COUNCIL FINANCE COMMITTEE
AGENDA ITEM SUMMARY
February 27, 2012

Staff: Mike Beckstead, Finance; Patty Bigner, Utilities; John Phelan, Utilities; Jessica Ping-Small, Finance

SUBJECT FOR DISCUSSION
Efficiency Financing 2012 Pilot Program

EXECUTIVE SUMMARY

The objective of the Efficiency Financing Program is to increase the number of residential efficiency and renewable energy projects by addressing the up-front cost barrier via on-bill financing. Key elements of the program include:

- Simple application and approval processes
- Finance 100% of project cost ($1k to $15k)
- Repayment of loans on the utility bill

The scope of the program includes:

- Defining financing as part of Utilities' services within Chapter 26 of the municipal code
- Eligible properties are single family homes and townhomes, both owner occupied and rental properties with the owner as applicant.
- Project types include energy efficiency (e.g. insulation, furnace, AC, windows), water supply line replacement/repair and renewable energy (e.g. solar PV and wind)
- Direct program expenses should be recovered with fees and interest rates
- The new program will replace the existing Zero Interest Loan Program

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

Staff is seeking feedback on the program plan prior to the scheduled first reading on March 20. Specifically, staff would like to know if Council is comfortable moving forward with making changes to Chapter 26 of the municipal code and appropriating funding for a 2012 pilot.

BACKGROUND/DISCUSSION

The Efficiency Financing Program supports the policy goals of the Climate Action Plan, Energy Policy and Water Conservation Plan. The program will be a valuable addition to the Home Efficiency Program which fosters sustainability through energy and water use reductions, local contractors and investment and improved home comfort, health and safety. The financing will be coordinated with the existing Home Efficiency Program elements of:

- Low-cost audits which prioritize home improvement measures to address the barrier of "what to do"
- Participating contractor lists which address the barrier of "who to call"
- Installation standards and verification which address the barrier of "is it done right"

The proposed program is based on research from On-bill programs in Kansas, Kentucky, South Carolina and Oregon. The loan parameters are based on a 15 year track record with Fannie Mae and Pennsylvania energy improvement loan programs.

Next steps

- Council Meeting March 20
  - Adopt Chapter 26 code language
- Finalize testing of billing system for loan servicing
- Document/finalize internal business processes and 3rd party resources
- Document accounting procedures
- Integrate financing options with existing Home Efficiency Program outreach and marketing plans
- The goal is to begin offering financing by June 1

ATTACHMENTS

1. Program plan presentation (EFP council finance 2-27-12.pdf)

Efficiency Financing Program (2012 Pilot)

Fort Collins Council Finance Committee

February 27, 2012

Overview

- Description
- Research
- Scope
- Rental properties
- Customer and project eligibility
- Applicant qualifications and loan terms
- Security, origination, servicing
- Next steps
- Benefits
- Discussion

Efficiency Financing Program “in a nutshell”

- Increase the number of residential efficiency and renewable energy projects by addressing the up-front cost barrier via on-bill financing
  - Simple application and approval processes
  - Finance 100% of project cost ($1k to $15k)
  - Repayment of loans on the utility bill

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Program Elements

- Financing coordinated with the existing Home Efficiency Program elements
  - Low-cost audits address barrier of “what to do” (prioritizing home improvement measures)
  - Contractor list addresses barrier of “who to call”
  - Installation standards and verification address barrier of “is it done right”

Research

- On-bill programs
  - Kansas and Kentucky How$mart
  - South Carolina On-bill Loans
  - Energy Trust of Oregon
- Loan parameters
  - Based on 15 year track record with Fannie Mae and Pennsylvania loan programs

Program and Location	Description	Customers	Audits	Projects	Program Available	Conversion Rate	Annual % of customers
Fort Collins Home Efficiency Program	Audits, rebates, contractors	65,000	519	248	2 years	48%	0.38%
Kansas How$mart	On-bill finance, audits, contractors	48,000	364	144	3 years	40%	0.30%
Clean Energy Works Portland	On-bill finance, audits, rebates, contractors	~275000	454	300	1.5 years	66%	0.11%

Scope

- Define financing as part of Utilities' services
- Single family and townhomes (up to typical six-plex)
- Owner occupied and rental properties
  - Owner is applicant
- Project types
  - Energy efficiency
    - E.g. insulation, furnace, AC, windows
  - Water supply line replacement/repair
  - Renewable energy, solar PV and wind
- Replace existing Zero Interest Loan Program
- Direct program expenses should be recovered fees and interest rates

Rental Properties

- Rental properties
  - Owner is applicant and note holder
  - Tenants may make payments depending on lease type and if utility account is in tenant's name
  - Requires notification and consent by tenant

