



CITY OF TRINIDAD  
TRINIDAD, COLORADO

The Regular Meeting of the City Council of the City of Trinidad,  
Colorado, will be held on Wednesday, November 5, 2014 at 7:00 P.M.  
in City Council Chambers at City Hall

The following items are on file for consideration of Council:

- 1) **ROLL CALL**
- 2) **APPROVAL OF MINUTES**, Special Meeting of October 21, 2014 and Regular Meeting of October 21, 2014
- 3) **PUBLIC HEARING**
  - a) 2015 Capital Improvement Projects Budget
  - b) 2015 Annual Budget
- 4) **ANNEXATION** – Triple D Family Limited Partnership LLLP and Jose Manuel Garcia and Maria Nelly Garcia – Southside Annexation
  - a) Public Hearing – Petition for annexation by Triple D Family Limited Partnership LLLP and Jose Manuel Garcia and Maria Nelly Garcia – Southside Annexation
  - b) Resolution setting forth findings of fact and determinations regarding the proposed Southside Annexation
  - c) First reading of an ordinance annexing certain territory to the City and setting a hearing date for consideration of said ordinance
  - d) Public hearing – amending the zone map by establishing the zone class of certain land annexed into the City of Trinidad to Established-Community Commercial
    - 1) First reading of an ordinance amending the zone map by establishing the zone classification of certain land annexed into the corporate limits of the City and setting a hearing date for consideration of said ordinance
- 5) **PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN**
- 6) **COUNCIL REPORTS**
- 7) **REPORTS BY CITY MANAGER AND CITY ATTORNEY**
- 8) **UNFINISHED BUSINESS**
  - a) Public hearing for consideration of an ordinance repealing and re-enacting Chapter 2, Article 17, Section 2-71(5)(a) and (b), Code of Conduct for Public Servants and Consequences for Violation of Code of Conduct, respectively
    - 1) Second reading of an ordinance repealing and re-enacting Chapter 2, Article 17, Section 2-71(5)(a) and (b), Code of Conduct for Public Servants and Consequences for Violation of Code of Conduct, respectively
  - b) Consideration of removal of members of the Planning, Zoning and Variance Commission
- 9) **MISCELLANEOUS BUSINESS**
  - a) Tavern liquor license renewal request by Trinidad Lanes, LLC at 823 Van Buren
  - b) Tavern liquor license renewal request by Great Wall, LLC d/b/a Great Wall at 321 State Street
  - c) Tavern liquor license renewal request by Gino's Sports Bar, LLC at 991 E. Main Street

9) **MISCELLANEOUS BUSINESS (Cont.)**

- d) Retail liquor store license renewal request by Trinidad Plaza Liquors, Inc. d/b/a Main Street Liquors at 803 E. Main Street
- e) 3.2% Beer Retail – Off Premises – license renewal request by JR’s Fuel Stop, Inc. d/b/a JR’s Fuel Stop 810 at 731 E. Main Street
- f) Appointment to the Planning, Zoning and Variance Commission
- g) Modification of premises request by Trinidad’s Higher Calling U, LLC at 1000 Independence Road
- h) Motion to continue the CannaCo appeal hearing originally scheduled for November 6, 2014 to the regular meeting of November 18, 2014
- i) New Retail Marijuana Store license application filed by Daryl DeMarco and Diane Irwin d/b/a Southern Colorado Therapeutics at 1505 Santa Fe Trail Drive
- j) Consideration of Purchase and Sale Agreement with BNSF for the Multimodal Project
- k) Ratification of letter of support for application for a grant to the State Trails Program for Old Sopris Trail for land acquisition
- l) Consideration of Agreement with Stantec, US EPA Brownfield Grant Project Consultant
- m) Formalization of Vilas Tonape’s appointment to the Arts and Culture Advisory Commission

10) **BILLS**

11) **PAYROLL**, October 25, 2014 through November 7, 2014

12) **ADJOURNMENT**

The City Council of the City of Trinidad, Colorado met in Special Session on Tuesday, October 21, 2014, at 6:00 p.m. in City Council Chambers at City Hall pursuant to the following call:

CITY OF TRINIDAD  
TRINIDAD, COLORADO

SPECIAL MEETING

There will be a Special Meeting of the City Council of the City of Trinidad, Colorado, on Tuesday, October 21, 2014, at 6:00 p.m. in the Council Chambers at City Hall

The following item is on file for consideration of City Council:

- 1) Executive session – For a conference with the City’s Attorney(s) for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) – a) Conditional use Permits appeal; and, 2) Potential conflict of interest relative to CIRSA representation of the City and City Council individually and collectively

The meeting was called to order at 6:01 p.m.

