

DATE: February 14, 2006

STAFF: Greg Byrne

**WORK SESSION ITEM
FORT COLLINS CITY COUNCIL**

SUBJECT FOR DISCUSSION

Intergovernmental Agreement between the Town of Windsor and the City of Fort Collins regarding coordination and cooperation on land use and development in the area of Interstate 25 where it intersects with Colorado State Highway 392 (Carpenter Road).

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

1. Has staff identified all relevant issues that should be considered in the intergovernmental agreement?
2. Does the Council need any additional information?

BACKGROUND

The management and legal staff from the City of Fort Collins and Town of Windsor have been in discussions regarding the potential benefits of further coordination and cooperation regarding land use and development in the area of the interchange at I-25 and State Highway 392 (Carpenter Road).

The I-25 Regional Corridor Plan identified the area as an “activity center”. This interchange area also represents an important gateway to both our communities. Pressure for development of private properties in and around the interstate is increasing.

There are significant issues that have prevented orderly development of the area including, but not limited to, significant traffic congestion resulting from an inadequate interchange facility. The costs of these improvements are substantial and will require a public/private partnership solution. Both communities agree that further study of the interchange is needed to resolve these issues in a timely fashion.

This work is funded in a 2006 BFO offer, with \$50,000 in one-time money plus staff support.

The draft Intergovernmental Agreement renews a mutual commitment to honor existing Growth Management Areas, and calls for both cities to participate and share in the cost of developing a “comprehensive development plan” for the area. The Plan will be jointly managed and will take approximately twelve months to complete, whereupon the communities would consider its adoption and implementation.

The Plan will address:

- Urban growth boundaries
- Future land use
- Provision of public services
- Storm drainage
- Open space, parks and recreation services
- Environmental quality
- Development quality
- Financing mechanisms and revenue sharing, and
- Reconstruction of the interchange.

ATTACHMENTS

- Intergovernmental Agreement - 4th Draft

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT is made and entered into this _____ day of _____, 2006, by and between THE TOWN OF WINDSOR, a Colorado home-rule municipality, hereinafter referred to as "Windsor," and the CITY OF FORT COLLINS, a Colorado home-rule municipality, hereinafter referred to as "Fort Collins."

WITNESSETH:

WHEREAS, the Windsor Town Board and the Fort Collins City Council have recently participated in discussions concerning potential benefits that would result from a cooperative agreement regarding land use and development in that area of Interstate 25 Corridor where it intersects with Colorado State Highway 392; and

WHEREAS, Windsor and Fort Collins are both signatories to the I-25 Corridor Plan and are committed to regulating development in accordance with that plan; and

WHEREAS, growth and development pressures and demands for municipal services exist in the area in question where both municipalities have designated territory within their respective urban growth boundaries (UGB); and

WHEREAS, Windsor and Fort Collins are both committed to planned and orderly growth; to regulating the location and activities of development that may result in increased demands for services; to providing for the orderly development and extension of urban services, facilities, and regulations; to avoiding unnecessary duplication of governmental services; to simplifying governmental structure when possible; to promoting economic viability of both municipalities; and to raising revenue sufficient to meet the needs of the citizens of both municipalities; and

WHEREAS, because of the proximity of the municipalities, the nature and quality of development within each of the municipalities will affect the nature and quality of development in the other municipality and the revenues of each; and

WHEREAS, increased coordination and cooperation between the two municipalities, including planning for and managing growth and development of land, the resolution of conflict regarding urban growth boundaries, and the coordination of annexation policies and procedure, will enhance the ability of the two municipalities to achieve their respective and common goals; and

WHEREAS, applicable provisions of the Colorado Constitution and the statutes of the State of Colorado, specifically, § 29-20-101, *et seq.*, C.R.S., authorize municipalities to enter into

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mutually binding and enforceable agreements regarding the joint exercise of planning, zoning and related powers; and

WHEREAS, this Intergovernmental Agreement is entered into by Windsor and Fort Collins pursuant to the aforesaid constitutional and statutory authority as well as other powers afforded to home-rule municipalities by the Constitution of the State of Colorado;

NOW, THEREFORE, in consideration of the covenants and obligations expressed herein, it is hereby agreed by and between Windsor and Fort Collins as follows:

1. **Scope of Agreement.** Windsor and Fort Collins acknowledge that on June 28, 1999, they entered into two intergovernmental agreements regarding annexations in the Fort Collins Cooperative Planning Area adjacent to Fossil Creek Reservoir and annexations east of Interstate 25. The City of Loveland Colorado and Larimer County, Colorado, are also parties to the Intergovernmental Agreement regarding annexations in the Fort Collins Cooperative Planning Area adjacent to Fossil Creek Reservoir. That Intergovernmental Agreement identifies the Fort Collins Cooperative Planning Area and affords Fort Collins the exclusive right to annex within that area. The second agreement regarding annexations east of Interstate 25 is solely between Fort Collins and Windsor; and, by its terms, Fort Collins agrees not to annex any territory east of Interstate 25 between Larimer County Road 34C and Larimer County Road 30 unless Windsor agrees to any such annexation. To the extent those agreements bind Fort Collins and Windsor, they shall remain in full force and effect unless specifically modified by the provisions hereof or by provisions of subsequent agreements between Windsor and Fort Collins.