Customer and Project Eligibility

- Customer eligibility
  - Energy projects – electric customer
  - Water projects – water customer
- Project eligibility
  - Home Efficiency Program
    - 23 types of projects based on rebate categories
  - Renewable energy rebate requirements
    - Solar PV and small-scale wind
  - Water supply line replacement/repair
  - Not carried over from Zero Interest Loan Program
    - Air quality loans, high efficiency clothes washers

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Qualifications and Loan Terms

- Applicant qualification
  - Varies with loan amount and credit score (2 tiers)
    - Utility bill payment history
    - Credit score
    - Income
- Loan details
  - Amount: $1,000 to $15,000
  - Term: 3 to 10 years
  - Interest: prime plus 2%
  - Application fee (~$25)
  - Origination fee (~$150)

Security

- Risk mitigation and security
  - Chapter 26 utility service – permanent lien and potential disconnect provisions
  - Recorded lien (notification for title search)
  - Loan qualification track record
- Payments on utility bill
- Payoff on loan completion or property sale

Budget

- Fall 2011 budget exception request ($300k)
  - $267,000 for loan capital
  - $33,000 for 0.5 admin FTE
- Estimated remaining Zero Interest Loan budget
  - $30,000
- Total pilot funding (for loans) = $297,000
  - Estimated to fund 50 to 75 projects
- Possible BFO offer to expand and/or to seek 3rd party capital

Origination and Servicing

Efficiency Audit required	Utilities	3rd Party
Application: project approval based on preliminary rebate application and bid(s)	✓	
Application: Bill payment history, credit score, income	✓	✓
Project verification	✓	
Loan origination		✓
Contractor payment	✓	
Set up loan within billing system	✓	
Recording of obligation		✓
Loan payment servicing	✓	

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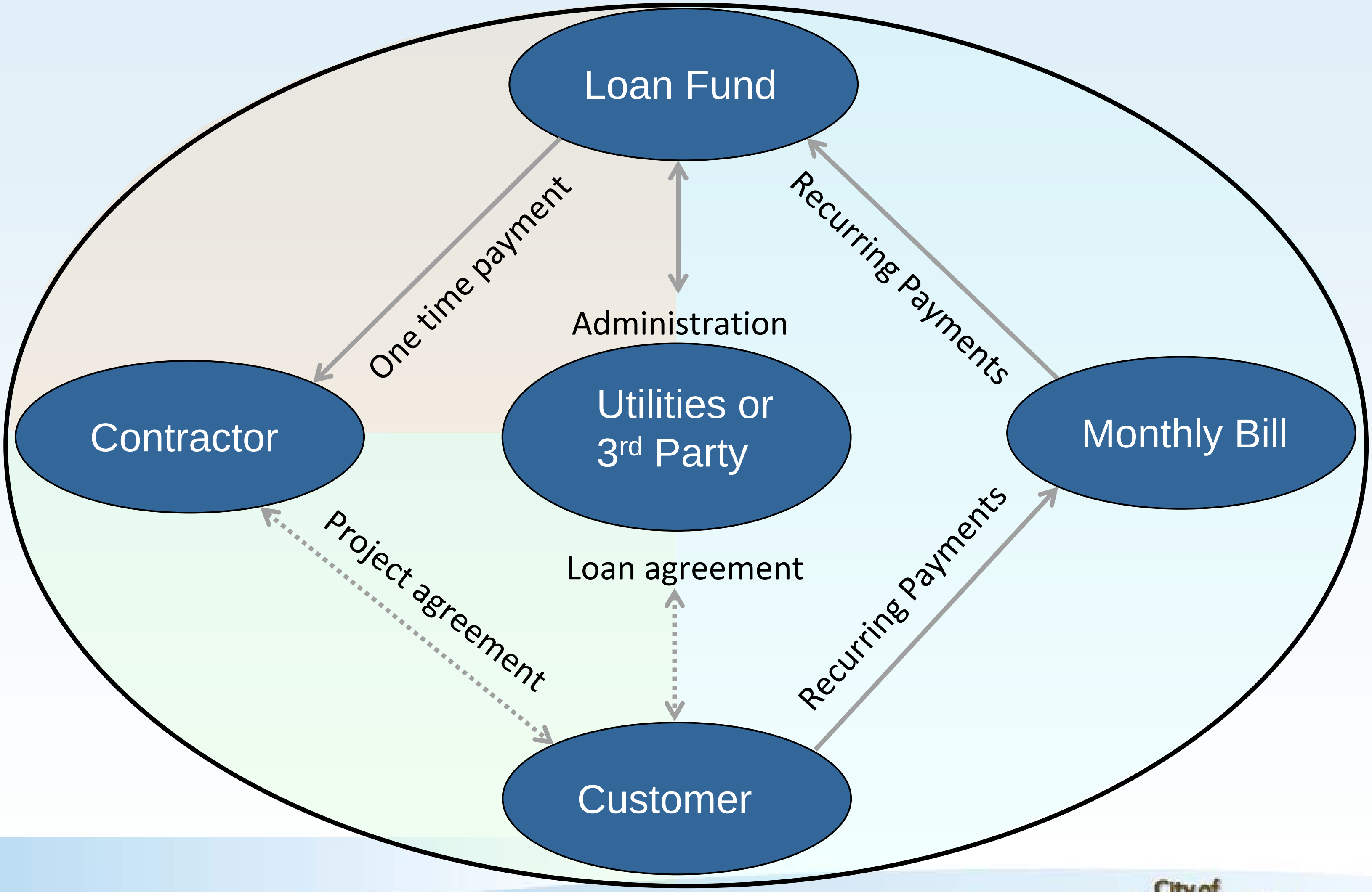
Program Overview