Roll call was taken.

There were present:	Mayor	Reorda, presiding
	Councilmembers	Bonato, Bolton, Mattie, Miles, Torres
Also present:	Acting City Manager	Garrett
	City Attorney	Downs
	Acting City Clerk	Valencich
Absent:	Councilmember	Fletcher

Executive session - For a conference with the City’s Attorney(s) for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) – a) Conditional use Permits appeal; and, 2) Potential conflict of interest relative to CIRSA representation of the City and City Council individually and collectively. A motion to enter into executive session for the stated purpose was made by Councilmember Miles. Councilmember Torres seconded the motion. Upon roll call vote the motion carried unanimously. The executive session ensued at 6:03 p.m.

*I, Les S. Downs, City Attorney for the City of Trinidad, do hereby attest that the executive session held on this 21st day of October, 2014, was permissible under CRS Section 24-6-402 (4)(b).*

*As City Attorney, it is my opinion that the discussion of the matter announced in the motion to enter into executive session constituted a privileged attorney-client communication. Therefore, it is my recommendation that no further record be kept of this executive session.*

\_\_\_\_\_  
*Les S. Downs*  
City Attorney

Upon conclusion of executive session at 7:15 p.m., Councilmember Bolton moved to go out of executive session and adjourn the special meeting. Councilmember Torres seconded the motion and upon a unanimous roll call vote, the special meeting adjourned.

ATTEST:

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JOSEPH A. REORDA, Mayor

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DONA VALENCICH, Acting City Clerk

The regular meeting of the City Council of the City of Trinidad, Colorado, was held on Tuesday, October 21, 2014, at 7:00 p.m. in City Council Chambers at City Hall.

There were present:	Mayor	Reorda, presiding
	Councilmembers	Bolton, Bonato, Mattie, Miles, Torres
Also present:	Acting City Manager	Garrett
	City Attorney	Downs
	Asst. City Clerk	Valencich
Absent:	Councilmember	Fletcher

The meeting commenced at 7:15 p.m.

The pledge of allegiance was recited.

**APPROVAL OF THE MINUTES.** Regular Meeting of October 7, 2014. A motion to approve the minutes as presented was made by Councilmember Miles and seconded by Councilmember Bolton. The motion carried unanimously.

**PUBLIC HEARING.** New Medical Marijuana Optional Premise Cultivation Operation license application filed by Trinidad's Higher Calling U, LLC at 1000 Independence Road. Mayor Reorda opened the hearing and Robert Schultz addressed Council. To City Attorney Downs' questioning, Mr. Schultz testified that he is the principal for Trinidad's Higher Calling U, LLC and still the only principal of the limited liability corporation. The address of the proposed facility is 1000 Independence Road, the former Pepsi building in the Industrial Park. There have been four marijuana licenses previously approved for Trinidad's Higher Calling U, LLC, and this is the fifth application for a license. This application is for the medical grow facility to supply the medical dispensary that was previously approved. It is for the cultivation for the medical facility. Mr. Schultz showed Council that he had been issued his key card and testified that he has received the three retail licenses from the state but the two medical licenses are pending. They are submitted, however, and in the process. Trinidad's Higher Calling U, LLC, is a Colorado corporation in good standing with the Secretary of State's office. They have not established a trade name yet. Mr. Schultz stated that he has submitted to a background check by CBI and local law enforcement and passed them. All required documents have been tendered to the relevant municipal authorities. A lease, diagram and security program has all been submitted as well. He said he is shooting for an opening at the first of the year. He expects to employ ten people but hopes that the business will grow and he will employ twenty or more. The building and property are owned by Nicole Bernet. She has leased the property to Trinidad's Higher Calling U, LLC and knows the types of business that are to be located there. He further testified that he has received approval for Conditional Use Permits from the Planning, Zoning, and Variance Commission. He understands his ongoing obligation to comply with all municipal officials, law enforcement, fire, building, clerk and city attorney, and has been in contact with every one of them. All information contained in the application is accurate and he swore and affirmed to the same. There are no misrepresentations. He said he also understands his obligation to comply with Federal, State and municipal law. Regarding water he understands that in times of water shortage he may be cut off from municipal water. Mr. Schultz told Council that 21 people attended a responsible vendor training last week at the Quality Inn put on by Maureen McNamara from Denver. It was the first facility to do the training and she was very impressed with what they had. Ms. McNamara recommends all other facilities do some training as well as law enforcement. The security system is being installed this week and he told Council that they are more than welcome to check out his business. Mayor Reorda asked Mr. Schultz if he is the only owner of Trinidad's Higher Calling U, LLC. Mr. Schultz responded affirmatively. City Attorney Downs reminded Mr. Schultz that as employees are retained he is required to notify the local authority. He submitted to Council that this application is complete. Councilmember Miles acknowledged that Mr. Schultz had testified to being the only owner and confirmed that he is the only one with financial interest except the landlord. She commented that it appears that he is paying a reasonable commercial arms-length lease rate. She asked Mr. Schultz why he did not apply for this license at the same time as the previous ones. Mr. Schultz answered that he didn't have the funds at the time to apply for all of them at one time. Councilmember Mattie reminded Mr. Schultz that he is proceeding under authorization of City ordinance and an amendment to the Colorado Constitution. He confirmed that he understood that marijuana continues to be a controlled substance under the view of the Federal government and that he desired to proceed anyway. A motion to approve the license application of Trinidad's Higher Calling U, LLC at 1000 Independence Road in Trinidad, Colorado, for a Medical Marijuana Optional Premise Cultivation Operation License, was made by Councilmember Miles and seconded by Councilmember Mattie. The motion carried with all Council members voting aye except Councilmember Bonato who cast a dissenting vote. Mayor Reorda confirmed that no one present wished to speak for or against the application and then read the following findings into the record:

