



TOWN BOARD REGULAR MEETING
June 22, 2015 - 7:00 P.M.
Town Board Chambers
301 Walnut 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.

AGENDA

A. CALL TO ORDER

1. Roll Call
2. Pledge of Allegiance
3. Review of Agenda by the Board and Addition of Items of New Business to the Agenda for Consideration by the Board
4. Proclamation – Parks and Recreation Month (July)
5. Board Liaison Reports
 - Mayor Pro Tem Baker – Water & Sewer Board; North Front Range/MPO alternate
 - Town Board Member Morgan – Parks, Recreation & Culture; Great Western Trail Authority
 - Town Board Member Melendez – Downtown Development Authority; Chamber of Commerce
 - Town Board Member Rose – Clearview Library Board
 - Town Board Member Bishop-Cotner – Historic Preservation Commission; Planning Commission
 - Town Board Member Adams – Tree Board; Poudre River Trail Corridor Board
 - Mayor Vazquez – Windsor Housing Authority; North Front Range/MPO
6. Invited to be Heard

Individuals wishing to participate in Public Invited to be Heard (non-agenda item) are requested to sign up on the form provided in the foyer of the Town Board Chambers. When you are recognized, step to the podium, state your name and address then speak to the Town Board.

Individuals wishing to speak during the Public Invited to be Heard or during Public Hearing proceedings are encouraged to be prepared and individuals will be limited to three (3) minutes. Written comments are welcome and should be given to the Town Clerk prior to the start of the meeting.

B. CONSENT CALENDAR

1. Minutes of the June 8, 2015 Regular Town Board Meeting – K. Eucker
2. Resolution No. 2015-37 - A Resolution Ratifying, Approving and Confirming the Terms of an Intergovernmental Agreement (“IGA”) for the Exchange of Legal Services - K. Emil

C. BOARD ACTION

1. Windsor High School After Prom Committee – Short form grant request
 - Presentation: Amy Simmons
2. Resolution No. 2015-38 - A Resolution Making Certain Findings of Fact, Authorizing the Town Attorney to Undertake Eminent Domain Proceedings with Respect to the Acquisition of Easements Upon Real Property Owned by Pinecrest Associates, Necessary for the Completion of the Law Basin West Tributary Improvements Project, and Granting Full Plenary Authority in Association Therewith
 - Legislative action
 - Staff presentation: Ian D. McCargar, Town Attorney
3. Resolution No. 2015-39 - A Resolution Making Certain Findings of Fact, Authorizing the Town Attorney to Undertake Eminent Domain Proceedings with Respect to the Acquisition of Easements Upon Real Property Owned by Windsor Industrial Park, LLC, Necessary for the Completion of the Law Basin West Tributary Improvements Project, and Granting Full Plenary Authority in Association Therewith
 - Legislative action
 - Staff presentation: Ian D. McCargar, Town Attorney
4. Resolution No. 2015-40 - A Resolution Concurring in an Amendment to the Clearview Library District Board of Trustees Bylaws with Respect to Town Board Participation in the Process of Filling Library District Board Vacancies
 - Legislative action
 - Staff presentation: Ian D. McCargar, Town Attorney
5. Resolution No. 2015-41 - A Resolution Approving the Quiet Zones Improvements Installation Agreement Between Great Western Railway Of Colorado, LLC, and the Town of Windsor, Colorado
 - Legislative Action
 - Staff presentation: Ian D. McCargar, Town Attorney
6. Financial Report May 2015
 - Staff Presentation: Dean Moyer, Director of Finance

D. COMMUNICATIONS

1. Communications from the Town Attorney
2. Communications from Town Staff
3. Communications from the Town Manager
4. Communications from Town Board Members

E. ADJOURN

Proclaiming July as Park and Recreation Month

WHEREAS parks and recreation programs are an integral part of communities; and

WHEREAS parks and recreation are vitally important to establishing and maintaining quality of life, ensuring the health of all citizens, and contributing to the economic and environmental well-being of a community; and

WHEREAS parks and recreation programs build healthy, active communities that aid in the prevention of chronic disease, provide therapeutic recreation services, and improve mental and emotional health; and

WHEREAS parks and recreation programs increase a community's economic prosperity through increased property values, expansion of the local tax base, increased tourism, the attraction and retention of businesses, and crime reduction; and

WHEREAS parks and recreation areas are fundamental to the environmental well-being of our community; and

WHEREAS the U.S. House of Representatives has designated July as Parks and Recreation Month; and

WHEREAS the Town of Windsor recognizes the benefits derived from parks and recreation resources.

NOW THEREFORE, BE IT RESOLVED BY THE WINDSOR TOWN BOARD that July is hereby proclaimed as Park and Recreation Month in Windsor, Colorado.

Dated this 22nd day of June, 2015

John S. Vazquez, Mayor



TOWN BOARD REGULAR MEETING
June 8, 2015 - 7:00 P.M.
Town Board Chambers
301 Walnut Street, Windsor, CO 80550

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Minutes

A. CALL TO ORDER

Mayor Vazquez called the regular meeting to order at 7:08 p.m.

1. Roll Call

Mayor
Mayor Pro Tem

John Vazquez
Myles Baker
Jeremy Rose
Christian Morgan
Kristie Melendez
Robert Bishop-Cotner
Ivan Adams

Also Present:

Town Manager
Town Attorney
Communications/Assistant to Town Manager
Town Clerk/Assistant to Town Manager
Chief of Police
Director of Parks, Recreation & Culture
Assistant Town Attorney/ Town Prosecutor
Director of Planning
Director of Engineering
Director of Finance/IT
Associate Planner
Deputy Town Clerk

Kelly Arnold
Ian McCargar
Kelly Unger
Patti Garcia
John Michaels
Melissa Chew
Kim Emil
Scott Ballstadt
Dennis Wagner
Dean Moyer
Josh Olhava
Krystal Eucker

2. Pledge of Allegiance

Mayor Pro Tem Baker led the Pledge of Allegiance

3. Review of Agenda by the Board and Addition of Items of New Business to the Agenda for Consideration by the Board

Town Board Member Melendez motioned to remove B.4 from the Consent Calendar and add as Action Item C.1.a; Town Board Member Morgan seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Rose, Morgan, Melendez, Bishop-Cotner, Adams, Vazquez; Nays- None; Motion passed.

Mayor Pro Tem Baker motioned to remove Action Item C.1 from the agenda; Town Board Member Bishop-Cotner seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Rose, Morgan, Melendez, Bishop-Cotner, Adams, Vazquez; Nays- None; Motion passed.

4. Board Liaison Reports

- Mayor Pro Tem Baker – Water & Sewer Board; North Front Range/MPO alternate
Mayor Pro Tem Baker stated the Water & Sewer Board met on May 13, 2015 and discussed native water supply and cost and also discussed the water dedication requirement and requested more information from staff.
- Town Board Member Morgan – Parks, Recreation & Culture; Great Western Trail Authority
Town Board Member Morgan reported the Parks, Recreation and Culture board went on a tour of the some of the parks to be developed in and around Windsor.
Mr. Morgan reported the Great Western Trail Authority hosted a property owners meeting for property owners adjacent to the trail primarily between Severance and Eaton.
- Town Board Member Melendez – Downtown Development Authority; Chamber of Commerce
Town Board Member Melendez reported the DDA meets next Wednesday June 17, 2015 at 7:30am. The DDA is going to co-host/sponsor the broker event scheduled for June 11, 2015. The DDA will be working with Downtown Creative Inc. to look at properties and potential development.
Ms. Melendez reported the Chamber of Commerce met on Wednesday May 13, 2015. The biggest event of the year, the All Town BBQ, was rained out after serving an estimated 500 folks. The food that remained was donated to the fire department and the bottles of water were donated to Windsor High School marching band. The Annual Chamber Dinner is scheduled for July 22, 2015 at the Island at Water Valley. Also, at the last meeting the financial reports were revealed in graph form.
- Town Board Member Rose – Clearview Library Board
Town Board Member Rose reported the Clearview Library Board meets June 25, 2015 at 5:30.
- Town Board Member Bishop-Cotner – Historic Preservation Commission; Planning Commission
Town Board Member Bishop-Cotner reported the Historic Preservation Commission meeting was cancelled due to lack of agenda items.
Mr. Bishop-Cotner did not have a report for the Planning Commission.
- Town Board Member Adams – Tree Board; Poudre River Trail Corridor Board
Town Board Member Adams reported the Tree Board met the day after Memorial Day which was the same night of his district meeting.
Mr. Adams reported he was unable to attend the Poudre River Trail Corridor Board.
- Mayor Vazquez – Windsor Housing Authority; North Front Range/MPO
Mayor Vazquez reported he was unable to attend the last meeting.

5. Presentation of SAFEbuilt Scholarship

Russ Weber, SAFEbuilt presented this year's recipient of their high school scholarship award to Mackenzie Armijo. Ms. Armijo is a 4 time letter in student council, state qualifier in 2014/15 Future Business Leaders of America, co-president in the biology club and a group leader for the year book. Ms. Armijo has been accepted to Oregon State University. Mayor Vazquez congratulated Ms. Armijo and wished her luck.

6. Presentation of Service Plaque to David Cox, Planning Commission

Mayor Vazquez recognized Mr. David Cox with a service plaque.

7. Invited to be Heard

Mayor Vazquez opened the meeting for public comment.

Joyce Williams, 902 Ridge Court, Windsor, CO reported she walks the Windsor Lake every morning and had concerns on the upkeep around the lake. Ms. Williams wanted to know why the lake is not being taken care of with new John Deere equipment. Also, she questioned why the grass is not being cut short to keep the mosquitos from nesting.

Ms. Williams also has concerns with the lacrosse activity that takes place at Mountain View Elementary School.

Mr. Vazquez stated issues concerning the school properties would need to be addressed with the school board.

Ms. Williams reported she doesn't want to go through the repair and costs from the heavy lacrosse balls that come into her yard that may damage property or cause injury.

Mr. Vazquez stated that issue can be worked on since that is part of the town's programing.

Mr. Arnold reported lacrosse is a club sport through the school district. The information was forwarded to Karen Trusler, Weld RE-4 Superintendent, and will follow up on the conclusions.

Mr. Arnold also reported the blades on the mowers are sharpened every week. With the rainfall in the last month the mowing operations have been difficult to keep up with. The mosquito spraying will start this week as the spraying was rained out last week.

B. CONSENT CALENDAR

1. Minutes of the May 11, 2015 Regular Town Board Meeting – K. Eucker
 2. Resolution No. 2015-29 - A Resolution Ratifying, Approving, and Confirming the Terms and Conditions of an Agreement for the Establishment of the Northern Colorado USA Pro Challenge Local Organizing Committee
 3. Resolution No. 2015-33 - A Resolution Re-Appointing Teresa Ablao To Serve As The Town Of Windsor Local Liquor Licensing Authority Pursuant To The Provisions Of The Colorado Liquor Code And Pursuant To Chapter 6, Article I Of The *Windsor Municipal Code* – K. Emil
 4. ~~Resolution No. 2015-34 - A Resolution Appointing David Tschetter To Serve As A Director On The Boards Of Directors For Village East Metropolitan District Nos. 1 – 3. – I. McCargar~~
Moved to Action Item C.1.a.
 5. Report of Bills – May 2015 – D. Moyer
- Town Board Member Adams motioned to approve the consent calendar as amended; Mayor Pro Tem Baker seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Rose, Morgan, Melendez, Bishop-Cotner, Adams, Vazquez; Nays- None; Motion passed.**

C. BOARD ACTION

Mayor Vazquez recused himself on agenda item C.1a and turned the gavel over to Mayor Pro Tem Baker.

- 1a. Resolution No. 2015- 34 - A Resolution Appointing David Tschetter To Serve As A Director On The Boards Of Directors For Village East Metropolitan District Nos. 1 – 3.
 - Staff Presentation: Ian D. McCargar, Town Attorney

Town Board Member Melendez motioned to approve Resolution 2015-34; Town Board Member Bishop-Cotner seconded the motion.

Town Attorney, Ian McCargar stated the resolution was requested since an oversight allowing too much time to lapse after a former appointment. The metro district is requesting the Town Board reappoint Mr. Tschetter to serve in this capacity. There is a transaction in pending the property and want to make certain their board is fully populated.

Ms. Melendez stated for clarification, Mr. Tschetter is their only option at this time.

Mr. McCargar stated that is correct.

Roll call on the vote as follows: Yeas – Baker, Rose, Morgan, Melendez, Bishop-Cotner, Adams; Nays- None; Motion passed.

Mayor Vazquez returned to the meeting and the gavel was returned.

2. Ordinance No. 2015-1498 - An Ordinance Amending Portions Of Chapter 4, Article II Of The Windsor Municipal Code For The Purpose Of Implementing Voter-Approved Measures Associated With Financing The Community Recreation Center Expansion Project Super-majority vote required for adoption on second reading
 - Second reading
 - Legislative action
 - Staff presentation: Ian McCargar, Town Attorney

Town Board Member Melendez motion to approve Ordinance No. 2015-1498, An Ordinance Amending Portions of Chapter 4, Article II of the Windsor Municipal Code for the Purpose of Implementing Voter-Approved Measures Associated with Financing the Community Recreation Center Expansion Project; Town Board Member Bishop-Cotner seconded the motion.

Town Attorney Ian McCargar stated this was an Ordinance being presented for second reading which will formally amend Chapter 4, Article II of the Windsor Municipal Code to incorporate the sales and use tax measures approved by the voters in November, 2014. The attached Ordinance Amending Portions of Chapter 4, Article II of the Windsor Municipal Code for the Purpose of Implementing Voter-Approved Measures Associated with Financing the Community Recreation Center Expansion Project incorporates verbatim the terms approved by the voters, and formalizes the Code-based authority approved by the voters. The ordinance is identical to the first reading.

Roll call on the vote resulted as follows: Yeas – Baker, Rose, Morgan, Melendez, Bishop-Cotner, Adams, Vazquez; Nays- None; Motion passed.

3. Ordinance No. 2015-1499 - An Ordinance Of The Town Of Windsor, Colorado, Authorizing The Issuance Of Bonds For The Purpose Of Expanding, Improving And Equipping The Windsor Community Recreation Center; Continuing The Pledge Of Certain Town Sales And Use Tax Revenues For The Payment Of The Town's Financial Obligation Represented By The Outstanding

Bonds; Pledging The Additional Sales Taxes Approved By The Town's Voters In The 2014 Election; And Providing Details And Approving Documents In Connection With The Bonds
Super-majority vote required for adoption on second reading

- Second reading
- Legislative action
- Staff presentation: Dean Moyer, Director of Finance

Town Board Member Adams motioned to approve Ordinance No. 2015-1499 - An Ordinance of the Town Of Windsor, Colorado, Authorizing the Issuance of Bonds for the Purpose of Expanding, Improving and Equipping the Windsor Community Recreation Center; Continuing the Pledge of Certain Town Sales and Use Tax Revenues for the Payment of the Town's Financial Obligation Represented by the Outstanding Bonds; Pledging the Additional Sales Taxes Approved by the Town's Voters in the 2014 Election; and Providing Details and Approving Documents in Connection with the Bonds; Town Board Member Bishop-Cotner seconded the motion.

Director of Finance/IT, Dean Moyer stated the Ordinance was being presented for second reading. The first reading of the Ordinance was May 11, 2015 and Mr. Moyer noted that Don Diones, representing George K. Baum, was present.

The bond rating meeting took place on June 2, 2015 but the rating has not yet been released. It is expected to know the rating by the end of the week. The bond sale is scheduled to take place a week from Tuesday, June 9, and will close by the end of the month.

Mr. Moyer reported that the ordinance was identical to the one approved at first reading with the exception of typographical errors that were corrected.

Ms. Melendez asked for clarification; on May 5, 2015 an email was sent with an update on the current list of the 15 energy saving measures. Ms. Melendez wanted confirmation that those were part of the \$16.1 bond, not an additional expenditure.

Mr. Arnold stated more than likely but the solar was not part of the original plan. Everything outside of the solar is part of the current bond issue.

Roll call on the vote resulted as follows: Yeas – Baker, Rose, Morgan, Melendez, Bishop-Cotner, Adams, Vazquez; Nays- None; Motion passed.

4. Public Hearing – Final Major Subdivision – Highland Meadows Golf Course Subdivision 11th Filing – Jon Turner, applicant/ Jason Sherrill, Landmark Homes, applicant's representative
 - Staff presentation: Josh Olhava, Associate Planner

Town Board Member Melendez motioned to open up the public hearing; Town Board Member Bishop-Cotner seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Rose, Morgan, Melendez, Bishop-Cotner, Adams, Vazquez; Nays- None; Motion passed.

Planning Associate Josh Olhava stated the applicant, Mr. Jon Turner, represented by Mr. Jason Sherrill submitted a major subdivision plat, known as Highland Meadows Golf Course Subdivision 11th Filing. The subdivision encompasses approximately 22 acres and is zoned

Residential Mixed Use (RMU). A portion of the subdivision includes general commercial as well. The multi-family residential lots range from approximately 1,800 – 3,800 sq. ft.

Mr. Olhava reported that the applicant held a neighborhood meeting on March 04, 2014 and there were approximately 11 neighbors in attendance. Notes from the neighborhood meeting were attached to the packet for information and reference. In addition, the Planning Commission held a Public Hearing for the final major subdivision on June 3, 2015. No major concerns or issues were raised during that meeting. One neighbor asked about traffic generation and traffic impact to Colonial Drive and the applicant did address that based on their circulation patterns for this site.

The application is consistent with the socioeconomic conditions and housing goals and policies of the Comprehensive Plan as well as the Vision 2025 document.

At their June 3, 2015 meeting, the Planning Commission forwarded to the Town Board their recommendation of approval of the final major subdivision subject to the following conditions and staff concurs with the conditions:

1. All remaining comments be address prior to recordation.
2. All subdivision requirements continue to be met.

Staff requested the following be entered into the record:

1. The application and supplemental materials
2. Staff memorandum and supporting documents
3. All testimony presented during the public hearing
4. Recommendation

Mr. Baker asked if there will there be dedicated turn lanes off County Road 5.

Mr. Olhava stated there will be improvements made to Colonial Drive as it connects to Fairgrounds Avenue for a left turn lane. There are also offsite improvements associated to that.

Mr. Baker asked if, with only one access point at Pumpkin Ridge, the idea is there will not be through traffic on Colonial Drive.

Mr. Olhava stated currently Pumpkin Ridge Drive extends down to the southern portion of the site so this development will access Pumpkin Ridge and then Colonial Drive. In the future there is a private access drive that will connect to Fairgrounds Avenue. It is assumed traffic would split depending on the directions of traffic.

Mr. Adams stated there are several places that state all recommendations will be satisfied. Have all the recommendations been satisfied?

Mr. Olhava stated they have.

Ms. Melendez asked if there were direct comments from the attendees during the question and answer.

Mr. Olhava stated there were no comments outside the questions that were asked.

Ms. Melendez asked what the approximate square footage of the units will be.

Mr. Sherrill stated the units will range from 1455-1800 square feet.

Mr. Baker asked if there will be public access in the future to the water feature.

Mr. Sherrill stated there will be and that can be better displayed when the site plan is presented. A boardwalk will connect and loop around the pond.

Mr. Adams asked if there is a pond in the subdivision.

Mr. Sherrill stated there was.

Mr. Adams asked if there is a space for a possible park as well.

Mr. Sherrill stated there is green space.

Mr. Vazquez asked the applicant if they had any opposition to the conditions.

Mr. Sherrill stated they concur with the conditions of the recommendation.

Town Board Member Melendez motioned to close public hearing; Town Board Member Bishop-Cotner seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Rose, Morgan, Melendez, Bishop-Cotner, Adams, Vazquez; Nays- None; Motion passed.

5. Resolution No. 2015-35 – A Resolution Approving the Final Major Subdivision – Highland Meadows Golf Course Subdivision 11th Filing – Jon Turner, applicant/ Jason Sherrill, Landmark Homes, applicant’s representative

- Quasi-judicial action
- Staff presentation: Josh Olhava, Associate Planner

Mayor Pro Tem Baker motioned to approve Resolution No. 2015-35 - A Resolution Approving the Final Major Subdivision – Highland Meadows Golf Course Subdivision 11th Filing; Town Board Member Bishop-Cotner seconded the motion.

Mr. Olhava stated there is nothing further to add.

Roll call on the vote resulted as follows: Yeas – Baker, Rose, Morgan, Melendez, Bishop-Cotner, Adams, Vazquez; Nays- None; Motion passed.

6. Resolution No. 2015-36 – A Resolution Approving the Final Site Plan – Highland Meadows Golf Course Subdivision 11th Filing – Site Plan – Jon Turner, applicant/ Jason Sherrill, Landmark Homes, applicant’s representative

- Quasi-judicial action
- Staff presentation: Josh Olhava, Associate Planner

Town Board Member Melendez motioned to approve Resolution No. 2015-35 - A Resolution Approving the Final Site Plan – Highland Meadows Golf Course Subdivision 11th Filing; Town Board Member Bishop-Cotner seconded the motion.

Associate Planner Josh Olhava stated the applicant, Mr. Jon Turner, represented by Mr. Jason Sherrill has submitted a final site plan application, known as Highland Meadows Golf Course Subdivision 11th Filing – Site Plan. The site plan encompasses approximately 22 acres and is zoned Residential Mixed Use (RMU). A total of 68 townhome units are being proposed with the

site plan, along with HOA maintained open space and private drives throughout the site. The multi-family residential lots range from approximately 1,800 – 3,800 sq. ft.

All the buildings are oriented inward for more appealing facades and will consist of 4 and 6 unit townhomes.

The application is consistent with various elements of the Comprehensive Plan and the Vision 2025 document.