Next Steps

- Council Meeting March 20
  - Adopt Chapter 26 code language
- Finalize testing of billing system
- Document/finalize internal business processes and 3rd party resources
- Document accounting procedures
- Integrate financing options with existing Home Efficiency Program outreach and marketing plans
- Goal to launch by June 1

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Benefits

- Support policy goals
  - Climate Action Plan
  - Energy Policy
  - Water Conservation Plan
- Sustainability
  - Energy and water use reduction, renewable energy generation
  - Local contractors and investment
  - Improved comfort, health and safety

Discussion

- Questions or feedback regarding the pilot program plan?
- Is Council comfortable with Utilities moving forward with a pilot program?

Council Finance Committee
Agenda Item Summary

Date: February 17, 2010

Staff: Josh Birks, Economic Health Director
Megan Bolin, City Planner

Subject: Section 108 Economic Development Loan Program

Executive Summary

Staff presented the Section 108 Economic Development Loan Program to the Finance Committee in October, 2011. Initial concepts were discussed regarding the types of loans the City would make, the application process, and loan evaluation criteria. Staff has since completed a policy and procedure document that will guide decision-making associated with the Program. The Finance Committee is asked for feedback on the loan requirements and evaluation criteria outlined in that document.

General Direction Sought and Specific Questions to be Answered

1. Does the Finance Committee support staff's recommended Program and use of Section 108 loan funds?
2. Is there any additional loan evaluation or underwriting criteria the Committee would like to add to the Program?
3. Should staff pursue seeding a loan loss reserve fund, or should the loan loss be priced into each loan?
4. Should the entire City Council review loan applications, or can Council Finance Committee review and send recommended loans to Council for approval of a Loan Agreement on the consent agenda?

Background/Discussion

Staff presented the Section 108 Economic Development Loan Program (Program) to the Finance Committee in October, 2011. Initial concepts were discussed regarding the types of loans the City would make, the application process, and loan evaluation criteria. The specific topic of lending to pre-revenue or start-up companies was discussed, and staff was directed to research the topic more in terms of risk, and bring back refined Program policies and procedures for the Committee to review.

Staff has since completed a policy and procedure document (see Attachment 1) that will guide decision-making associated with the Program. Potential borrowers will have clear guidelines to follow upfront, making the application and approval process more transparent. The following highlight key concepts of the Program for the Committee to consider (details found in Attachment 1):

- Only existing businesses that can prove profitability will be considered for a loan.
- Loan structures will be negotiated on a case-by-case basis to balance the needs of the applicant and the City's security requirements.
- Loans may be used for working capital, machinery/equipment, land/building acquisition, and new construction/renovation.
- The City bears the risk of loss if a loan defaults; if there are no loan proceeds to repay HUD, the City's CDBG fund is the repayment source.
- Working capital loans carry a higher risk and will have a higher level of collateral and securitization required.
- One job must be created for every $35,000 loaned.
- Loan minimum is $250,000; maximum is $2,000,000.

Staff does not recommend using the Program for new businesses or those that are in the pre-revenue stage, meaning they are not able to show sufficient profitability to repay the loan. Considering the risk posed to the City's CDBG grant should a loan default, only businesses with a proven ability to repay will be considered. Furthermore, with consideration of the administration associated with the Program (outlined below), staff suggests setting the minimum loan amount at $250,000, meaning the City could provide up to 20 loans. The maximum loan amount is recommended at $2,000,000 so the City can participate in more than one loan, which also helps to spread risk.

With regard to mitigating the City's risk, there are some options for creating a loan loss reserve that staff would like feedback on:

- Option 1 – add a point spread to each borrower's interest rate.
- Option 2 – seed a separate loan loss reserve fund. Potential funding sources include the City's General Fund or CDBG entitlement grant.

The benefit of the City creating a loan loss fund is that interest rates can be more competitive and favorable for potential borrowers. Option two would likely require a greater conversation as to finding the most appropriate funding source and the process needed to secure such funding.