This matter came on for hearing on the application of Trinidad's Higher Calling U, LLC at 1000 Independence Road in Trinidad, Colorado, for a Medical Marijuana Optional Premise Cultivation Operation License before the City Council of the City of Trinidad, Colorado, acting in its capacity as the local licensing authority on October 21, 2014, in City Council Chambers in City Hall. The City Council having reviewed the application and supporting documents, reports of the City Clerk and other City staff, evidence at the hearing and testimony taken during the hearing, makes the following **FINDINGS**:

1. The application is complete and signed by the applicant, and the applicant has paid the appropriate application and license fees.
2. The application appears to be in substantial compliance with all the requirements of Article 11, of Chapter 14 of the Trinidad Municipal Code. The applicant has testified to their willingness to comply with any and all areas of said Article whereby compliance at this time cannot be fully attained or substantiated.
3. According to the testimony of the applicant, the application does not contain any material misrepresentations.
4. The proposed medical marijuana business comply with applicable zoning regulations. The City Council hereby finds that based upon the testimony of the applicant, the building in which the proposed medical marijuana business will be

located will conform to the Trinidad City Codes, including the zoning code and all International Codes adopted by the City.

5. Robert Mitchell Schultz testified in favor of granting the license. No one testified in opposition.
6. The applicant through the facts and evidence adduced as a result of the City's investigation and testimony provided, made a prima facie showing the member of the limited liability corporation is of good moral character and any employees of the entity will likewise be of good moral character.
7. The City Clerk's report showed that there are currently nine medical and retail marijuana licenses overall approved within the City of Trinidad, with three ownerships, at three addresses.
8. Based on the evidence presented at the hearing and the investigative materials provided for the hearing, the City Council finds that the location of the businesses is appropriate, and that the applicant officer is of satisfactory moral character and there is a willingness by the applicant to fully cooperate with the officials of the City in the operation of these businesses.

THEREFORE, the City Council of the City of Trinidad, Colorado, as the local marijuana licensing authority, hereby approves and grants a Medical Marijuana Optional Premise Cultivation Operation License to Trinidad's Higher Calling U, LLC at 1000 Independence Road in Trinidad, Colorado. The issuance of said licenses shall be withheld until a certificate of occupancy is issued by the Chief Building Official and upon his absolute confirmation of compliance with all codes adopted by the City of Trinidad.

**PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN.** Thomas Murphy, CORA. Mr. Murphy addressed Council and reminded them that the regular meeting before last he had asked a number of questions. He said he was going to press for that this evening, but because of the number of people in attendance and number of issues on the agenda will wait until the next meeting. To Mayor Reorda's comments about the sound system not picking up everyone's voices for the video/audio recording Mr. Murphy produces, Mr. Murphy offered to bring back the people who installed the system and offered to perform a sound check prior to the meetings and adjust it as needed.