At their June 3, 2015 meeting, the Planning Commission forwarded to the Town Board their recommendation of approval of the final site plan subject to the following conditions and staff concurs with the conditions:

1. All remaining comments be address prior to recordation.
2. All site plan requirements continue to be met.

At this time staff requests the following be entered into the record

1. The application and supplemental materials
2. Staff memorandum and supporting documents
3. Recommendation

Mr. Adams asked if there were 68 townhomes and how many homes were in the prior development.

Mr. Olhava stated that was the subdivision for this site plane. There would have been 68 lots.

Mr. Sherrill stated the site plan will include a greenway trail system or park space. The 4 and 6 unit townhomes will be on their own lots, every home will have a 2 car garage with a 2 car driveway. The units will have full unfinished basements and come in 2 bedroom and 3 bedroom floor plans ranging from 1455 to 1800 square feet. Each unit will also have a fenced private yard.

Ms. Melendez asked what the price range will be.

Mr. Sherrill stated they will range from \$264,000-\$304,000.

Ms. Melendez asked if they will have access to all the amenities at Highland Meadows.

Mr. Sherrill stated they will as it is part of metro district.

Mr. Adams asked if there is additional onsite parking.

Mr. Sherrill stated there is an additional 28 parking spaces along with the 4 spaces per unit.

Roll call on the vote resulted as follows: Yeas – Baker, Rose, Morgan, Melendez, Bishop-Cotner, Adams, Vazquez; Nays- None; Motion passed.

7. Report on Planning Commission direction regarding Weld County Coordinated Planning Agreement (CPA) and direction regarding future meeting with Weld County Commissioners
 - Staff presentation: Scott Ballstadt, Director of Planning

Director of Planning Scott Ballstadt stated the Planning Commission discussed at the May 20, 2015 work session the draft Coordinated Planning Agreement (CPA) which is the same one the Town Board reviewed at their work session on May 4, 2015. In general the Planning Commission was in agreement with the Town Board and that the Town Board should continue their efforts to adopt a CPA with Weld County and they reviewed the 3 specific points in the memo pertaining to the referral review from the County. As discussed at the May 4, 2015 work session, the CPA agreement specifies the town has 21 days to respond to a referral. That reflects the statutory requirement of 21 days to respond to a referral as well. The town's historical practice is scheduling all referrals for Planning Commission consideration as an action agenda item. This may need to be revised and the Planning Commission recognizes that. Staff is actively working with the Planning Commission on alternative ways to respond to those referral applications and meet the 21 day time frame. An expected proposal should be ready to present to the Planning Commission in the near future.

It was noted that the Planning Commission agreed that negotiating the common development standards referred to in Section 5 of the CPA could be a good starting point. The Planning Commission also agreed that, in the future, the referral responses point out issues and possibly recommend denial of projects that don't meet the town's requirements or that are not consistent with the Comprehensive Plan be addressed on the positive side instead and included in conditions of approval that would mitigate the town's concerns.

Based on the Planning Commission's direction, they are in agreement with the direction the Town Board is headed and they recommend the discussion continue with the County Commissioners.

Mr. Vazquez asked if there will be an action item regarding this information.

Mr. Arnold stated in discussing the issue with Director of Weld County Planning, he suggested staff sit down and talk about the Development standards issue. July looks to work the best with the schedule for the Weld County Commissioners get something scheduled to meet. Information can be presented to the Town Board at work sessions to keep them informed.

8. Financial Report April 2015

- Staff Presentation: Dean Moyer, Director of Finance

Mr. Moyer provided an overview of the financial report included in the Town Board packet and noted that April sales tax collections were at a record high.

- Year to date sales tax collections are up by 1.81%.
- Construction use tax through April is at 33.5% of the annual budget and \$283,185 higher than April 2014 collections.
- 101 Single Family Building Permits haven been issued through April 2015 compared to 68 issued through April 2014.
- 39 Business Licenses were issued in April 2014, of which 21 were sales tax vendors.
- CRC expansion sales tax collections surpass budget requirements for the 3rd consecutive month.

- .75% sales tax are being collected as predicted
- General fund expenses at 32.7% of budget through April.

D. COMMUNICATIONS

1. Communications from the Town Attorney

Mr. McCargar stated a motion will need to be made to go into executive session.

2. Communications from Town Staff

Chief of Police, John Michaels stated due to the recent shootings a task force has been created with the Windsor Police Department, FBI, Weld County Sherriff, Larimer County Sherriff, Loveland Police Department, Weld County District Attorney's Office and the Larimer County District Attorney's office. David Moore from the Larimer County Sheriff's Office is the Public Information Officer for the task group. Tips are thoroughly looked at and investigated when received from the public. Some people may have seen something but it may be minimalized. Any information is helpful as it could be productive in the case. A \$10,000 reward has been set up by the FBI. Please call with leads.

Dennis Wagner stated regardless of the flooding in the area, 7th street has remained open all spring. From May 8th-June 8th, 7th street would have been closed 13 days if the flood gate was not in place. County Road 13 has been closed for two days. Water coming out of the river on the west end, was flowing through the property and some was exiting onto the road on County Road 13. The company that completed the final grade on the property was contacted to run a trench to direct the water back to the river.

Mr. Vazquez asked at what flow will start closing streets and flooding will occur.

Mr. Wagner stated Eastman Park South is approximately 50% flooded and at one spot the water touched the street on 7th Street. The River at the time was running 3600 CFS. If it would have reached 3800-4000 CFS, it could have gone over 7th Street.

Mr. Vazquez asked if it would have gone over the Eaton Head Gate structure.

Mr. Wagner stated it would not.

Mr. Vazquez asked if future flooding would overtop at 7th Street before it will overtop at the head gate.

Mr. Wagner stated that is correct.

Mr. Vazquez requested Mr. Wagner evaluate around the outlet structure at Poudre Heights.

Mr. Wagner stated he suspected the water flowing is on the outside of the 3 outlet pipes that go back to the river which is not unusual.

Ms. Melendez would like extend thanks and gratitude to the Engineering Department on being proactive this year on the flood gate.

3. Communications from the Town Manager

Mr. Arnold stated the work session scheduled for June 15, 2015 will be held at the Recreation Center at 6:00 p.m. An estimated six property owners will be in attendance.

Mr. Vazquez asked if the construction defects have been scheduled for a work session.

Mr. Arnold stated it can be added to the agenda after everyone returns from CML.

Mr. Vazquez mentioned talking about the construction defects and asking questions while at CML. Also, informed the Town Board that SB177 was not voted on and some other jurisdictions have started implementing policies.

4. Communications from Town Board Members

Ms. Melendez gave a reminder for the district at Mountain View Elementary School for the Comprehensive Plan Meeting. If individuals are not in her district and still wanting to attend they are encouraged to do so.

Mr. Adams stated the Comprehensive Plan meeting was disappointing in the amount of people that showed up; 3 individuals attended the meeting.

Ms. Melendez would like to thank the chief and all the officers for their hard work. The last couple months the police department has faced some very serious situations.

Mr. Vazquez stated there is support from all various boards and resources are at his disposal. There are very smart people working this case. No detail is too small to not be made available to law enforcement.

E. An executive session pursuant to C.R.S. § 24-6-402 (4) (b) to confer with the Town Attorney for the purposes of receiving legal advice on specific legal questions concerning the exercise of eminent domain powers. (I. McCargar)

Town Board Member Melendez motioned to go into executive session pursuant to C.R.S. § 24-6-402 (4) (b) to confer with the Town Attorney for the purposes of receiving legal advice on specific legal questions concerning the exercise of eminent domain powers. (I. McCargar); Town Board Member Morgan seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Rose, Morgan, Melendez, Bishop-Cotner, Adams, Vazquez; Nays- None; Motion passed.

Upon a motion duly made, the Town Board returned to the regular meeting at 9:02 p.m.

The Executive Session was closed and the Town Board returned to the Regular Meeting.

Upon returning to the regular meeting, Mayor Vazquez advised that if any participants in the Executive Session believed the session contained any substantial discussion of any matters not included in the motion to convene the Executive Session, or believed any improper action occurred during the Session in violation of the Open Meetings Law, such concerns should now be stated. Hearing none, the Regular Meeting resumed at 9:02 p.m.

F. ADJOURN

Town Board Member Bishop-Cotner motioned to adjourn; Mayor Pro-Tem Baker seconded the

motion. Roll call on the vote resulted as follows: Yeas – Baker, Rose, Melendez, Bishop-Cotner, Adams, Vazquez; Nays – None. Motion passed.

The meeting was adjourned at 9:02 p.m.

Krystal Eucker, Deputy Town Clerk



MEMORANDUM

Date: June 22, 2015
To: Mayor and Town Board
Via: Kelly Arnold, Town Manager
From: Kimberly A. Emil, Assistant Town Attorney
Re: Resolution Approving IGA for Exchange of Legal Services
Item #: B-2

Background / Discussion:

This intergovernmental agreement ("IGA") allows for an exchange of attorneys from Loveland, Fort Collins, Greeley and Windsor to assist in the event the requesting attorney's office has a conflict of interest. This comes up more often in Municipal Court, where there may be an ethical conflict requiring a special prosecutor to handle the matter, but the IGA allows for attorney-sharing in any situation requiring outside counsel. This agreement will allow any of the participating municipalities to contact another to see if there an available attorney to fill the request. The other cities have been operating under an IGA since 1993, and have agreed to add Windsor to their agreement. This IGA will give us flexibility, and allow us to support local members of the municipal bar as needed and as available.

Financial Impact:

Minimal. The parties will absorb their own time; only out-of-pocket expenses incurred in rendering the requested legal services shall be paid. Such expenses shall include, without limitation, cost of reproducing documents, mileage, long distance telephone calls, etc.

Relationship to Strategic Plan:

Community Spirit and Pride

Recommendation:

Move to Approve Resolution Ratifying, Approving and Confirming the Terms of an Intergovernmental Agreement ("IGA") for the Exchange of Legal Services; simple majority required.

Attachments:

- Resolution Ratifying, Approving And Confirming The Terms Of An Intergovernmental Agreement ("IGA") For The Exchange Of Legal Services
- Intergovernmental Agreement For The Exchange Of Legal Services

INTERGOVERNMENTAL AGREEMENT FOR THE EXCHANGE OF LEGAL SERVICES

THIS AGREEMENT is made and entered into this _____ day of _____, 2015, by and between THE CITY OF FORT COLLINS, COLORADO ("Fort Collins"), THE CITY OF GREELEY, COLORADO ("Greeley") THE CITY OF LOVELAND, COLORADO ("Loveland"), collectively referred to as the "Cities"; and the TOWN OF WINDSOR, COLORADO referred to as the "Town" and each also and all collectively referred to as the "Municipality or the Municipalities," respectively.

WITNESSETH:

WHEREAS, pursuant to Section 29-1-203, C.R.S., governments may cooperate or contract with one another to provide any function, service or facility lawfully authorized to each of the cooperating or contracting units of government; and

WHEREAS, the legal interests of the Municipalities are generally represented by the City and Town Attorneys employed thereby; and

WHEREAS, on occasion, the City or Town Attorney of one of the Municipalities is prevented from representing the interests of the such Municipality by reason of personal conflicts of interests or other situations which may impair his or her ability to fully represent the interests of such Municipality in particular cases; and

WHEREAS, the Municipalities are authorized by their respective home rule charters to employ the services of special legal counsel in such situations; and

WHEREAS, in certain such instances, the most efficient and cost effective manner of providing for the legal representation of the Municipalities would be to exchange the services of members of the respective legal staffs of the cities; and

WHEREAS, in 1993 the Cities entered into separate agreements with each other regarding the exchange of legal services; and

WHEREAS, the Councils of the Cities have each determined that it would be in the best interests of each of the Cities to enter into an updated and unified Intergovernmental Agreement to authorize the exchange of such legal services under appropriate circumstances and to establish the terms and conditions upon which such exchange of services should occur; and

WHEREAS, the Town Board of the Town has determined it would be in the best interests of the Town to authorize the exchange of legal services with the Cities under appropriate circumstances, and that entering into a unified Intergovernmental Agreement with the Cities would be appropriate.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and adequacy of which are hereby

acknowledged, the parties agree as follows:

1. Exchange of Legal Services. If the City or Town Attorney ("Attorney") of any of the Municipalities determines, in his or her discretion, that a conflict of interest or other situation arises or has occurred which prevents or impairs him/her from fully performing the normal duties of his/her office, said Attorney ("the Requesting Attorney") shall determine whether the subject matter of the representation would be appropriate for an exchange of legal services under this Agreement. In making such determination, the Requesting Attorney shall consider the nature and complexity of the matter at issue; the amount of time which may be required to satisfactorily resolve the matter, either through litigation or otherwise; the level of special expertise, if any, which may be required to competently represent the interests of his or her client(s); and any other factors which the Requesting Attorney may consider to be relevant. Upon a determination that an exchange of legal services would be appropriate under this Agreement, the Requesting Attorney shall so notify the Attorney for the other party to this Agreement ("the Responding Attorney") and request the provision of such legal services.

Upon receipt of any such request, the Responding Attorney shall determine whether such services may be provided by his/her office without unduly interfering with the Responding Attorney's ability to perform the normal duties of his/her own office. The Responding Attorney shall notify the Requesting Attorney within five (5) working days as to whether the request for legal services can be accommodated. If so, the Responding Attorney may assign any one (1) or more attorneys in the Responding Attorney's office to provide such services.

2. Reimbursement of Costs. The party for whom legal services are rendered under this Agreement ("the Requesting Municipality") shall reimburse the other party ("the Responding Municipality") for all out-of-pocket expenses incurred in rendering the requested legal services. Such expenses shall include, without limitation, cost of reproducing documents, mileage, long distance telephone calls, deposition costs and expert witness fees, but shall exclude any reimbursement for compensation paid by the Responding Municipality to its Attorney, its deputy and assistant attorneys, or to its support staff. Payment of such expenses shall be made within thirty (30) days of the date of receipt of any billing therefor.

3. Employment Status. Throughout the delivery of the requested legal services, the Responding Attorney and/or his/her personnel shall represent the interests of the Requesting Municipality but shall continue to be employed solely by the Responding Municipality, and the delivery of such legal services for the Requesting Municipality by the Responding Attorney and/or his/her personnel shall be considered to be within the scope of the performance of the Responding Attorney's duties for and employment by the Responding Municipality.

4. Workers' Compensation Insurance and Other Benefits. If the Responding Attorney or other personnel of the Responding Municipality is injured, disabled or dies while providing services to the Requesting Municipality under this Agreement, said individual shall remain covered by, and eligible for, the workers compensation and other benefits to which said individual would otherwise be entitled if the injury, disability or death had occurred while acting solely as an employee of the Responding Municipality and not providing services to the Requesting Municipality under this Agreement.

5. Governing Law. This Agreement shall be governed by and enforced in accordance with the laws of the State of Colorado. In addition, the Municipalities acknowledge that there are legal constraints imposed upon them by the constitutions, statutes, rules and regulations of the State of Colorado and of the United States, and by their respective charters and codes and that, subject to such constraints, the Municipalities intend to carry out the terms and conditions of this Agreement. Whenever possible, each provision of this Agreement shall be interpreted in such a manner so as to be effective and valid under applicable law. Venue for any judicial proceeding concerning this Agreement shall only be in the District Court for Larimer County, Colorado.

6. Indemnification and Governmental Immunity To the extent permitted by law, the Requesting Municipality shall indemnify and hold harmless the Responding Municipality, its officers, employees and agents, including without limitation the Responding Attorney, from and against all liabilities, claims and demands which may arise from the negligent acts or omissions of the Responding Attorney or any of his or her subordinates, agents or other persons acting under his or her authority. In addition, the Requesting Municipality shall indemnify the Responding Municipality, its officers, employees and agents, including without limitation the Responding Attorney for all costs and expenses related to defending such liabilities, claims and demands, including, without limitation, litigation costs and attorneys' fees, whether or not such liabilities, claims or demands are groundless, frivolous, false or fraudulent. However, the parties agree that all such liabilities, claims and demands shall be subject to any notice requirements, defenses, immunities or limitations to liability that the Requesting Municipality may have under the Colorado Governmental Immunity Act (Section 24-10-101, C.R.S., et seq.) and to any other defenses, immunities or limitations to liability available to the Requesting Municipality under the law.

7. Term. The term of this Agreement shall continue for a period of one (1) year from the date hereof and shall be automatically renewed for successive one (1) year periods unless terminated by any party as to such party. Any party may withdraw from this Agreement at any time by the giving of written notice of termination to the each of the other parties not less than thirty (30) days prior to the date of withdrawal.

IN WITNESS WHEREOF, the Municipalities have executed this Agreement the day and year first above written.

THE CITY OF FORT COLLINS, COLORADO
A Municipal Corporation

By: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Fort Collins City Attorney

THE CITY OF LOVELAND, COLORADO
A Municipal Corporation

By: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Loveland City Attorney

THE CITY OF GREELEY, COLORADO
A Municipal Corporation

By: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Greeley City Attorney

APPROVED AS TO SUBSTANCE:

By: _____
City Manager

AVAILABILITY OF FUNDS:

By: _____
Director of Finance

THE TOWN OF WINDSOR, COLORADO
A Municipal Corporation

By: _____
Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Windsor Town Attorney

TOWN OF WINDSOR

RESOLUTION NO. 2015-37

A RESOLUTION RATIFYING, APPROVING AND CONFIRMING THE TERMS OF AN INTERGOVERNMENTAL AGREEMENT (“IGA”) FOR THE EXCHANGE OF LEGAL SERVICES

WHEREAS, the Town of Windsor (“Town”) is a Colorado home rule municipality with all powers vested according to law; and

WHEREAS, pursuant to Section 29-1-203, C.R.S., governments may cooperate or contract with one another to provide any function, service or facility lawfully authorized to each of the cooperating or contracting units of government; and

WHEREAS, the legal interests of the Municipalities are generally represented by the City and Town Attorneys employed thereby; and

WHEREAS, on occasion, the City or Town Attorney of one of the Municipalities is prevented from representing the interests of the such Municipality by reason of personal conflicts of interests or other situations which may impair their ability to fully represent the interests of such Municipality in particular cases; and

WHEREAS, the Municipalities are authorized by their respective home rule charters to employ the services of special legal counsel in such situations; and

WHEREAS, the Town does not currently have any agreements providing for an exchange of services in the event of a conflict of interest; and

WHEREAS, in certain such instances, the most efficient and cost effective manner of providing for the legal representation of the Municipalities would be to exchange the services of members of the respective legal staffs of the cities; and

WHEREAS, the Councils of the Cities of Fort Collins, Loveland, and Greeley have each determined that it would be in the best interests of each of the Cities to enter into an updated and unified Intergovernmental Agreement to include Windsor, and to authorize the exchange of such legal services under appropriate circumstances and to establish the terms and conditions upon which such exchange of services should occur; and

WHEREAS, the Town Board has determined it would be in the best interests of the Town to authorize the exchange of legal services with the Cities under appropriate circumstances, and that entering into a unified Intergovernmental Agreement with the Cities would be appropriate.

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

1. 1. The Town of Windsor hereby ratifies, approves and confirms the terms and conditions of the attached IGA.
2. The Mayor is hereby authorized to execute the attached IGA on behalf of the Town.

Upon motion duly made, seconded and carried, the foregoing Resolution was adopted this 22nd day of June, 2015.

TOWN OF WINDSOR, COLORADO

By _____
John S. Vazquez, Mayor

ATTEST:

Patti Garcia, Town Clerk



MEMORANDUM

Date: June 22, 2015
To: Mayor and Town Board
Via: Kelly Arnold, Town Manager
From: Patti Garcia, Town Clerk/Assistant to Town Manager
Re: Short Form Grant Request – Windsor High School After Prom Committee
Item #: C.1.

Background / Discussion:

The Windsor High School After Prom Committee has submitted the attached short form grant application requesting \$500 to help fund their After Prom event.

The After Prom Committee raises funds throughout the year to hold their event each spring. The event is held immediately after the Junior/Senior Prom and gives attendees a safe and fun place to go; approximately 500 students attend the After Prom annually. The application noted that the Committee needs a sizeable reserve in order to purchase the fruit they sell in late summer.

The Town Board has a 2015 budget of \$63,007 for outside agency funding. The Harvest Festival request for \$16,381 from the Outside Agency Fund is the only application that has been approved in 2015; no Harvest Festival expenses have been submitted to date.

Relationship to Strategic Plan:

Goal 1.G. Support Windsor's youth

Recommendation:

For Town Board consideration.

Attachments:

- b. Town of Windsor Short form grant requirements
- c. Windsor High School After Prom Application Form

Short Form Grant Application Requirements

Please read the requirements carefully to ensure that your application is in compliance and complete. Be specific and concise in your answers. The short form is required for grant requests of \$1,000 or less.

Along with the Grant Application Form, submit a cover letter of no more than one (1) page providing a brief overview of your organization which outlines your request and clearly states your goals and objectives. This information should also include a justification of the request explaining the financial need.

PURPOSE

The purpose of the Town of Windsor Community Grant Program is to fiscally support projects, services, and activities through the funding of non-profit organizations and charitable causes in order to enhance the quality of life of Windsor residents.

GUIDELINES

1. The Town of Windsor supports organizations that enhance the quality of life in Windsor, Colorado. This includes groups that provide programs or services in areas such as arts and culture, health and human services, education, and amateur sports.
2. Applicants should be tax exempt under the provisions of section 501(c)(3) of the Internal Revenue Code. Other nonprofit entities demonstrating a need will be considered on a case-by-case basis.
3. The Town of Windsor will fund specific projects and programs that have measurable results (evidence of productivity, change in numbers, etc.).
4. The services and programs are need-based, nondiscriminatory, and provided to the citizens of Windsor.
5. The services and programs are provided through a means that are more cost effective than the Town could provide and supplement or extend services currently provided by the Town of Windsor.
6. Operational funding requests will be considered; however, the Town of Windsor will not provide sustaining funds (multiple year commitments) to organizations.
7. Organizations receiving funding in the past must have current progress and/or final reports on file with the Town of Windsor in order to be eligible for the following year.
8. If an organization receives duplicate funding for a request, the Town of Windsor funds must be returned. For example, if a project/program budget is \$5,000 and the Town of Windsor and another organization both award \$5,000 to the same project/program, the Town of Windsor funds must be returned.
9. The use of funds must support the Town of Windsor's Strategic Plan.
10. Recipients must attach receipts to the Final Report which identify how all the funds distributed by the Town of Windsor were spent.

