

# AGENDA ITEM SUMMARY

## FORT COLLINS CITY COUNCIL

ITEM NUMBER: 26

DATE: March 21, 2006

STAFF: Joe Frank  
Chuck Seest

### SUBJECT

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Items Relating to a Loan to the Urban Renewal Authority (Options 1 and 2).

### RECOMMENDATION

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Staff has developed two options for consideration by Council, and recommends using the Stormwater Fund (Option 1) as the source of the loan since the improvement is an enhancement to the Utilities infrastructure.

### FINANCIAL IMPACT

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The City will use up to \$150,000 of reserves in the Stormwater Utility to provide a loan to the Fort Collins Urban Renewal Authority (the "URA"). The URA will pay interest annually at a rate based upon the five year treasury note plus fifty basis points (approximately 5.25%). The entire loan is expected to be repaid within ten years.

### EXECUTIVE SUMMARY

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On January 24, 2006, Council discussed options for financing URA projects until the tax increment revenues materialize in 2007. Staff was directed to consider the type of public improvement created by the project and obtain a loan from the related source. For example, if the improvement being funded by the URA in the expansion of utility infrastructure, then the Utilities' reserves should be the funding source. On the other hand, if the improvement is a general government infrastructure (sidewalks, curb and gutter, street right of way, etc), then the reserves of the City's General Fund would serve as the funding source for a loan. Based on the types and scale of projects that would likely occur in the North College Plan Area, the total amount of financing that the URA could currently service was determined to be \$500,000.

Two Options are under consideration:

1. First Reading of Ordinance No. 052, 2006, Appropriating Prior Year Reserves in the Stormwater Fund for Funding a Loan to the Fort Collins Urban Renewal Authority; **OR**
2. First Reading of Ordinance No. 052, 2006, Appropriating Prior Year Reserves in the General Fund for Funding a Loan to the Fort Collins Urban Renewal Authority.

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**BACKGROUND**

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On September 20, 2005, Council, acting as the URA Board, approved the use of URA funds to reimburse Valley Steel for an extension of a sanitary sewer line serving its property and several other properties along Hickory Street. The amount of assistance was established at an amount not to exceed \$150,000.

Since the Valley Steel improvement was for utilities infrastructure, staff presented an agenda item to the Water Board on February 23, 2006. The item sought the recommendation of the Water Board regarding a possible loan from Stormwater Utility Reserves in the amount of \$150,000 for the Valley Steel utility improvement. The Water Board voted 5-5 on the item. Some Board members agreed the Utilities should be used. Other Board members felt strongly that this action would set a precedent for using the Utilities as a "bank" for activity that was not initiated by the Utilities but was undertaken at the direction of another legal entity, the URA. During the discussion following the vote and seeking a second motion, some dissenting Board members indicated they could support a recommendation if language was inserted stating that this was a one-time action to assist the URA during its inception.

Given that future projects may not include utility infrastructure, staff views this as an opportunity for the Utilities to participate in the URA and provide an alternative to the General Fund for the start-up capital needed during the early years of the North College Plan Area.

Because the proposed loan does not meet the requirements for City investments, Option 1 requires a Council finding that this use of Stormwater reserves will serve a specific utility purpose beneficial to the ratepayers of the Stormwater utility. Staff believes this is true because the specific utility improvement created by the Valley Steel project will enable development to occur, which in turn will generate significant Stormwater plant investment fees that will be utilized to address the deficiency in Stormwater infrastructure that currently inhibits future development. Through expansion of the customer base and the equity purchase that occurs with development of the related infrastructure, all ratepayers will enjoy the benefit of greater efficiency for the overall Stormwater system.

**OPTIONS:**

Option 1      First Reading of Ordinance No. 052, 2006, Appropriating Prior Year Reserves in the Stormwater Fund for Funding a Loan to the Fort Collins Urban Renewal Authority.

Attached is a loan agreement that would provide the funding from the Stormwater Utility Reserves. The Stormwater Fund retained earnings reserved for capital improvements currently contain approximately \$16,000,000. A new appropriation would be required to use the reserves for this purpose. The maximum total amount for this loan (\$150,000) could be appropriated. Monies required for the improvement would be released within 60 days after the issuance of the certificate of acceptance for the project. The Loan would run for ten years but could be prepaid at any time. Any installments would go to pay interest first, then principal.

Option 2      First Reading of Ordinance No. 052, 2006, Appropriating Prior Year Reserves in the General Fund for Funding a Loan to the Fort Collins Urban Renewal Authority.

