



**TOWN BOARD WORK SESSION MEETING**  
June 15, 2015 – 6:00 P.M.  
**Community Recreation Center – Aspen Room**  
250 N. 11<sup>th</sup> Street, Windsor, CO 80550

The Town of Windsor will make reasonable accommodations for access to Town services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call (970) 674-2400 by noon on the Thursday prior to the meeting to make arrangements.

---

**GOAL of this Work Session is to have the Town Board receive information on topics of Town business from the Town Manager, Town Attorney and Town staff in order to exchange ideas and opinions regarding these topics.**

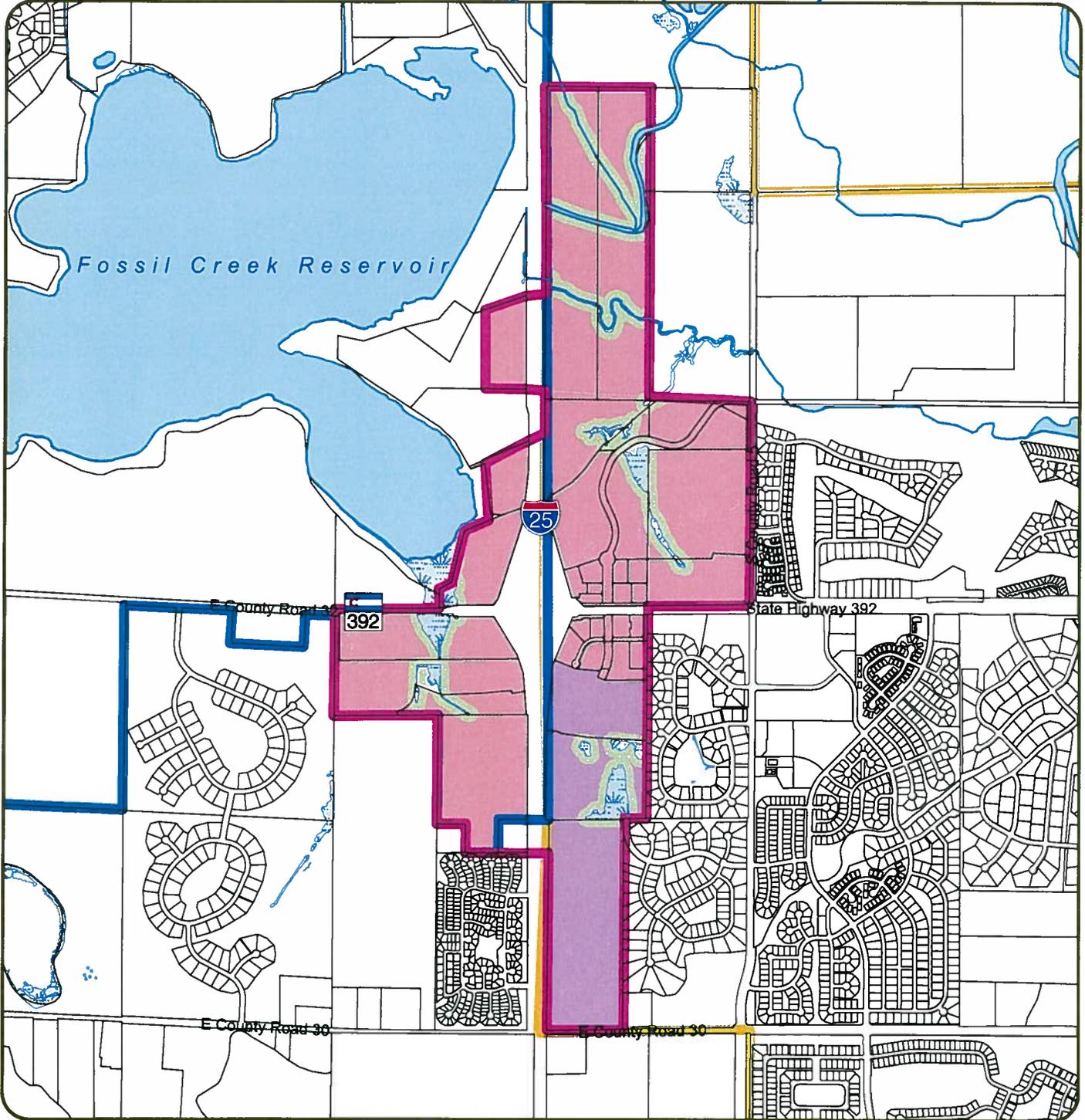
**Members of the public in attendance who have a question related to an agenda item are requested to allow the Town Board to discuss the topic and then be recognized by the Mayor prior to asking their question.**

***THIS MEETING WILL NOT BE TELEVISED OR RECORDED***

**AGENDA**

1. Parameters of meeting – I. McCargar
2. Brief history of the Fort Collins – Windsor Intergovernmental Agreement (IGA) pertaining to the I-25/SH 392 Interchange and creation of the Corridor Activity Center (CAC)
3. Staff review of activity: what hasn't worked/what has worked with regard to the CAC?
  - a. Allowed IGA to be accomplished and interchange improvements to be implemented, resulting in increased development potential of properties within the CAC
  - b. Ensures that reimbursement of proportionate shares of improvement costs will be reimbursed
  - c. No substantial development or redevelopment
  - d. No collected CAC fees except for Arby's which chose to pre-pay
4. Property owners report:
  - a. What has changed since adoption of the CAC?
  - b. What uses should be removed from the CAC list?
  - c. What uses should be included in the CAC list?
  - d. Any other suggestions to assist development opportunities in the CAC?
5. Next steps (no decision – just discussion on process and possible timeline):
  - a. Amend the CAC? How to proceed if that is preferred; or
  - b. Do not amend the CAC
6. Future Meetings Agenda

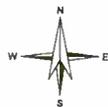
# I25 - State HWY 392 Interchange Corridor Activity Center (Exhibit A)