4/20/15



Short Form Grant Application

ORGANIZATION NAME: WHS After Prom Committee
MAILING ADDRESS: PO Box 462 Windsor CO 80550
PHYSICAL ADDRESS: NA
ORGANIZATION DIRECTOR/PRESIDENT: Cydney Ruff
GRANT CONTACT: Cydney Ruff
DAYTIME PHONE: 970-680-9552 CELL PHONE: 970-396-0340
FAX: EMAIL: whsafterprom@gmail.com
WEBSITE ADDRESS:
FEDERAL IDENTIFICATION NUMBER: 80-4846248
IS THE ORGANIZATION TAX EXEMPT UNDER THE PROVISIONS OF SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE? No

PURPOSE OF GRANT:

- Agency Support as a whole
Marketing Support
Special Program or Projects
Capital Expenditure
Seed, start-up or development costs
Technical assistance

TYPE OF AGENCY:

- Arts & Culture
Health & Human Services
Education
Environment
Sports/Recreation
Other: Parent organization run with HS admin support

AMOUNT OF REQUEST: \$ 500.00 FISCAL YEAR END: NA

BRIEF DESCRIPTION OF REQUEST:

The After Prom Committee fundraises all during the year to hold our event every spring. We have approximately 500 students attend our event which is immediately after the JR/SR Prom and gives them a SAFE and fun place to go. We need a sizeable reserve in order to purchase the fruit that we sell in late summer.

2014 Actual Revenues: \$17,033.00
2015 Budgeted Revenues: \$17,000.00

2014 Actual Expenses: \$15,102.14
2015 Budgeted Expenses: \$15,200.00

Cydney Ruff
Signature, Director/President

4/14/15
Date



April 13, 2015

Dear Community Partners;

As a partner in our community, we invite you to join in raising funds for our **23rd Annual After-Prom-Party** to be held on May 2, 2015 , immediately following the Windsor High School spring prom. The generosity and support of businesses and individuals is what makes this event successful.

Our goal is to provide a no-cost, safe, fun and alcohol-free event for students of Windsor High School, immediately following prom. It is estimated this event will cost \$12,000 to \$15,000. Your monetary donation, gift certificate or prize contributions will enable us to provide, this event for the students. Last year we had 80% participation from our Junior and Senior students who came to enjoy games, entertainment, food, and prizes.

Your company or organization will be recognized as a sponsor of Windsor After Prom 2015. Your check made payable to WHS APC will serve as your receipt for donation. We also accept credit cards for your convenience. Written acknowledgement will be provided for all cash and prize donations.

Please send or call in your donation to the contact information listed below. For prize donations, please email whsafterprom@gmail.com to arrange pickup or delivery. Thank you in advance for your support of this worthwhile event.

Sincerely,

Cyd Ruff -APC Chairperson 970-396-0340

Joel Peck –APC Treasurer

Jennifer Rasmuson -APC Secretary

Money Donations Payable To:

WHS APC

P.O. Box 462

Windsor, CO 80550



MEMORANDUM

Date: June 22, 2015
To: Mayor and Town Board
Via: Regular meeting materials, June 22, 2015
From: Ian D. McCargar, Town Attorney
Re: Initiation of eminent domain proceedings; Law Basin West Tributary Project
Item #: C-2 and 3

Background / Discussion:

Presented for your consideration this evening are two (2) Resolutions which authorize the filing of eminent domain proceedings to acquire easement rights from two property owners. The easement rights are necessary for completion of the Law Basin West Tributary Project. The Resolutions are necessary to provide this office with the legal authority to proceed. Each Resolution is identical to the other, except for the identification of the property and owners in question.

The Town has been actively pursuing negotiated easement rights in good faith for over a year. Staff believes such negotiations have run their course without satisfactory results.

The Law Basin West Tributary Project is a stormwater improvement project designed to separate surface water from ground water presently being comingled in the Davis Seep Pipeline. The Davis Seep Pipeline, designed in 1919, was not physically or legally intended to carry the stormwater flows which have been introduced to it as development in the vicinity has occurred. Our consultant has told us that separating the groundwater from the surface water will protect the public interest, improve the functioning of the Davis Seep Pipeline, and will avoid any legal issues with comingling of surface water in a groundwater facility.

This office is prepared to commence the eminent domain actions as soon as authority is given.

Recommendation:

Approve attached Resolutions, simple majority required.

Attachments:

A Resolution Making Certain Findings Of Fact, Authorizing The Town Attorney To Undertake Eminent Domain Proceedings With Respect To The Acquisition Of Easements Upon Real Property Owned By Windsor Industrial Park, LLC, Necessary For The Completion Of The Law Basin West Tributary Improvements Project, And Granting Full Plenary Authority In Association Therewith

A Resolution Making Certain Findings Of Fact, Authorizing The Town Attorney To Undertake Eminent Domain Proceedings With Respect To The Acquisition Of Easements Upon Real Property Owned By Pinecrest Associates Necessary For The Completion Of The Law Basin West Tributary Improvements Project, And Granting Full Plenary Authority In Association Therewith

TOWN OF WINDSOR

RESOLUTION NO. 2015-38

A RESOLUTION MAKING CERTAIN FINDINGS OF FACT, AUTHORIZING THE TOWN ATTORNEY TO UNDERTAKE EMINENT DOMAIN PROCEEDINGS WITH RESPECT TO THE ACQUISITION OF EASEMENTS UPON REAL PROPERTY OWNED BY PINECREST ASSOCIATES, NECESSARY FOR THE COMPLETION OF THE LAW BASIN WEST TRIBUTARY IMPROVEMENTS PROJECT, AND GRANTING FULL PLENARY AUTHORITY IN ASSOCIATION THEREWITH

WHEREAS, the Town of Windsor (“Town”) is a Colorado home rule municipality with all powers and authority provided by Colorado law; and

WHEREAS, the Town intends to complete stormwater drainage improvements known as the Law Basin West Tributary Improvements Project (“Project”); and

WHEREAS, the Town Board finds that the Project is a matter of public necessity for the following reasons: it will provide needed stormwater drainage facilities, it will remove surface water from an existing groundwater drainage system, and it will protect existing infrastructure; and

WHEREAS, the Town, through its appointed representatives, has in good faith attempted to negotiate the terms of easements needed for the Project, but has been unable to timely obtain easement rights from Pinecrest Associates, despite a final good-faith offer; and

WHEREAS, the time constraints of the Project are such that further delay in the context of negotiation is unacceptable; and

WHEREAS, Title 38, Article 1 of the Colorado Revised Statutes grants to the Town the legal authority to obtain the easement rights necessary for the Project, subject to its procedural and substantive requirements; and

WHEREAS, the Town Board wishes to formally authorize the filing, prosecution, settlement and finalization of eminent domain proceedings, in order to acquire easement rights within the real property owned by Pinecrest Associates; and

WHEREAS, the Town Board finds that the within Resolution is necessary for the protection of the public health, safety and welfare.

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

1. The Law Basin West Tributary Project is hereby reaffirmed as stormwater sewer facility, authorized and funded by the Town of Windsor, easements for which are necessary for its completion.
2. Pursuant to Colorado Revised Statutes Title 38, Article 1, the Town Attorney is hereby authorized and directed to initiate, prosecute and finalize an action for acquisition by eminent domain of easement rights within the real property owned by Pinecrest Associates, Weld County Assessor's Office Parcel Number 080722000030.
3. In accordance with the foregoing, the Town Attorney is authorized and directed to acquire both temporary construction easement rights and permanent easement rights necessary to construct, lay, install, replace, operate, inspect, maintain, repair, renew, substitute, monitor, change the size of, and remove the Law Basin West Tributary Improvements Project, as designed by Anderson Consulting Engineers, within the easements so obtained.
4. The authority granted herein shall be liberally construed, in order that the Town Attorney shall have all powers afforded to legal counsel in eminent domain matters, including the authority to litigate, arbitrate, mediate, compromise and settle the Town's claims and any counter-claims, cross-claims and disputes associated therewith.

Upon motion duly made, seconded and carried, the foregoing Resolution was adopted this 22nd day of June, 2015.

TOWN OF WINDSOR, COLORADO

By: _____
John S. Vazquez, Mayor

ATTEST:

Patti Garcia, Town Clerk

TOWN OF WINDSOR

RESOLUTION NO. 2015-39

A RESOLUTION MAKING CERTAIN FINDINGS OF FACT, AUTHORIZING THE TOWN ATTORNEY TO UNDERTAKE EMINENT DOMAIN PROCEEDINGS WITH RESPECT TO THE ACQUISITION OF EASEMENTS UPON REAL PROPERTY OWNED BY WINDSOR INDUSTRIAL PARK, LLC, NECESSARY FOR THE COMPLETION OF THE LAW BASIN WEST TRIBUTARY IMPROVEMENTS PROJECT, AND GRANTING FULL PLENARY AUTHORITY IN ASSOCIATION THEREWITH

WHEREAS, the Town of Windsor (“Town”) is a Colorado home rule municipality with all powers and authority provided by Colorado law; and

WHEREAS, the Town intends to complete stormwater drainage improvements known as the Law Basin West Tributary Improvements Project (“Project”); and

WHEREAS, the Town Board finds that the Project is a matter of public necessity for the following reasons: it will provide needed stormwater drainage facilities, it will remove surface water from an existing groundwater drainage system, and it will protect existing infrastructure; and

WHEREAS, the Town, through its appointed representatives, has in good faith attempted to negotiate the terms of easements needed for the Project, but has been unable to timely obtain easement rights from Windsor Industrial Park, LLC, despite a final good-faith offer; and

WHEREAS, the time constraints of the Project are such that further delay in the context of negotiation is unacceptable; and

WHEREAS, Title 38, Article 1 of the Colorado Revised Statutes grants to the Town the legal authority to obtain the easement rights necessary for the Project, subject to its procedural and substantive requirements; and

WHEREAS, the Town Board wishes to formally authorize the filing, prosecution, settlement and finalization of eminent domain proceedings, in order to acquire easement rights within the real property owned by Windsor Industrial Park, LLC; and

WHEREAS, the Town Board finds that the within Resolution is necessary for the protection of the public health, safety and welfare.

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

1. The Law Basin West Tributary Project is hereby reaffirmed as stormwater sewer facility, authorized and funded by the Town of Windsor, easements for which are necessary for its completion.
2. Pursuant to Colorado Revised Statutes Title 38, Article 1, the Town Attorney is hereby authorized and directed to initiate, prosecute and finalize an action for acquisition by eminent domain of easement rights within the real property owned by Windsor Industrial Park, LLC, Weld County Assessor's Office Parcel Number 080715300008.
3. The Town Attorney is authorized and directed to acquire both temporary construction easement rights and permanent easement rights necessary to construct, lay, install, replace, operate, inspect, maintain, repair, renew, substitute, monitor, change the size of, and remove the Law Basin West Tributary Improvements Project, as designed by Anderson Consulting Engineers, within the easements so obtained.
4. The authority granted herein shall be liberally construed, in order that the Town Attorney shall have all powers afforded to legal counsel in eminent domain matters, including the authority to litigate, arbitrate, mediate, compromise and settle the Town's claims and any counter-claims, cross-claims and disputes associated therewith.

Upon motion duly made, seconded and carried, the foregoing Resolution was adopted this 22nd day of June, 2015.

TOWN OF WINDSOR, COLORADO

By: _____
John S. Vazquez, Mayor

ATTEST:

Patti Garcia, Town Clerk



MEMORANDUM

Date: June 22, 2015
To: Mayor and Town Board
Via: Regular meeting materials, June 22, 2015
From: Ian D. McCargar, Town Attorney
Re: Proposed revision to Clearview Library Board Bylaws
Item #: C-4

Background / Discussion:

The Clearview Library Board has requested your concurrence in a proposed amendment to its Bylaws, under which the number of Town Board representatives selected for participation in filling Library Board vacancies is reduced from two to one. A draft of the specific language in question is attached, reflecting the proposed revisions in red ink. If adopted by the Library Board, future vacancies would be filled with the participation of one Town Board Member and one community member chosen by the Town Board. This language would also apply to the School District's participation in filling Library Board vacancies.

The current language in the Library Board's Bylaws came about in 2011, in response to concerns that the Library Board was not sufficiently accountable to its taxpayers. The requirement for participation by two Town Board Members was believed to bring a higher level of accountability through elected officials. Although this system has been observed by all parties since this language became effective, the Library Board has requested that the filling of its vacancies be simplified through this proposed change.

The Town Clerk's Office handles the logistics for us when the Library District notifies us of a vacancy. The Town Clerk has indicated support for this revision. Legally, this revision to the Bylaws may be accomplished without our participation, but as a matter of courtesy and transparency, the District is requesting the Town's concurrence.

Attached is a Resolution which expresses concurrence.

Recommendation:

Discuss, take official action on the attached Resolution, instruct staff on further communication.

Attachments:

Draft Clearview Library Board Bylaws revision (showing mark-up's);

Resolution Concurring in an Amendment to the Clearview Library District Board of Trustees Bylaws With Respect to Town Board Participation in the Process of Filling District Board Vacancies

PROPOSED REVISION TO CLEARVIEW LIBRARY BOARD OF TRUSTEES BYLAWS
June 22, 2014

- 4.1 Upon the creation of a Vacancy, the President shall notify the Library Board, the Windsor Town Board and the RE-4 School Board that a Vacancy exists and that the Library Interview Committee (hereinafter "Interview Committee") must be formed. The Interview Committee shall be selected as follows:
- 4.1.1 The Library Board shall appoint ~~one~~ ~~two~~ of its currently serving Trustees to serve on the Interview Committee.
 - 4.1.2 The Windsor Town Board shall select ~~one~~ ~~two~~ of its currently serving Board Members to serve on the Interview Committee and in addition shall select one person who resides in the Clearview Library District to serve on the Interview Committee.
 - 4.1.3 The RE-4 School Board shall select one of its currently serving Members to serve on the Interview Committee and in addition shall select one person who resides in the Clearview Library District to serve on the Interview Committee.

TOWN OF WINDSOR

RESOLUTION NO. 2015-40

A RESOLUTION CONCURRING IN AN AMENDMENT TO THE CLEARVIEW LIBRARY DISTRICT BOARD OF TRUSTEES BYLAWS WITH RESPECT TO TOWN BOARD PARTICIPATION IN THE PROCESS OF FILLING LIBRARY DISTRICT BOARD VACANCIES

WHEREAS, the Town of Windsor (“Town”) is a Colorado home rule municipality with all powers and authority provided by Colorado law; and

WHEREAS, pursuant to Colorado law, the Town and the Weld RE-4 School District (“School District”) formed the Windsor-Severance Library District, which is now known as the Clearview Library District (“Library District”); and

WHEREAS, in 2011, the Town, the Library District and the School District worked together to enhance accountability and transparency in the governance of the Library District; and

WHEREAS, in response to this coordinated effort, the Library District amended its Bylaws to call for participation by both the School District and the Town in the process by which Library District Board vacancies are filled; and

WHEREAS, presently, both the Town Board and the School District Board each select two of their members to participate in the Library District’s Interview Committee, in addition to one community member at large appointed by each; and

WHEREAS, the Library District Board has asked that the Town Board give its concurrence to an amendment to the Library District Board’s Bylaws, under which both the School District Board and the Town Board would each select one of its members to serve on the Library District’s Interview Committee; and

WHEREAS, in all other respects, the Library District Board’s Bylaws will remain unchanged under this proposal; and

WHEREAS, the Town Board has considered the matter, and has concluded that sufficient transparency and accountability will be assured by the proposed amendment to the Library District Board’s Bylaws; and

WHEREAS, the Town Board wishes to express its concurrence with the proposed amendment, a copy of which is attached hereto and incorporated herein by this reference as if set forth fully.

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

1. The Town Board concurs in the attached Proposed Revision to Clearview Library Board of Trustees Bylaws dated June 22, 2015, which is incorporated herein as if set forth fully.
2. The Town Clerk is directed to provide a copy of this Resolution to both the Library District Board and the School District Board.
3. This Resolution applies only to the attached revision.

Upon motion duly made, seconded and carried, the foregoing Resolution was adopted this 22nd day of June, 2015.

TOWN OF WINDSOR, COLORADO

By: _____
John S. Vazquez, Mayor

ATTEST:

Patti Garcia, Town Clerk



MEMORANDUM

Date: June 22, 2015
To: Mayor and Town Board
Via: Regular meeting materials, June 22, 2015
From: Ian D. McCargar, Town Attorney
Re: Quiet Zones Improvements Installation Agreement (Quiet Zones Project)
Item #: C-5

Background / Discussion:

In order to satisfy the requirements of the Public Utilities Commission, we are required to have an agreement with the Great Western Railroad (GWRR) that allows us to enter into GWRR's rights of way to install the quiet zones equipment. Presented this evening is a draft Quiet Zones Improvements Installation Agreement which, if executed, will satisfy the PUC's requirements. The PUC has ordered us to file the executed Agreement by June 30.

The draft Agreement is complete, except for some financial terms which remain under discussion. We are hopeful that we can work out the financial terms in time to execute and file the Agreement by June 30.

The Agreement has four basic components:

1. Recognition that the Quiet Zones Project is a mutual undertaking funded by TIGER V grant money.
2. An understanding that the Town will hire a railroad equipment contractor with the concurrence of GWRR, and the contractor will be bound by both a Town agreement and a GWRR agreement (in the form attached to the Agreement as "Exhibit C").
3. The Town will use the TIGER funds to pay the cost of certain tasks to be performed by GWRR (plan review, construction site flagging services, post-installation equipment testing). The last of these is one of the financial items still undergoing review, but will be paid out of the TIGER grant funds.
4. The Town will pay GWRR a fee to defray the incremental cost increase associated with ongoing (post-installation) inspections of the Quiet Zones equipment. This is another financial item still undergoing review. This is not a TIGER grant-funded item.

The attorneys have approved the form of the attached draft Agreement. We are asking for conditional Town Board approval, pending resolution of the financial questions (Items 3 and 4 above).

Recommendation:

Adopt attached Resolution, simple majority required.

Attachments:

Draft Quiet Zones Improvements Installation Agreement;

Resolution Approving the Quiet Zones Improvements Installation Agreement Between Great Western Railway Of Colorado, LLC, and the Town of Windsor, Colorado

Thirteen (13) At-Grade Crossings
Between Mile Posts 85.06 and 87.37 on the Greeley Subdivision AND
Between Mile Posts 28.04 and 30.5 on the Longmont Subdivision
In the Town of Windsor, Colorado

QUIET ZONES IMPROVEMENTS INSTALLATION AGREEMENT

THIS QUIET ZONES IMPROVEMENTS INSTALLATION AGREEMENT (hereinafter called, "Agreement"), is executed to be effective as of June _____, 2015, by and between the Town of Windsor, a Municipal Corporation (hereinafter called, "TOWN"), and Great Western Railway of Colorado, LLC, a Colorado Limited Liability Company (hereinafter called, "GWR" or "Railroad").

WITNESSETH:

WHEREAS, in June, 2013, the TOWN applied for funding of the Great Western Freight Improvement Project ("Project") through a Transportation Investment Generating Economic Recovery ("TIGER") Discretionary Grant administered by the United States Department of Transportation ("USDOT"); and

WHEREAS, the Project was proposed by GWR, and by agreement of the parties the TOWN served as the TIGER Grant Applicant for the Project; and

WHEREAS, USDOT approved TIGER Grant funding of that portion of the Project which calls for upgrades to the crossing warning devices and/or adding other safety measures (hereinafter "the Crossing Improvements") at thirteen at-grade crossings on the rail line of the GWR in the TOWN so that distinct Quiet Zones can be established in accordance with 49 CFR Part 222; and

WHEREAS, the Quiet Zones project calls for signal improvements and roadway improvements to eleven (11) cross streets within the TOWN (hereinafter called, "CROSSINGS") located at the streets of Eastman Park Drive (DOT Crossing Inventory No. 871917X), Garden Drive (DOT Crossing Inventory No. 871921M), State Highway 257 Spur (DOT Crossing Inventory No. 871920F), 7th Street (DOT Crossing Inventory No. 244892B), 6th Street (DOT Crossing Inventory No. 244398H), 5th Street (DOT Crossing Inventory No. 244894P), 1st Street (DOT Crossing Inventory No. 244897K), Chimney Park (DOT Crossing Inventory No. 934007D), Walnut Street (DOT Crossing Inventory No. 934006W), 15th Street (DOT Crossing Inventory No. 244889T), and State Highway 257 Ball Park (DOT Crossing Inventory No. 244898S), set forth in Exhibit A, attached hereto and incorporated herein; and

WHEREAS, the project also includes two (2) cross streets within the TOWN (included in the term "CROSSINGS" as used herein) located at Main Street and the State Highway 257 Angle that are not receiving grade crossing signal improvements as

part of this project but will be receiving Quiet Zones-compliant roadway improvements only; and

WHEREAS, the crossing at Crossroads Boulevard will not be receiving any improvements but will be included in the Quiet Zones; and

WHEREAS, all funding for the design, review, acquisition, installation and testing/commissioning of the Crossing Improvements will be paid with TIGER Grant funds, which are subject to conditions imposed in that certain USDOT Federal Railroad Administration Agreement Number FR-TII-0031-14-01-00, the terms and conditions of which have been reviewed and accepted by the parties; and

WHEREAS, the TOWN's Roadway Contractor will be selected by the TOWN, and will install the Roadway Crossing Improvements described in the scope of work specified in Exhibit B hereto; and

WHEREAS, the TOWN's Railroad Contractor will be chosen by the TOWN with the approval of GWR, and will install the Railroad Grade Crossing Signal Equipment (Railroad Crossing Improvements) described in Exhibit B and upon the terms and conditions set forth below; and

WHEREAS, it will be necessary for the TOWN's Roadway and Railroad Contractors to perform certain work in the vicinity of the Crossings and on GWR's property as described herein; and

WHEREAS, the TOWN has made application to the Public Utilities Commission ("PUC") to modify the Crossings as herein described and no construction will commence until such PUC approval has been obtained and this Agreement is signed by both parties; and

WHEREAS, upon completion of the Crossing Improvements, the TOWN will be responsible for satisfying all requirements for Federal Railroad Administration approval of New Quiet Zone(s) at the Crossings;

WHEREAS, prior to commissioning of the Quiet Zone signals installed as part of the Crossing Improvements, GWR's sole responsibilities will be to (1) review the plans of the TOWN and TOWN's contractors for general conformance with GWR's standard signal specifications but not for errors or omissions, design, or compliance with all applicable laws, (2) flagging during construction of the Crossing Improvements, and (3) testing/commissioning of the automatic signals installed as part of the Crossing Improvements, the cost of which will be paid by the TOWN as provided in Article III, Section 1 herein;

WHEREAS, following commissioning of the automatic signals installed as part of the Crossing Improvements, the parties intend that GWR will assume responsibility for inspecting, maintaining and operating the warning devices, signal and electrical lines

and appurtenances, flashing light signals, gates, crossbucks, and railroad signage within GWR right of way (hereinafter "Railroad Signage") installed by the Town's contractors pursuant to the Project, subject to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE I – GENERAL PROVISIONS

SECTION A. DEFINITIONS

The term "Contractor" or "Contractors" shall mean any individual, partnership, firm, corporation or any combination thereof including their respective officers, agents, employees and their respective subcontractors including officers, agents and employees that are hired by the TOWN to install the Crossing Improvements.