Loan Administration

At the October meeting, staff was also asked to clarify which City Departments would be responsible for administering the Program. The table below identifies which entity is responsible for the various aspects of the Program:

Activity	Responsible Entity
Marketing the Program	Economic Health
Screening applicants	Economic Health
Reviewing applications	Economic Health, Finance, Advance Planning
Underwriting	Loan Review Committee (Economic Health, Finance, Advance

	Planning, CDBG Commissioner, 2 private bankers)
Recommending applicants	Economic Advisory Commission, CDBG Commission, Council Finance Committee
Approving loans	City Council (consent agenda)
Closing loans	Attorney's Office, Finance, Economic Health
Servicing loans	Finance
Monitoring loans	Economic Health, Advance Planning
Reporting to HUD	Economic Health, Advance Planning

Background

In December 2010, City Council adopted Resolution 2010-076 authorizing the City Manager to submit an application to the U.S. Department of Housing and Urban Development (HUD) for the Section 108 Loan Program. The City's application to HUD requested $5 million for an economic development loan pool from which smaller loans would be provided to eligible borrowers on a case-by-case basis. After thorough review, HUD announced approval of Fort Collins' loan request in August 2011.

Section 108 is the loan provision of the Community Development Block Grant (CDBG) Program, and allows communities to leverage their annual CDBG entitlement grant and provide loans for local economic and community development activities. Such activities must meet *one* of HUD's national objectives:

- Principally benefit low- and moderate-income persons;
- Aid in the elimination or prevention of slums and blight, or
- Meet an urgent need of the community.

Furthermore, projects must be an eligible activity such as:

- Economic development activities eligible under the CDBG Program.
- Acquisition of real property.
- Rehabilitation of publicly owned real property.
- Housing rehabilitation eligible under the CDBG Program.
- Construction, reconstruction, or installation of public facilities (including street, sidewalk, and other site improvements).
- Relocation or site clearance.
- Payment of interest on the guaranteed loan and issuance costs of public offerings.
- Debt service reserves.
- Public works and site improvements in colonias.

From the perspective of the City, the advantage of the Section 108 Program is that it adds another tool to financially leverage non-profit or for-profit development/businesses that provide positive economic and social benefits to the community. Borrowers, in turn, benefit from a low interest rate and flexible terms. The risk to the City is that current and future CDBG

entitlement grants are pledged as collateral to HUD; third-party loans will be thoroughly assessed for credit worthiness and only provided if adequate security is pledged, ensuring CDBG funds are not put at undue risk.

Attachments

1. Section 108 Economic Development Loan Program
2. Staff presentation

City of Fort Collins
Section 108 Economic Development Loan Program

Contents

City of Fort Collins
Section 108 Economic Development Loan Program

Section 108 is the loan guarantee provision of the Community Development Block Grant (CDBG) Program administered by the U.S. Department of Housing and Urban Development (HUD). Section 108 allows municipalities to leverage their annual CDBG funds in the form of a loan to finance various community and economic development activities. Loans are intended to support and stimulate business development and investment by the private sector.

I. Program Goals and Objectives

The goal of Fort Collins' Section 108 Loan Program is to enable existing businesses to relocate and/or expand their operations within the City in order to create jobs and revitalize distressed areas.

The objectives of the Program are to:

- Create at least one job per $35,000 loaned.
- Provide financing at interest rates lower than conventional financing.
- Provide subordinated financing to eligible borrowers to fill a financing gap beyond the amount of private participation and equity investment that can be raised.
- Provide a means for revitalizing distressed areas.

Any project/activity funded by the Program must comply with regulations established by HUD's Code of Federal Regulations (CFR): 24 CFR 540, Subpart M, "Loan Guarantees" and meet at least one national objective:

1. Principally benefit low- and moderate-income individuals;
2. Aid in the elimination/prevention of slums or blight; or
3. Meet an urgent need of the community.

II. Program Details

A. Eligibility

1. Area: City of Fort Collins municipal boundary. Preference will be given to businesses/projects located within an Urban Renewal Plan Area, the Downtown Development Authority Boundary, a Qualified Census Tract, or Enterprise Zone.
2. Applicants: Private, for-profit businesses in operation for at least 2 years and able to demonstrate sufficient profitability for the term of the loan. An applicant must be a legal entity, verified by Secretary of State Registration or Certificate of Good Standing.

B. Loan Amount

1. Minimum loan amount shall be $250,000.
2. Maximum loan amount shall not exceed $2,000,000.

3. Applicant must invest at least 10% of the total loan request before loan proceeds are funded.

C. Rate

The City of Fort Collins interest rate will be competitive. The 90-day London Interbank Offered Rate (LIBOR) is the base, plus additional basis points as determined by the City to cover administration and/or a loan loss reserve.

D. Terms

Loan Activity	Maximum Term	Loan to Value Target
Acquisition of land, buildings, renovation, or new construction	Up to 20 years	80%
Machinery and equipment	The economic life of machinery/equipment or 10 years, whichever is less	80%
Working capital	Up to 5 years	Determined based upon the financial condition of the borrower, not to exceed 80%

E. Eligible Uses

1. Working capital for labor and moving costs associated with the expansion or relocation of a business, inventory financing, receivable financing, training, and marketing financing.
2. Renovation and new construction of commercial/industrial buildings.
3. Acquisition and installation of machinery and equipment.
4. Public infrastructure improvements associated with renovation and/or new construction.