Ernest Santos addressed Council regarding the appeal. He told them that he lives in Trinidad. Regarding the marijuana business taking over Cimino's business, he asked if it is worth losing that business, Big O Tire and the oil shop and maybe a couple of motels that want to move because of the people that are going to be there. Mayor Reorda answered that it wasn't the City's decision. It was the decision of Howard Lackey, the property owner. Mr. Santos argued that the City approved the application. Mayor Reorda said they did on the basis that the owner said Terry Sanchez had approval to use that building. City Attorney Downs clarified that the license hasn't been approved. A Conditional Use Permit for the property was disapproved and then approved, however the CUP is not going forward there; Forever Green is not going forward there. CannaCo, the most recent CUP applicant was denied by the Planning Commission at that location. Mr. Santos told Council that this is a small community and that we have more applicants for marijuana than Pueblo West who is ten times bigger than Trinidad. He asked what we will do with all of those shops. We don't have the people to support that many. He concluded that he hates to see what happens to the young kids in our City.

Chris Furia addressed Council regarding the appeal and Planning Commission. Mr. Furia said he looks forward to commenting further at the public hearing on the CannaCo appeal and the dismissal of some of the Planning Commission members. He and others in the audience were confused when noted that it didn't show on the agenda that there would be public comment taken on those items. He said he had a packet of information for Council relevant to this. He asked if they'd like to receive it now or at the public hearing relative to CannaCo. City Attorney Downs told Mr. Furia it would be best to submit the information during the hearing for CannaCo. It was noted that the Planning Commission had also received this packet of information. He reiterated that it would be more appropriate at that public hearing. He clarified that there will not be public comment taken at the appeal hearing, however if the Planning Commission's decision is reversed on appeal there will be a public hearing on the license application. Mr. Furia said himself and others in the audience feel they need to speak at this time in case they are not allowed to at another time. CannaCo was denied by the Commission. One reason that Council is saying is that every application needs to be consistent is beyond him, he said. They keep saying there is a legality issue. If the ordinances were written correctly to start with and not rushed into, he said there would not be legalities to address. He said they have a unique situation concerning the application at Toupal Drive. There have already been two CUPs issued for medical marijuana at that location and asked if it is allowable to have different entity able to sell at retail at the same location. Mr. Furia said there is also a CDOT traffic study required that hasn't been addressed and a septic problem at the site as well as a vagrancy issue. He said it seems that none of these issues have been addressed necessarily, so each situation should be unique and they look forward to that. He asked that his comments be incorporated into the record for the appeal filed by CannaCo. He concluded that it is extremely frustrating how Council is handling some of the issues in our City. The exact same thing seems to be happening as they saw happen a few years ago to the school board and the superintendent that ran it. The public is being chastised and not able to express their concerns. He told Mayor Reorda that he is one of the leaders to get that problem corrected. However, now he and Council seem to be following in the same footsteps in not allowing citizens to speak or allowing due process.

Bill Phillips addressed Council regarding CUPs and the Planning, Zoning and Variance Commission. Mr. Phillips told Council that he and his wife Carol own Big O Tire and Grease Monkey on Toupal Drive. He thanked Council for letting him speak and acknowledged that they have a tough job representing the people and businesses of Trinidad. He said he has attended a lot of Planning and Zoning Commission and City Council meetings in the last several months where a lot of marijuana conditional use permits were discussed. Mr. Phillips reminded Council that they represent the people and said there are a lot of people and businesses in the community who are not in favor of a marijuana business at the particular location they are applying for. He suggested Council should solicit input and respect their opinion. He further suggested they reach out to those people who won't come before them because they are afraid. Council needs to ask their opinions. Mr. Phillips said he is opposed to CannaCo's conditional use permit, as he was for Forever Green, and would like to see Phil Long Toyota stay there for business reasons. He said they do business with Phil Long and the businesses in that area are complimentary to one another. He added that he doesn't believe that conditional use permits for locations where existing businesses are located that are generating revenue and tax dollars should be considered. They have to know they have done some damage to Phil Long. The residents of the Toupal Drive area have some real concerns. He said he's met with them on several occasions. They are opposed to living and bringing up their kids near a marijuana facility. They have concerns about traffic and the safety. There are also police and fire concerns because there is one way to get in and out of that area. The septic system and leach field could be a real problem, and he suggested the EPA will be involved if there are those kinds

