

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 28

DATE: August 15, 2006

STAFF: Joe Frank

SUBJECT

Resolution 2006-082 Authorizing the Mayor to Enter into an Intergovernmental Agreement with the Fort Collins Urban Renewal Authority.

RECOMMENDATION

Staff recommends adoption of the Resolution.

FINANCIAL IMPACT

The Agreement describes the collection and disbursement of property and sales tax increment. The property tax increment will be paid to the URA. The sales tax increment shall accrue to the City until such time, if at all, that the City Council, in its sole discretion, decides to allocate a portion of these revenues to the Authority for the purpose of funding URA projects within a particular urban renewal area.

The IGA also commits the City to providing staff, insurance, and other services necessary for the administration of the Urban Renewal Authority (URA). The Agreement (IGA) states the URA will compensate the City for such contributions at such time as the URA generates sufficient tax increment. The 2006/2007 Budget includes funding for the administration of the URA.

The IGA also provides that, if requested by the URA, the City may, from time to time, advance funds 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 Board.

EXECUTIVE SUMMARY

On February 21, 2006, the Board of Commissioners of the Urban Renewal Authority passed and adopted a resolution establishing an Ad Hoc Committee. The purpose of this Committee was to formulate recommendations to the Board generally regarding administration of the Authority.

A report and recommendations of the Committee was submitted to the full Board on May 22, 2006. One of the recommendations was that a formal general "umbrella" IGA be entered into and between the City and the URA governing various topics. On June 27, 2006, the Board held a work session on the Report and directed staff to prepare an Agreement.

The IGA addresses several issues including, but not limited to, the City's responsibility to provide staff and other services necessary for the administration of the URA, and the URA compensating the City for such services at such time as the URA has sufficient funding sources; and, collection and disbursement of sales and property tax increment.

BACKGROUND

On February 21, 2006, the Board of Commissioners of the Urban Renewal Authority passed and adopted a resolution establishing an Ad Hoc Committee consisting of Commissioners Karen Weitkunat, David Roy and Ben Manvel. The purpose of this Committee was to:

"Formulate recommendations to the Board regarding the most effective ways in which the Authority can collaborate with the City, the private sector, and other public entities to fully effectuate the purposes of the Authority and implement the Plan."

Various City staff and two members of the North College Urban Renewal Plan Citizen Advisory Group also participated in the Committee's deliberations.

A report and recommendations of the Committee were submitted to the Board on May 22.

One of the recommendations of the Ad Hoc Committee and staff was that a formal general "umbrella" IGA be entered into between the City and the URA which would provide as follows:

- The Urban Renewal Authority would be recognized as a separate legal entity with its own set of by-laws;
- The Urban Renewal Authority Board of Commissioners would be governed by the ethical rules applicable to the City Council;
- Administrative and legal services for the Urban Renewal Authority would be provided by the City, and the City Manager (or designee) should be the executive director of the Urban Renewal Authority;
- The Urban Renewal Authority would, upon request of the City Council, reasonably compensate the City for its costs in providing staff and executive director services;
- Sales tax increment would accrue to the City until such time as the City Council determines to share a portion thereof with the Urban Renewal Authority for specific projects on a case-by-case basis; and

The North College Citizen Advisory Group (NCCAG) was briefed on several occasions regarding the provision of the IGA. On July 13, 2006, the NCCAG reviewed the final draft IGA and had no further comments to the Board of Commissioners.

It is important to note that the recommendations contained in the Final Report, particularly those regarding the North College Urban Renewal Plan area, are, in the Board's and staff's best judgment, the wisest choice in response to the needs of the URA considering the current capacity (both financial and staff) and the start-up stage of the URA. As time passes, and as the capacity of the URA increases, or as new Urban Renewal Plan (URP) areas are adopted, it is expected that these choices will change.