F. Job Creation

1. Only those applicants proposing to create new jobs will be considered for funding.
2. The job creation period begins with the issuance of a certificate of occupancy, the end of a renovation project, or when all funds are disbursed, whichever is first.
3. The time frame to create new jobs will be from 1-5 years.
4. Where required, borrowers shall enter into a “First Source Agreement” with the Larimer County Workforce Center for the hiring of employees, for the purposes of assuring that a best faith effort will be made to hire 51% of the new hires from the low and moderate income labor pool.

G. Evaluation Criteria

Each application will be reviewed based on its ability to adhere to Program regulations and repay. The structure of the loan will be negotiated on a case-by-case basis to accommodate the

needs of the applicant and the City's requirement for adequate security. The following considerations will be made when evaluating applications:

1. Evidence of Site Control – Applicants seeking real estate loans must demonstrate evidence of site ownership or control, such as a purchase and sale agreement, an executed option.

2. Ability to Repay – Project analysis will identify the primary, secondary and, where necessary, tertiary sources of repayment for the loan. Projects will be expected to have at least a 1.20:1 projected cash flow coverage ratio. A lower cash flow coverage ratio may be considered if the applicant's financial condition allows.

3. Loan to Value Target – Consistent with customary underwriting practice, loan to value coverage for real estate will be determined based on expected value as of project stabilization. Loan to value must be supported by an appraisal prior to funding, and the appraisal must be engaged by a bank or the City from an approved appraiser. For business loans, loan to value will be determined on a case-by-case basis based on a thorough analysis of the business' balance sheet and specific components of borrower's working capital.

4. Collateral – Loan to value must be supported prior to funding. The City's typical security interest will be in the form of liens on personal or real property. Personal guarantees will be required for working capital loans. The following table states how collateral will be evaluated:

Collateral Type	**Advance Rate**	**Value Determined By:**
Real Estate: commercial owner occupied, income producing non-owner occupied, raw land	Up to 80%	Appraisal
Equipment (including vehicles)	Up to 80% of Liquidation Appraisal on used, and up to 80% of invoice on new equipment.	Appraiser, Balance Sheet, Machinery/Equipment quotes
Personal Guarantee (pledge of business and/or personal assets)	Determined on a case-by-case basis based.	Balance Sheet

5. Proposed Costs – The analysis will verify that estimated costs to be paid by loan proceeds are for legitimate business use. Renovation or new construction projects must have costs prepared by a credible third party, such as a contractor or other

cost estimator. The City's loan commitments will be conditioned on a finalized project budget.

6. Need for Public Assistance – The analysis will determine whether the borrower requires public financial assistance. Proof must be shown that the applicant has been denied by private banking institutions prior to seeking funding from the Program.

7. Capacity and Experience – Renovation or new construction projects to be funded should have a development team that has both the capacity and experience to complete the project as evidenced by past projects of similar size and scope, and by financial strength. The analysis will include resumes of development team members and a list of prior comparable projects completed by the development team members with a description of project size, cost, timeliness, and adherence to budget. Also, the analysis will include the development team members' experience with public funding sources and accompanying regulations, as applicable (e.g., Davis-Bacon, relocation).

8. Borrower Commitment – Borrower commitment can include: developer/owner equity, guarantees of completion, guarantees to fund shortfalls, or guarantees of minimum cash flow. Financial statements, pro forma analysis, and/or business' balance sheet will also be evaluated. Borrower's shall provide the City with quarterly financial statements for the term of the loan, and may be subject to on-site monitoring by city staff.

9. Character – Borrowers should have good credit histories, demonstrated integrity, and quality references.

III. Application Process

Applications requesting a loan will be reviewed on a first come, first served basis. Generally, the application process occurs as follows:

1. Contact the Economic Health Office for initial screening.

2. Complete an application and provide all required financial documentation.

3. Staff reviews application to assure completeness.

4. Once a complete application is received, application is reviewed by the Loan Review Committee (LRC). The LRC is comprised of City staff, private bankers, and a member of the City's CDBG Commission.

5. If the LRC provides a favorable recommendation, application is reviewed by the CDBG Commission, Economic Advisory Commission, and Council Finance Committee.

6. If the Council Finance Committee provides a favorable recommendation, a Loan Agreement is drafted.

7. City Council considers approval of the Loan Agreement.

8. Close the loan.

Section 108
Economic Development Loan Program

Council Finance Committee

February 27, 2012

Background

- **December 2010** – Council passed Resolution to submit an application to U.S. Department of Housing and Urban Development (HUD) for $5 million economic development loan pool.
- **August 2011** – HUD approves City's request.
- **October 2011** – Finance Committee presentation.