The term "Crossings" shall mean all rail/roadway intersections scheduled for improvements as described in Exhibit A.

The term "Crossing Improvements" shall mean all improvements to the Crossings necessary for compliance with FRA Quiet Zones approval, and shall include both Roadway Improvements and Railway Crossing Improvements.

The term "Plans" shall mean the final completed Design-Build plans for location of the grade crossing signals, gates and appurtenances, prepared by the TOWN at its expense that are approved in writing by GWR's System Engineer – Construction and Maintenance, or his authorized representative covering the construction of the Project. The Plans are incorporated herein by reference, as Exhibit B.

The term "Project" shall mean the Great Western Freight Improvement Project presented to USDOT by the TOWN in its TIGER Grant application of June 3, 2013.

The term "PUC" shall mean the Colorado Public Utilities Commission.

The term "Quiet Zones Project" shall mean that portion of the Project approved for TIGER Grant funding by USDOT in USDOT Federal Railroad Administration Agreement Number FR-TII-0031-14-01-00.

The term "Railroad Crossing Improvements" shall mean all railroad warning devices at the Crossings, including flashing light signals, bells, gates, crossbucks and Railroad Signage within GWR's right-of-way associated with the Crossing Improvements.

The term "Railway Contractor" shall mean the contractor selected by the TOWN with the approval of GWR who will be responsible for completing the Railway Crossing Improvements.

The term "Railroad Signage" shall mean the signage located within GWR right of way.

The term "Railroad Work" shall mean the services to be performed by GWR as described in Article III, Section 2 (a) through (d).

The term "Roadway Contractor" shall mean the contractor selected by the TOWN who will be responsible for completing the Roadway Improvements.

The term "Roadway Improvements" shall mean all traffic signals, traffic signal preemption timing, advance warning signs, pavement striping, roadway approaches, road surfaces and roadway storm drainage facilities, curb and gutter, sidewalks and bike paths at the Crossings.

The term "TIGER" shall mean the United States Department of Transportation Investment Generating Economic Recovery Discretionary Grants program.

The term "USDOT" shall mean the United States Department of Transportation.

The terms "utility" and "utilities" shall mean all properties and facilities of any person, firm or corporation constituting any part of the utility system, including, but not limited to, pipe lines, wire lines, fiber optic lines, tube lines, water and gas mains, electrical conduits, sewer pipes, overhead wiring, and supporting structures and appurtenances.

SECTION B. EXHIBITS

The exhibits listed below are attached hereto and made a part of this Agreement:

- Exhibit A Project Location Map
- Exhibit B Design Build Plans
- Exhibit C Contractor right of entry agreement
- Exhibit D TOWN right of entry agreement
- Exhibit E GWR's Estimate for Plan Review, Inspection, Testing/Commissioning and Flagging

ARTICLE II – SCOPE OF WORK

1. The term “Project” as used in this Agreement includes any and all work related to the Quiet Zone implementation including installation of Crossing Improvements and related activation equipment and circuitry at the Crossings, more particularly described on Exhibit B attached hereto and incorporated herein, including, but not limited to, any and all changes to telephone, telegraph, signal and electrical lines and appurtenances, installation of advance warning signs and pavement marking stop bars, alterations to or new construction of drainage facilities, preliminary and construction engineering, contract preparation and construction management. The signage, signals, pavement markings and other improvements to each crossing shall adhere to the final design approved by the PUC, to the extent not inconsistent with the final PUC decision

ARTICLE III – GWR OBLIGATIONS

In consideration of the covenants of TOWN set forth herein and the faithful performance thereof, GWR agrees as follows:

1. For and in consideration of a sum not to exceed **One-Hundred Seventeen-Thousand Six-Hundred Thirty-Four and 21/100 DOLLARS (\$117,634.21) FIGURE SUBJECT TO FURTHER DISCUSSION** to be paid by TOWN to GWR upon the completion of the Railroad Work, which is described in more detail in Exhibit E and in further consideration of the TOWN's agreement to perform and comply with the terms of this Agreement, GWR hereby grants to TOWN's Contractors and the TOWN the right to enter upon the GWR right of way for the purpose of constructing the Crossing Improvements in accordance with the terms set forth in Exhibit C and Exhibit D, GWR's current contractor's and TOWN's right of entry agreements, which are attached hereto and made a part hereof. The “not to exceed” limitation set forth in Section 1 of this Article may be increased in the event of delays or unanticipated cost increases not attributable to GWR, subject to TOWN budgeting and availability of funds.

2. GWR will (a) review the TOWN's plans for the Project for general compliance with GWR's standard signal specifications, Exhibit F, but not for errors or omissions, location, or compliance with all applicable laws and regulations; (b) provide guidance to the successful Contractor during the Contractor's design of the railroad signals and bungalows, such that the final installation and operation will be acceptable to GWR; (c) perform flagging services; (d) perform testing/commissioning of the automatic signals installed as part of the Crossing Improvements. Collectively, these GWR undertakings shall be referred to herein as the “Railroad Work.” GWR's review and approval of the Plans in no way relieves the TOWN or the Contractor from their responsibilities, obligations and/or liabilities under this Agreement, and will be given with

the understanding that GWR make no representations or warranty as to the validity, accuracy, legal compliance or completeness of the Plans and that any reliance by the TOWN on the Plans is at the risk of the TOWN. Project special provisions affecting the interests of GWR are also subject to approval by GWR. All work under this Agreement shall be performed strictly in compliance with the Plans, special provisions and any guidelines or standards furnished in advance by the GWR to the TOWN for this Project. The TOWN confirms that no work is to commence until GWR's System Engineer or his authorized representatives have given final acceptance of the Plans. No changes in the Plans shall be made unless GWR has consented to such changes in writing.

3. The parties agree that the fee to be paid by the Town pursuant to Section 1 of this Article is based upon the calculations set forth in Exhibit E, attached hereto and incorporated herein by this reference. In the event construction for a crossing within the Project scope has not commenced within six (6) months following the effective date of this Agreement, GWR may, in its reasonable discretion, revise the cost estimates set forth in said Exhibit E. In such event, the revised cost estimates will become a part of this Agreement as though originally set forth herein, and GWR will notify TOWN of the revised cost estimate prior to sending the invoice for such work as described in Article IV, Section 4 herein. Any item of work incidental to the items listed on Exhibit E not specifically mentioned therein may be included as a part of this Agreement upon written approval of TOWN, which approval will not be unreasonably withheld or delayed.

4. GWR shall submit Crossing-specific invoices to the TOWN based on all actual costs incurred by GWR in performing the Railroad Work, which will include indirect and direct labor additives. GWR will finalize and complete billing of all incurred costs under this Agreement no later than one hundred twenty (120) days following final testing and commissioning of the Crossing Improvements, and the Town shall remit payment in full within thirty (30) days of receipt, subject to the "not to exceed" provisions of Section 1 of this Article III.

ARTICLE IV – TOWN OBLIGATIONS

In consideration of the covenants of GWR set forth herein and the faithful performance thereof, TOWN agrees as follows:

1. The TOWN at its expense shall prepare or cause to be prepared by others the detailed Design-Build plans and specifications and shall submit such plans and specifications to GWR's System Engineer for review and acceptance pursuant to Article III, paragraph 2. Upon completion of the Project, TOWN shall provide at its expense one set of reproducible "as constructed" Plans of the Crossing Improvements. If the Town or its employees or invitees is going to be on GWR property for any reason it must: 1) enter into the TOWN right of entry agreement, which is attached as Exhibit D, prior to entering onto GWR property, (2) obtain the then current insurance required in the TOWN right of entry agreement, and (3) provide such insurance policies, certificates, binders and/or endorsements to GWR before allowing any employee or invitee of the TOWN to enter onto GWR property. All insurance correspondence,

binders, policies, certificates and/or endorsements shall be sent to GWR as set forth in Section VI, paragraph 8.

2. Prior to the Town performing any work related to the Crossing Improvements or entering upon GWR's right of way, the TOWN shall (1) execute GWR's current Town's Right of Entry Agreement, which is attached as Exhibit C, (2) obtain the then current insurance required in the Town's Right of Entry Agreement, and (3) provide such insurance policies, certificates, binders and/or endorsements to GWR before commencing any work on GWR property. All insurance correspondence, binders, policies, certificates and/or endorsements shall be sent to GWR as set forth in Section VI, paragraph 8. . Prior to Contractor performing any work on the Crossing Improvements or entering upon GWR's right of way, the TOWN shall require any agent or Contractor to (1) execute GWR's then current Contractor's Right of Entry Agreement, which is attached as Exhibit C, (2) obtain the then current insurance required in the Contractor's right of Entry Agreement, and (3) provide such insurance policies, certificates, binders and/or endorsements to GWR before allowing any Contractor to commence any work on GWR property. All insurance correspondence, binders, policies, certificates and/or endorsements shall be sent to GWR as set forth in Section VI, paragraph 8.

3. The TOWN's Railway Contractor and Roadway Contractor must perform, at TOWN's expense, all work necessary to complete the Crossing Improvements and the Quiet Zones Project in accordance with the PUC Decision identified herein, excluding the Railroad Work.

4. The TOWN must have advanced railroad crossing warning signs and standard pavement markings in place at the crossings shown on Exhibit A (if the same are required by the MUTCD) prior to testing and commissioning of the signals by GWR. The TOWN assumes full responsibility for the installation and maintenance of advanced warning signs and pavement markings and, to the extent permitted and as limited by Colorado law, agrees to hold harmless and indemnify GWR for any claims, damages or losses, in whole or in part, caused by or due to the TOWN's failure to maintain the advanced warning signs and markings or other requirements of the MUTCD.

5. The TOWN shall include the Contractor's right of entry agreement, attached as Exhibit C, and GWR's Signal Specifications, attached hereto as Exhibit F, (collectively "the Railroad Provisions") in the bid documents provided to each contractor from which the TOWN, or a representative acting on behalf of the TOWN (the "TOWN's Representative"), solicits a bid for construction of the TOWN's portion of the Quiet Zones Project. GWR provisions shall be included in the construction contract between the TOWN and others performing work associated with the installation of Crossing Improvements on behalf of the TOWN, including but not limited to the TOWN's Representative, contractors for signals, signage, detours, and roadway improvements. During negotiations with the Contractor(s), the TOWN will promptly notify GWR of any modifications requested by the Contractor to GWR Provisions to the attention of GWR to facilitate an agreement between the TOWN, GWR and the Contractor regarding such

modification. GWR may, at its sole discretion, approve or disapprove any request for modification of GWR Provisions. Notwithstanding the foregoing, GWR, at its sole discretion, reserves the right to reject and disqualify any Contractor working within GWR right of way which GWR deems is not qualified to properly install the Crossing Improvements.

6. Subject to GWR's rights to stop work as described in Section 10 of this Article III, the TOWN shall maintain supervision over the operations of the Contractors while performing the installation of Crossing Improvements across or adjacent to the GWR's property. The responsibility of the TOWN for supervision shall not be lessened or otherwise affected by the GWR's approval of the Plans or by GWR's collaboration in performance of any work, or by the presence at the work site of GWR's representatives, or by compliance by the TOWN or the Contractor with any requests or recommendations made by such representatives. If a representative of GWR is assigned to the Crossing Improvements installation project, the TOWN and the Contractor will give due consideration to suggestions and recommendations made by such representative for the safety and protection of GWR's property and operations.

7. The TOWN's construction contract will include provisions that the Contractor take such measures as the GWR and the TOWN may agree upon in writing respecting any utilities located upon GWR 's right of way as hereinafter provided. It is understood and agreed that the owner of any utility, located on GWR's property, retains the right to move, repair, recondition or relocate the same at no expense to GWR. The TOWN shall require that if, during progress of the Project Work, the Contractor shall discover any utility that has a right to be on the GWR's right of way, but that is not specifically mentioned and provided for elsewhere in the Plans or identified by the GWR, which utility must be moved, repaired, reconditioned or relocated because of this Project, the Contractor shall initiate immediate notice thereof to the TOWN and the GWR, and the TOWN will furnish directions respecting the same; but, unless otherwise agreed upon between the TOWN and GWR, the TOWN will authorize the Contractor to make only such temporary or emergency repairs as may be required to protect and safeguard the utility and the property of GWR prior to commencement of work thereon by the owner of the utility or GWR. When such operations are undertaken by the owners of the utility or the GWR, the TOWN will require the Contractor to cooperate to the extent that ample protection of such work will be provided, to the end that the Quiet Zones Project may be expedited. All proposed and relocated utilities are subject to the prior review and approval of GWR's System Engineer or his authorized representatives and shall comply with GWR's standard specifications and requirements, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines.

8. The TOWN will require its Contractor to furnish, maintain and install advance warning signs, barricade protection, and/or detours which may be required for the duration of the Project Work for the protection of the public, GWR's facilities and the work contemplated hereunder.

9. The TOWN will required its Contractor to cooperate with the officers and the authorized representatives of GWR to the end that the Contractor's work will be begun, conducted, and completed in such manner as to cause no interference whatsoever with the safety or the continuous and uninterrupted use and operation of the tracks, wire lines and other facilities belonging to GWR or its tenants.

10. If the Contractor shall prosecute the Project Work across or adjacent to GWR property contrary to the Plans, the provisions of Exhibit C, Exhibit F, or other guidelines or standards furnished to Town, or if the Contractor shall prosecute the installation of Crossing Improvements in a manner deemed hazardous by GWR to its personnel, property and facilities, or if the insurance prescribed in Exhibit C hereof shall be cancelled during progress of said work, GWR shall have the right to stop the installation of Crossing Improvements across or adjacent to GWR property until the acts or omissions of such Contractor have been fully rectified to the satisfaction of GWR's System Engineer, or until additional insurance has been delivered to and accepted by the GWR's Risk Management department. A work stoppage under this Section shall not give rise to or impose upon GWR any liability to the TOWN or any Contractor. In the event GWR shall stop the installation of Crossing Improvements, GWR shall give immediate notice thereof, in writing, to the TOWN in accordance with Article VI, paragraph 8.

11. For Railroad Crossing Improvements not on GWR property, TOWN shall acquire perpetual rights for such Railroad Crossing Improvements, or any modifications to such Railroad Crossing Improvements from 3rd parties which shall be approved by GWR in its reasonable discretion in writing. Additionally, the TOWN shall grant perpetual rights for improvements on TOWN property or TOWN-owned right of way to GWR which shall be approved by GWR in its reasonable discretion, in writing.

ARTICLE V- JOINT OBLIGATIONS

In consideration of the mutual covenants of the parties contained herein and the premises, the parties mutually agree as follows:

1. The parties shall comply with the applicable requirements of USDOT Federal Railroad Administration Agreement Number FR-TII-0031-14-01-00 to assure maximum reimbursement of all expenses incurred by the TOWN with respect to the Quiet Zones Project.

2. All cost records of GWR pertaining to the Quiet Zones Project will be delivered by GWR to the TOWN upon completion of the Railroad Work. GWR will comply with the records retention requirements of USDOT Federal Railroad Administration Agreement Number FR-TII-0031-14-01-00 to assure maximum reimbursement of TOWN expenses with respect to the Quiet Zones Project.

3. Upon completion of the installation of the Crossing Improvements, and subject to payment of the Fee by the Town as referenced in Section 2 of this Article, GWR will, at the GWRs sole cost and expense, operate and maintain all railroad warning devices at the Crossings, including flashing light signals, bells, gates, crossbucks and Railroad Signage within GWR's right-of-way associated with the Crossing Improvements. The TOWN shall, at its sole cost and expense, maintain the traffic signals, traffic signal preemption timing, advance warning signs, pavement striping, roadway approaches, which shall include all grading, road surfaces and drainage facilities, curb and gutter, sidewalks and bike paths at the Crossings. In accordance with 4 CCR 723-7:7211(alternatively cited as 4 CO ADC 723-7), GWR shall bear the cost of installation, maintenance, repair, or replacement of grade crossing surface from the outside end of the tie to the outside end of the tie at the Crossings. The parties acknowledge that the Maintenance Agreement dated February 11, 2008, allocates rail crossing maintenance responsibilities between them, but agree that, with respect to the Quiet Zones Project, the terms of this Agreement shall control. Nothing herein shall be deemed to supercede, amend or modify the prior agreements between GWR and third parties with respect to the following crossing improvements, specifically the agreements entered into with respect to the following PUC filings:

- (a) Crossroads Blvd, Colorado PUC Docket No. 05A-183R, PUC Decision No. C05-0762, Filed Agreement dated: February 17, 2005;
- (b) State Highway 257 Angle, Colorado PUC Docket No. 06A-364R, PUC Decision No. C06-0970, Filed Agreement dated: September 7, 2006;
- (c) Main Street, Colorado PUC Docket No. 13A-0136R, PUC Decision No. R13-0804, Filed Agreement dated: September 13, 2011

4. Upon completion, testing and commissioning of the Crossing Improvements, the TOWN shall pay to GWR the sum of [FIGURE SUBJECT TO FURTHER DISCUSSION] (\$[Arabic numerals].00), the purpose of which shall be to defray the TOWN's agreed portion of GWR's ongoing inspection and related administrative costs for the incremental additional cost of inspecting exit gates at crossings within which 4-quadrant gates installations, including flashing light signals, gates, crossbucks and signage, are installed pursuant to this Agreement. The TOWN shall pay this sum each year on or before January 30, beginning January 30, 2017. The sums payable by the TOWN under this Section shall not be subject to future adjustment without the consent of the TOWN. All payments in future years shall be subject to annual appropriation and legal availability of funds. The payment obligations of the TOWN as provided in this Section 2 shall not be deemed multiple fiscal-year financial obligations, as that term is used in Section X, Article 20 of the Colorado Constitution.

5. If a subsequent highway improvement project undertaken in whole or in part by the TOWN necessitates rearrangement, relocation, or alteration of the Crossing Improvements installed hereunder, the costs for such rearrangement, relocation or alteration will be the responsibility of the TOWN.

6. If a subsequent railway improvement project undertaken by GWR necessitates rearrangement, relocation, or alteration of the Crossing Improvements installed hereunder, the costs for such rearrangement, relocation or alteration will be the responsibility of GWR.

7. If any of the Crossing Improvements are partially or wholly destroyed, then the cost of repair and/or replacement costs shall be distributed between the parties as follows:

a) In the event GWR's sole negligence or intentional act destroys or damages the Crossing Improvements, GWR must repair or replace such Crossing Improvements at its expense.

b) In the event the TOWN's sole negligence or intentional act destroys or damages the Crossing Improvements, the TOWN must, at its sole cost and expense, pay to GWR the cost to replace or repair such damaged Crossing Improvements.

c) In the event the Crossing Improvements are damaged or destroyed by any other cause to which neither party is determined to be a contributor, GWR shall at its sole cost and expense pay the cost to replace or repair such Crossing Improvements, and in the event the Railroad pursues remedies against a third party for damages, the TOWN must assign to GWR all of its claims and rights the TOWN may have to pursue claims against any parties responsible for the damage or destruction.

7. During the first ten (10) years following Federal Railroad Administration approval of the Quiet Zones Project, GWR shall be solely responsible for all costs associated with replacement of the Railroad Crossing Improvements due to age or obsolescence. Likewise, during the first ten (10) years following Federal Railroad Administration approval of the Quiet Zones Project, the TOWN shall be solely responsible for all costs associated with replacement of the Roadway Improvements due to age or obsolescence. Thereafter, in the event either party determines that replacement of the Crossing Improvements, or any component thereof, is required due to age, obsolescence or changes to Quiet Zone requirements by any administrative agency, the parties shall confer with respect to the matter and, if economically feasible, will reach such further understandings as may be reasonable under the circumstances.