Scale 1:21,327

0 0.04 0.08 0.16 0.24 0.32 Miles

0 0.1 0.2 0.4 0.6 0.8 Kilometers



CITY OF FORT COLLINS  
GEOGRAPHIC INFORMATION SYSTEM MAP PRODUCTS

These map products and all underlying data are developed for use by the City of Fort Collins for its internal purposes only and were not designed or intended for general use by members of the public. The City makes no representation or warranty as to its accuracy, timeliness, or completeness, and in particular, its accuracy in labeling or displaying dimensions, contours, property boundaries, or placement of location of any map features thereon. THE CITY OF FORT COLLINS MAKES NO WARRANTY OF MERCHANTABILITY OR WARRANTY FOR FITNESS OF USE FOR PARTICULAR PURPOSE, EXPRESSED OR IMPLIED, WITH RESPECT TO THESE MAP PRODUCTS OR THE UNDERLYING DATA. Any users of these map products, map applications, or data accept them AS IS, WITH ALL FAULTS, and assumes all responsibility of the use thereof, and further covenants and agrees to hold the City harmless from and against all damage, loss, or liability arising from any use of this map product, in consideration of the City's having made this information available. Independent verification of all data contained herein should be obtained by any users of these products, or underlying data. The City disclaims, and shall not be held liable for any and all damage, loss, or liability, whether direct, indirect, or consequential, which arises or may arise from these map products or the use thereof by any person or entity.

### Land Use

- Commercial
- Employment
- Natural Resource Buffer
- Wetlands

### Boundaries

- CAC
- Fort Collins GMA
- Windsor GMA
- Parcels



Printed: December 07, 2010

TOWN OF WINDSOR

RESOLUTION NO. 2010-71

A RESOLUTION RATIFYING, APPROVING, AND CONFIRMING THE TERMS AND CONDITIONS OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF WINDSOR AND THE CITY OF FORT COLLINS PERTAINING TO THE DEVELOPMENT OF THE INTERSTATE I25/STATE HIGHWAY 392 INTERCHANGE INCLUDING PROVISIONS FOR COST AND REVENUE SHARING, ANNEXATION AND LAND USE DEVELOPMENT

WHEREAS, the Town of Windsor ("Town") and the City of Fort Collins ("City") share a common interest in the development of the area surrounding the Interstate 25/State Highway 392 interchange ("Interchange"), and have recently joined with the Colorado Department of Transportation ("CDOT") in actively promoting the re-construction of the Interchange; and

WHEREAS, the efforts of the City, the Town and CDOT have resulted in the appropriation substantial funding by the Colorado Transportation Commission for the re-construction of the Interchange; and

WHEREAS, the Town and the City have each appropriated the balance of the funding necessary for such re-construction in the amount of \$5 million; and

WHEREAS, the Town and the City anticipate that upon the re-construction of the Interchange, the surrounding area will undergo significant change including commercial and other development; and

WHEREAS, the Town and the City have negotiated an Intergovernmental Agreement to reflect the respective financial contribution of the Parties to the re-construction of the Interchange, to provide for orderly land use and development in the surrounding area, to ensure that development pays its own way, and to provide for a revenue sharing formula between the City and the Town.

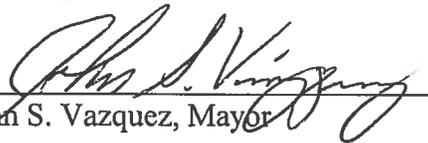
NOW THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF WINDSOR, COLORADO AS FOLLOWS:

1. That the Town hereby ratifies, approves and confirms the terms and conditions of the INTERGOVERNMENTAL AGREEMENT between the Town of Windsor and the City of Fort Collins, a copy of which is attached hereto and made a part hereof by this reference.
2. That the INTERGOVERNMENTAL AGREEMENT is hereby approved, and the Town Manager is authorized to execute said agreement in substantially the form shown on Exhibit "A," attached hereto and incorporated herein by this reference, subject to such modifications as the Town Manager may, in consultation with the Town Attorney, deem necessary or desirable to protect the interests of the Town and effectuate the purposes of this Resolution.

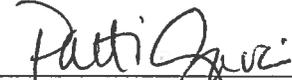
3. That by the terms of this Resolution, the Town Board specifically acknowledges and affirms that it has properly appropriated sufficient funds to satisfy the Town's obligations under the INTERGOVERNMENTAL AGREEMENT.

Upon motion duly made, seconded and carried, the foregoing Resolution was adopted this 13<sup>th</sup> day of December, 2010.

TOWN OF WINDSOR, COLORADO

  
John S. Vazquez, Mayor

ATTEST:

  
Patti Garcia, Town Clerk



**INTERGOVERNMENTAL AGREEMENT  
PERTAINING TO THE DEVELOPMENT OF THE  
INTERSTATE I25/STATE HIGHWAY 392 INTERCHANGE**

THIS AGREEMENT is entered into this 3rd day of January, 2010, by and between the City of Fort Collins, Colorado, a Colorado home rule municipality (the "City"), and the Town of Windsor, Colorado, a Colorado home rule municipality (the "Town"), collectively referred to herein as the "Parties".

**RECITALS**

WHEREAS, the City and the Town are situated on opposite sides of Interstate 25 and are both committed to planned and orderly development; to regulating the location and activities of development which may result in increased demand for services; to providing for the orderly development and extension of urban services; to simplifying governmental structure when possible; to promoting the economic vitality of both municipalities; to protecting the environment; and to raising revenue sufficient to meet the needs of their citizens; and

WHEREAS, on June 28, 1999, the City and the Town entered into two intergovernmental agreements relating to the annexation of properties in one another's jurisdictions; and

WHEREAS, these agreements were limited in their duration; and

WHEREAS, the parties wish to expand and make permanent their agreement relating to annexations in one another's jurisdiction; and

WHEREAS, the City and the Town have been in regular contact with the Colorado Department of Transportation ("CDOT") about the sub-standard condition of the Interstate 25/State Highway 392 Interchange ("Interchange"), and the importance of that Interchange to the City and the Town and is an integral part of the regional transportation network and a critical gateway to both communities; and