The estimated General Fund Reserves for Financial Uncertainties available to fund the required contribution are currently estimated to be \$3,200,000. Again, a new appropriation would be required to use the reserves for this purpose. The maximum total amount for this loan (\$150,000) could be appropriated. Monies required for the improvement would be released within 60 days after the issuance of the certificate of acceptance for the project. The Loan would run for ten years but could be prepaid at any time. Any installments would go to pay interest first, then principal.

**RECOMMENDATION:**

Since the City is experiencing financial and budgetary challenges, diversified sources of funding for start-up capital necessary for the projects of the URA are advisable. If, however, Council desires to utilize just the General Fund, Option 2 may be implemented.

**ATTACHMENTS**

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1.      Loan Agreement-funding from Stormwater Utility Reserves
2.      Loan Agreement - funding from General Fund Reserves.

## OPTION 1

**LOAN AGREEMENT BETWEEN THE FORT COLLINS URBAN RENEWAL AUTHORITY AND THE CITY OF FORT COLLINS FOR FUNDING PROJECTS IN THE NORTH COLLEGE URBAN RENEWAL PLAN AREA**

THIS AGREEMENT, is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by and among THE FORT COLLINS URBAN RENEWAL AUTHORITY, a body politic and corporate (the "URA"), and THE CITY OF FORT COLLINS, COLORADO, a municipal corporation (the "CITY").

**WITNESSETH:**

WHEREAS, the URA was created on January 5, 1982 to prevent and eliminate conditions related to certain "blight factors" in the community. State law gives the URA broad powers to carry out its statutory mandate. Included are the powers to enter into contracts, borrow funds and acquire property voluntarily or by eminent domain, among others. Urban renewal projects may be financed in a variety of ways. URAs are authorized to borrow money, issue bonds, and accept grants from public or private sources; and

WHEREAS, by Resolution 2004-151, the City Council found and declared the area described therein (the "Area") to be a blighted area as defined in the Colorado Urban Renewal Law, Sections 31-25-101, et seq., C.R.S. (the "Law"), and appropriate for inclusion in an urban renewal project; and

WHEREAS, by Resolution 2004-152, the City Council made findings and approved the urban renewal plan for the North College Avenue Corridor; and

WHEREAS, the primary source of funding for the URA is tax increment revenues generated on the improvements within the Plan Area and those tax increment revenues are received in the year after the improvements are recorded on the Larimer County property tax roll; and

WHEREAS, it is the desire of the City to provide funds to the URA to assist property owners with improvements prior to collecting the tax increment from Larimer County in the subsequent years, and

WHEREAS, the parties desire to enter into this Loan Agreement for the purpose of providing the URA with a loan at the lowest cost possible for a term not to exceed ten years, although it may be paid off earlier without incurring a pre-payment penalty.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties as hereafter provided and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

Section 1. Upon the effective date of this Agreement, the City shall loan the URA the sum of ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000) from the City's Stormwater Utility, with interest to accrue at a rate equal to the ten year Treasury Note plus an additional fifty basis points.

Section 2. All principal and accrued interest shall be due and payable by the URA to the City upon the anniversary of ten (10) years from the effective date of the Agreement provided, however, that the URA may prepay all or any portion of this loan at any time without penalty, with any such prepayment to go first toward any interest which has accrued and the balance of such prepayment to go toward the reduction of principal.

Section 3. The URA agrees to maintain a separate payable line-item within its Accounting system to track the loan amount received from the City's Stormwater Utility.

Section 4. In the event that the URA is able to obtain a reasonable alternative source of funding (for example, a bond from the external capital markets) it agrees to immediately pay off any outstanding balance related to this loan.

Section 5. Notice. Any notice required to be delivered in writing pursuant to this Agreement shall be delivered as follows:

If to the City of Fort Collins:

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

If to the Fort Collins Urban Renewal Authority:

Fort Collins Urban Renewal Authority  
Director of Advance Planning  
PO Box 580  
Fort Collins, CO 80522-0580

Section 6. This Agreement shall be construed according to its fair meaning, and as if prepared by both parties hereto, and constitutes the entire understanding and agreement between the parties hereto pertaining to the matters addressed in this Agreement.

IN WITNESS WHEREOF, the parties have entered into this Agreement the day and year first above written.

FORT COLLINS URBAN RENEWAL AUTHORITY

By: \_\_\_\_\_  
Chair

CITY OF FORT COLLINS, COLORADO,  
A municipal corporation

By: \_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney and Attorney for the Fort  
Collins Urban Renewal Authority

OPTION 2

**LOAN AGREEMENT BETWEEN THE FORT COLLINS URBAN RENEWAL AUTHORITY AND THE CITY OF FORT COLLINS FOR FUNDING PROJECTS IN THE NORTH COLLEGE URBAN RENEWAL PLAN AREA**

THIS AGREEMENT, is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by and among THE FORT COLLINS URBAN RENEWAL AUTHORITY, a body politic and corporate (the "URA"), and THE CITY OF FORT COLLINS, COLORADO, a municipal corporation (the "CITY").