8. GWR's rights and duties regarding the sounding of locomotive horns at the subject crossings shall be as set out in 49 CFR Part 222 and by other applicable laws and regulations. Nothing contained in this Agreement shall be construed to alter such rights and duties.

ARTICLE VI – OTHER PROVISIONS

1. This Agreement will inure to the benefit of and be binding on the parties hereto, their successors, and assigns.

2. In the event any paragraph contained in this Agreement or any item, part, or term within any particular paragraph is determined by a court of competent jurisdiction to be invalid or unenforceable, the validity of the remaining paragraphs or items will not be affected; and the rights and obligations of the parties will be construed and enforced as if this Agreement did not contain that particular paragraph or item held to be invalid or unenforceable.

3. This Agreement may be signed in counterparts, any one of which will be deemed to be an original. The parties further agree that any facsimile copy of a party's signature is valid and binding to the same extent as an original signature.

4. This Agreement shall become effective as of the date first herein written and shall continue in effect until completion of the Project. Notwithstanding the foregoing, the provisions of Article V, paragraphs 2-7 shall survive termination and shall continue in full force and effect so long as the Crossing Improvements remain and GWR continues to maintain them.

5. GWR may terminate this Agreement effective upon delivery of written notice to TOWN in the event TOWN does not commence construction on the portion of the Crossing Improvements located on GWR's property within twenty four (24) months from the date from the date that GWR has executed this Agreement and returned it to the TOWN for its execution.

6. The parties shall cooperate in presenting all matters involved to the PUC in connection with the TOWN's Applications associated with the Crossing Improvements. The provisions of this Agreement pertaining to the performance of the Crossing Improvement work shall not become effective until approval thereof has been obtained from the PUC.

7. GWR and the TOWN each represent and warrant that they have taken all actions that are necessary or that are required by their procedures, bylaws, or applicable law, to legally authorize the undersigned signatories to execute this Contract on behalf of GWR and the TOWN.

8. Any notice or other communication required or permitted by this Agreement shall be in writing and delivered by first class mail, postage prepaid, or sent by facsimile as follows:

If to TOWN:

If to GWR:

Attn: Town Manager
301 Walnut Street
Windsor, CO 80550
Phone: (970) 674-2400
Fax: (970) 674-2456

Attn: General Counsel
Great Western Railway of Colorado, LLC
252 Clayton Street, 4th Floor
Denver, Colorado 80206
Phone: (303) 398-4500
Fax: (303) 398-4540

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

GREAT WESTERN RAILWAY OF COLORADO, LLC

By: _____

Printed Name: _____

Title: _____

TOWN OF WINDSOR, a Colorado Municipal Corporation

By: _____
Kelly E. Arnold, Town Manager

ATTEST:

By: _____
Patti Garcia, Town Clerk

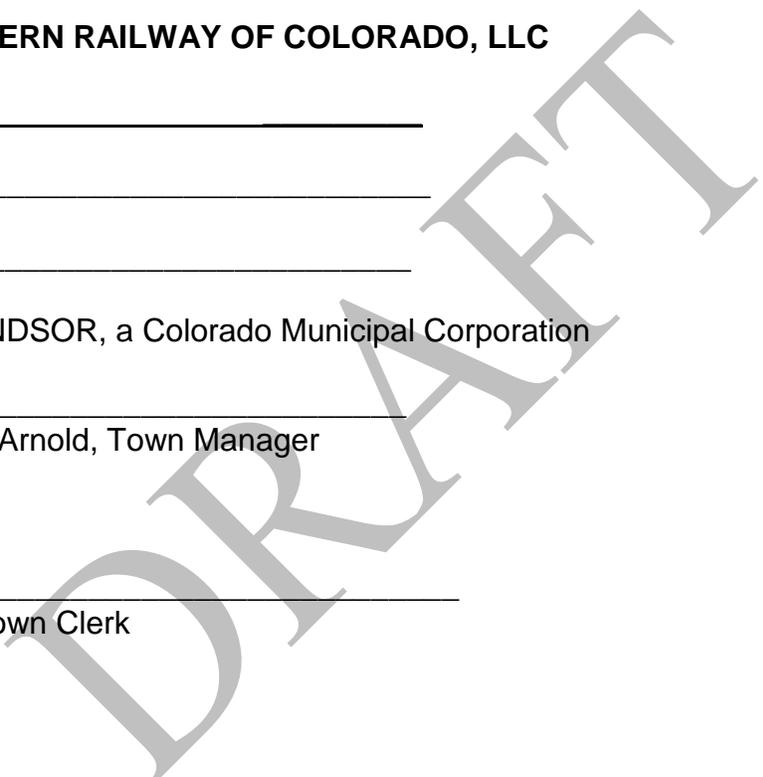


EXHIBIT "A"

Crossings locations diagram/aerial photo

DRAFT

EXHIBIT "B"

100% Plans

DRAFT

EXHIBIT "C"

Contractor's Right of Entry Agreement

DRAFT

Exhibit C

Contractor's Right of Entry Agreement

This Agreement ("Agreement") is entered into this _____ day of _____, 2015 by and between _____ ("Contractor") and **GREAT WESTERN RAILWAY OF COLORADO, LLC** ("Railroad").

RECITALS

Contractor has been hired by the Town of Windsor (the "TOWN") to perform work relating to crossing improvements at up to thirteen (13) at-grade railroad crossings in the Town (the "Work") with all or a portion of the Work to be performed on property of Railroad on Railroad's Greeley and Longmont Subdivisions, between Mileposts 85.06 to 87.37 and Mileposts 28.04 to 30.5, respectively as shown on Exhibit A, Railroad Location print, and as detailed on the Plans marked Exhibit B, which is part of the Quiet Zones Improvements Installation Agreement dated June _____, 2015, by and between the Town of Windsor and Great Western Railway of Colorado, LLC..

Railroad is willing to permit Contractor to perform the Work described above at the location described above subject to the terms and conditions contained in this Agreement.

AGREEMENT

Now, therefore, it is mutually agreed by and between Railroad and Contractor, as follows:

Section 1. General Conditions

A. For purposes of this Agreement, all references to Contractor shall include Contractor's contractors, subcontractors, officer, agents and employees, and others acting under its or their authority.

B. Railroad hereby grants to Contractor the right, during the term hereinafter stated and upon and subject to each and all of the terms, provisions and conditions herein contained, to enter upon and have ingress to and egress from the property described in the Recitals for the purpose of performing the Work. The right herein granted to Contractor is limited to those portions of Railroad's property specifically described in Exhibit A, and/or as designated by the Railroad representative named in Section 2. The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of Railroad to use and maintain its entire property including the right and power of Railroad to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, roadways, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its

property, all of any of which may be freely done at any time or times by Railroad without liability to Contractor or to any other party for compensation or damages. Upon award Contractor and TOWN shall inspect the work site in detail for any conflicts in utilities. Notification with pertinent details shall be made by Contractor to Railroad within fifteen (15) days of award. In good faith, Railroad will notify utility owners in the Work area to schedule relocation. Railroad is not responsible for any related cost or schedule delays.

C. Contractor shall bear any and all costs and expenses associated with any Work performed by Contractor, or any costs or expenses incurred by Railroad relating to this Agreement. All existing signal equipment which is removed by Contractor shall be salvaged and neatly stockpiled by Contractor at a location which is designated by the Railroad. Contractor shall take reasonable care not to damage salvaged equipment when it is being removed or transported. If salvaged equipment is damaged by Contractor, Contractor shall be responsible to Railroad for any loss, damage or destruction to such salvaged equipment.

D. Contractor shall complete the Work in accordance with A.R.E.M.A. recommendations, Federal Railroad Administration ("FRA") requirements and the most thorough workmanlike and substantial manner in every respect, within the terms and time frames specified in this Agreement, according to the plans and specifications contained in Exhibit B to this Agreement and to the written satisfaction and acceptance of Railroad and the TOWN.

E. Contractor, at its own expense, shall adequately police and supervise all Work to be performed by Contractor and shall ensure that such Work is performed in a safe manner as set forth in Section 7 herein. The responsibility of Contractor for safe conduct and adequate policing and supervision of Contractor's Work shall not be lessened or otherwise affected by Railroad's acceptance of plans and specifications involving the Work, or by Railroad's collaboration in performance of any Work, or by the presence at the work site of a Railroad Representative or by compliance by Contractor with any requests or recommendations made by Railroad Representative.

F. No changes shall be performed by Contractor to the plans and specifications contained in Exhibit B to this Agreement unless such changes have been approved in writing by Railroad Representative and the TOWN.

G. In the performance of the Work, Contractor and all of its subcontractors shall comply with all applicable federal, state and local government statutes, ordinances, orders, and regulations, including environmental laws, regulations, and ordinances.

H. Contractor shall not treat, store, or dispose of hazardous waste nor release any hazardous substances as the same are defined in applicable federal, state or local laws and regulations on or adjacent to Railroad's property.

I. No penalties, cost or additional expense resulting from Contractor's failure to comply with any of the requirements in Sections 1G and H shall be payable by Railroad.

J. Railroad and the TOWN may make periodic inspections of the Work to verify quality of materials, quality of workmanship, adherence to schedules, and to approve the Work. All Work is subject to final inspection and acceptance of the authorized representative of the Railroad and the TOWN.

K. In the event the Railroad Representative detects any defect(s) in the Work during any periodic inspection or final inspection, Railroad Representative shall notify the Town with explanation of the defect. Contractor will be given a maximum of thirty (30) days to correct any such defects from the time it is notified by Railroad Representative of such defects. All defects will be repaired to the Railroad Representative's satisfaction.

L. Contractor represents that it has, or will secure, at its sole cost and expense, all personnel required to perform the Work under this Agreement. Such personnel shall not be employees of Railroad or OmniTRAX, Inc. ("OmniTRAX"). Contractor, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be, officers or employees of Railroad or OmniTRAX by reason of this Agreement. Contractor agrees that it is as fully responsible to Railroad and OmniTRAX for the acts and omissions of its employees, subcontractors, and of persons either directly or indirectly employed by a subcontractor, as the Contractor is for the acts and omissions of persons directly employed by the Contractor. Nothing contained in the Agreement documents shall create any contractual relationship between any subcontractor and Railroad or OmniTRAX.

M. Housekeeping and Site Maintenance

- i. Throughout all phases of operations, including suspension of Work, and until final acceptance of the project, Contractor shall keep the work site clean and free from rubbish and debris.
- ii. Upon completion of the Work and before acceptance of the Work by the Railroad, Contractor shall at once remove all tools, equipment and materials, and shall thoroughly clean the work site and leave it with a neat, clean appearance to the satisfaction of Railroad.
- iii. If Contractor fails to clean up the work site area upon completion of the Crossing Improvements installation, Railroad may do so and the cost thereof shall be billed to the Contractor.
- iv. All lawns, plantings, trees, shrubbery and areas adjacent to the Crossing Improvements shall be protected against Contractor traffic, machinery, spillage and misuse, unless Contractor has an agreement with the owner of this property. If at any time during the progress of the Work any lawns, plantings, etc., are damaged or destroyed or any portion of the ground surfaces are damaged, rutted or destroyed, it shall be the Contractor's responsibility to replace and/or restore the damage at no additional expense to the Railroad or the owner of the property.

insurance, Railroad has the right to suspend Contractor's Work pending Contractor's compliance thereof.

Section 5. Rail Operations

Contractor warrants that the Work shall not interfere with nor degrade Railroad's safety or the continuous and uninterrupted use and operation of Railroad. The safe operation of Railroad train movements and other activities by Railroad take precedence over any work to be performed by Contractor. Operations of Railroad and work performed by Railroad personnel and delays in the Work to be performed by Contractor caused by such railroad operations and Work are expected by Contractor, and Contractor agrees that Railroad shall have no liability to Contractor, or any other person or entity for any such delays. If the Contractor shall prosecute the Project Work across or adjacent to the Railroad property contrary to the Plans, the provisions of Exhibit C, Exhibit F, or other guidelines or standards furnished to Town, or if the Contractor shall prosecute the installation of Crossing Improvements in a manner deemed hazardous by the Railroad to its personnel, property and facilities, or if the insurance prescribed in Exhibit C hereof shall be cancelled during progress of said work, the Railroad shall have the right to stop the installation of Crossing Improvements across or adjacent to Railroad property until the acts or omissions of such Contractor have been fully rectified to the satisfaction of the Railroad's System Engineer, or until additional insurance has been delivered to and accepted by the Railroad's Risk Management department. A work stoppage under this Section shall not give rise to or impose upon the Railroad any liability to the TOWN or any Contractor. In the event the Railroad shall stop the installation of Crossing Improvements, the Railroad shall give immediate notice thereof, in writing, to the TOWN in accordance with Article VI, paragraph 8.

Section 6. Insurance

Contractor shall purchase and maintain insurance as specified below covering the Work to be performed pursuant to this Agreement and all obligations assumed pursuant to it, from effective date of this Agreement until expiration or termination with insurance companies assigned a current Financial Strength Rating of at least A and Financial Size Category of X or better by A. M. Best Company or an equivalent rating agency approved by Railroad. Contractor shall require all subcontractors likewise to procure and maintain this same insurance unless they are covered by Contractor's insurance:

A. **Workers' Compensation Insurance** providing Workers' compensation benefits mandated under applicable state law and employer's liability insurance subject to minimum limits of not less than \$1,000,000 Bodily Injury by Accident, Each Accident; \$1,000,000 Bodily Injury by Disease, Policy Limit; \$1,000,000 Bodily Injury by Disease, Each Employee, and includes a waiver of subrogation in favor of Railroad and the other indemnified parties specified in Section 12.A. (collectively "Indemnified Parties").

B. **Commercial General Liability Insurance** subject to limit of \$1,000,000 each occurrence for bodily injury, property damage, personal injury and libel and/or slander with an annual aggregate limit of no less than \$2,000,000. Policy coverage is to be based on usual Insurance Services Office ("ISO") policy forms, or equivalent, to include, but not be limited to: Operations and Premises Liability, Completed Operations and Products Liability, Personal Injury Liability and Contractual Liability insurance. Any and all General Liability policies procured by Contractor shall be amended to delete any and all railroad exclusions including exclusions for working on or within fifty feet (50') of any railroad property, railroad track, railroad bridge, trestle or tunnel.

C. **Business Automobile Liability Insurance** subject to a minimum limit of \$1,000,000 each accident for bodily injury and property damage. Policy coverage shall be based on usual ISO policy forms referred to as Business Automobile Policy ("BAP") to cover motor vehicles owned, leased, rented, hired or used on behalf of Contractor.

D. **Umbrella Liability Insurance** subject to a limit of \$4,000,000 each occurrence for bodily injury, property damage, personal injury and libel and/or slander. Policy coverage is to be at least as broad as primary coverages and include, but not be limited to, Operations and Premises Liability, Completed Operations and Products Liability, Personal Injury Liability, and Contractual Liability insurance. Completed Operations coverage is to be maintained for a period of not less than three (3) years after the expiration or termination of this Agreement.

E. **Railroad Protective Liability Insurance.** Contractor must maintain Railroad Protective Liability ("RPL") insurance written on ISO occurrence form GC 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Railroad as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. The definition of "Job Location" and "Work" on the declaration page of the policy shall refer to this Agreement and shall describe all Work or Operations performed under this Agreement. Contractor shall provide this Agreement to Contractor's insurance agent or broker and Contractor shall instruct such agent and/or broker to procure the insurance coverage required by this Agreement. A binder of insurance stating the policy is in place must be submitted to Railroad before work may commence and until the original policy is forwarded to Railroad Representative.

The named insured shall read:

Great Western Railway of Colorado, LLC
252 Clayton Street, 4th Floor
Denver, Colorado 80206
Attn: Risk Management

F. All insurance required of Contractor with the exception of Workers' Compensation and Employers' Liability shall include Railroad, OmniTRAX, and any subsidiary, parent or affiliates of OmniTRAX and their owners, agents, representatives, members, managers, officers, directors, shareholders, and employees as additional

insured and include wording which states that the insurance shall be primary and not excess over or contributory with any insurance carried by Railroad, OmniTRAX and its or their affiliates.

G. All insurance shall provide a minimum of thirty (30) days advance written notice of insurer's intent to cancel or otherwise terminate policy coverage.

H. All policies shall be written on an occurrence basis. If Contractor cannot obtain an occurrence based policy for any required coverage, policies may be written on a claims made basis. If any policies providing the required coverage(s) are written on a claims-made basis, the following is applicable:

1. The retroactive date shall be prior to the commencement of the Work.
2. Contractor shall maintain such policies on a continuous basis.
3. If there is a change in insurance companies or the policies are canceled or not renewed, Contractor shall purchase an extended reporting period of not less than three (3) years after the Agreement expiration or termination date.

I. Contractor shall file with Railroad and its affiliates on or before the Effective Date of this Agreement a valid Certificate of Insurance for all required insurance policies. Each certificate shall identify the Railroad, OmniTRAX, its (or their) affiliates and other required parties as set forth above as additional insured, and state that Railroad and its affiliates will receive a minimum of thirty (30) days advance written notice of insurer's intent to cancel or otherwise terminate policy coverage. Prior to expiration of such insurance, Contractor shall supply updated Certificates of Insurance that clearly evidence the continuation of all coverage in the same manner, limits of protection, and scope of coverage, as was provided by the original Certificates and as required in this Section 6.

J. Contractor hereby waives all rights of subrogation against Railroad, OmniTRAX, its (or their) affiliates, and other required parties as set forth above for damages to the extent covered by insurance. All insurance policies of Contractor shall allow that any release from liability of or waiver of claim for recovery from any other party entered into in writing by Contractor prior to any loss or damage shall not affect the validity of said policy(ies) or the right of the insured or insureds to recover under them.

K. Contractor's or subcontractor's compliance with obtaining the above insurances shall in no way limit the "Liability and Indemnity" afforded to the Indemnified Parties specified in Section 12 below.

Section 7. Safety Program

A. Safety of personnel, property, rail operations, and the public is of paramount importance in the performance of the Work performed by Contractor. Contractor shall be responsible for initiating, maintaining, and supervising all safety operations and

programs in connection with the Work. Contractor shall have in place a safety program conforming to the requirements of federal, state and local laws, rules and regulations, including the FRA's Roadway Worker Protection regulations – 49 CFR 214, Subpart C – and Railroad's Roadway Worker and Bridge Worker Protection Program. All employees of Contractor or any subcontractors utilized by Contractor will be required to attend Railroad's Roadway Worker Safety and Safety Rules Class prior to their performing any duties related to the Work. Railroad will provide the class at no additional cost to Contractor. The cost of Contractor's personnel attending this class will be considered as incidental to the Work and no additional payments will be made to the Contractor.

B. The use of proper safety devices by all employees of Contractor and employees of any subcontractors utilized by Contractor shall be required and Contractor shall take reasonable actions to enforce the use of safety devices, including traffic control devices as may be required by the federal or state agencies. All employees of Contractor and employees of any subcontractors utilized by Contractor shall meet or exceed Railroad's personal protection equipment ("PPE") requirements.

C. Contractor shall develop and administer a drug and alcohol use and testing program that complies with 49 CFR Part 219. Contractor shall submit a copy of its program to Railroad and the TOWN and Contractor shall maintain and administer the program throughout the term of this Agreement.

D. Unless otherwise authorized by the Railroad Representative, all equipment must be parked a minimum of twenty-five (25) feet from any track. Before leaving any equipment unattended, the operator must stop the engine and properly secure the equipment against movement.

Section 8. Subsurface Installations

Notwithstanding anything to the contrary in this Agreement, Railroad may have previously granted permits to others for certain uses of its property and Contractor hereby acknowledges that absence of markers on Railroad property does not constitute a warranty by Railroad of no subsurface installations. Contractor accepts full responsibility for any and all damages, loss, claims, judgments and recoveries due to Contractor's operations on Railroad property involving subsurface installation.

Section 9. Recordkeeping

Contractor and each subcontractor shall maintain, for a period not less than five (5) years following the Work completion date, adequate books, records, and supporting documents to verify the amounts, recipients, and uses of all funds received from the TOWN for the Work.

Section 10. Warranty

Contractor warrants all material used and services performed for a period of three (3) year from acceptance. Notwithstanding the foregoing, if it is determined by Railroad Representative, in his sole judgment, that Contractor's Work was deficient or material used is deficient and needs to be replaced, then Contractor will correct the deficiencies and replace the material without charge to Railroad. Contractor shall warrant any replaced material for a period of one (1) year from the date of replacement.

Section 11. Flagging

A. Contractor agrees to notify Railroad Representative at least fourteen (14) days in advance of Contractor commencing its Work and at least thirty (30) days in advance of proposed performance of any Work by Contractor in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as but not limited to a crane boom) will reach to within twenty-five (25) feet of any track. Contractor shall provide a detailed schedule of Work to Railroad upon award and must maintain this schedule for the project duration. If the schedule of Work activities changes, the Contractor shall provide an updated schedule in advance of any change. No Work of any kind shall be performed, and no person, equipment, machinery, tool(s), materials(s), vehicles(s), or things(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any Railroad's track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such thirty (30) days' notice, the Railroad Representative will determine and inform Contractor whether a flagman need be present and whether Contractor needs to implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by Railroad, Railroad will bill Contractor for such expenses incurred by Railroad, unless Railroad and TOWN have agreed that Railroad is to bill such expenses to the TOWN. If Railroad will be sending the bills to Contractor, Contractor shall pay such bills within thirty (30) days of Contractor's receipt of billing. If Railroad performs any flagging or other special protective or safety measures, Contractor agrees that Contractor is not relieved of any of its responsibilities of liabilities set forth in this Agreement.

B. The rate of pay per hour of each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement, and unemployment compensation, supplemental pension, Employee's Liability and Property Damage and Administration will be included, computed on actual payroll. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized government agency.