WHEREAS, in recent years, the capacity of the Interchange has been significantly impacted by state and regional growth, as well as local growth in Windsor and southeast Fort Collins, so that the Interchange is unable to handle current traffic capacity during peak hours; and

WHEREAS, the Interchange is characterized by numerous design and operational deficiencies and substandard safety features, including the absence of any transit facilities; and

WHEREAS, on March 22, 2006 the City and Town entered into an intergovernmental agreement (the "March 22<sup>nd</sup> Agreement") that, among other things,

defined a Corridor Activity Center in the immediate vicinity of the Interchange (the "CAC"); and

WHEREAS, the March 22, 2006 Agreement also sets forth the willingness of the City and the Town to work cooperatively toward developing a comprehensive development plan for the CAC and surrounding areas, to explore financing mechanisms for reconstructing the Interchange, and to evaluate potential revenue sharing alternatives; and

WHEREAS, in 2008, the City and the Town authorized the execution of two additional intergovernmental agreements, the purposes of which were to pursue funding for the Interchange and expedite its design and approval by CDOT, and also passed resolutions reaffirming their commitment to continued cooperation in the planning, design and construction of the Interchange and approving certain basic principles related to that cooperative effort, including a commitment to long-term, equitable sharing of revenues derived from new development within the CAC; and

WHEREAS, because of the proximity of the two municipalities on either side of the Interchange, the way in which the Interchange is reconstructed and the way in which the property within the CAC is developed will affect the economic and environmental well-being of both communities; and

WHEREAS, for the foregoing reasons, the City and the Town have worked diligently with each other and with CDOT, as well as various elected federal officials, landowners, local officials, and others to promote and fund the design and construction of improvements to the Interchange; and

WHEREAS, the efforts of the City and the Town have been successful, and the majority of the funding is now in place to allow the immediate construction of improvements to the Interchange, subject only to the appropriation of the remaining funds to be contributed by the City and the Town; and

WHEREAS, the City and Town wish to provide for increased coordination of planning and managing development within the CAC, cost sharing for construction of Interchange improvements, revenue sharing, operation and maintenance of certain Enhanced Improvements, providing needed services in the Interchange area, and resolving any conflicts arising with regard to these topics; and

WHEREAS, the City and the Town have both adopted the Northern Colorado Regional Communities I-25 Corridor Plan, which establishes a shared vision for development of property adjacent to Interstate 25; and

WHEREAS, the Colorado Constitution, Section 29-20-101 *et seq.*, of the Colorado Revised Statutes, and the Charters of both the City and Town authorize the City and the Town to enter into mutually binding and enforceable agreements regarding the joint exercise of planning, zoning and related powers.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties hereto agree as follows.

## SECTION 1. DEFINITIONS

In this Agreement, unless a different meaning clearly appears from the context, the following definitions shall apply:

- 1.1. "Agreement" means this Agreement and its attachments.
- 1.2. "City" means the City of Fort Collins, Colorado.
- 1.3. "CDOT" means the Colorado Department of Transportation.
- 1.4. "Corridor Activity Center" or "CAC" means that joint planning area referred to above and more fully described on Exhibit "A," attached hereto and incorporated herein by this reference; as such description may be amended by the Parties pursuant to Section 2 below.
- 1.5. "Developable Land" means that portion of each parcel of real property within the CAC upon which buildings, infrastructure or other improvements may lawfully be constructed, taking into consideration the physical characteristics of the property and all applicable state and local laws and regulations.
- 1.6. "Development Proposal" means an application for the development of a parcel of land within the CAC that will, when approved and constructed, result in an increase of traffic in the CAC.
- 1.7. "Effective Date" means the date that the last party signs this Agreement, or ten days after the final approval by the last governing board of the City or Town.
- 1.8. "Enhanced Improvements" means those improvements to the Interchange that will be maintained by the City and the Town as shown on Exhibit "A" and Exhibit "A-1" to that certain agreement between CDOT, the City, and the Town (the "CDOT IGA") regarding the funding, construction and maintenance of the Interchange improvements.
- 1.9. "Interchange" means the Interstate 25 and State Highway 392 interchange.
- 1.10. "Public Improvement Fee" or "PIF" means the public improvement fee to be more fully described in the PIF Covenant.
- 1.11. "PIF Covenant" means a declaration of covenants by which a developer of property for retail use within the CAC agrees to impose and implement a Public Improvement Fee.

1.12. "PIF Revenue" means that revenue derived from the imposition and collection of a PIF in accordance with this Agreement and the PIF Covenant.

1.13. "Project" means the construction by CDOT of a new Interchange at Interstate Highway 25 and Colorado State Highway 392.

1.14. "Property Owner" means and includes the fee owner of the property as well as any developer or other agent of the fee owner who, acting with the knowledge or consent of the fee owner, submits an application for approval of a Development Proposal or Redevelopment Proposal for such property.

1.15. "Property Tax Increment" means the net new revenue generated by property taxes on real property located within the boundaries of the CAC, using a base rate of 9.797 mils, as applied to the assessed valuation developed by Larimer County as of the Effective Date as the baseline.

1.16. "Redevelopment Proposal" means an application for the redevelopment of a parcel of land within the CAC that will, when approved and constructed, result in an increase in traffic in the CAC beyond that generated by the development currently in place.

1.17. "Sales Tax Increment" means the net new sales tax revenues generated by sales within the boundaries of the CAC, using a base rate of 2.25% and the amount of tax revenue received in the twelve (12) months immediately preceding the Effective Date as the baseline.

1.18. "Town" means the Town of Windsor, Colorado.

## **SECTION 2. CONFIGURATION OF THE CAC**

For the purposes of this Agreement, the Parties have agreed upon the boundaries of the CAC. The Parties acknowledge that, as the construction of the Project proceeds, and development of the properties surrounding the Interchange commences, it may be necessary for the Parties to agree upon amendments to the boundaries of the CAC so as to include additional properties benefited by the construction of the Project. It is the intention of the Parties to conduct a fair and inclusive process with regard to any such proposed amendments, respecting the needs and desires of the surrounding Property Owners, as well as the Parties, and taking into consideration any changed conditions in the area of the Interchange. Any such amendments shall be adopted by the governing bodies of the Parties by resolution, and upon such adoption the amended CAC area shall become the CAC area for all purposes under the provisions of this Agreement, including but not limited to Sections 3, 4, 5 and 6 below.