RESOLUTION 2006-082
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE MAYOR TO ENTER INTO AN
INTERGOVERNMENTAL AGREEMENT WITH THE
FORT COLLINS URBAN RENEWAL AUTHORITY

WHEREAS, on February 21, 2006, the Board of Commissioners of the Fort Collins Urban Renewal Authority adopted a resolution establishing an ad hoc committee for the purpose of formulating recommendations regarding the administration of the Urban Renewal Authority; and

WHEREAS, one of the recommendations of the ad hoc committee and City staff was that a general "umbrella" intergovernmental agreement be entered into between the City and the Urban Renewal Authority governing the following topics:

- The Urban Renewal Authority would be recognized as a separate legal entity with its own set of by-laws;
- The Urban Renewal Authority Board of Commissioners would be governed by the ethical rules applicable to the City Council;
- Administrative and legal services for the Urban Renewal Authority would be provided by the City, and the City Manager (or designee) should be the executive director of the Urban Renewal Authority;
- The Urban Renewal Authority would, upon request of the City Council, reasonably compensate the City for its costs in providing staff and executive director services;
- Sales tax increment would accrue to the City until such time as the City Council determines to share a portion thereof with the Urban Renewal Authority for specific projects on a case-by-case basis; and

WHEREAS, the Council has determined that the intergovernmental agreement attached hereto as Exhibit "A" is in the best interest of the City and should be entered into between the City and the Fort Collins Urban Renewal Authority.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that the Mayor is hereby authorized to execute the intergovernmental agreement between the City of Fort Collins and the Fort Collins Urban Renewal Authority, a copy of which is attached hereto as Exhibit "A".

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 15th day of August, A.D. 2006.

Mayor

ATTEST:

City Clerk

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF FORT COLLINS, COLORADO AND THE
FORT COLLINS URBAN RENEWAL AUTHORITY**

THIS AGREEMENT ("Agreement") is entered into this _____ day of _____, 2006, by and between the **CITY OF FORT COLLINS, COLORADO**, a municipal corporation (hereinafter the "City") and the **FORT COLLINS URBAN RENEWAL AUTHORITY**, a body corporate and politic in the State of Colorado (hereinafter the "URA"), collectively referred to herein as the "Parties."

RECITALS

WHEREAS, the City is a home-rule city and a municipal corporation duly organized and existing under and pursuant to Article XX of the Colorado Constitution and the Charter of the City (the "Charter"); and

WHEREAS, the URA is a body corporate and has been duly created, organized, established and authorized by the City to transact business and exercise its powers as an urban renewal authority, all under and pursuant to the Colorado Urban Renewal Law, Section 31-25-101, et seq., Colorado Revised Statutes (the "Act"); and

WHEREAS, pursuant to Sections 31-25-107 and 31-25-109 of the Act, the URA has the power and authority to issue or incur notes, interim certificates or receipts, temporary bonds, certificates of indebtedness, debentures, advances, or other obligations, including refunding obligations (collectively, the "Bonds"), for the purpose of financing the activities and operations authorized to be undertaken by the URA with respect to urban redevelopment projects in accordance with an urban renewal plan and the Act, as approved by the City; and

WHEREAS, both the Act and Section 18, Article XIV, of the Colorado Constitution authorize the City and the URA to enter into cooperative agreements, such as this Intergovernmental Agreement.

WHEREAS, the City and the URA have determined that, for purposes of economy and efficiency of operation, it is in the best interests of the public that the operating staff and resources of the URA be provided by the City, subject to the terms and conditions of this Intergovernmental Agreement (hereinafter referred to as the "Agreement"); and

WHEREAS, the City and the URA wish to express their mutual agreement on these matters as more fully set forth herein, and are authorized to enter into this Agreement pursuant to § 31-15-101 and § 31-25-105, C.R.S., respectively.

NOW, THEREFORE, it is agreed by the parties as follows:

TERMS AND CONDITIONS

1. Definitions

The terms used in this Intergovernmental Agreement shall have the meanings set forth in the Act. In addition, for the purposes of this Intergovernmental Agreement, the following terms shall have the meanings set forth below.