of problems. This is a vagrancy prone area and people think it will increase vagrancy with this type of facility locating there. The Planning Commission is the checks and balances to the City Council and their role is an important one. He said he believes they are trying and are doing a very good job. They denied Forever Green and CannaCo CUPs because they thought it was the right decision. He suggested their decision should be respected and understood. Further, Mr. Phillips noted that the Planning Commission listened to the people and gave the public all the time they wished to speak. He encouraged Council to do the same. He reiterated that they are doing a great job. He asked that when making their decision, Council do the right thing for the businesses and people that they represent. He asked that his comments be entered into the appeal record for CannaCo. Councilmember Miles told Mr. Phillips that she understands his request to solicit comments, but explained that Council is advised that they are acting in a quasi-judicial role in these types of matters. City Attorney Downs elaborated that normally he would say please talk to the citizens. However, in this matter, Council is sitting in a quasi-judicial capacity, like a judge, and must remain free from lobbying one way or another to be better able to sit in judgment of appeal. They cannot solicit comments on the subject. Mr. Phillips argued that they represent the people and were elected to represent the people. Mayor Reorda said Council took an oath to uphold the Colorado Constitution and the laws of the City of Trinidad. The Constitution of the state says marijuana is legal. If Council goes against it they are going against the Colorado Constitution.

Dicky Laner, (Richard E. Laner, Jr.), addressed Council regarding CUPs and the CannaCo appeal. Mr. Laner said he understands that marijuana is legal in Colorado. He reminded that it passed by a narrow majority, not a large one. It is legal but it doesn't mean you want it anywhere in Trinidad. It is up to City Council to decide and look at each thing individually. In this area it is not only taking the place of another business, but he said he lives in that area and doesn't see it as a positive thing for the area. He questioned what it will do to their property values. What is happening in Colorado is still an experiment and it may not work. The Federal government still has not legalized it and could still shut it down at any point. He urged Council to think about each application and where it is locating. The residents were never addressed about what was happening in the neighborhood, yet the people who made application say they want to be good neighbors. Good neighbors talk to each; they didn't. He concluded that he wants to make sure the laws are followed and guidelines are followed and they are in compliance with City zoning requirements. Mayor Reorda reminded that he just read into the record that they are to comply and said he just doesn't want it in his neighborhood. Mr. Laner reiterated his opinion that Council should look at each place. He asked how many are being allowed and opined that marijuana is not a positive thing.

Alexander Serafini addressed Council regarding marijuana licensing. Mr. Serafini said he works at Phil Long Toyota but was before Council representing himself. He said his opinion is that a marijuana facility is what one makes it. It is not positive or negative. What is positive and beneficial is education. If people have concerns for the children, education is needed.

Carolyn Dillow Phillips addressed Council regarding CUPs and the CannaCo appeal. Ms. Phillips introduced herself as the co-owner of Big O Tires and Grease Monkey and said she was before Council in opposition to the application by CannaCo. She said she has attended each hearing before City Council and Planning Commission and reminded Council that this isn't fun. It is very intimidating to address this issue. She said she has worked all day and is coming off a business trip and would much rather be home. When they are grilled as citizens expressing their concerns and beliefs, and as a female business owner really treated rudely and interrupted by Commissioner Pritchard and the City Attorney and City Planner, she doesn't want to be here. She reiterated that it is intimidating. She said she believes in our community and our children and this is a wrong decision. She agreed with Mr. Laner in that the communication has not been there. She said they were surprised. She had to go down each row and ask a lot of questions to get answers. Good neighbors don't do that to each other. Overall the Planning Commission asked a lot of questions and were very respectful. Certain members were rude as it went along and makes her not want to be here. She reiterated that she believes in the community and contributes to the community. She told Council that she pays taxes that pay their salaries and she has a right to express herself. Ms. Dillow told Council that the septic system will be a big problem. She said she doesn't know how they can just ignore what people are asking and expressing as concerns. She said she didn't think the septic system will pass for a marijuana facility in Colorado. Councilmember Bonato asked if the septic system and leach field has ever been discussed with the Planning Commission. City Attorney Downs said it has come up but there was no real conclusion. Ms. Dillow reminded Council that Governor Hickenlooper called the legalization of marijuana reckless. She stated that she is from Pueblo and has seen the chaos. She has family in Pueblo West and they are in fact repealing a lot of those facilities because of the problems they have caused. She urged that we not go down that road blindly and that we learn from our neighbors. Mayor Reorda told Ms. Dillow that if anyone on Council treated her rudely he apologized. City Attorney Downs likewise apologized and offered apologies for City Planner Fineberg as well, adding that they didn't mean to.