## **SECTION 3. REVIEW OF DEVELOPMENT AND REDEVELOPMENT PROPOSALS**

3.1. Permitted uses. Land uses within the CAC shall be limited to those uses shown on Exhibit "B" attached hereto and incorporated herein by this reference. All zoning

ordinances or other legislation needed to implement the regulation of land uses as shown on Exhibit "B" shall be presented to the respective governing bodies of the Parties no later than March 31, 2011.

3.2. Applicable Standards. The Parties have heretofore adopted standards and guidelines for development of the properties adjacent to Interstate 25, both individually and cooperatively, and have adopted various land use plans for that area, including the Northern Colorado Regional I-25 Corridor Plan (2001). On or before March 31, 2011, the governing bodies of the Parties shall each adopt more specific, mutually acceptable design standards for the CAC (the "CAC Design Standards"). In the event that the Parties have been unable to agree upon, and adopt mutually acceptable design standards for the CAC on or before said date, then the question of the development and approval of such standards shall be resolved pursuant to the mediation/arbitration process described in Section 8 below.

3.3. Review and Approval of Site Specific Development Proposals.

3.3.1 In order to promote and maintain the commitments of the City and Town with regard to development within the CAC, the Parties hereby jointly agree to the following review process for Development or Redevelopment Proposals for property within the CAC.

a. Neither the City nor Town shall, without the prior written consent of the other Party, approve the construction of any improvements within the CAC which are inconsistent with the CAC Design Standards.

b. Plans and specifications for any Development or Redevelopment Proposal on land located within the CAC that are received by either Party after the Effective Date shall, no later than thirty (30) business days prior to taking action, be submitted by the Party having jurisdiction over the proposal to the other Party for review and comment; provided, however, that the Parties may mutually agree to a shorter or longer review and comment period.

c. Such plans and specifications shall include a brief written description of the Development or Redevelopment Proposal and the surrounding vicinity, development maps and graphics, and renderings of all proposed improvements.

d. The receiving Party shall review the materials and respond to the other Party with written comments within the aforementioned thirty (30) business days. Each party agrees that it shall use its best efforts to provide comments in a timely fashion. However, the Parties expressly agree that any delay in submitting comments shall not require the delay of hearings or decisions by the party having jurisdiction over the Development Proposal.

e. The Parties shall designate a single point of contact for the communication of materials and comments contemplated by this Section.

f. The review and comment provided for herein is intended to be cooperative in nature, and is not intended to be binding upon the party having jurisdiction to grant, modify, or deny a Development or Redevelopment Proposal and shall not preclude the approval of any such proposal that is consistent with the CAC Design Standards and the provisions of this Agreement.

### 3.3.2. Notice of Incentives.

In the event that either Party extends, or agrees to extend, to any applicant for approval of a Development or Redevelopment Proposal within the CAC, any financial or other incentives in connection with such Development or Redevelopment Proposal, such Party shall provide the other Party with a detailed description of such financial or other incentives prior to the formal approval of the same, excluding only such information as is proprietary in nature. The provision and funding of any such incentives shall be the sole responsibility of the Party having jurisdiction over the Development or Redevelopment Proposal, unless the Parties agree to the contrary in a written amendment to this Agreement.

## **SECTION 4. COST SHARING**

### 4.1. Initial Funding of the Project.

4.1.1 The Parties understand and agree that the Project will be constructed and managed by CDOT, and that CDOT has estimated the total cost of the Project, inclusive of the acquisition of required rights of way, to be \$27.5 million. In order to fully fund the Project, each of the Parties shall, by ordinance or resolution adopted by their respective governing bodies, appropriate \$2.5 million towards the cost of the Project, and pay such amounts to CDOT pursuant to an agreement with CDOT to be executed by the Parties on or after the Effective Date (the "CDOT IGA"). The City may, in its discretion, pay for the cost of enhanced wetland mitigation on the west side of Interstate 25, and the Town shall have no obligation to help fund such mitigation. The Parties shall attempt to recover their respective Two Million Five Hundred Thousand Dollar (\$2,500,000) contributions to the cost of the Project from the Property Owners in the CAC, upon the development or redevelopment of their properties, pursuant to the provisions of Section 4.2 below. The City shall also attempt to recover the cost it incurs in connection with the foregoing wetland mitigation through the imposition of the PIF by retailers situated within that portion of the CAC that is within the City's territorial limits.

- 4.1.2. There shall be no further contributions to the Project by the Parties except by a written amendment to this Agreement that is adopted by the governing bodies of both Parties.

4.2. Reimbursement through a Development Impact Fee.

- 4.2.1 In recognition of the cost sharing between the Parties required by Section 4.1 above, and in further recognition of the principle that development and redevelopment should pay its own way, the Parties shall each enact a CAC Development Fee (the "Fee"), which shall be an impact fee imposed upon all properties in the CAC for which a Development Proposal or Redevelopment Proposal is approved. The purpose of the Fee shall be to repay the Parties for their contributions to the construction of the Project. Accordingly, the total amount of revenue to be generated by the Fee shall not exceed Five Million Dollars (\$5,000,000), plus any adjustment for inflation or deflation made in accordance with Section 4.2.3 below unless additional contributions are made in accordance with the provisions of this Agreement.
- 4.2.2 Each Property Owner within the CAC shall, as a condition of the issuance of the first building permit issued pursuant to each phase of any Development Proposal or Redevelopment Proposal for his or her property, pay a proportionate share of the Fee. The amount of each Property Owner's share shall be determined by the Parties no later than March 31, 2011, and shall be calculated on the basis of the amount of Developable Land contained within each parcel of property. The amount paid by each affected Property Owner shall be adjusted annually in accordance with the Denver/Boulder Consumer Price Index.
- 4.2.3 The Parties shall, within sixty (60) days after collecting any Fee revenues from Property Owners, deposit such revenues into a CAC Development Fee Revenue Fund ("Fee Revenue Fund") to be established and administered by one of the Parties pursuant to a written administrative agreement approved by the Town Manager and the City Manager, which agreement shall include a provision whereby the Parties will equitably share the costs incurred in administering the Fee and managing the Fee Revenue Fund. The amounts deposited into the Fee Revenue Fund shall be disbursed annually to the Parties in equal amounts, without regard to whether the properties that generated the Fee revenues are located with the territorial limits of the City or the Town. Such disbursements shall continue until the City and the Town have been fully reimbursed for their initial contributions, adjusted for inflation.
- 4.2.4 Either Party may elect to forego the collection of all or any portion of the Fee amount due from a particular Property Owner in exchange for the Property Owner's provision of a reciprocal benefit to such Party, which benefit may include, but need not be limited to, the setting aside or

