

# AGENDA ITEM SUMMARY

## FORT COLLINS CITY COUNCIL

ITEM NUMBER: 29

DATE: August 15, 2006

STAFF: Chip Steiner

### SUBJECT

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Resolution 2006-083 Approving the Downtown Development Authority's Call for a Special Election to be Held in Conjunction with the Larimer County General Election on November 7, 2006, for the Purpose of Submitting a Proposed Ballot Measure to the Qualified Electors of the Downtown Development Authority District.

### RECOMMENDATION

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The Board and staff of the DDA and the City recommend adoption of the Resolution.

### EXECUTIVE SUMMARY

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The Downtown Development Authority's original bond ceiling, established in 1982, was set at \$25 million. The Authority is within \$3 million of hitting that ceiling and is seeking authorization from qualified electors within the district to increase that ceiling by \$150 million. Projections of tax increment collections between now and 2011 when the DDA tax increment district is scheduled to sunset reflect that roughly \$15 million in additional project funding will be left unused because of the current bond cap of \$25 million. City Council is being asked to approve a special election called by the DDA Board to ask voters to authorize the proposed new bond ceiling.

Changing the bond ceiling has no impact on property tax obligations of those properties within the DDA district. Nor does it change the method by which bonds are issued. The procedure will still be, first, approval by the DDA Board of expenditures for projects and second, submittal of those Board-approved projects for approval by City Council and authorization by City Council to issue bonds to cover those expenditures.

The \$150 million bond ceiling does not mean bonds will ever be issued in that amount. Typically, the DDA Board will approve a series of projects with an aggregate amount somewhere between one and ten million dollars. That group of projects would then go to City Council for its approval and its authorization for the issuance of bonds.

The current bond ceiling of \$25 million that was established in 1982 is about \$78 million in 2006 dollars. Therefore, the proposed \$150 million ceiling is a little less than twice the current bond ceiling. Approval by the voters of this new ceiling will be carried over to any extensions of the existing tax increment district or to the creation of a new district in 2011.

### ATTACHMENTS

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1. Resolution 2006-2 of the Board of the Downtown Development Authority.

RESOLUTION 2006-2

OF THE BOARD OF THE FORT COLLINS DOWNTOWN DEVELOPMENT AUTHORITY  
SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF FORT COLLINS  
DOWNTOWN DEVELOPMENT AUTHORITY, AT A SPECIAL ELECTION TO BE HELD  
ON NOVEMBER 7, 2006, A BALLOT QUESTION AUTHORIZING THE ISSUANCE OF  
BONDS BY THE CITY OF FORT COLLINS TO FINANCE DEVELOPMENT PROJECTS  
PURSUANT TO THE FORT COLLINS DOWNTOWN DEVELOPMENT AUTHORITY  
PLAN OF DEVELOPMENT

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WHEREAS, the Fort Collins Downtown Development Authority, in the City of Fort Collins, State of Colorado (the "Authority"), is a body corporate duly organized and existing under laws of the State of Colorado; and

WHEREAS, the members of the Board of the Authority (the "Board") have been duly appointed and qualified; and

WHEREAS, the City Council (the "Council") of the City of Fort Collins (the "City") has heretofore approved the Plan of Development (the "Plan") for the Authority; and

WHEREAS, the interest of the Authority and the public interest and necessity demand and require the financing of certain development projects described in the Plan (the "Projects"); and

WHEREAS, Section 31-25-809, C.R.S. authorizes the City to issue bonds, payable solely from tax increment revenues generated by properties within the boundaries of the Authority, to pay all or any part of the cost of the Projects; and

WHEREAS, Article X, Section 20 of the Colorado Constitution ("TABOR") requires voter approval in advance for the creation of any debt by the City; and

WHEREAS, the Plan contemplates the use of tax increment financing as provided in Section 31-25-807(3), C.R.S., to finance the costs of the Projects; and

WHEREAS, pursuant to Section 31-25-807(3)(b), C.R.S., the Board may call an election on the question of issuing bonds or otherwise providing for loans, advances or indebtedness ("Financial Obligations") and pledging the tax increment revenues to the payment of such Financial Obligations; and

WHEREAS, it is contemplated by the Board that Financial Obligations will be incurred, and tax increment revenues pledged for the payment thereof, over the period of time that the use of tax increment financing is available to the Authority; and

WHEREAS, the estimated cost of the Projects is approximately \$150,000,000.00; and

WHEREAS, TABOR requires that ballot issue elections (as defined in TABOR) be held on certain specified election days; and

WHEREAS, November 7, 2006 is one of the election dates at which ballot issues may be submitted pursuant to TABOR; and

WHEREAS, it is necessary to set forth certain procedures concerning the conduct of the election; and

WHEREAS, the Board desires to call an election to be held on November 7, 2006 in conjunction with the Larimer County General Election, subject to approval by the Council, as provided in Section 31-25-807(3)(b), C.R.S.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE FORT COLLINS DOWNTOWN DEVELOPMENT AUTHORITY:

Section 1. All actions heretofore taken (not inconsistent with the provisions of this Resolution) by the Authority and the officers thereof, directed towards the Election and the objects and purposes herein stated are hereby ratified, approved and confirmed. All terms used herein and not otherwise defined shall have the meanings set forth in Title 31, Article 25, Part 8, C.R.S. (the "Act") or Title 1, Articles 1 to 13, C.R.S. (the "Election Code").