2. **Definitions.**

Corridor Activity Center. *Corridor Activity Center (CAC)* shall refer to the geographic area generally depicted on "Exhibit A," attached hereto and incorporated herein by this reference.

3. **Comprehensive Development Plan for the Corridor Activity Center (CAC).** Within twelve (12) months of the adoption of this Intergovernmental Agreement, Windsor and Fort Collins agree that they shall use their best efforts to develop and implement a mutually acceptable comprehensive development plan for the development of land and for the provision of urban services and facilities within the CAC. It is anticipated that in the preparation of the plan, Windsor and Fort Collins will consult with other entities, including but not limited to, Larimer County, Colorado; Colorado Department of Transportation; Colorado Division of Wildlife; North Front Range Metropolitan Planning Organization; City of Loveland, Colorado, as well as property owners within and adjacent to the CAC. It is understood and agreed that Windsor and Fort Collins may require the expertise of outside consultants or other experts skilled in the preparation of such comprehensive development plans. Costs incurred therefor shall be borne equally by Windsor and Fort Collins except to the extent that such costs are offset by contributions from other entities participating in the preparation of the plan.

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It is understood and agreed that the comprehensive development plan, as prepared and adopted by Windsor and Fort Collins, shall address all of the wide variety of issues contained in this Intergovernmental Agreement relating to cooperation between the two municipalities. As such, Windsor and Fort Collins acknowledge that while it is their intention to implement the provisions of this Intergovernmental Agreement, as defined, it may be necessary for either municipality to seek modification of this Intergovernmental Agreement to adequately address issues raised with regard to the CAC during the period of consultation referred to above.

Windsor and Fort Collins agree that the comprehensive development plan may be adopted in whole or in stages by a majority vote of the Windsor Town Board and the Fort Collins City Council and shall include, at a minimum, provisions addressing the following:

- (a) Resolution of conflicts between the municipalities and the establishment of urban growth boundaries that do not overlap each other.
- (b) Land use regulations within the CAC.
- (c) Responsibility for providing governmental services within the CAC, including but not limited to, utility services, law enforcement, fire and emergency services, and code enforcement.
- (d) A drainage master plan for the CAC, including the planning, design, construction, maintenance and financing of drainage improvements and facilities.
- (e) Development and maintenance of parks, recreation services, and open space within the CAC.
- (f) Environmental standards and environment mitigation, setbacks, design standards, landscaping, architectural standards, building materials, massing, height, and view corridors. Such land use restrictions shall include, but shall not be limited to, commercial development, industrial development, residential use, mineral development, construction of cell towers, and signage.

4. Urban Growth Boundaries and Annexation.

- (a) Windsor and Fort Collins agree that they shall make any necessary adjustments to their respective comprehensive plans or other official documents to reflect their respective urban growth boundaries and other land use modifications as may be required by the subsequently adopted comprehensive development plan.

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(b) Upon final adoption of a comprehensive development plan, Fort Collins shall have exclusive authority to exercise its annexation powers within its UGB as described in the plan.

(c) Upon final adoption of a comprehensive development plan, Windsor shall have exclusive authority to exercise its annexation powers within its UGB as described in the plan.

(d) Both Windsor and Fort Collins specifically agree that upon the receipt of or preparation by either municipality of any documents proposing annexation within the CAC, copies of all such documents shall be submitted to the other municipality for review and comment at least sixty (60) days prior to the initiation of annexation by action of the governing body of either municipality.

(e) Windsor and Fort Collins specifically agree that in the event either municipality intends to approve any financial or other incentives in connection with a proposed annexation within the CAC, copies of all documents purporting to establish such incentives shall be submitted to the other municipality for review and comment at least sixty (60) days prior to any intended action thereon.

(f) With the exception of the specific recitals contained herein, nothing in this Intergovernmental Agreement shall otherwise be construed as limiting or otherwise restricting the annexation powers of the respective municipalities within each municipality's UGB.