"Fiscal Year" shall mean the fiscal year of the City, which commences on January 1 of each calendar year and ends on December 31 of the same calendar year.

"Incremental Property Taxes" shall mean, for each Fiscal Year subsequent to the creation of any urban renewal area, all Property Tax Revenues in excess of the Property Tax Base Amount for the Urban Renewal Plan Area.

"Property Tax" shall mean the real and personal property taxes produced by the levy at the rate fixed each year by the governing bodies of the various taxing jurisdictions within or overlapping the Urban Renewal Plan Area.

"Property Tax Base Amount" shall mean the total valuation for assessment as certified by the County Assessor for the City of all taxable property within an Urban Renewal Plan Area as certified by the County Assessor for the City prior to the creation of such area.

"Property Tax Revenues" shall mean the amount derived from the levy of Property Tax within any Urban Renewal Plan Area.

"Urban Renewal Plan Area" shall mean a slum area, or a blighted area, or a combination thereof which the City Council designates as appropriate for an urban renewal project.

2. URA Employees Provided by City

A. The City agrees to provide City staff, including but not limited to staff of the City Manager's Office, Community Planning and Environmental Services, and Finance Department, and other employees, consultants, and staff (hereinafter collectively referred to as "City Staff") to the URA on an as-needed basis for the operation and management of URA activities subject to the URA's reimbursement to the City as provided in Section 5. The City Manager shall serve as the Executive Director of the URA. The City Attorney's Office shall provide legal services to the URA, with the assistance of such special legal counsel as may be authorized by the City Attorney, as long as the members of the City Council continue to serve *ex officio* as the members of the URA Board of Commissioners.

B. City staff time spent on URA activities shall be separately recorded and specifically documented for purposes of determining the appropriate reimbursement to the City in accordance with Section 5. It is the intention of the parties that the services performed by such employees on behalf of the URA shall not interfere with the ability of such employees to carry out their duties and responsibilities for the City.

3. Other Services

In addition to providing staff employees for the URA, the City agrees to provide the URA with such other services as may be required in order to perform its public functions, including, but not limited to, accounting, treasury, management, procurement, personnel services, engineering services, and planning services, and other consultant services, provided however, that nothing herein shall be construed as prohibiting the URA from contracting with third parties to provide all or a portion of such services. It is the intention of the parties that the URA's annual or any special financial audits shall be performed by an independent auditor. All costs of any such audit or financial services shall be paid by the City, subject to reimbursement by the URA as provided in Section 5 below.

4. Office Space; Furnishings; Equipment

City staff working on behalf of the URA is authorized to utilize City office space, furnishings and equipment, including telephones, fax machines, printers, photocopiers, computers, office supplies and similar equipment, to carry out URA business. A prorated share of the expenses associated with use of such office space, furnishings and equipment shall be charged back to the URA in accordance with Section 5 below. As needed, the City may make available office space to the URA, as provided under any such lease agreements as may be agreed upon by the City and the URA.

5. City Compensation

At such time as the City Council determines that the URA has sufficient funding source(s), the URA shall compensate the City for all or a portion of the costs reasonably incurred by the City in providing City Staff, services, office space, furnishings and equipment described herein. The City shall submit to the URA, at such times in the future as the City deems appropriate, one or more invoices detailing the specific services rendered and other expenses incurred by the City on behalf of the URA a specific time period stated in such invoice(s). Such invoices shall be in sufficient detail and shall include salaries, benefits, insurance and other costs incurred by the City, on a prorated basis, and shall sufficiently designate the type of service performed by the City so that the URA may properly determine the accuracy of the invoices. Unless the URA objects to an invoice within ten (10) days of the date of the invoice, the URA shall be deemed to approve such invoice for payment to the City and shall make payment to the City within a reasonable time and as funding of the URA is available.