dedication to the public of a portion of the Developable Land within the parcel for purposes such as wetlands, open space, parks or other improvements or amenities. In the event that either party elects to forego the collection of any Fee amounts pursuant to this provision, such Party shall nonetheless pay into the Fee Revenue Fund the full amount of the Fee that would have been due from the Property Owner had such election not been made.

**4.3. Funding the Maintenance of the Enhanced Improvements and Additional Infrastructure and Services within the CAC through a Public Improvement Fee.**

- 4.3.1 The Parties anticipate that CDOT will fund the cost of maintaining all Project improvements except the Enhanced Improvements, and that the cost of maintaining the Enhanced Improvements will be borne by the Parties. In order to fund this cost, and in order to reimburse the City for its cost for wetland mitigation, and in order to provide an ongoing funding source for any additional infrastructure or services within the CAC that the Parties may wish to provide for the benefit of the properties within the CAC, each of the Parties shall require, as a condition of approval of any Development Proposal or Redevelopment Proposal for a retail use within the CAC, that the Property Owner or developer require all retailers within such development to collect from their customers a Public Improvement Fee. The PIF shall be established in accordance with the provisions of a PIF Covenant to be approved by the Parties on or before March 31, 2011. The PIF Covenant, once executed, shall be recorded with the Larimer County Clerk and Recorder.
- 4.3.2 The Property Owner shall be responsible for ensuring that each retailer located within the development collects the PIF at the point of sale and remits the same to the Party having jurisdiction over the property in the same manner as sales taxes are remitted.
- 4.3.3 The rate of the PIF shall be established at no more than 0.5%. The precise amount of the PIF, the improvements and services to be funded by PIF Revenues, the transactions subject to the PIF, and all other particulars related to the PIF shall be agreed upon by the Parties no later than March 31, 2011, and all such improvements and services shall be shown on a "CAC List of PIF Improvements and Services." No Development Proposal or Redevelopment Proposal shall be approved by either Party until the amount of the PIF and the CAC List of PIF Improvements and Services have been approved by the governing bodies of the Parties by resolution or ordinance unless a particular Property Owner submitting a Development Proposal or Redevelopment Proposal agrees in writing to impose the PIF at such time as the Parties have agreed upon the amount of the same, have adopted the CAC List of Improvements and Services, and have so notified the Property Owner.

- 4.3.4 Within sixty (60) days after receiving any PIF Revenue, the receiving Party shall deposit the PIF Revenue into a PIF Revenue Fund to be established by the Parties and administered by one of the Parties pursuant to a written administration agreement approved by the Town Manager and the City Manager, which agreement shall include a provision whereby the Parties will equitably share the costs incurred in administering the PIF Revenue Fund; provided, however that the City may first reimburse itself for the wetland mitigation referenced in Section 4.1.1 above, up to a maximum amount of One Hundred Sixty-five Thousand Dollars (\$165,000), from PIF Revenues generated by properties within its jurisdiction before depositing subsequent PIF Revenues into the PIF Revenue Fund.
- 4.3.5 The monies deposited into the PIF Revenue Fund shall be expended solely for the purpose of defraying the costs of the improvements and services shown on the CAC List of PIF Improvements and Services. Once all such improvements have been constructed and services commenced, the amount of the PIF shall be reduced to an amount commensurate with the cost of maintaining, repairing and replacing said improvements and continuing said services for such period of time as may be determined by the parties to be reasonably necessary to serve the properties within the CAC and maintain the appropriate level of infrastructure and services therein.
- 4.3.6 If any Property Owners have previously constructed capital improvements within the CAC that are shown on the CAC List of PIF Improvements and Services, the fair market value of such improvements shall be credited against the amount of PIF that is due from retailers whose businesses are directly benefitted by such improvements. Said market value shall be determined as of the date that the first PIF payment is due from any such retailer. This "PIF Credit" shall be subject to the following terms and conditions and also subject to any additional administrative regulations that may be established by the Town Manager or City Manager:
- a. If a PIF Credit has not been exhausted within ten (10) years of the date of issuance of the first building permit for which a PIF was due to be imposed under the provisions of this Article, or within such other period as may be agreed upon in writing by the Parties, such PIF Credit shall lapse.
- b. A Property Owner or developer claiming entitlement to a PIF Credit shall apply for the same prior to or at the time of application for the issuance of any building permit for the development in question, which application shall be on a form provided by the Town or City for such purpose. Upon receipt of such application, the Town Manager or City Manager shall determine, in writing, the maximum value of the PIF Credit

that may be applied against the PIF due to be imposed by the PIF Covenant.

- 4.3.7 No later than December 31, 2030, the governing bodies of the parties will, formally consider whether to continue the PIF at its then current rate, revise the amount of the PIF, or terminate the PIF altogether.
- 4.3.8 The Parties acknowledge that the Property Owners within the CAC are directly affected by the amount of the PIF, the purposes for which the PIF Revenues will be expended, and the period of time that the PIF will remain in effect. Accordingly, the Parties are committed to continuing to receive input from such Property Owners, as well as all other affected parties, during the period of time that the PIF List of Improvements and Services is being formulated. In the event that the Town Manager and the City Manager agree, in their discretion, that such input warrants an amendment to the provisions of this Section 4.3., the Parties shall formally consider such an amendment on or before March 31, 2011.