Section 2. Pursuant to TABOR, the Election Code and the Act, the Board hereby calls a special election on November 7, 2006, to be held in conjunction with the Larimer County General Election (the "Election"). The Board hereby determines that at the Election there shall be submitted to the qualified electors of the Authority the question set forth in Section 3 hereof. The Authority hereby determines that, upon approval by the Council, the City Clerk shall conduct the election on behalf of the Authority and act as the designated election official.

Section 3. The Board hereby authorizes and directs the designated election official to submit to the qualified electors of the Authority at the Election a question in substantially the following form:

SHALL CITY OF FORT COLLINS DEBT BE INCREASED BY NO MORE THAN \$150,000,000 WITH A REPAYMENT COST OF \$250,000,000 FOR THE PURPOSE OF FINANCING THE COSTS OF DEVELOPMENT PROJECTS TO BE UNDERTAKEN BY OR ON BEHALF OF THE FORT COLLINS DOWNTOWN DEVELOPMENT AUTHORITY PURSUANT TO THE APPLICABLE PROVISIONS OF COLORADO LAW AND THE FORT COLLINS DOWNTOWN DEVELOPMENT AUTHORITY PLAN OF DEVELOPMENT, AS SUCH PLAN MAY BE AMENDED FROM TIME TO TIME; SUCH DEBT AND THE INTEREST THEREON TO BE PAYABLE SOLELY FROM AND SECURED BY A PLEDGE OF THE SPECIAL FUND OF THE CITY WHICH SHALL CONTAIN AD VALOREM

PROPERTY TAX INCREMENT REVENUES LEVIED AND COLLECTED WITHIN THE BOUNDARIES OF THE AUTHORITY; AND SHALL SUCH DEBT BE EVIDENCED BY BONDS, NOTES, CONTRACTS OR OTHER FINANCIAL OBLIGATIONS TO BE SOLD OVER TIME IN ONE SERIES OR MORE FOR A PRICE ABOVE OR BELOW THE PRINCIPAL AMOUNT THEREOF, ON SUCH TERMS AND CONDITIONS, AND WITH SUCH MATURITIES AS MAY BE PERMITTED BY LAW AND AS THE CITY COUNCIL MAY DETERMINE, INCLUDING PROVISIONS FOR REDEMPTION OF THE DEBT PRIOR TO MATURITY WITH OR WITHOUT PAYMENT OF THE PREMIUM OF NOT MORE THAN 3% OF THE PRINCIPAL AMOUNT SO REDEEMED AND SHALL THE PROCEEDS FROM SUCH DEBT AND ANY INVESTMENT INCOME EARNED FROM SUCH PROCEEDS BE COLLECTED AND SPENT AS A VOTER-APPROVED REVENUE CHANGE UNDER SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION?

\_\_\_\_\_ YES

\_\_\_\_\_ NO

Section 4. The officers of the Authority shall be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution.

Section 5. If a majority of the votes cast on the question of increasing City debt for the purposes specified in the Plan submitted at the Election shall be in favor of same, the City, acting on behalf of the Authority, shall be authorized to proceed with the necessary action to comply with such question.

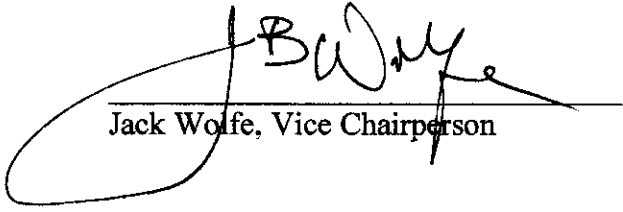
Any authority to increase City debt, if conferred by the results of the Election, shall be deemed and considered a continuing authority to increase City debt, and neither the partial

exercise of the authority so conferred, nor any lapse of time, shall be considered as exhausting or limiting the full authority so conferred.

Section 6. If any section, subsection, paragraph, clause, or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause, or provision shall in no manner affect any remaining provisions of this Resolution, the intent being that the same are severable.

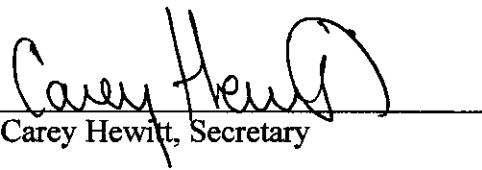
Section 7. All orders, resolutions, bylaws, ordinances or regulations of the Authority, or parts thereof, inconsistent with this Resolution are hereby repealed to the extent only of such inconsistency.

ADOPTED AND APPROVED this July 6, 2006.