C. Reimbursement to Railroad will be required covering the full eight hour day during which any flagman is furnished unless the flagman can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by the flagman following the flagman's assignment to work on the project for which Railroad is required to pay the flagman and which could not reasonably be avoided by Railroad by assignment of such flagman to other work, even though Contractor may not be working during such time. When it becomes necessary for Railroad to bulletin and assign an employee to a flagging position in compliance with collective bargaining agreements, Contractor must provide Railroad a minimum of five (5) days' written notice prior to the cessation of the need for a flagman. If five days' written notice of cessation is not given, Contractor will still be required to pay flagging charges for the five (5) day period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional thirty (30) days' written notice must then be given to Railroad if flagging services are needed again after such five day cessation notice has been given to Railroad.

Section 12. Liability and Indemnity

A. CONTRACTOR ASSUMES ALL RISK OF LOSS AND SHALL DEFEND, INDEMNIFY, AND HOLD RAILROAD, OMNITRAX, THEIR OWNERS, PARENT, MANAGEMENT AND AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, MEMBERS, MANAGERS, EMPLOYEES, AGENTS, SUCCESSORS, SHAREHOLDERS AND ASSIGNS ("INDEMNIFIED PARTIES") HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, INCLUDING, BUT NOT LIMITED TO, CLAIMS ARISING UNDER THE FEDERAL EMPLOYER'S LIABILITY ACT, LIABILITIES, DAMAGES, LOSSES, COSTS OR EXPENSES (TOGETHER WITH ALL LIABILITY FOR ANY EXPENSES, REASONABLE ATTORNEYS' FEES AND COSTS INCURRED OR SUSTAINED BY THE INDEMNIFIED PARTIES, WHETHER IN DEFENSE OF ANY SUCH CLAIMS, DEMANDS, ACTIONS AND CAUSES OF ACTION OR IN THE ENFORCEMENT OF THE INDEMNIFICATION RIGHTS HEREBY CONFERRED) FOR ALL INJURIES OR DEATH OR DAMAGE TO THIRD PARTIES OR EMPLOYEES OF EITHER PARTY AND DAMAGE TO THE PROPERTY OF ANY PARTY, TO THE EXTENT OCCASIONED BY ANY ACT OR OMISSION OF CONTRACTOR OR OF ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY CONTRACTOR OR ANY SUBCONTRACTOR AND RESULTING FROM OR ARISING OUT OF THE WORK PERFORMED OR TO BE PERFORMED PURSUANT TO THIS AGREEMENT, EXCEPT TO THE EXTENT PROXIMATELY CAUSED BY THE INTENTIONAL MISCONDUCT OR THE SOLE GROSS NEGLIGENCE OF THE PARTY SEEKING INDEMNIFICATION.

B. CONTRACTOR FURTHER AGREES TO ASSUME ALL RISK OF LOSS AND TO DEFEND, INDEMNIFY, AND HOLD HARMLESS THE INDEMNIFIED PARTIES FROM AND AGAINST ANY AND ALL CLAIMS, INCLUDING, BUT NOT LIMITED TO, CLAIMS ARISING UNDER THE FEDERAL EMPLOYER'S LIABILITY ACT, LIABILITIES, DAMAGES, LOSSES, COSTS OR EXPENSES (TOGETHER WITH ALL

LIABILITY FOR ANY EXPENSES, REASONABLE ATTORNEYS' FEES AND COSTS INCURRED OR SUSTAINED BY THE INDEMNIFIED PARTIES, WHETHER IN DEFENSE OF ANY SUCH CLAIMS, DEMANDS, ACTIONS AND CAUSES OF ACTION OR IN THE ENFORCEMENT OF THE INDEMNIFICATION RIGHTS HEREBY CONFERRED) FOR ALL INJURIES OR DEATH OR DAMAGE TO THIRD PARTIES OR EMPLOYEES OF EITHER PARTY AND DAMAGE TO THE PROPERTY OF ANY PARTY, TO THE EXTENT OCCASIONED BY SEEPAGE CAUSED BY CONTRACTOR, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY OR FOR CONTRACTOR OR ANY SUBCONTRACTOR WHICH CAUSE OR CREATE POLLUTION, CONTAMINATION OR ADVERSE EFFECTS ON THE ENVIRONMENT, DUE TO, BUT NOT LIMITED TO, THE DISPOSAL OF ANY MATERIAL OR SUBSTANCE, INCLUDING, BUT NOT LIMITED TO, BATTERIES, DISCHARGE, ESCAPE DISPERSAL, RELEASE OR SATURATION OR SMOKE, VAPORS, SOOT, FUMES, ACIDS, ALKALIS, TOXIC CHEMICALS, LIQUIDS, GASES, OR HAZARDOUS SUBSTANCES INTO THE ATMOSPHERE OR ON, ONTO OR INTO THE SURFACE OR SUBSURFACE SOIL. CONTRACTOR SHALL NOT BE LIABLE TO THE EXTENT THAT ANY SUCH LIABILITY, LOSS, DAMAGE, COST, OR EXPENSE IS PROXIMATELY CAUSED BY THE INTENTIONAL MISCONDUCT OR THE SOLE GROSS NEGLIGENCE OF THE PARTY SEEKING INDEMNIFICATION.

C. CONTRACTOR SHALL INDEMNIFY, HOLD HARMLESS, AND ASSUME THE COST OF DEFENSE OF THE INDEMNIFIED PARTIES FROM AND AGAINST ALL CLAIMS, ACTIONS OR LEGAL PROCEEDINGS ARISING FROM THE VIOLATION OR ALLEGED VIOLATION OF ANY LAWS, ORDINANCES, ORDERS OR REGULATIONS BY CONTRACTOR OR ANY OF ITS SUBCONTRACTORS.

Section 13. Contracts and Subcontracts

Contractor shall not be permitted to sublet, assign, sell, transfer or otherwise dispose of this Agreement or any part of it or its right, title or interest in it to any individual, firm or corporation without the prior written consent of Railroad. In the event that Railroad shall grant its written consent to such subletting, assignment, sale or transfer, then the subcontractor, assignee or purchaser shall be bound by, and shall be deemed to have assumed performance of this Agreement and Contractor shall not be released from its obligations.

Section 14. Confidentiality

Neither party shall, during the term of this Agreement, disclose any confidential information, the disclosure of which would be detrimental to the other party. Contractor may not, without written consent of Railroad, advertise in any manner the fact that Contractor is furnishing to Railroad the services conveyed by this Agreement.

Section 15. Liens

A. Contractor agrees that at no time shall it file or permit the filing of a lien or liens upon the Work, equipment or materials provided by Railroad or the property of Railroad. If, at any time, at the time of acceptance of this Agreement, during the progress of the Work, or thereafter, any indebtedness due a subcontractor of Contractor has become or may become a lien or liens upon said Work, equipment or materials or property of Railroad, Contractor shall immediately pay such claim or indebtedness or otherwise cause such lien to be dissolved and discharged by giving a bond or otherwise. In the case of its failure to do so, Railroad may withhold any money due Contractor until such claim or indebtedness is paid or may apply such money toward the discharge thereof, or assert and enforce a claim against Contractor for such claim or indebtedness or declare this Agreement to be cancelled, take possession and control of the Work and complete the same or cause the same to be completed in accordance with the terms and conditions of this Agreement.

B. From time to time during the performance of this Agreement, Contractor may be paying subcontractors furnishing labor, equipment, and materials in full. Concurrent with such payments, Contractor will obtain a general release of all claims against Railroad from each subcontractor and furnish such releases to Railroad. Contractor shall also give Railroad a general waiver of liens for any claims against Railroad relating to any equipment and materials supplied by a subcontractor.

C. After Railroad gives its final acceptance of all Work as provided in Sections 1J above Contractor shall execute and furnish to Railroad a Full Release and Final Waiver of Lien.

Section 16. Force Majeure

At Railroad's sole discretion, the time allowed for the performance of Work may be extended for delays caused by acts of God, acts of the public enemy, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather or other delays not caused by Contractor's fault or negligence.

Section 17. Right of Inspection

Railroad shall have the unlimited right to make any and all inspections and tests that Railroad, in its sole discretion, deems necessary to ascertain whether Contractor has fully and faithfully performed in accordance with this Agreement. Contractor will provide all support requested by Railroad to perform these inspections and tests.

Section 18. Governing Law

This Agreement shall be governed and construed in accordance with the laws of the State of Colorado, without regard to any conflicts of law provisions of any jurisdiction.

Section 19. Use of Documents

All documents generated by Contractor pursuant to this Agreement are not intended or represented to be suitable for reuse by Railroad or others for any other project or purposes than that for which the same were created.

Section 20. Miscellaneous

A. This Agreement constitutes the entire agreement between the parties respecting the subject matter of it and merges and replaces all prior negotiations, discussions, representations, warranties, offers, promises, and agreements respecting such subject matter.

B. This Agreement may be amended only by a written instrument signed by both parties.

C. No waiver by either party or failure of either party to insist upon full and complete performance by the other party of any of its obligations under this Agreement shall constitute or effect a waiver or release of such party's right to insist on full and complete performance of such obligation in the future.

D. Any legal action against Railroad must begin within thirty (30) days after the cause of action arises.

E. If any party to this Agreement shall institute a legal action or proceeding to interpret or enforce this Agreement, or to obtain damages for breach of this Agreement, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees, including such fees and costs for enforcement of any judgment.

Section 21. Notices

Any notice or other communication required or permitted by this Agreement shall be in writing and delivered by first class mail, postage prepaid, or sent by facsimile as follows:

If to Contractor:
Attn: _____

Phone: _____
Fax: _____

If to Railroad:
Attn: General Counsel
Great Western Railway of Colorado, LLC
252 Clayton Street, 4th Floor
Denver, Colorado 80206
Phone: (303) 398-4500
Fax: (303) 398-4540

IN WITNESS WHEREOF, the parties, intending to be legally bound, have executed this Agreement as of the date shown above.

GREAT WESTERN RAILWAY OF COLORADO,

LLC

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT "D"

TOWN

Right of Entry Agreement

DRAFT

Exhibit D

TOWN Right of Entry Agreement

This Agreement ("Agreement") is entered into this _____ day of _____, 2015 by and between by and between the **Town of Windsor**, a Municipal Corporation ("TOWN") and **GREAT WESTERN RAILWAY OF COLORADO, LLC** ("Railroad").

RECITALS

The TOWN, with the participation of the Railroad, has hired its Contractors to perform work relating to crossing improvements at up to thirteen (13) at-grade railroad crossings in the TOWN (the "Work") with all or a portion of the Work to be performed on property of Railroad on Railroad's Greeley and Longmont Subdivisions, between Mileposts 85.06 to 87.37 and Mileposts 28.04 to 30.5, respectively as shown on Exhibit A, Railroad Location print, and as detailed on the Plans marked Exhibit B, which is part of that certain Quiet Zones Improvements Installation Agreement dated June _____, 2015, between Railroad and the TOWN.

Railroad is willing to permit TOWN and its employees and invitees to enter onto Railroad property to inspect the Work performed by the TOWN's Contractors at the location described above subject to the terms and conditions contained in this Agreement.

AGREEMENT

Now, therefore, it is mutually agreed by and between Railroad and TOWN, as follows:

Section 1. General Conditions

A. For purposes of this Agreement, all references to TOWN shall include TOWN's officers, employees and invitees, and others acting under its or their authority.

B. Railroad hereby grants to TOWN the right, during the term hereinafter stated and upon and subject to each and all of the terms, provisions and conditions herein contained, to enter upon and have ingress to and egress from the property described in the Recitals for the purpose of inspecting the Work. The right herein granted to TOWN is limited to those portions of Railroad's property specifically described herein, and/or as designated by the Railroad representative named in Section 2. The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of Railroad to use and maintain its entire property including the right and power of Railroad to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, roadways, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all of any of which

may be freely done at any time or times by Railroad without liability to TOWN or to any other party for compensation or damages.

Section 2. Railroad Representative

TOWN shall coordinate all entry onto Railroad property to inspect the Work with the following Railroad representative or his duly authorized representative (the "Railroad Representative"):

Zachary Vallos
System Engineer
Construction Maintenance
Great Western Railway of Colorado, LLC
252 Clayton Street
Denver, CO 80206
zvallos@omnitrax.com
(303) 398-0310

Section 3. Term

The grant of right herein made to TOWN shall commence on the date set forth above (the "Effective Date") and shall remain in effect through and including , unless sooner terminated as herein provided or at such time as TOWN has completed its Work on Railroad's property, whichever is earlier. TOWN agrees to notify Railroad's Representative in writing when it has completed its Work on Railroad's property.

Section 4. Termination

This Agreement may be terminated by either party upon giving not less than ten (10) days written notice to the other party in the event of a default or breach of any of the terms of this grant and the breaching or defaulting party's failure to cure within thirty (30) days of receipt of written notice of same. In the event of failure to maintain the proper insurance, Railroad has the right to suspend TOWN's Work pending TOWN's compliance thereof.

Section 5. Rail Operations

TOWN warrants that inspection of the Work shall not interfere with nor degrade Railroad's safety or the continuous and uninterrupted use and operation of Railroad. The safe operation of Railroad train movements and other activities by Railroad take precedence over any Work to be performed by the TOWN or its Contractors. Operations of Railroad and work performed by Railroad personnel and delays in the Work to be performed by TOWN or its Contractors caused by such railroad operations and Work are expected by TOWN, and TOWN agrees that Railroad shall have no

liability to TOWN, or any other person or entity for any such delays. If Railroad determines the Work is interfering with Railroad operations or degrading railroad safety, Railroad shall notify TOWN and TOWN will cease the Work until such time as Railroad notifies TOWN to resume the Work.

Section 6. Insurance

TOWN shall purchase and maintain insurance as specified below covering the Work, all inspection work and services to be performed hereunder, and all obligations assumed hereunder, from effective date of this Agreement until termination, unless duration is stated to be otherwise, through the Colorado Intergovernmental Insurance Agency (CIRSA):

A. Workers Compensation and Employers Liability Insurance providing statutory workers compensation benefits mandated under applicable state law and employers' liability insurance subject to a minimum limit of \$1,000,000 each accident for bodily injury by accident, \$1,000,000 each employee for bodily injury by disease and \$1,000,000 policy limit for bodily injury by disease.

B. Commercial General Liability Insurance written on a claims-made basis subject to a limit \$5,000,000 per occurrence and in the aggregate for bodily injury, property damage, personal injury and libel and/or slander with an annual aggregate limit of no less than \$2,000,000. Policy is to include, but not be limited to, coverage for: Operations and Premises Liability, Completed Operations and Products Liability, Personal Injury Liability and Contractual Liability insurance. Any and all General Liability policies procured by Licensee shall be amended to delete any and all railroad exclusions including exclusions for working on or within fifty feet (50') of any railroad property, railroad track, railroad bridge, trestle or tunnel (Railroad Protective Liability Insurance may be substituted for Commercial General Liability Insurance as long as the equivalent coverage is provided).

C. Business Automobile Liability Insurance subject to a minimum limit of \$1,000,000 each accident for bodily injury and property damage. Policy coverage shall be written on a claims-made basis to cover motor vehicles owned, leased, rented, hired or used on behalf of Licensee.

D. All insurance required of TOWN with the exception of Workers Compensation and Employers Liability shall include Railroad and any subsidiary, management company, parent, owners and affiliates of Railroad, and their respective partners, successors, assigns, legal representatives, officers, directors, members, managers, shareholders, employees, agents, contractors and any third party railroad permitted by Railroad to use Railroad's facilities as additional insured and shall be primary and not excess over or contributory with any insurance carried by Railroad and its affiliates. All insurance required of TOWN with the exception of Workers Compensation and Employers Liability shall be maintained for a period of two (2) years following the conclusion of any TOWN work performed hereunder.

E. TOWN shall provide Railroad no less than 30 days' prior written notice of insurer's intent to cancel or otherwise terminate policy coverage (except not less than 10 days prior written notice for cancellation due to nonpayment of premiums).

F. TOWN shall file with Railroad and its affiliates on or before the effective date of this Agreement a valid Certificate of Insurance for all required insurance policies. Each certificate shall identify Railroad, its affiliates and other required parties as set forth above as additional insured and state that the insurer will give Railroad a minimum of thirty (30) days' advance written notice of insurer's intent to cancel or otherwise terminate policy coverage (except not less than 10 days prior written notice for cancellation due to nonpayment of premiums). Prior to expiration of such insurance, TOWN shall supply updated Certificates of Insurance that clearly evidence the continuation of all coverage in the same manner, limits of protection, and scope of coverage, as was provided by the original Certificates.

G. TOWN hereby waives all rights of subrogation against Railroad, OmniTRAX its affiliates and other required parties as set forth above for damages to the extent covered by insurance. All insurance policies of TOWN shall allow that any release from liability of or waiver of claim for recovery from any other party entered into in writing by TOWN prior to any loss or damage shall not affect the validity of said policy(ies) or the right of the insured or insureds to recover under them.

The named insured shall read:

Great Western Railway of Colorado, LLC
252 Clayton Street, 4th Floor
Denver, Colorado 80206
Attn: Risk Management

H. All insurance required of TOWN with the exception of Workers' Compensation and Employers' Liability shall include Railroad, OmniTRAX, and any subsidiary, parent or affiliates of OmniTRAX and their owners, agents, representatives, members, managers, officers, directors, shareholders, and employees as additional insured and include wording which states that the insurance shall be primary and not excess over or contributory with any insurance carried by Railroad, OmniTRAX and its or their affiliates.

I. All policies shall be written on an occurrence basis. If TOWN cannot obtain an occurrence based policy for any required coverage, policies may be written on a claims made basis. If any policies providing the required coverage(s) are written on a claims-made basis, the following is applicable:

1. The retroactive date shall be prior to the commencement of the Work.
2. TOWN shall maintain such policies on a continuous basis.

3. If there is a change in insurance companies or the policies are canceled or not renewed, TOWN shall purchase an extended reporting period of not less than three (3) years after the Agreement expiration or termination date.

J. TOWN shall file with Railroad and its affiliates on or before the Effective Date of this Agreement a valid Certificate of Insurance for all required insurance policies. Each certificate shall identify the Railroad, OmniTRAX, its (or their) affiliates and other required parties as set forth above as additional insured, and state that Railroad and its affiliates will receive a minimum of thirty (30) days advance written notice of insurer's intent to cancel or otherwise terminate policy coverage. Prior to expiration of such insurance, TOWN shall supply updated Certificates of Insurance that clearly evidence the continuation of all coverage in the same manner, limits of protection, and scope of coverage, as was provided by the original Certificates and as required in this Section 6.

K. TOWN's or subcontractor's compliance with obtaining the above insurances shall in no way limit the "Liability and Indemnity" afforded to the Indemnified Parties specified in Section 12 below.

Section 7. Liability and Indemnity

A. EXCEPT TO THE EXTENT LIMITED BY COLORADO LAW, AND SUBJECT TO APPROPRIATION, TOWN ASSUMES ALL RISK OF LOSS AND SHALL DEFEND, INDEMNIFY, AND HOLD RAILROAD, OMNITRAX, THEIR OWNERS, PARENT, MANAGEMENT AND AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, MEMBERS, MANAGERS, EMPLOYEES, AGENTS, SUCCESSORS, SHAREHOLDERS AND ASSIGNS ("INDEMNIFIED PARTIES") HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, INCLUDING, BUT NOT LIMITED TO, CLAIMS ARISING UNDER THE FEDERAL EMPLOYER'S LIABILITY ACT, LIABILITIES, DAMAGES, LOSSES, COSTS OR EXPENSES (TOGETHER WITH ALL LIABILITY FOR ANY EXPENSES, REASONABLE ATTORNEYS' FEES AND COSTS INCURRED OR SUSTAINED BY THE INDEMNIFIED PARTIES, WHETHER IN DEFENSE OF ANY SUCH CLAIMS, DEMANDS, ACTIONS AND CAUSES OF ACTION OR IN THE ENFORCEMENT OF THE INDEMNIFICATION RIGHTS HEREBY CONFERRED) FOR ALL INJURIES OR DEATH OR DAMAGE TO THIRD PARTIES OR EMPLOYEES OF EITHER PARTY AND DAMAGE TO THE PROPERTY OF ANY PARTY, TO THE EXTENT RESULTING FROM OR ARISING OUT OF THE TOWN'S ACTIVITIES AND/OR PRESENCE ON RAILROAD PROPERTY, EXCEPT TO THE EXTENT PROXIMATELY CAUSED BY THE INTENTIONAL MISCONDUCT OR THE SOLE GROSS NEGLIGENCE OF THE PARTY SEEKING INDEMNIFICATION.

B. EXCEPT TO THE EXTENT LIMITED BY COLORADO LAW, AND SUBJECT TO APPROPRIATION, TOWN FURTHER AGREES TO ASSUME ALL RISK OF LOSS AND TO DEFEND, INDEMNIFY, AND HOLD HARMLESS THE INDEMNIFIED PARTIES FROM AND AGAINST ANY AND ALL CLAIMS, INCLUDING, BUT NOT LIMITED TO, CLAIMS ARISING UNDER THE FEDERAL EMPLOYER'S LIABILITY ACT, LIABILITIES, DAMAGES, LOSSES, COSTS OR EXPENSES (TOGETHER WITH ALL LIABILITY FOR ANY EXPENSES, REASONABLE ATTORNEYS' FEES AND

COSTS INCURRED OR SUSTAINED BY THE INDEMNIFIED PARTIES, WHETHER IN DEFENSE OF ANY SUCH CLAIMS, DEMANDS, ACTIONS AND CAUSES OF ACTION OR IN THE ENFORCEMENT OF THE INDEMNIFICATION RIGHTS HEREBY CONFERRED) FOR ALL INJURIES OR DEATH OR DAMAGE TO THIRD PARTIES OR EMPLOYEES OF EITHER PARTY AND DAMAGE TO THE PROPERTY OF ANY PARTY, TO THE EXTENT OCCASIONED BY THE TOWN'S ACTIVITIES AND/OR PRESENCE ON RAILROAD PROPERTY, EXCEPT TO THE EXTENT PROXIMATELY CAUSED BY THE INTENTIONAL MISCONDUCT OR THE SOLE GROSS NEGLIGENCE OF THE PARTY SEEKING INDEMNIFICATION.