**WITNESSETH:**

WHEREAS, the URA was created on January 5, 1982 to prevent and eliminate conditions related to certain "blight factors" in the community. State law gives the URA broad powers to carry out its statutory mandate. Included are the powers to enter into contracts, borrow funds and acquire property voluntarily or by eminent domain, among others. Urban renewal projects may be financed in a variety of ways. URAs are authorized to borrow money, issue bonds, and accept grants from public or private sources; and

WHEREAS, by Resolution 2004-151, the City Council found and declared the area described therein (the "Area") to be a blighted area as defined in the Colorado Urban Renewal Law, Sections 31-25-101, et seq., C.R.S. (the "Law"), and appropriate for inclusion in an urban renewal project; and

WHEREAS, by Resolution 2004-152, the City Council made findings and approved the urban renewal plan for the North College Avenue Corridor; and

WHEREAS, the primary source of funding for the URA is tax increment revenues generated on the improvements within the Plan Area and those tax increment revenues are received in the year after the improvements are recorded on the Larimer County property tax roll; and

WHEREAS, it is the desire of the City to provide funds to the URA to assist property owners with improvements prior to collecting the tax increment from Larimer County in the subsequent years, and

WHEREAS, the parties desire to enter into this Loan Agreement for the purpose of providing the URA with a loan at the lowest cost possible for a term not to exceed ten years, although it may be paid off earlier without incurring a pre-payment penalty.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties as hereafter provided and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

Section 1. Upon the effective date of this agreement, the City shall loan to the URA the sum of ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000) from the City's General Fund, with interest to accrue at a rate equal to the ten year Treasury Note plus an additional fifty basis points.

Section 2. All principal and accrued interest shall be due and payable by the URA to the City upon the anniversary of ten (10) years from the effective date of the Agreement provided, however, that the URA may prepay all or any portion of this loan at any time without penalty, with any such prepayment to go first toward any interest which has accrued and the balance of such prepayment to go toward the reduction of principal.

Section 3. The URA agrees to maintain a separate payable line-item within its Accounting system to track the loan amount received from the City's General Fund.

Section 4. In the event that the URA is able to obtain a reasonable alternative source of funding (for example, a bond from the external capital markets) it agrees to immediately pay off any outstanding balance related to this loan.

Section 5. Notice. Any notice required to be delivered in writing pursuant to this Agreement shall be delivered as follows:

If to the City of Fort Collins:

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

If to the Fort Collins Urban Renewal Authority:

Fort Collins Urban Renewal Authority  
Director of Advance Planning  
PO Box 580  
Fort Collins, CO 80522-0580

Section 6. This Agreement shall be construed according to its fair meaning, and as if prepared by both parties hereto, and constitutes the entire understanding and agreement between the parties hereto pertaining to the matters addressed in this Agreement.



IN WITNESS WHEREOF, the parties have entered into this Agreement the day and year first above written.

FORT COLLINS URBAN RENEWAL AUTHORITY

By: \_\_\_\_\_  
Chair

CITY OF FORT COLLINS, COLORADO,  
A municipal corporation

By: \_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney and Attorney for the Fort  
Collins Urban Renewal Authority

**OPTION 1**

**ORDINANCE NO. 052, 2006  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROPRIATING PRIOR YEAR RESERVES IN THE STORM DRAINAGE FUND  
FOR A LOAN TO THE URBAN RENEWAL AUTHORITY**

WHEREAS, on September 20, 2005, City Council, acting as the Urban Renewal Authority (“URA”) Board approved the use of URA funds to reimburse Valley Steel for an extension of a sanitary sewer line serving its property and several other properties along Hickory Street; and

WHEREAS, the project reimbursement was established at an amount not to exceed \$150,000; and

WHEREAS, on January 24, 2006, the City Council discussed options for financing URA projects because the URA will not have funds to reimburse Valley Steel until the URA begins receiving tax increment revenues in 2007; and

WHEREAS, staff was directed by City Council to consider the type of public improvement created by the URA project and obtain a loan from the related City fund; and

WHEREAS, staff presented an agenda item to the Water Board on February 23, 2006, seeking a recommendation of the Water Board for making a loan from the Storm Drainage Fund in the amount of \$150,000 because the Valley Steel improvement is a utilities infrastructure improvement; and