#### **SECTION 5. REVENUE SHARING**

5.1. Terms and Conditions. In addition to sharing the PIF Revenues as provided in Section 4.3. above, the Parties shall, pursuant to the following terms and conditions, share the Property Tax Increment and Sales Tax Increment generated by properties and businesses located within the boundaries of the CAC.

- 5.1.1 All tax revenues generated by the Property Tax Increment and Sales Tax Increment shall be deposited by each Party in a separate account and shall not be intermingled with any other funds of that Party.
- 5.1.2 Sixty-five percent (65%) of the Property and Sales Tax Increment revenues generated in the CAC shall be retained by each Party for use as that Party sees fit. The remaining thirty-five percent (35%) of such revenues shall be transferred to the other Party within sixty (60) days of December 31 of each year. Annual statements showing calendar year total receipts of all such revenues from each of the Property Owners and retailers within the CAC shall be shared with the other Party within thirty (30) days of December 31 of each year, and the Parties agree that these statements are being disclosed solely for tax-related purposes and are therefore to remain confidential.
- 5.1.3 Any interest earned on deposits in the account described in Section 5.1.1 above shall remain the property of the Party that collected the revenue upon which the interest was earned and shall not be shared.
- 5.1.4 The share distribution shall begin on the Effective Date.

5.1.5 Any increase or decrease in the sales or property tax rates of either the City or the Town shall not affect the Property Tax Increment or the Sales Tax Increment due from the City or the Town for the revenue sharing purposes of this Section.

5.1.6 In the event either the City or the Town creates one or more exemptions from sales taxes or property taxes, and such exemption(s) results in a reduction in the amount of revenue collected by such Party in the CAC, the Party creating the exemption(s) shall include the exempted amount in its calculation of the amount of Property and Sales Tax Increment revenue that is due to the other Party under this Section as if the exemption(s) had not been created.

5.1.7 To the extent permitted by law, this sharing of revenues shall continue in perpetuity.

5.2. Cooperation in Attracting New Development. The Parties acknowledge and agree that they may need to cooperate in an effort to attract desirable development. Nothing herein shall preclude the Parties from entering into a subsequent agreement modifying the within Section and creating incentives for development in the CAC beneficial to both Parties. This shall include, but shall not be limited to, an agreement to reduce or eliminate the revenue sources identified in this Section. Any such agreement shall be in writing and set forth the terms under which a modification of this Section will occur.

5.3. Bonding. Nothing in this Agreement is intended to restrict either Party from being able to utilize its sixty-five percent (65%) share of the Property Tax Increment revenue and Sales and Use Tax Increment revenue as collateral or use in underwriting any bond, note, debenture, or other municipal borrowing.

## **SECTION 6. INSPECTION OF RECORDS.**

The City and the Town shall each have the right to inspect and audit the tax revenue and fee collection records of the other pertaining to this Agreement. If any discrepancy is discovered, the auditing Party shall provide written notice, including a copy of the audit report, to the other Party. Any amount due must be paid within thirty (30) days following the written notice or the Parties must engage in negotiations regarding the discrepancy. If a mutual agreement is not reached in sixty (60) days, the provisions of Section 8 below will apply.

To the extent permitted by law, all tax and revenue collection information which is obtained by and pursuant to the inspection and audit provisions of this Agreement shall be deemed privileged, confidential and proprietary information and is being disclosed solely for tax-related purposes, including the calculation of revenue sharing payments pursuant to this Agreement.

The Parties agree that they will not disclose any information to any person not having a legitimate need-to-know for purposes authorized by this Agreement.

The period of limitation for the recovery of any funds payable under this Agreement shall be three (3) years from the date on which the payment is due. Upon the expiration of this period of limitation and any action for collection or recovery of unpaid revenue sharing funds shall be barred.

Each Party and its authorized agents may, upon thirty (30) days' advance written notice to the other, audit the other's records of those taxes and fees which are collected within the CAC and which are being shared pursuant to this Agreement.

## SECTION 7. ANNEXATION

7.1. Amendment of Growth Management Area Boundaries. In order to promote ongoing cooperation and collaboration between the Parties with respect to land use planning on both sides of Interstate 25, and to further the purposes contained in C.R.S. Section 31-12-102 of the Municipal Annexation Act of 1965, the Parties agree that Interstate 25 shall become the boundary between the Fort Collins Growth Management Area ("FCGMA") and the Windsor Growth Management Area ("WGMA"). Accordingly, after the Effective Date, neither Party shall annex, or accept any petition to annex, property within the other Party's growth management area as amended in accordance with this provision. Nor shall either Party annex, or accept any petition to annex, or include within its growth management area, the right-of-way for Interstate 25 adjacent to the other Party's growth management area without the prior written consent of the other Party. Any future amendments to the contiguous boundaries of the FCGMA and the WGMA shall be made only if agreed upon in writing by both Parties.

7.2. County Approval of GMA Boundary Amendments. Both Parties have heretofore entered into intergovernmental agreements with Larimer County that establish the growth management areas of the Parties, which agreements provide for, among other things, the way in which development applications for properties within the FCGMA and the WGMA will be processed by Larimer County. Accordingly, in order to ensure the cooperation of Larimer County in implementing the provisions of this Section, each Party shall, within one (1) year of the Effective Date, seek the approval of Larimer County to amend its agreement with Larimer County so as to reflect the amendments to the FCGMA and WGMA required hereunder. However, the failure of Larimer County to approve either or both such amendments shall not affect the obligation of the Parties to refrain from annexing territory within the FCGMA, the WGMA or the right-of-way for Interstate 25 as required in Section 7.1 above.