C. TOWN AGREES TO FOLLOW THE GENERAL, SAFETY, OPERATING RULES AND INSTRUCTIONS OF RAILROAD AND ITS AUTHORIZED REPRESENTATIVES (COLLECTIVELY, "SAFETY & OPERATING RULES") AND THAT ITS CONDUCT WHILE IN, ON OR ABOUT THE RAILROAD PROPERTY WILL NOT CONFLICT WITH SUCH SAFETY & OPERATING RULES AS THOSE APPLY TO THE TOWN'S ACTIVITIES. TOWN FURTHER AGREES THAT RAILROAD, AT ITS SOLE DISCRETION, RESERVES THE RIGHT TO IMMEDIATELY REMOVE AND BAR ANY PERSON FROM RAILROAD PROPERTY, WHO, AFTER NOTICE OF UNSAFE OR OTHER IMPERMISSIBLE BEHAVIOR, CONTINUES TO BEHAVE IN AN UNSAFE MANNER THAT IS PROHIBITED BY THE SAFETY & OPERATING RULES.

D. TOWN AGREES NOT TO MAKE ANY CLAIM OR TAKE ANY PROCEEDINGS AGAINST ANY OTHER PERSON WHO MIGHT CLAIM CONTRIBUTION OR INDEMNITY FROM RAILROAD IN RESPECT OF THE MATTERS RELEASED PURSUANT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT.

Section 8. Contracts and Subcontracts

TOWN shall not be permitted to sublet, assign, sell, transfer or otherwise dispose of this Agreement or any part of it or its right, title or interest in it to any individual, firm or corporation without the prior written consent of Railroad. In the event that Railroad shall grant its written consent to such subletting, assignment, sale or transfer, then the subcontractor, assignee or purchaser shall be bound by, and shall be deemed to have assumed performance of this Agreement and TOWN shall not be released from its obligations.

Section 9. Confidentiality

Neither party shall, during the term of this Agreement, disclose any confidential information, the disclosure of which would be detrimental to the other party.

Section 10. Governing Law

This Agreement shall be governed and construed in accordance with the laws of the State of Colorado, without regard to any conflicts of law provisions of any jurisdiction.

Section 11. Notices

Any notice or other communication required or permitted by this Agreement shall be in writing and delivered by first class mail, postage prepaid, or sent by facsimile as follows:

If to TOWN:

Town Manager
Town of Windsor, Colorado
301 Walnut Street
Windsor, CO 80550
Phone: (970) 674-2400
Fax: (970) 674-2456

If to Railroad:

Attn: General Counsel
Great Western Railway of Colorado, LLC
252 Clayton Street, 4th Floor
Denver, Colorado 80206
Phone: (303) 398-4500
Fax: (303) 398-4540

IN WITNESS WHEREOF, the parties, intending to be legally bound, have executed this Agreement as of the date shown above.

GREAT WESTERN RAILWAY OF COLORADO, LLC

By: _____

Name: _____

Title: _____

TOWN OF WINDSOR,
a Colorado Municipal Corporation

By: _____

Kelly E. Arnold, Town Manager

ATTEST:

By: _____

Patti Garcia, Town Clerk

EXHIBIT "E"

GWR'S estimate of services

DRAFT

EXHIBIT “F”

GWR’s Standard Signal Specifications

DRAFT

TOWN OF WINDSOR, COLORADO

RESOLUTION NO. 2015 - 41

A RESOLUTION APPROVING THE QUIET ZONES IMPROVEMENTS INSTALLATION AGREEMENT BETWEEN GREAT WESTERN RAILWAY OF COLORADO, LLC AND THE TOWN OF WINDSOR, COLORADO

WHEREAS, the Town of Windsor (“Town”) is a Colorado home rule municipality with all powers and authority vested by Colorado law; and

WHEREAS, in 2012, at the urging of the Great Western Railway of Colorado (“GWR”), the Town presented an application for Transportation Investment Generating Economic Recovery (“TIGER”) grant funds, which included a request for funding of Quiet Zones upgrades to 13 highway-rail crossings; and

WHEREAS, the United States Department of Transportation approved the Quiet Zones portion of the grant application, and the funding has been made available; and

WHEREAS, the Quiet Zones upgrades will improve the safety of the GWRR rail system, the quality of life and peaceful enjoyment of the citizens of the Town; and

WHEREAS, in order to complete the Quiet Zones upgrades, the Colorado Public Utilities Commission (PUC) must approve the project, which approval requires that the Town and GWR have a written agreement for the installation of these improvements before construction may begin; and

WHEREAS, pursuant to the requirements of the PUC, the Town and GWRR have negotiated the terms of the attached Quiet Zones Improvements Installation Agreement (“Agreement”), which terms are incorporated herein by this reference as if set forth fully; and

WHEREAS, certain financial terms remain open to negotiation, and shall be subject to approval of the Town Manager, the authority for which is vested in him pursuant to the Town’s Charter; and

WHEREAS, the Town Board believes that the form of the attached Agreements and its exhibits is fair and reasonable, and promote the health, safety and welfare of the public.

NOW, THEREFORE, be it resolved by the Town Board for the Town of Windsor, Colorado, as follows:

1. The attached Quiet Zones Improvements Installation Agreement, together with its incorporated Exhibits, is hereby approved as to form by the Town Board.

2. The Mayor is authorized to execute the said Agreement on behalf of the Town at such time as all remaining financial negotiations have been concluded to the satisfaction of the Town Manager and Town Attorney.
3. The Town Attorney is authorized to make modifications to the form of the Agreement as may be necessary to protect the Town's interests.

Upon motion duly made, seconded and carried, the foregoing Resolution was adopted this 22nd day of June, 2015.

TOWN OF WINDSOR, COLORADO

By: _____
John S. Vazquez, Mayor

ATTEST:

Patti Garcia, Town Clerk



2015 MONTHLY FINANCIAL REPORT

Special points of interest:

- CRC expansion sales tax collections surpass budget requirement for the fourth consecutive month.
- Single Family Residential (SFR) building permits total 125 through May 2015. This is up from the May 2014 number of 104.
- 32 business licenses were issued in May, of which 18 were sales tax vendors.



Highlights and Comments

- * A record high gross sales tax collection for the single month of May at \$545,980.
- * May 2015 year-to-date gross sales tax increased 2.04% from May 2014.
- * Construction use tax through May is at 39.8% of the annual budget at \$748,731.



Summer is the time for Construction

These are only a few of the projects in different stages of development throughout Windsor. There is new building planning and construction in all areas of Windsor. The New Charter High School is nearing completion as well as the Aims Public Safety Institute in the Industrial Park, while the East Pointe Neighborhood Center at the south-east intersection of Highways 257 and 392 is in concept stage at this time. Then in the central corridor, Columbine Health is expanding into patio homes. New growth brings with it new revenue to Windsor in the form of property taxes, and sales tax and use taxes.

Inside this issue:

Sales, Use and Property Tax	2
Year-to-Date Sales Tax	4
All Fund Expenditures	5
General Fund Expenditures	6
Capital Project Status	7

Items of Interest

- Work continues on the planning of the CRC expansion. Bonds to pay for the project were sold on June 16. May marks the fourth month of collections of the .75% sales and use tax increase approved on the November 2014 ballot.
- Visit us at www.windsorgov.com and look for live streaming of Town Board and Planning Commission meetings.

Sales, Use and Property Tax Update

May 2015

Benchmark =42%	Sales Tax	Construction Use Tax	Property Tax	Combined
Budget 2015	\$7,142,651	\$1,881,336	\$4,200,440	\$13,224,427
Actual 2015	\$3,498,102	\$748,731	\$2,508,921	\$6,755,754
% of Budget	48.97%	39.80%	59.73%	51.09%
Actual Through May 2014	\$3,428,002	\$616,233	\$2,515,584	\$6,559,819
Change From Prior Year	2.04%	21.50%	-0.26%	2.99%
CRC Expansion Budget 2015	\$1,406,250	\$282,565		\$1,688,815
CRC Expansion Actual 2015	\$560,785	\$114,224		\$675,009
CRC Expansion % of Budget	39.88%	40.42%		39.97%

Ideally at the end of the fifth month of the year you want to see 42% collection rate on your annual budget number. We have exceeded that benchmark in two of three tax categories.

At this point last year we had collected \$2,515,584 in property taxes, or 60.67% of the annual budget. This year through May we have collected 59.73% of the annual budget.

Building Permit Chart

May 2015

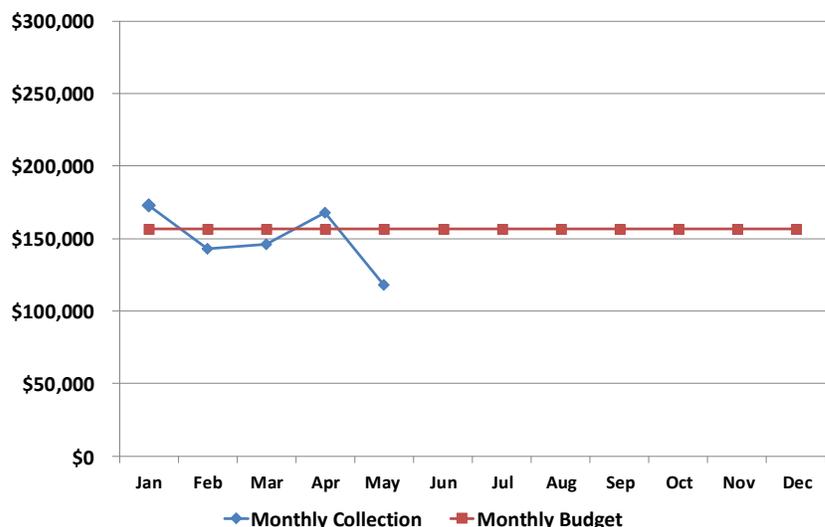
	SFR	Commercial	Industrial	Total
Through May 2015	125	2	1	128
Through May 2014	104	3	0	107
% change from prior year				19.63%
2015 Budget Permit Total				279
% of 2015 Budget				45.88%

Building Permits and Construction Use Tax

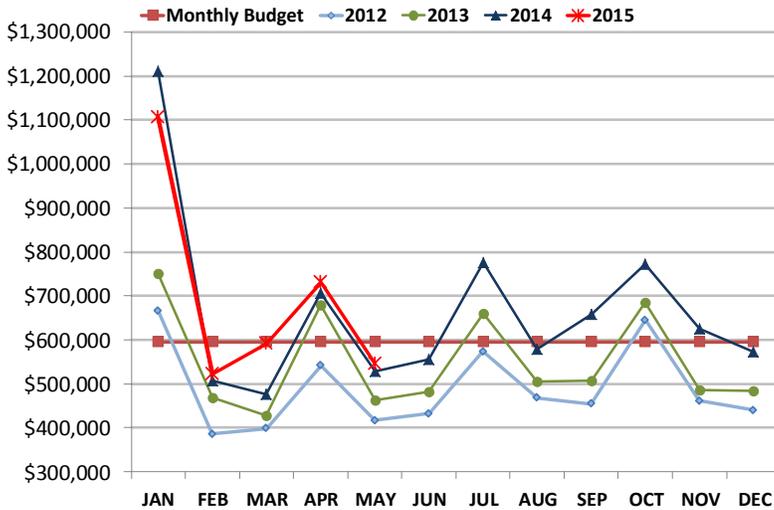
We are showing a 19.63% increase in number of permits as compared to May 2014. We issued 125 SFR permits through May 2015 as compared to 104 through May of 2014.

May 2015 construction use tax is below our required monthly collection for the third month out of five.

Construction Use Tax Collections - 3.2%



Sales Tax Collections in Dollars - 3.2%

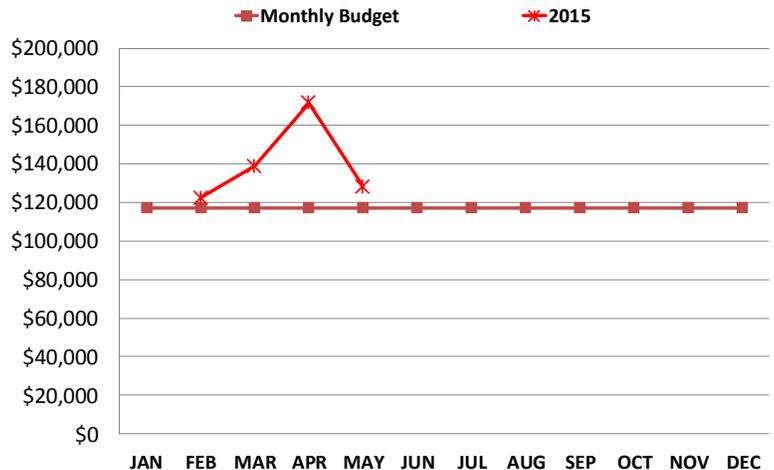


Gross sales tax collections for the month of May 2015 were approximately \$17,687 or 3.35% higher than May 2014.

May 2015 year to date collections increased 2.04% from May 2014 year to date collections.

CRC Expansion sales tax collections for May 2015 was \$128,069. The required monthly collection to meet the budgeted projections is \$117,188.

Community Recreation Center Expansion Sales Tax



May Highlights

May is a “single collection” month, meaning that the collections are for sales made in April. It is important that the first quarterly collection month produce a strong number going into the summer. May collections increased over the 2014 number as well as surpassing the monthly collection target.

Looking Forward

3.2% Collections

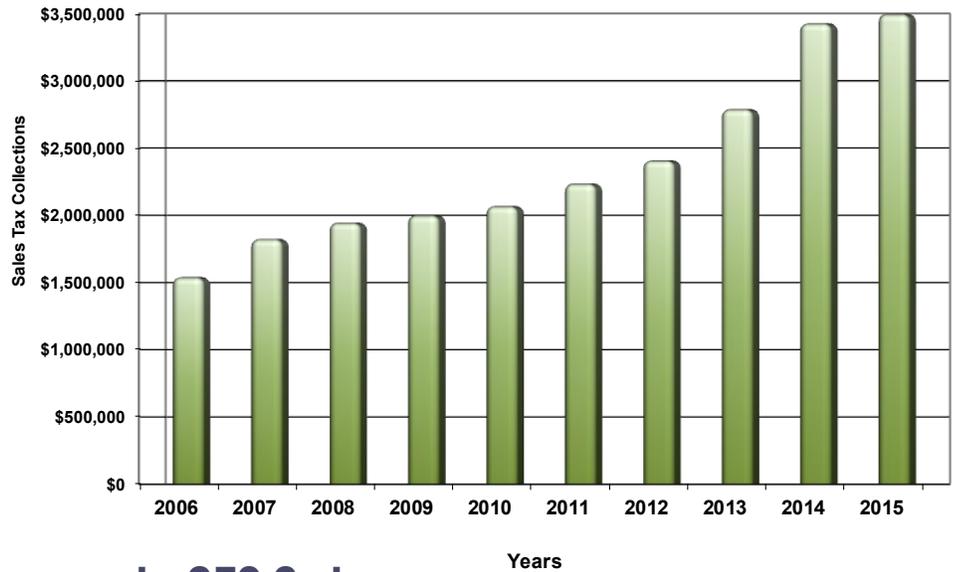
The Town budgeted \$7.1M in sales tax for 2015, making our average monthly collection requirement \$595,221. May collections were below this mark at \$545,980. It was however higher than the collections in May of 2014. If we keep the pace through the rest of the year we should collect over \$8M in this portion of our sales tax.

.75% Collections

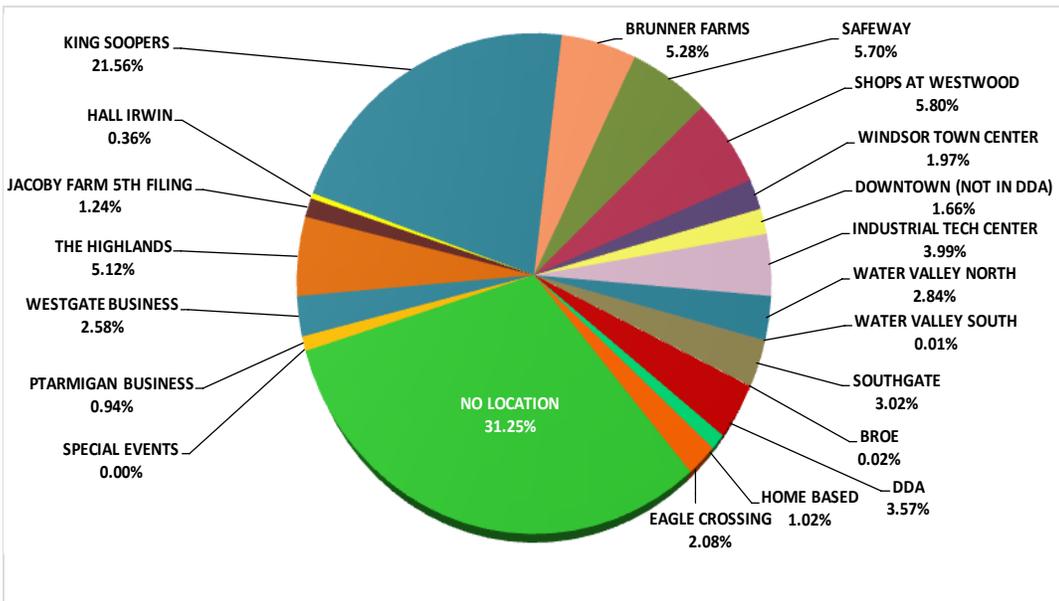
Collections for April sales were made in May. This was the fourth month of collections for the new sales tax rate. Our monthly budget requirement is \$117,188. We collected \$128,069. Our first four months of this collection exceeded our monthly budget projection requirement. This pace should put us ahead of our annual projection of \$1,406,256.

Through May we have collected \$3.5M in our 3.2% sales tax. CRC Expansion new tax is an additional \$560,785.

Year-to-Date Sales Tax Collections -3.2% Through May 2006-2015



Sales Tax Revenue by GEO Code MAY 2015



The King Soopers Center remains the largest local driving force in sales tax collections.

Year-to-Date Sales Tax

Our sales tax base has not changed a great deal over the past decade, with groceries and utilities leading our industry sectors in sales tax collection. Some of this increase can be attributed to an overall increase in prices and cost of living, estimated at 2.8% for the first half of 2015 in the Denver/Boulder/Greeley area.

- Restaurants, groceries, general merchandise, utilities and entertainment all increased collections over May 2014.
- It appears that despite the opening of a Costco in a neighboring community, our grocery store sales tax collection numbers have not been adversely affected.

All Funds Expense Chart

May 2015

Benchmark = 42%

Operations expenditures are at 34% of the annual budget. Purchase of replacement vehicles in the Fleet Fund drove the internal service funds mark slightly above the 42% benchmark.

<u>General Government</u>	<u>Current Month</u>	<u>YTD Actual</u>	<u>2015 Budget</u>	<u>% of Budget</u>
General Fund	\$1,034,117	\$5,621,755	\$14,023,349	40%
Special Revenue	\$87,956	\$202,216	\$3,059,443	7%
Internal Service	\$143,573	\$1,294,460	\$2,864,572	45%
Other Entities (WBA, Ec Dev Inc)	\$12,090	\$60,450	\$145,080	42%
Sub Total Gen Govt Operations	\$1,277,736	\$7,178,881	\$20,092,444	36%
<u>Enterprise Funds</u>				
Water-Operations	\$257,401	\$1,106,938	\$3,900,156	28%
Sewer-Operations	\$91,416	\$563,166	\$1,725,992	33%
Drainage-Operations	\$36,750	\$158,728	\$436,551	36%
Sub Total Enterprise Operations	\$385,567	\$1,828,832	\$6,062,699	30%
Operations Total	\$1,663,303	\$9,007,713	\$26,155,143	34%

plus transfers to CIF and Non-Potable for loan

Through May, operating and capital expenditures combined to equal 24% of the 2015 Budget.

<u>General Govt Capital</u>	<u>Current Month</u>	<u>YTD Actual</u>	<u>2015 Budget</u>	<u>% of Budget</u>
Capital Improvement Fund	\$652,416	\$1,630,771	\$8,250,711	20%
CRC Expansion Fund	\$195,584	\$536,690	\$9,485,594	6%
<u>Enterprise Fund Capital</u>				
Water	\$150,245	\$921,363	\$4,129,854	22%
Sewer	\$82,448	\$395,673	\$1,029,630	38%
Drainage	\$2,180	\$198,049	\$3,868,144	5%
Sub Total Enterprise Capital	\$234,873	\$1,515,085	\$9,027,628	17%
Capital Total	\$1,082,873	\$3,682,546	\$26,763,933	14%
Total Budget	\$2,746,176	\$12,690,259	\$52,919,076	24%

All Funds Expenditures

The Town is where it should be at this time of year regarding expenditures. The operations spending should pick up in the months to come as we move into the summer. Work on CIP projects will also get started, though the payments will not be until later in the year.

Construction on the CRC Expansion will begin later this summer and increase the pace of capital spending.