Jack Wolfe, Vice Chairperson

Attest:



Carey Hewitt, Secretary

RESOLUTION 2006-083  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROVING THE DOWNTOWN DEVELOPMENT AUTHORITY'S  
CALL FOR A SPECIAL ELECTION TO BE HELD IN CONJUNCTION  
WITH THE LARIMER COUNTY GENERAL ELECTION ON NOVEMBER 7, 2006  
FOR THE PURPOSE OF SUBMITTING A PROPOSED BALLOT MEASURE  
TO THE QUALIFIED ELECTORS OF THE DOWNTOWN DEVELOPMENT  
AUTHORITY DISTRICT

WHEREAS, at its regular meeting on July 6, 2006, the Board of Directors of the Downtown Development Authority (the "Authority"), by resolution, called for a special election (the "DDA Election") of the qualified electors of the Downtown Development Authority District for the purpose of submitting to the electors a question regarding the issuance of debt by the City to finance development projects in furtherance of the Downtown Development Authority plan of development; and

WHEREAS, Section 31-25-807(3)(b), C.R.S., requires approval by the City Council for such DDA Election; and

WHEREAS, Section 31-25-807(3)(b), C.R.S., requires that the DDA Election be held and conducted in the manner prescribed by law for the holding and conducting of other regular or special elections in the municipality; and

WHEREAS, by adoption of Ordinance No. 110, 2006 this same date, the Council has heretofore called a special election to be held in conjunction with the Larimer County General Election on November 7, 2006 and provided for the manner in which the election will be conducted.

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

Section 1. That a special election, called by the Board of Directors of the Downtown Development Authority, to be held on November 7, 2006 in conjunction with the Larimer County General Election, is hereby approved.

Section 2. That the election shall be conducted by the Larimer County Clerk and Recorder and coordinated with the Larimer County General Election pursuant to the provisions of Ordinance No. 110, 2006, an intergovernmental agreement between the City of Fort Collins and Larimer County, and the laws of the State of Colorado.

Section 3. That the question, as set forth below, shall be submitted only to the qualified electors of the Downtown Development Authority District as defined in C.R.S. 31-25-802(9), and no qualified elector may cast more than one vote, even though any person qualified or lawfully designated may be entitled to cast the vote of more than one qualified elector.

Section 4. That the following question is hereby submitted to the qualified electors of the Downtown Development Authority District at said special municipal election in substantially the following form, provided, however, that the title of said measure, as shown below, may be modified so as to read "A City-Initiated Measure" if, in the judgment of the Larimer County Clerk and Recorder, such modification is necessary to accommodate the number of ballot measures that are to be submitted to the electorate at the November 7, 2006 general election:

CITY OF FORT COLLINS

A CITY-INITIATED MEASURE TO AUTHORIZE THE  
ISSUANCE OF BONDS FOR DOWNTOWN DEVELOPMENT  
AUTHORITY PROJECTS

SHALL CITY OF FORT COLLINS DEBT BE INCREASED BY NO MORE THAN \$150,000,000 WITH A REPAYMENT COST OF \$250,000,000 FOR THE PURPOSE OF FINANCING THE COSTS OF DEVELOPMENT PROJECTS TO BE UNDERTAKEN BY OR ON BEHALF OF THE FORT COLLINS DOWNTOWN DEVELOPMENT AUTHORITY PURSUANT TO THE APPLICABLE PROVISIONS OF COLORADO LAW AND THE FORT COLLINS DOWNTOWN DEVELOPMENT AUTHORITY PLAN OF DEVELOPMENT, AS SUCH PLAN MAY BE AMENDED FROM TIME TO TIME; SUCH DEBT AND THE INTEREST THEREON TO BE PAYABLE SOLELY FROM AND SECURED BY A PLEDGE OF THE SPECIAL FUND OF THE CITY WHICH SHALL CONTAIN AD VALOREM PROPERTY TAX INCREMENT REVENUES LEVIED AND COLLECTED WITHIN THE BOUNDARIES OF THE AUTHORITY; AND SHALL SUCH DEBT BE EVIDENCED BY BONDS, NOTES, CONTRACTS OR OTHER FINANCIAL OBLIGATIONS TO BE SOLD OVER TIME IN ONE SERIES OR MORE FOR A PRICE ABOVE OR BELOW THE PRINCIPAL AMOUNT THEREOF, ON SUCH TERMS AND CONDITIONS, AND WITH SUCH MATURITIES AS MAY BE PERMITTED BY LAW AND AS THE CITY COUNCIL MAY DETERMINE, INCLUDING PROVISIONS FOR REDEMPTION OF THE DEBT PRIOR TO MATURITY WITH OR WITHOUT PAYMENT OF THE PREMIUM OF NOT MORE THAN 3% OF THE PRINCIPAL AMOUNT SO REDEEMED AND SHALL THE PROCEEDS FROM SUCH DEBT AND ANY INVESTMENT INCOME EARNED FROM SUCH PROCEEDS BE COLLECTED AND SPENT AS A VOTER-APPROVED REVENUE CHANGE UNDER SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION?

YES \_\_\_\_\_

NO \_\_\_\_\_



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

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Mayor

ATTEST:

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City Clerk