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General Direction Sought

1. Does the Finance Committee support staff's recommended Program and use of Section 108 loan funds?

2. Is there any additional loan evaluation or underwriting criteria the Committee would like to add to the Program?

3. Should staff pursue seeding a loan loss reserve fund, or should the loan loss be priced into each loan?

4. Can the Finance Committee review and send recommended loans to City Council for approval on the consent agenda?

Program Highlights

- Only existing businesses that can prove profitability will be considered for a loan.
- Loan structures will be negotiated on a case-by-case basis to balance the needs of the applicant and the City's security requirements.
- Loans may be used for working capital, machinery/equipment, land/building acquisition, and new construction/renovation.
- Project/activity funded must comply with HUD regulations.

Program Highlights

- City bears risk if a loan defaults; if there are no loan proceeds to repay HUD, the City’s CDBG fund is the repayment source.
- Working capital loans carry a higher risk and will require a higher level of collateral and securitization.
- One job must be created for every $35,000 loaned.
- Loan minimum = $250,000; maximum = $2,000,000.

City of Fort Collins

Program Details

- Eligibility: project/activity within City limits
- Rate: 90-day London Interbank Offered Rate (LIBOR) + 20 basis points + additional points for administration/loan loss reserve
- Terms:

Loan Activity	Maximum Term	Loan to Value Target
Acquisition of land, buildings, renovation, or new construction	Up to 20 years	80%
Machinery & equipment	Economic life of equipment or 10 years, whichever is less	80%
Working capital	Up to 5 years	Based on financial condition of borrower, not to exceed 80%

City of Fort Collins

Evaluation Criteria

- Evidence of Site Control
- Ability to Repay
- Collateral
- Proposed Costs
- Need for Public Assistance
- Capacity and Experience
- Borrower Commitment
- Character

Application Process

Step 1	Economic Health staff markets the loan program and provides initial screening of applicants.
Step 2	Eligible applicants complete a formal loan application and provide all required financial documentation.
Step 3	Staff reviews application for completeness.
Step 4	Loan Review Committee (LRC) reviews application. The LRC is comprised of City staff, a CDBG Commission representative, and two private bankers.
Step 5	Council Finance Committee, CDBG Commission and Economic Advisory Commission provide loan recommendations.

Application Process cont'd

Step 6	If CFC provides a favorable recommendation, a Loan Agreement is drafted.
Step 7	City Council considers Loan Agreement.
Step 8	Close the loan.

General Direction Sought

1. Does the Finance Committee support staff's recommended Program and use of Section 108 loan funds?

2. Is there any additional loan evaluation or underwriting criteria the Committee would like to add to the Program?

3. Should staff pursue seeding a loan loss reserve fund, or should the loan loss be priced into each loan?

4. Can the Finance Committee review and send recommended loans to City Council for approval on the consent agenda?

COUNCIL FINANCE COMMITTEE
AGENDA ITEM SUMMARY

Date: February 27, 2012
Staff: Jessica Ping-Small, Sales Tax Manager

SUBJECT FOR DISCUSSION: Internet Sales Tax History and Update

EXECUTIVE SUMMARY: Presentation on internet sales tax history, estimated revenue implications and current legislation. The presentation will also include information pertaining to the City's efforts to collect sales tax for online purchases. Presentation attached.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED
None, update to Council Finance Committee.

BACKGROUND/DISCUSSION: Presentation attached.

ATTACHMENTS:

1. Internet sales tax slide set

Council Finance Committee

Internet Sales Tax
History and Update

February 27, 2012

Overview

- Summary
- Myth vs. Fact
- Definitions
- Background
- Financial Impact
- Sales Tax Division Initiatives
- Streamlined Sales and Use Tax Agreement
- Current Legislation
- Discussion

Summary

- Online retail sales continue to increase
- The inability to apply sales tax to online purchases by taxing jurisdictions creates an unlevel playing field for local “brick and mortar” businesses
- The revenue loss to state and local taxing authorities is significant
- An agreeable solution between online retailers and Congress continues to be a challenge

Myth vs. Fact

- Myth – Purchases made online are exempt from sales tax

- Fact – Purchases made online are taxable but current legislation does not require online retailers to collect the tax due to the burden on the retailer to comply with so many different tax rates and codes

Online transactions are not exempt from sales tax

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Myth vs. Fact

- Myth – The Internet Tax Freedom Act (ITFA) of 1998 exempts online transactions from being taxable

- Fact – The ITFA addresses the taxability of internet access as a telecommunication not the taxability of purchases made online

The Internet Tax Freedom Act does not address purchases made online

Definitions

Nexus

- In tax law generally means have a presence or engaged in business within a taxing jurisdiction.

Engaged in Business

- Directly, Indirectly, or by a subsidiary maintains a building, store, office, etc. within jurisdiction.
- Sends one or more employees, agents or commissioned sales persons into taxing jurisdiction to assist in the use of its products.
- Maintains one or more employees on duty at a location within jurisdiction.
- Owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction.
- Makes more than one delivery into the taxing jurisdiction within a 12 month period.