General Fund Expense Chart

Department		Current Month	YTD Actual	2015 Budget	% of Budget
410	Town Clerk/Customer Service	\$46,645	\$244,021	\$639,239	38.2%
411	Mayor & Board	\$36,089	\$247,527	\$566,827	43.7%
412	Municipal Court	\$0	\$6,385	\$19,623	32.5%
413	Town Manager	\$30,950	\$170,012	\$411,099	41.4%
415	Finance	\$77,416	\$290,037	\$625,213	46.4%
416	Human Resources	\$25,907	\$134,398	\$401,269	33.5%
418	Legal Services	\$28,265	\$131,894	\$339,035	38.9%
419	Planning & Zoning	\$38,785	\$242,613	\$701,911	34.6%
420	Economic Development	\$28,321	\$197,593	\$408,075	48.4%
421	Police	\$242,992	\$1,449,071	\$3,122,689	46.4%
428	Recycling	\$2,604	\$12,594	\$49,970	25.2%
429	Streets	\$73,600	\$396,138	\$1,201,242	33.0%
430	Public Works	\$23,096	\$174,066	\$520,968	33.4%
431	Engineering	\$57,751	\$310,193	\$743,073	41.7%
432	Cemetery	\$6,892	\$41,044	\$128,885	31.8%
433	Community Events	\$6,219	\$38,485	\$214,698	17.9%
450	Forestry	\$20,350	\$121,495	\$322,947	37.6%
451	Recreation Programs	\$143,688	\$656,345	\$1,622,163	40.5%
452	Pool/Aquatics	\$5,725	\$29,746	\$189,558	15.7%
454	Parks	\$101,276	\$521,095	\$1,264,939	41.2%
455	Safety/Loss Control	\$86	\$982	\$16,760	5.9%
456	Art & Heritage	\$18,769	\$103,259	\$270,563	38.2%
457	Town Hall	\$18,691	\$102,762	\$242,603	42.4%
Total General Fund Operations		\$1,034,117	\$5,621,755	\$14,023,349	40.1%

General Fund Expenditures

General Fund operating expenditures are slightly below right at the 42% of budget benchmark through May.

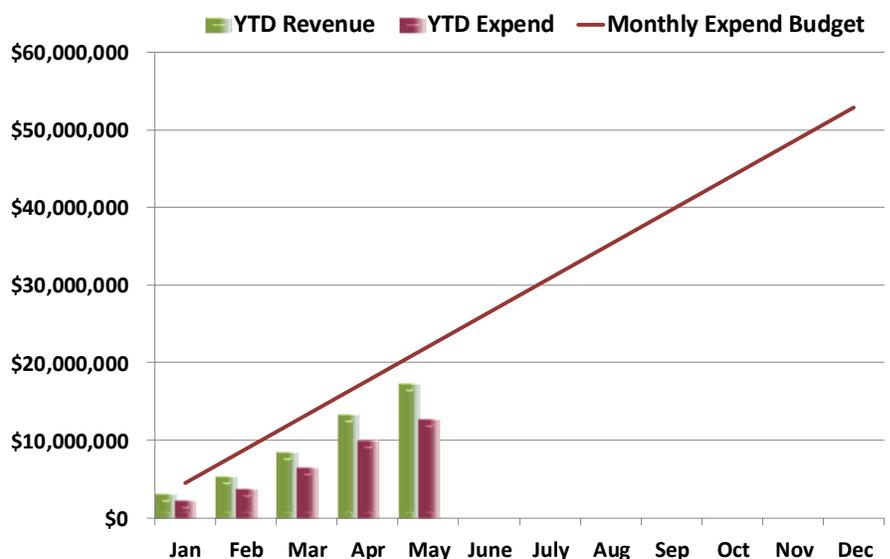
Revenue and Expenditure

The chart on the right shows monthly revenue compared to monthly expenditure as well as a trend line showing the total 2015 budget expended equally over twelve months.

Our monthly budgeted total expenditures equal \$4,409,923. In May we collected \$3,900,537 in total revenue. The chart on the right reflects our actual results through May.

May YTD total revenue exceeded total expenditures by roughly \$4.6M.

Combined Revenue and Expenditures





As of JUNE 1, 2015

TOWN OF WINDSOR 2015 MAJOR CAPITAL PROJECT STATUS
arranged by reporting department

2015 Projects	2015 Budget	Spent YTD	Dept.	Multi-Yr	Est. Start Process	Actual Start	% Complete	Est. Complete	Actual Complete
PW/Parks Maintenance Facility Design	\$330,000	\$0	T Mng	2014-2017	Aug 1		2%	Dec 31	
GW Railroad Quiet Zone w/grant	\$3,158,305	\$62,679	Eng DB	2014-2016	Jul 1		35%	Feb 2016	2016
Street Maintenance (overlay, crack seal, chip seal)	\$2,100,000	\$144,008	Eng CT	2015	Apr 1	Apr 1	45%	Sept 1	
Walnut St / Hwy 257 Turn Lane	\$190,000	\$13,553	Eng DB	2015	Sep 1		5%	Nov 1	
Eastman Pk/7th St Roundabout Design	\$70,000	\$12,582	Eng OH	2015-2016	Feb 9	Feb 9	30%	Nov 30	
Windsor Sign I-25	\$64,276	\$56,327	Eng DW	2015	Jan 15	Mar 15	100%	May 1	Jun 1
WCR21 Bridge Replacement w/grant	2014	\$219,795	Eng CT	2013-2015	Feb 2014	Jul 6	95%	Apr 15	
Eaton Ditch Control	\$185,000	\$97,854	Eng DW	2015	Apr 1	Apr 1	95%	Jun 1	
Poudre River Maintenance	\$50,000	\$0	Eng	2015	Apr	Apr	0%	EOY	
3 M gal. Water Tank w/grant	\$407,100	\$219,641	Eng DW	2012-2015	Mar 2014	Mar '14	98%	Apr 30	
Water Line Replacement Study	\$180,000	\$0	Eng CT	2015	May 1	21-May	20%	Nov	
Kyger Reservoir Pump Station	\$2,514,325	\$35,000	Eng OH	2014-2016	Nov 1		20%	Feb 2016	2016
Replace Force Main to Gravity Sewer w/grant	2014	\$313,942	Eng CT	2013-2015	Feb 9	Feb	100%	May 1	30-May
Update Storm Water Study	\$100,000	\$0	Eng DW	2015			0%		
Law Basin Master Plan Channel - construction w/ PDM Grant - 2012-2015	\$2,128,069	\$57,911	Eng DR	2012-2015	Sep 1		30%	End Dec	
Law Basin West Tributary Channel - 2013-2015	\$1,740,075	\$140,138	Eng OH	2013-2015	Jul 1		30%	Dec	
Coyote Gulch Park Development	\$1,222,000	\$1,697	Eng DB	2014-2015	July		35%	end Sep	
Windsor Trail 257 Road Crossing @ Grasslands	\$17,100	\$0	Eng KB	2015	mid Jul		16%	mid Aug	
Windsor Lake Rip Rap	\$250,000	\$0	Eng DR	2015	Nov 1		0%	Dec 31	
Chimney Park North Shelter Replacement	\$57,310	\$0	Eng OH	2015	Sep 15		0%	Nov 30	
Main Park Shelter Replacement (2)	\$113,190	\$0	Eng OH	2015	Aug 15		0%	Nov 15	
Cemetery sidewalks, gate archway & engineering	\$373,414	\$0	Eng CT	2015	Jun 1		25%	Oct 1	
Museums -Depot Deck, Railings, Ramp	\$45,000	\$0	Eng OH	2015	Apr		15%	Jul 31	
Boardwalk Pk-6th St/Cedar landscape, irrigate, design	23,602	\$0	Pks/WW	2015	Jun		5%	Sep 15	
Poudre Trail Concrete at 3 Bells	\$25,000	\$0	Pks/MC	2015	Jul		0%	Oct	Unknown
Windsor Trail Windsor West Connection plan	\$200,000	\$0	Pks/WW	2015	Jun		0%	Dec	
Eaton House Master Plan/Structural Assess w/grant	\$40,000	\$0	Pks/AD	2015	Jun		0%	Sep 15	
Eastman Pk South Master Plan	\$25,000	\$0	Pks/W/T	2015	Jun		5%	Nov 1	
Parks and Recreation Master Plan	\$50,000	\$0	Pks/W/T	2015	May		10%	Oct 1	
Non-Potable Water- Construction of pipe encasement east of Universal Forest Products	\$329,409	\$308,387	Pks/Rec	2015	Jan	Jan	100%	Feb 1	Feb 1
Install pump at Covenant Park	\$49,000	\$2,255	Pks/Rec	2014-2015	2014	2014	30%	Jun 15	
Poudre Plan corrections & TH connection to Main Pk	2014	\$410	Pks/Rec	2014-2015	Jan		30%	Sep 1	
CRC Expansion	\$9,485,594	\$536,672	Pks/Rec	2014-2016	Jul 1		30%	Aug 2016	
Sewer Line Rehab	\$78,130	\$0	P Wks	2015	Apr 1		0%	Aug 30	
Sewer Nutrient Program w/grant	\$837,000	\$81,731	P Wks	2014-2015	May 15		50%	Dec 31	
Repl. #3,4,18,29,40,43,45,46,51,104,105,107,115,116,117,118,120,121,122	\$750,500	\$476,622	P Wks	2015	Jan 1		95%	Jul 1	
2 New PD Vehicles/equipped	\$110,000	\$62,810	P Wks	2015	Jan 1		100%	Jul 1	
Color key for funds =	PIF	CTF	CIF	WF	NPWF	SF	SDF	FF	ITF



Our Vision:

WINDSOR'S hometown feel fosters an energetic COMMUNITY SPIRIT AND PRIDE that makes our town a special place in Northern Colorado.

WINDSOR has a STRONG LOCAL ECONOMY with diverse business sectors that provide jobs and services for residents.

WINDSOR promotes QUALITY DEVELOPMENT.

WINDSOR residents enjoy a friendly community with a VIBRANT DOWNTOWN, HOUSING OPPORTUNITIES, CHOICES for LEISURE, CULTURAL ACTIVITIES, RECREATION, and MOBILITY for all.

WINDSOR is a GOOD ENVIRONMENTAL STEWARD.



2015 Monthly Financial Report

Town of Windsor
301 Walnut Street
Windsor, CO 80550

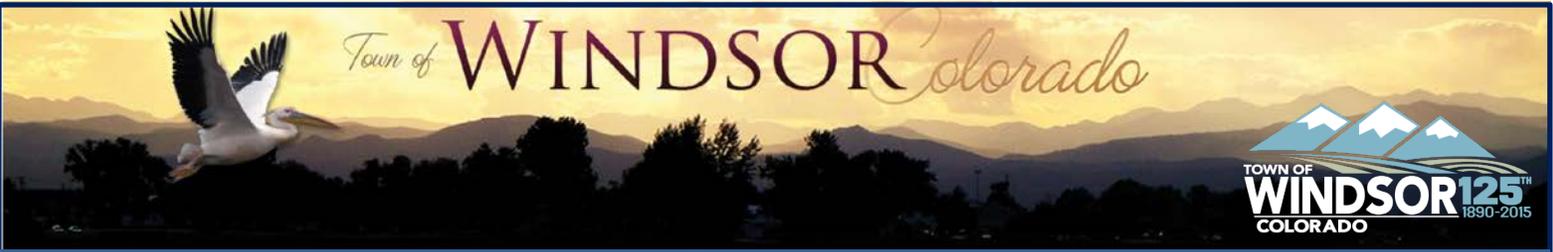
Phone: 970-674-2400
Fax: 970-674-2456

The Town of WINDSOR strengthens community through the fiscally responsible and equitable delivery of services, support of hometown pride, and encourages resident involvement.

The 2015 Budget continues to focus on fiscal responsibility while building a long-term sustainable community through strategic investments and emphasizing the maintenance of existing infrastructure. In order to achieve these goals, the 2015 Budget emphasizes the importance of funding the key day-to-day tools that lead to success. These tools are employees, technology, and providing services most highly rated by citizens.

We're on the Web

www.windsorgov.com



DEVELOPMENT REVIEW MONTHLY NEWSLETTER

COMPREHENSIVE PLAN

- Upcoming Events:
 - Comprehensive Plan Advisory Committee (CPAC) review of Existing Conditions Analysis 7/29/15
 - Community Visioning Session 7/29/15
- Targeted plan adoption: Q1, 2016

CRW SOFTWARE IMPLEMENTATION

Staff is working with developers/consultants to transition to the use of online project submittal and review

POLICIES, PORCEDURES, & STANDARDS

Downtown Parking Standards

Staff has been working with consultant Fox Tuttle Hernandez Transportation Group on downtown parking standards. Planning Commission work session held 5/20/15; Town Board work session scheduled for 6/22/15.

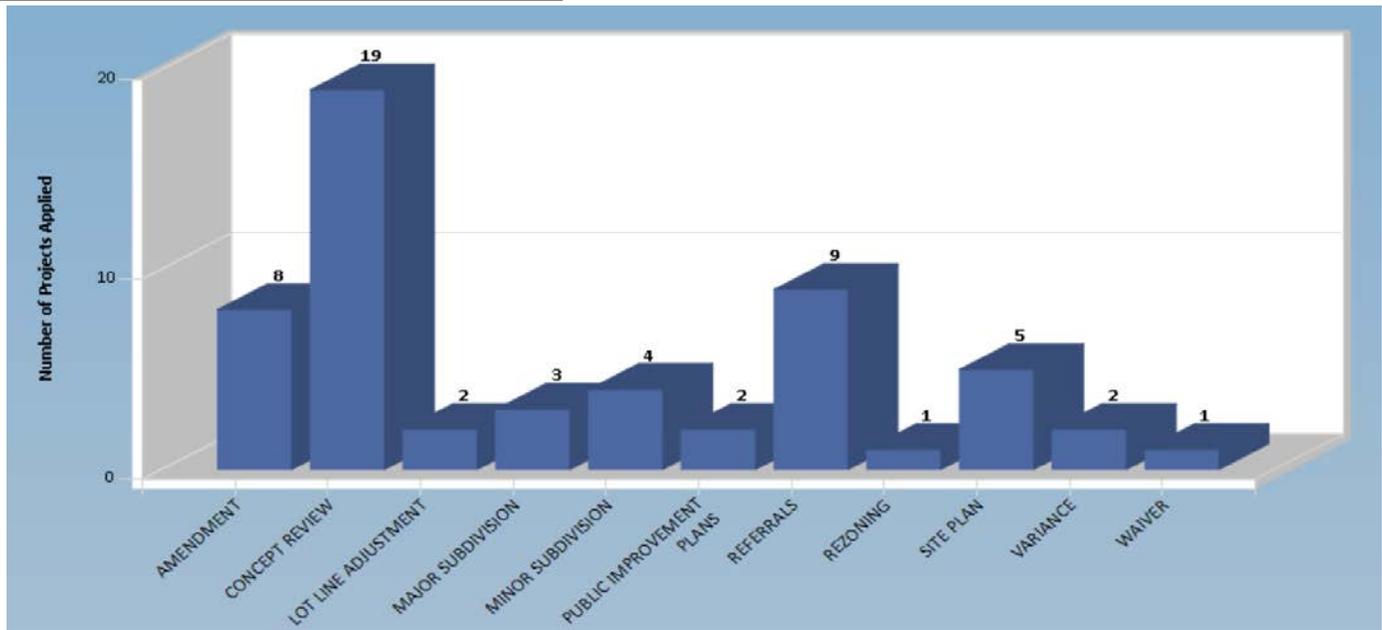
Minimum Exterior Standards Code Amendment

Staff has drafted code language to require a minimum level of architectural enhancement on all nonresidential metal buildings. Planning Commission work session held 4/15/15; Town Board work session scheduled for 6/22/15.

Mobile Food Vending Code Amendment

Staff has drafted code language to address temporary food trucks/carts in response to a number of inquiries from the public. Planning Commission work session held 5/20/15; Town Board work session scheduled for 6/22/15.

Projects Applied for by Type (year to date)



Total Projects: 56

Major Development Projects Currently Under Review

Project	Description	Status
Burlington Subdivision - Lot 17 (217 2nd St)		
Arapahoe Rental Site Plan	New 1,000 s.f. building & landscaping	1 st submittal under review
Columbine Center Subdivision - 2nd Filing, Lot 2 (250 N 11th St)		
Community Recreation Center Site Plan	39,280 s.f. addition	Awaiting 3 rd submittal from applicant
Great Western Industrial Park - 3rd Filing, Lot 1, Block 1 (11140 Eastman Park Dr)		
Vestas Site Plan	62,000 s.f. addition	Awaiting final submittal from applicant
Highland Meadows Golf Course		
8 th Filing, Lot 6 - Fitness & Tennis Center Site Plan	40,000 s.f. building with outdoor tennis courts	Awaiting mylars from applicant
11 th Filing Final Plat & Site Plan	68 Townhomes on 7 acres	Awaiting mylars from applicant
12 th Filing Preliminary Plat & Site Plan	84 multifamily units in 7 buildings on 6.2 acres	2 nd submittal under review
13 th Filing, Lot 6 Power To Play Rezoning, Site Plan, & Minor Subdivision	52,000 s.f. basketball facility	Awaiting 2 nd submittal from applicant
Poudre Heights Subdivision – 3rd Filing (Northwest of 7th St & New Liberty Rd)		
Preliminary Plat & Preliminary Site Plan	Platting of 392 residential lots including site planning of 125 townhome units	Awaiting 2 nd submittal from applicant
Raindance Subdivision (North of Crossroads Blvd between County Line Rd & CR 15)		
Master Plan & Planned Unit Development Rezoning	1,100 acres including 2,800 residential units, golf course, and up to 42 acres of mixed use neighborhood commercial	Planning Commission 5/20/15, Town Board to be scheduled upon submittal of additional documents
The Ridge at Harmony Road (Northeast of CR 74 & CR 13 intersection)		
Annexation & Preliminary Plat	Platting of 418 residential lots in first filing	Awaiting annexation plat from applicant
South Hill Subdivision (Northwest of Crossroads Blvd & 7th St)		
Final Plat	210 lots on 124 acres	Awaiting check-prints from applicant
Tacincala Annexation (Between HWY 257 and CR 15, south of CR 72)		
Tacincala Preliminary Plat	193 residential lots on 292 acres	Awaiting 2 nd submittal from applicant
T-well Oil & Gas CUG	13 well oil & gas pad	Awaiting 2 nd submittal from applicant
Westwood Village Subdivision - 6th Filing, Lot 1 (325 14th St)		
6 th Filing Final Plat & Site Plan	Platting of 8 building envelopes for 34 housing units in 2 and 3 unit buildings	2 nd submittal under review; scheduled for Planning Commission 7/1, Town Board 7/13
Windsor Commons Subdivision - 2nd Filing, Lot 2 (1101 Automation Drive)		
Lot 3 - Windsor Commons Self-Storage	70,000 s.f. building	1 st submittal under review
Windsor Commons Subdivision - 3rd Filing, Lot 2, Block 2 (841 Automation Drive)		
Tru Balance / Design Logic Site Plan	10,000 s.f. building on 1 acre	Awaiting mylars from applicant

Note: More detailed information about project review times can be found at <http://windsorgov.com/DocumentCenter/View/12732>

Building Permit Summary for April, 2015

	Monthly Total	Monthly Valuation	Year-to-Date Total	Year-to-Date Valuation
New Single Family Permits	24	\$7,355,515	101	\$32,965,464
New Multi-Family Permits	1	\$799,974	3	\$3,179,785
New Commercial/Industrial Permits	0	--	2	\$6,173,750



June 11, 2015

Kelly Arnold
Town of Windsor
301 Walnut Street
Windsor, CO 80550

Dear Kelly:

We are writing to update you on exciting news related to the Northern Integrated Supply Project and invite you to an upcoming event.

First, the Army Corps of Engineers has announced that after six years of study they are ready to release the NISP supplemental draft environmental impact statement on June 19. This is a milestone Northern Water and the 15 NISP participants have been anticipating for far too long. The June 19 release will begin a public comment period that will likely draw additional media and public attention to the project. We are currently preparing background and talking points that we'll have in your hands before the 19th.

We are also pleased to announce that long-time NISP supporter Senator Cory Gardner will be at our offices for a press conference and rally on Thursday, July 2 (draft agenda attached). We invite you and other staff or elected officials to attend this event which includes a grilled lunch beginning at 12:15 p.m. Please RSVP to Veronica at 970-622-2322 or email vgomez@northernwater.org so we can have an accurate count for the lunch. Following the lunch, Senator Gardner and possibly other elected officials will hold a brief press conference before the NISP support rally begins at 1:30 p.m.

In addition to the release and July 2 event, the Army Corps has announced the dates and locations for the public meetings:

Wednesday, July 22 – Fort Collins Hilton

Thursday July 23 – Weld County Administrative Services Building, Greeley

Both meetings will begin at 6:00 p.m. and be preceded by an open house beginning at 5:00 p.m. We encourage you to attend either, or both, of these meetings and voice your support for NISP.

If you have questions please feel free to contact me at 970-622-2229. We hope to see you on July 2!

Sincerely,

Brian Werner
Public Affairs Coordinator
Northern Integrated Supply Project

Northern Water Planning Session

Thursday, July 2, 2015

NISP Press Conference and Rally

Senator Cory Gardner

Draft Agenda

- | | |
|-------------------|---|
| 9:00 a.m. | Northern Water Planning Session begins |
| 11:45 a.m. | Invited guests begin arriving |
| 12:15 p.m. | Break for lunch (no later than) |
| 12:15 – 1:15 p.m. | Barbecue lunch on back patio
Board and invited guests |
| 12:45 p.m. | Senator Gardner arrives at Northern Water |
| 12:45-1:00 p.m. | Meet and greet time for Sen. Gardner |
| 1:00 – 1:25 p.m. | Senator Gardner press conference – upstairs boardroom |
| 1:30 p.m. | NISP support rally begins
Welcome – GM Eric Wilkinson
NISP Participants speaker(s)
Congressional members – if attending
State legislators - ???
State official ??? |
| 1:45 p.m. | Senator Gardner |