5. **Shared Revenues.** Windsor and Fort Collins understand and agree that the implementation of this Intergovernmental Agreement and the achievement of its purposes, including planning for and regulating the use of land and the provision of urban services, facilities, rights-of-way, and other requirements, will require significant time and effort on the part of both municipalities, as well as the expenditure of substantial revenues. Accordingly, Windsor and Fort Collins agree to evaluate potential revenue sharing alternatives in percentages yet to be determined upon completion and adoption of the comprehensive development plan.

6. **Reconstruction of the Interstate 25/Colorado State Highway 392 Interchange.** Windsor and Fort Collins understand and agree that an essential component of the development of the CAC is the reconstruction of the Interstate 25/Colorado State Highway 392 Interchange. As part of the comprehensive development plan for the CAC, Windsor and Fort Collins agree to explore fully the creation of metropolitan districts or other similar financing mechanisms that will enable the reconstruction of this interchange and thereby promote orderly growth and development in the CAC.

7. **Establishment and Funding of Reserves.** To the extent necessary and for so

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in effect, subject to paragraph 12 hereof, Windsor and Fort Collins agree that they shall annually appropriate agreed upon funds to be administered by the Windsor Town Manager and the Fort Collins City Manager. These reserve funds shall be used solely for studies and other related joint efforts and cooperative activities between the two municipalities in the continued implementation of the intent and purposes of this Intergovernmental Agreement or subsequent agreements addressing the CAC.

8. **Good Faith.** Windsor and Fort Collins agree to devote their best efforts and to exercise good faith in implementing and adhering to the provisions of this Intergovernmental Agreement throughout its term. Windsor and Fort Collins agree that they shall fully cooperate with one another in adopting such amendments as may be necessary to effectuate the intention of Windsor and Fort Collins as expressed in this Intergovernmental Agreement.

9. **Intent of Agreement.** This Intergovernmental Agreement is intended to describe rights and responsibilities only as between Windsor and Fort Collins. It is not intended to and shall not be deemed to confer rights to any persons or entities not named as parties hereto, or to require Windsor or Fort Collins to annex any property or to provide any services to any land. This Intergovernmental Agreement is not intended to limit in any way the powers or responsibilities of Larimer County or of any other political subdivision of the State of Colorado not a party hereto.

10. **Effective Date.** This Intergovernmental Agreement shall be presented to the Windsor Town Board and the Fort Collins City Council for adoption by resolution as provided by law. This Intergovernmental Agreement shall become effective upon its adoption by both municipalities.

11. **Term.** This Intergovernmental Agreement shall remain in full force and effect for a period of three (3) years or until superseded by a subsequent agreement between Windsor and Fort Collins, further implementing the provisions set forth herein, whichever occurs first.

12. **Annual Appropriation of Funds.** It is understood and agreed that the financial obligations imposed upon Windsor and Fort Collins by the terms of this Intergovernmental Agreement are specifically subject to the annual appropriation of monies by the respective municipalities to fund those obligations. Windsor and Fort Collins intend to plan appropriation of such monies to fulfill their respective financial obligations under this Intergovernmental Agreement.

13. **Amendment.** All amendments to this Intergovernmental Agreement must be made in writing and approved by resolution by the governing bodies of both municipalities.

14. **Notices.** Requirements of notice hereunder shall be deemed satisfied upon mailing to Windsor or Fort Collins as follows:

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Town Manager
Town of Windsor
301 Walnut Street
Windsor, CO 80550

copy to: John P. Frey, Esq.
Windsor Town Attorney
P. O. Box 2283
Fort Collins, CO 80522-2283

City Manager
City of Fort Collins
P. O. Box 580
Fort Collins, CO 80522

copy to: City Attorney
City of Fort Collins
P. O. Box 580
Fort Collins, CO 80522

15. **Effect of Invalidity.** If any portion of any paragraph of this Intergovernmental Agreement is held invalid or unenforceable by a court of competent jurisdiction as to either municipality or as to both municipalities, such invalidity or unenforceability shall not affect the other paragraph(s) of this Intergovernmental Agreement except that if a requirement or limitation in such paragraph(s) is declared invalid as to one municipality, any corresponding requirements or limitation shall be deemed invalid as to the other municipality.

IN WITNESS WHEREOF, Windsor and Fort Collins have caused this Intergovernmental Agreement to be executed the day and year first above written.

TOWN OF WINDSOR

By: _____
Edward R. Starck, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

APPROVED FOR CONTENT:

Town Attorney

Town Manager

CITY OF FORT COLLINS

By: _____
Mayor

[Print Name]

ATTEST:

City Clerk

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APPROVED AS TO FORM:

APPROVED FOR CONTENT:

City Attorney

City Manager