Current law does not require the collection of sales tax for online purchases unless the entity is engaged in business within the taxing jurisdiction

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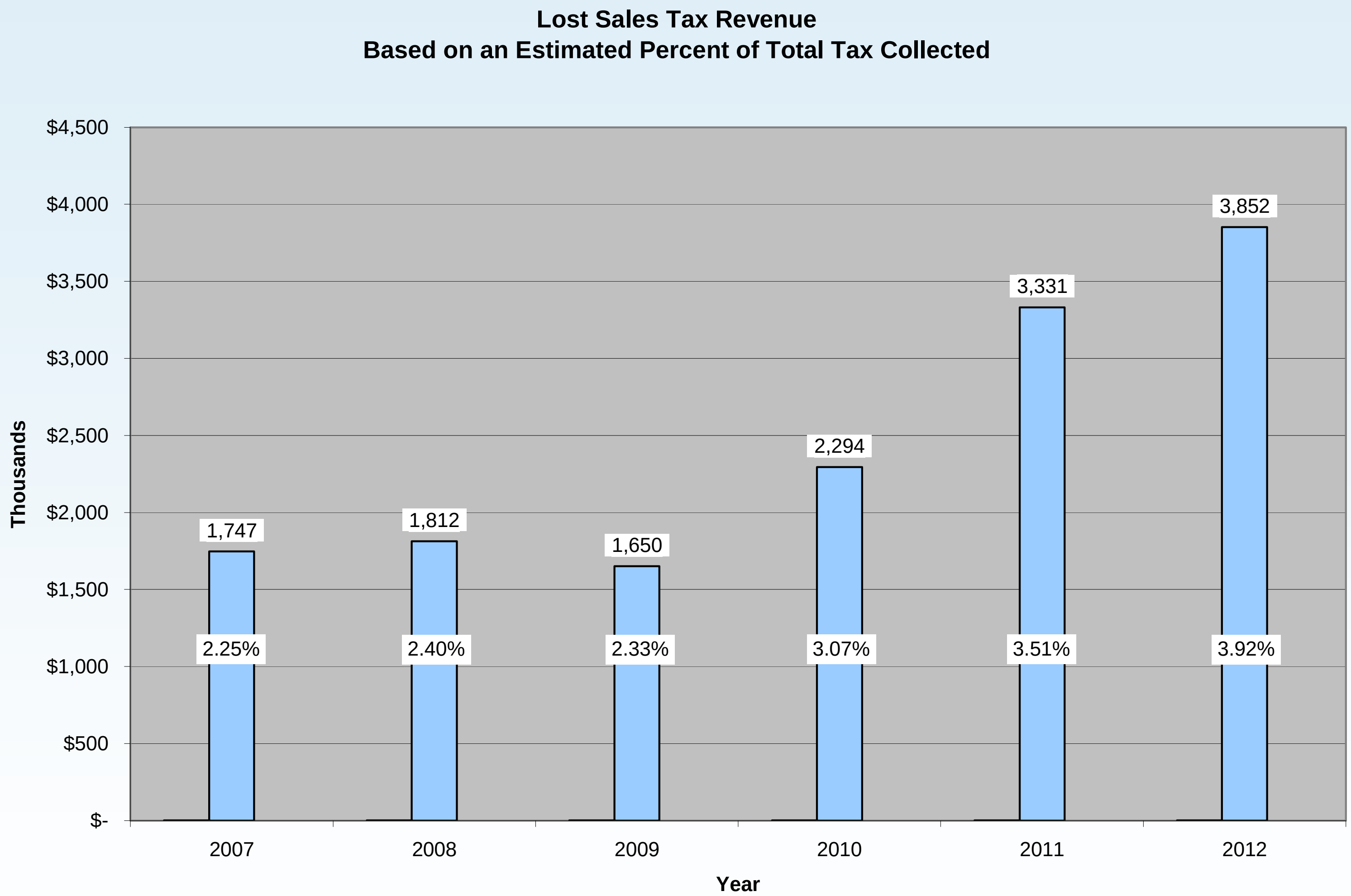
Financial Impact – City of Fort Collins



Based on University of Tennessee Report – Appendix A Table 4
Based on estimates made for State of Colorado

The City has lost an estimated $15 million over the last 6 years
2011 and 2012 include KFCG tax increase

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What's the solution?

