increment generated from the residential units that are within the Foothills Mall Project, in each year that those funds are available, after payment of debt service requirements for the District Bonds, subject to annual appropriation of funds for such payment. The City Council hereby authorizes the Mayor to execute an intergovernmental agreement in a form determined by the City Manager, in consultation with the City Attorney, to carry out the intended purposes of this Section, consistent with the terms of this Resolution.

Section 2. The City Council hereby directs the City Manager to work with the Authority and the County to develop an agreement through which the City and the Authority will agree to remit to the County annually the amount of \$60,000 from the portion of the property tax increment received by the Authority from the Foothills Mall Tax Increment District. ~~that—This amount is intended to represents the County’s share of the personal property tax increment paid from the Foothills Mall Tax Increment District. Said agreement will require the County to provide an accounting reasonably satisfactory to the City and the Authority of both personal and real property tax collected, at the County’s cost, and will—~~ may include such other implementation and administrative provisions as the City Manager and Executive Director determines to be necessary or appropriate. The City Council hereby authorizes the Mayor to execute said intergovernmental agreement in a form determined by the City Manager, in consultation with the City Attorney, to carry out the intended purposes of this Section, consistent with the terms of this Resolution.

Section 3. The City Council hereby directs the City Manager to work cooperatively with the County and, to the extent practicable, with other municipalities and affected property tax levying entities in the County, to develop an appropriate fiscal impact analysis model for evaluating financial impacts associated with the formation of tax increment financing districts, the redevelopment of lands within the city, and the annexation of property into the city, including but not limited to an the analysis of cost of service and revenue implications for both the City and the County, and for other affected taxing entities. In addition:

- (a) The City Manager is authorized to prepare such agreements as may be necessary to retain the services of a mutually acceptable outside expert to develop the described model for evaluating fiscal impacts, which may include sharing of costs for the work. It is the Council’s intent that work on this project will be undertaken no later than July 1, 2013, and will be completed no later than December 15, 2013.
- (b) The City Council hereby authorizes the Mayor to execute an intergovernmental agreement documenting the arrangements for this work in a form determined

by the City Manager, in consultation with the City Attorney, to carry out the intended purposes of this Resolution.

Section 4. Upon completion of the modeling and updated fiscal impact analysis of the Foothills Mall TIF on County infrastructure and services using the tools developed pursuant to Section 3, it is the City Council's intent that the City Manager will conduct an updated review of the financial arrangements described above to offset impacts to the County, and will propose for Council consideration such additional financial support to the County, if any, as he determines to be appropriate.

Section 5. The City Council hereby directs the City Manager to develop a plan for convening a discussion between City and County representatives of the relative financial benefits and costs and other impacts to the City and the County related to development, redevelopment and annexation of areas, and how those impacts should be distributed or shared, based upon the holistic analysis of those impacts resulting from the work described in Section 3, above. The City Manager shall present such plan to the City Council for further discussion and possible Council action.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 7th day of May A.D. 2013.

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Mayor Pro Tem

ATTEST:

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City Clerk