7.3. Effect on Prior Annexation Agreements. The provisions of this Section shall supersede and take precedence over any conflicting provisions contained in those certain agreements between the Parties entitled "Intergovernmental Agreement (Regarding Annexations East of Interstate Highway 25)" and "Intergovernmental Agreement (Regarding Annexations in the Fort Collins Cooperative Planning Area Adjacent to Fossil Creek Reservoir), both of which are dated June 28, 1999.

## SECTION 8. MEDIATION/ARBITRATION

8.1. Enforceability of Agreement. The parties acknowledge that agreements between municipalities for the purposes set forth herein are mutually binding and enforceable. The parties likewise acknowledge that the unique nature of agreements between municipalities often require equally unique remedies to ensure compliance with the provisions of such agreements while preserving the obligations of the parties to one and other and promoting the continued existence and effectiveness of such agreements. It is the intent of the parties to this Agreement to provide enforcement remedies through a combination of alternative dispute methodologies including mediation and binding arbitration, and thereby eliminate the necessity of judicial enforcement of this Agreement. Nothing herein shall be deemed to preclude either party from seeking judicial enforcement of any mediation agreement reached between the parties or binding arbitration order entered as a result of the alternate dispute methodologies set forth herein.

8.2. Mediation/Arbitration Process in General. Should either party fail to comply with the provisions of this Agreement, the other party, after providing written notification to the non-complying party, and upon the failure of the non-complying party to achieve compliance within forty five (45) days after said notice, the issue of non-compliance shall be submitted to mediation and thereafter, assuming no resolution has been reached through the mediation process, shall be submitted to binding arbitration. The mediation and binding arbitration processes shall be in accordance with the provisions hereinafter set forth. These mediation and arbitration provisions shall be in addition to questions of non-compliance as aforesaid, apply to all disagreements or failure of the parties to reach agreement as may be required by the terms of this Agreement. This shall include, but shall not be limited to, the creation of joint land use designs and standards, approval or rejection of Development Proposals, and disputed matters concerning shared revenues.

8.3. Sharing of Costs. All costs of the mediation/binding arbitration process shall be divided equally between the Parties.

8.4. Mediation Process. The dispute resolution process shall commence with the appointment of a mediator who shall be experienced in matters of local government and the legal obligations of local government entities. In the event the parties are unable to agree upon a mediator within fifteen (15) days of the commencement of the process, each party shall within five (5) days appoint an independent third party, and the third parties so appointed shall select a mediator within fifteen (15) days of their appointment. Mediation shall be completed no later than sixty (60) days after a mediator is selected by the parties or by the independent third parties. The procedures and methodology for mediation shall be determined by the mediator, but shall be in compliance with applicable law.

8.5. Binding Arbitration Process. In the event the parties are unable to reach agreement through the mediation process, the matter in dispute shall be submitted to binding arbitration. The parties agree that the order resulting from the arbitration process shall be deemed a final and conclusive resolution of the matter in dispute. The parties shall agree on the appointment of an arbitrator who shall be experienced in matters of

local government and the legal obligations of local government entities. It is understood and agreed that the parties may agree upon the appointment of that person who conducted the mediation portion of this process as the arbitrator, but are not bound to do so. In the event the parties are unable to agree upon an arbitrator within fifteen (15) days, each party will appoint an independent third party, and the third parties so appointed shall select a mediator within fifteen (15) days of their appointment. Arbitration shall be completed no later than ninety (90) days after an arbitrator is selected by the parties or by the independent third parties. The procedures and methodology for binding arbitration shall be determined by the arbitrator, but shall be in compliance with applicable law.

#### SECTION 9. CONTINGENT ON APPROPRIATIONS

The obligations of the City and Town do not constitute an indebtedness of the City or Town within the meaning of any constitutional or statutory limitation or provision. The obligations of the City and Town for payment of the Sales Tax Increment under this Agreement shall be from year to year only and shall not constitute a mandatory payment obligation of the City or Town in any fiscal year beyond the present fiscal year. This Agreement shall not directly or indirectly obligate the City or Town to make any payments of Sales Tax Increment beyond those appropriated for any fiscal year in which this Agreement shall be in effect. The City and Town Manager (or any other officer or employee at the time charged with the responsibility of formulating budget proposals) is hereby directed to include in the budget proposals and appropriation ordinances submitted to the City Council and the Town Board, in each year prior to expiration of this Agreement, amounts sufficient to meet its obligations hereunder, but only if it shall have received such amounts in the form of Sales Tax Increment, it being the intent, however, that the decision as to whether to appropriate such amounts shall be at the discretion of the City Council and Town Board.

#### SECTION 10. MISCELLANEOUS

10.1. Amendment. This Agreement is the entire and only agreement between the Parties regarding the sharing of (1) costs for the Project; and (2) net new tax revenues and PIF generated with the CAC boundaries. There are no promises, terms, conditions, or other obligations other than those contained in this Agreement. This Agreement may be amended only in writing signed by the Parties.

10.2. Severability. Except as otherwise provided in this Agreement, if any part, term, or provision of this Agreement is held by the courts to be illegal or otherwise unenforceable, such illegality or unenforceability will not affect the validity of any other part, term, or provision of this Agreement and the rights of the Parties will be construed as if that part, term, or provision was never part of this Agreement.

10.3. Colorado Law. This Agreement is made and delivered with the State of Colorado and the laws of the State of Colorado will govern its interpretation, validity, and enforceability.

10.4. Jurisdiction of Courts. Personal jurisdiction and venue for any civil action commenced by any of the Parties to this Agreement for actions arising out of or relating to this Agreement will be the District Court of Larimer County, Colorado.