6. City Advance of Funds

If requested by the URA, the City may, from time to time, advance funds 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.

7. Legal Entity, Ethical Rules, Bylaws

The URA constitutes a separate body corporate and politic as established under the statutes of the State of Colorado, and the URA Commission shall expeditiously adopt a set of Bylaws for the purpose of governing the officers and staff, meetings, ethical rules, and powers of the URA Commission. The ethical rules of the URA Commission shall be the same as those

which are applicable to the City Council, as long as the City Council is functioning as the URA Board of Commissioners. The URA shall comply with then current City policies regarding purchasing and expenditure of funds.

8. Sales Tax Increment

It is agreed between the City and the URA that all City sales taxes collected in any urban renewal area of the URA shall accrue to the City until such time, if at all, that the City Council, in its sole discretion, decides to include in an urban renewal plan a provision allocating a portion of said sales tax revenues to the Authority for the purpose of funding URA projects within a particular urban renewal area.

9. Property Tax Increment

The City agrees to assist the URA in pursuing its objectives and purposes, including, without limitation, any specific purposes established for a particular urban renewal area, by collecting and paying into a special fund of the URA the Incremental Property Taxes received by the City for each urban renewal area, for the purpose of paying the principal of, the interest on and any premiums due in connection with the bonds of, loans or advances to or other indebtedness incurred by the URA for financing or refinancing urban renewal projects within such area.

In the event that the City is unable to collect through lawful means any Property Tax Revenues due for any urban renewal area, the amount of uncollectible Property Tax Revenues shall be allocated between the URA and the City for the urban renewal area in the same proportion as the total collected Property Tax Revenues within such area are allocated between the City and the URA for such Fiscal Year. The Property Tax Increment shall be calculated in accordance with Colorado law, the applicable urban renewal plan, and this Intergovernmental Agreement.

10. Insurance

The URA may provide its own public liability insurance and other insurance provided, however, that the City and the URA agree to consider the desirability of including the URA within the City's existing liability insurance coverages as a part of the services to be provided by the City to the URA subject to reimbursement of any additional cost to the City as provided in Section 5 above.

11. Responsibility of URA

Nothing in this Agreement shall be interpreted in any manner as constituting the City as the agent of the URA or the URA as the Agent of the City. Each party shall remain separate and neither shall hereby assume the debts or obligations of the other. The URA shall be solely responsible for carrying out its duties and functions in accordance with the Colorado Urban Renewal Law and other applicable laws and regulations.

12. Termination

This Agreement may be terminated by the mutual consent of the parties at any time after giving at least thirty (30) days written notice of intention to terminate the Agreement.

13. Binding Agreements

This Agreement represents the total binding Agreement between the parties and replaces and supercedes any prior oral or written agreement between the City and the URA.

14. Governing Law

This Agreement shall be governed by, and construed in accordance with the laws of the State of Colorado.

15. Severability

If any covenant, term, condition, or provision under this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provision contained herein, the intention being that such provisions are severable.

16. No Third Party Beneficiaries

Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the City and the URA any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the Parties shall be for the sole and exclusive benefit of the Parties.

17. No Waiver of Governmental Immunity

Nothing in this Agreement shall be construed to waive, limit, or otherwise modify any governmental immunity that may be available by law to the City or to the URA, their officials, employees, contractors, or agents, or any other person acting on behalf of the City or the URA and, in particular, governmental immunity afforded or available pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10, Part 1 of the Colorado Revised Statutes.

CITY OF FORT COLLINS, COLORADO

By: _____
Douglas P. Hutchinson, Mayor

ATTEST:

APPROVED AS TO FORM:

By: _____
Wanda Krajiceck, City Clerk

By: _____
City Attorney

FORT COLLINS URBAN RENEWAL AUTHORITY

By _____
Douglas P. Hutchinson, Chairperson

ATTEST:

APPROVED AS TO FORM:

By: _____
URA Secretary

By: _____
URA Attorney