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Sales Tax Division Initiatives

- Research top 500 online retailers for nexus
- “Shop” online retailers without nexus to verify if retailer is collecting City of Fort Collins sales tax
- Contact unlicensed retailers that are collecting to negotiate remittance agreement
- Audit businesses that are making purchases online “tax free” and assess use tax
- Participate in CML Sales Tax Committee to stay involved in ongoing discussion

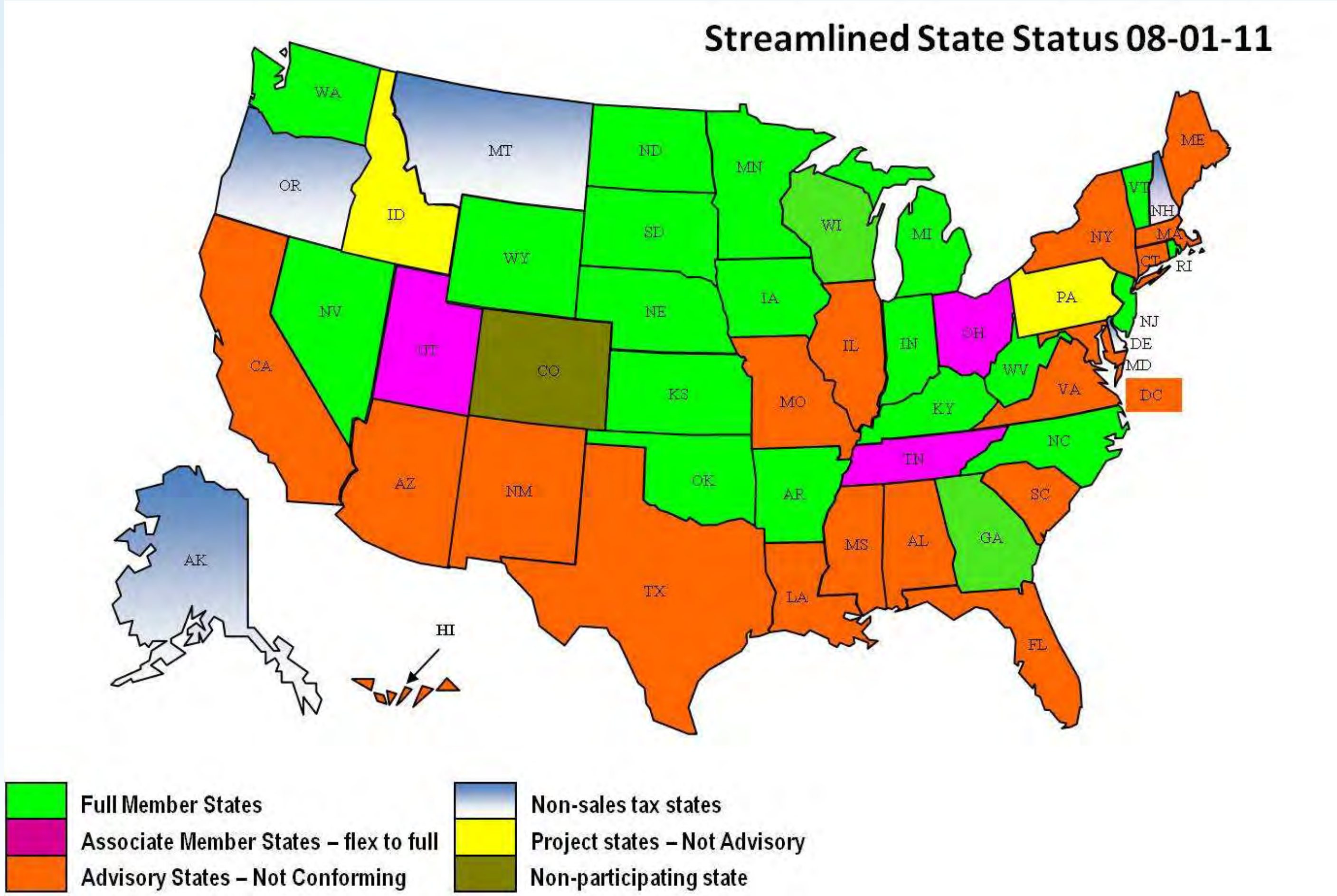
The City of Fort Collins is collecting tax from online sales when nexus exists

Streamlined Sales and Use Tax Agreement (SSUTA)

- Created in 1999 to simplify and modernize sales and use tax administration
- Requires State level administration of sales and use tax collections
- Aims to create uniformity in state and local tax bases and definitions
- Simplifies tax returns and the remittance process for online retailers
- 24 States have adopted SSUTA to date

The State of Colorado has not adopted the SSUTA

SSUTA Participation



The State of Colorado is the only non-participating state because home rule municipalities would lose local collection authority, audit authority and control of tax base

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Current Legislation
Marketplace Fairness Act (MFA)

- Legislation introduced by Senator Mike Enzi (R-WY) and Senator Dick Durbin (D-IL)
- If passed would permit Colorado to collect state and local tax from mail-order and internet retailers not presently collecting tax
- First legislation introduced that does not require participation in the Streamlined Sales Tax Project (SSTP)
- CML staff has recommended that CML support the MFA

The Marketplace Fairness Act is the first legislation that could potentially benefit Colorado taxing jurisdictions

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Discussion

- Questions?