10.5. Representatives and Notice. Any notice or communication required or permitted under the terms of this Agreement will be in writing and may be given to the Parties or their respective legal counsel by (a) hand delivery; (b) deemed delivered three business days after being deposited in the United States mail, with adequate postage prepaid, and sent via registered or certified mail with return receipt requested; or (c) deemed delivered one business day after being deposited with an overnight courier service of national reputation have a delivery area of Northern Colorado, with the delivery charges prepaid. The representatives will be:

If to the City:                   City Manager  
  300 LaPorte Avenue  
  PO Box 580  
  Fort Collins, CO 80524

With a copy to

City Attorney  
300 LaPorte Avenue  
PO Box 580  
Fort Collins, CO 80524

If to the Town:                   Town Manager  
  Windsor Town Hall  
  301 Walnut Street  
  Windsor, CO 80550

With a copy to

Town Attorney  
c/o Town Manager  
Windsor Town Hall  
301 Walnut Street  
Windsor, CO 80550

10.6. Good Faith. In the performance of this Agreement or in considering any requested approval, acceptance, or extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably withhold, condition or delay any approval, acceptance or extension of time required or requested pursuant to this Agreement.

10.7. Authorization. The signatories to this Agreement affirm and warrant that they are fully authorized to enter into and execute this Agreement, and all necessary action, notices, meetings, and hearings pursuant to any law required to authorize their execution of this Agreement have been made.

10.8. Assignment. Neither this Agreement nor the City or Towns' rights, obligations or duties may be assigned or transferred in whole or in part by either Party without the prior written consent of the other Party.

10.9. Execution in Counterparts. This Agreement may be executed in multiple counterparts, each of which will be deemed an original and all of which taken together will constitute one and the same agreement.

10.10. No Third Party Beneficiary. It is expressly understood and agreed that the enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, are strictly reserved to the Parties and nothing in this Agreement shall give or allow any claim or right or cause of action whatsoever by any other person not included in this Agreement. It is the express intention of the Parties that no person and/or entity, other than the undersigned Parties, receiving services or benefits under this Agreement shall be deemed any more than an incidental beneficiary only.

10.11. Recordation of Agreement. The City shall record a copy of this Agreement in the office of the Clerk and Recorder of Larimer County, Colorado.

10.12. Execution of Other Documents. The Parties agree to execute any additional documents and to take any additional actions necessary to carry out the terms of this Agreement.

Approved As To Form:

City Attorney

CITY OF FORT COLLINS

Mayor

ATTEST:

City Clerk



TOWN OF WINDSOR,

Mayor

ATTEST:

Town Clerk



EXHIBIT "A"

# I25 - State HWY 392 Interchange Corridor Activity Center



 Corridor Activity Center



**CITY OF FORT COLLINS**  
**GEOGRAPHIC INFORMATION SYSTEM MAP PRODUCTS**  
These data products are of varying accuracy and are not intended to be used for navigation or other purposes where high accuracy is required. The City of Fort Collins is not responsible for any errors or omissions in these data products. The City of Fort Collins is not responsible for any damage or loss of data resulting from the use of these data products. The City of Fort Collins is not responsible for any damage or loss of data resulting from the use of these data products. The City of Fort Collins is not responsible for any damage or loss of data resulting from the use of these data products.



Printed December 06, 2018

**Exhibit B**

**Intergovernmental Agreement - Pertaining to the Development of the  
Interstate 1-25/Colorado Highway 392 Interchange**

**Permitted Uses in the Corridor Activity Center  
Land Use Table**

Lodging
Retail Store
Multi-Family Mixed-Use
Mixed Used Residential
Offices/Financial
Retail Establishment/Big Box
Small Scale Rec./Events Center
Standard Restaurant
Personal/Business Service Shops
Health Club
Schools-Private/Vocational Colleges
Drive Thru Restaurants
Fast Food Restaurants
Grocery/Supermarket
Medical Center/Clinics
Entertainment Facilities/Theaters
Tele-Communication Equipment, excluding freestanding towers
Cultural Venues
Fuel Sales Convenience Stores
Hospital
Long Term Care Facilities
Adult Day Care Centers
Unlimited Indoor Recreation

**December 13, 2010 Land Use Table**



## FUTURE TOWN BOARD MEETINGS

Work Sessions & Regular Meetings will be held in the Board Chambers unless otherwise noted.

---

June 22, 2015 6:00 p.m.	Town Board Work Session Downtown Parking Regulations Minimum Exterior Standards for Non-Residential Metal Buildings Food Cart as Accessory Use Regulations
June 22, 2015 7:00 p.m.	Town Board Meeting
June 29, 2015	5th Monday
July 6, 2015 6:00 p.m.	Special Meeting – Executive Session
July 13, 2015 5:30 p.m./1 <sup>st</sup> floor conference room	Board/Manager/Attorney Monthly Meeting
July 13, 2015 7:00 p.m.	Town Board Meeting Kern Board Meeting
July 20, 2015 6:00 p.m.	Town Board Work Session Parks, Recreation and Culture Legacy Plan Boardwalk Park Master Plan
July 27, 2015 6:00 p.m.	Town Board Work Session Raw water supply planning report
July 27, 2015 7:00 p.m.	Town Board Meeting
August 3, 2015 6:00 p.m.	Town Board Work Session
August 10, 2015 5:30 p.m./1 <sup>st</sup> floor conference room	Board/Manager/Attorney Monthly Meeting
August 10, 2015 7:00 p.m.	Town Board Meeting
August 17, 2015 6:00 p.m.	Town Board Work Session Capital Improvement Plan
August 24, 2015 6:00 p.m.	Town Board Work Session
August 24, 2015 7:00 p.m.	Town Board Meeting

August 31, 2015	Fifth Monday
September 7, 2015	Labor Day
September 14, 2015 5:30 p.m./1 <sup>st</sup> floor conference room	Board/Manager/Attorney Monthly Meeting
September 14, 2015 7:00 p.m.	Town Board Meeting Kern Board Meeting
September 21, 2015 6:00 p.m.	Town Board Work Session
September 28, 2015 6:00 p.m.	Town Board Work Session
September 28, 2015 7:00 p.m.	Town Board Meeting

**Additional Events**

June 16-19, 2015	Colorado Municipal League; Breckenridge – attending Vazquez, Baker, Melendez, Adams, Morgan, Rose, Arnold
July 22, 2015	Chamber Annual Dinner; Island at Water Valley
October 10, 2015	Budget work session

**Future Work Session Topics**

Development Review Discussion of Commercial/Industrial Preference vs. Residential Construction Defects