WHEREAS, the vote of the Water Board was evenly divided on the item, with some dissenting Board members indicating that they could support a recommendation if it was stated that this is a one-time action to assist the URA during its inception; and

WHEREAS, Article X, Section 6 of the City Charter states that net operating revenues of the City's utilities may be expended only for renewals, replacements, extraordinary repairs, extensions, improvements, enlargements, embitterments to such utility, or other specific utility purpose determined to the Council to be beneficial to the ratepayers of said utilities; and

WHEREAS, City staff believes that the use of stormwater reserves as a funding source for a loan to the URA in this situation will be beneficial to the ratepayers of the City's Stormwater Utility because the specific utility improvement created by the Valley Steel project will enable development to occur, which in turn will generate significant Stormwater plant investment fees that will be utilized to address the deficiency in Stormwater infrastructure that currently inhibits future development; and

WHEREAS, staff has prepared a proposed loan agreement in the form shown on that certain "Loan Agreement Between the Fort Collins Urban Renewal Authority and the City of Fort Collins for Funding Projects in the North College Urban Renewal Plan Area" dated \_\_\_\_\_, 2006, on file in the office of the City Clerk (the "Loan Agreement"); and

WHEREAS, the City Manager recommends funding the loan to the URA from the Storm Drainage Fund prior year reserves; and

WHEREAS, Article V, Section 9, of the Charter of the City of Fort Collins 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.

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

Section 1. That the use of ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000), in prior year reserves in the Storm Drainage Fund for the purpose of funding a loan to the URA according to the terms and conditions of the Loan Agreement will serve a specific utility purpose for the ratepayers of the City's Stormwater Utility and will be beneficial to such ratepayers in that all ratepayers will enjoy greater efficiency from the overall Stormwater system.

Section 2. That the Loan Agreement is hereby approved by the Council on substantially the same terms and conditions as contained therein, subject to such modifications in form or substance as the City Manager may, in consultation with the City Attorney, deem to be desirable and necessary to protect the interests of the City.

Section 3. That there is hereby appropriated for expenditure from Storm Drainage Fund prior year reserves the sum of ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000), for a loan to the Urban Renewal Authority.

Introduced, considered favorably on first reading, and ordered published this 21st day of March, A.D. 2006, and to be presented for final passage on the 4th day of April, A.D. 2006.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Passed and adopted on final reading on the 4th day of April, A.D. 2006.

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Mayor

ATTEST:

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City Clerk

**ORDINANCE NO. 052, 2006  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROPRIATING PRIOR YEAR RESERVES IN THE GENERAL FUND  
FOR A LOAN TO THE URBAN RENEWAL AUTHORITY**

WHEREAS, on September 20, 2005, City Council, acting as the Urban Renewal Authority ("URA") Board approved the use of URA funds to reimburse Valley Steel for an extension of a sanitary sewer line serving its property and several other properties along Hickory Street; and

WHEREAS, the project reimbursement was established at an amount not to exceed \$150,000; and

WHEREAS, on January 24, 2006, the City Council discussed options for financing URA projects because the URA will not have funds to reimburse Valley Steel until the URA begins receiving tax increment revenues in 2007; and

WHEREAS, staff was directed by City Council to consider the type of public improvement created by the URA project and obtain a loan from the related City fund; and

WHEREAS, staff has prepared a loan agreement in the form shown on that certain "Loan Agreement Between the Fort Collins Urban Renewal Authority and the City of Fort Collins for Funding Projects in the North College Urban Renewal Plan Area" dated \_\_\_\_\_, 2006, on file in the office of the City Clerk (the "Loan Agreement"); and

WHEREAS, pursuant to the approval of the loan agreement, staff recommends funding the loan to the URA from the General Fund prior year reserves; and

WHEREAS, Article V, Section 9, of the Charter of the City of Fort Collins 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.

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

Section 1. That the Loan Agreement is hereby approved by the Council on substantially the same terms and conditions as contained therein, subject to such modifications in form or substance as the City Manager may, in consultation with the City Attorney, deem to be desirable and necessary to protect the interests of the City.

OPTION 2

Section 2. That there is hereby appropriated for expenditure from General Fund prior year reserves the sum of ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000), for a loan to the Urban Renewal Authority.

Introduced, considered favorably on first reading, and ordered published this 21st day of March, A.D. 2006, and to be presented for final passage on the 4th day of April, A.D. 2006.

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Mayor

ATTEST:

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City Clerk

Passed and adopted on final reading on the 4th day of April, A.D. 2006.

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Mayor

ATTEST:

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City Clerk