**COUNCIL REPORTS.** Councilmember Mattie told Council that he represented the City at a meeting of the Chamber of Commerce one or two weeks ago at the College with Councilmember Fletcher regarding Referendums 2A and 2B, the City's tax measures. Mayor Reorda commented that he was told they did a terrific job.

Councilmembers Bonato, Torres and Miles had nothing to report.

Mayor Reorda reported on his attendance at the Hispanic Chamber dinner where they presented awards to local students. He said he was very impressed. They had a terrific agenda. A 13-year old who is fighting cancer sang at the dinner and they had a great speaker. They are to be commended for the job they are doing in the City of Trinidad.

Councilmember Bolton told Council that she attended the Friends of the Library fundraiser last Friday and that it was a great event. She also reported that the Southwest Chief Commission will be meeting in Trinidad on December 19<sup>th</sup> and further information will be forthcoming.

**REPORTS BY CITY MANAGER.** Schedule. Acting City Manager Garrett reminded Council of the breakfast meeting with the County Commissioners and SCCOG Executive Director on Wednesday, October 29<sup>th</sup> at 8:00 a.m. at Bueno's Restaurant. She also reminded them of the roundtable meeting that same evening at 5:00 p.m. with the Housing Authority Board at the Corazon Square.

**Groundbreaking Ceremony.** Acting City Manager Garrett told Council that the groundbreaking ceremony for the CNG fueling station is scheduled for Thursday, October 30<sup>th</sup> at 10:30 a.m. at 806 Goddard Avenue. Invitations are forthcoming.

**Health Insurance Renewal.** Acting City Manager Garrett informed Council that the City received a favorable renewal quote from CIGNA, the City's health insurance carrier, with an approximate 10% increase. She explained that it was helpful this year to have received other quotes. The health insurance committee agreed to the renewal.

**REPORTS BY CITY ATTORNEY.** None.

Councilmember Bonato asked Council's consideration in moving item 8i, Consideration of removal of members of the Planning, Zoning and Variance Commission, to be heard after 8a, Tavern liquor license renewal request by Robert Leonetti d/b/a Park Café at 608 Arizona Avenue, as a courtesy to those present. He moved to amend the agenda accordingly. The motion was seconded by Councilmember Bolton and carried unanimously upon roll call vote.

**UNFINISHED BUSINESS.** Public hearing for consideration of an ordinance amending Gas Tariff No. 1 to allow the City to sell natural gas to compressed natural gas fueling station owners for their resale in that exclusive alternate energy form. Mayor Reorda declared the public hearing open and called for comments for or against the ordinance. There being none, the hearing was closed.

Second reading of an ordinance amending Gas Tariff No. 1 to allow the City to sell natural gas to compressed natural gas fueling station owners for their resale in that exclusive alternate energy form. The ordinance title was read aloud. A motion to approve the ordinance on second reading was made by Councilmember Bolton and seconded by Councilmember Torres. Upon roll call vote the motion carried unanimously.

**ORDINANCE NO. 1966**

**AN ORDINANCE OF THE CITY OF TRINIDAD, COLORADO, AMENDING GAS TARIFF NO. 1 TO ALLOW THE CITY TO SELL NATURAL GAS TO COMPRESSED NATURAL GAS FUELING STATION OWNERS FOR THEIR RESALE IN THAT EXCLUSIVE ALTERNATE ENERGY FORM**

Public hearing for consideration of an ordinance repealing and re-enacting Chapter 7, Finance and Taxation, Article 6, Economic Development Fund, to rename it Economic Development Incentive and to set forth allowable development incentives. Mayor Reorda declared the public hearing open and called for comments for or against the ordinance. There being none, the hearing was closed.

Second reading of an ordinance repealing and re-enacting Chapter 7, Finance and Taxation, Article 6, Economic Development Fund, to rename it Economic Development Incentive and to set forth allowable development incentives. The ordinance title was read aloud. A motion to approve the ordinance on second reading was made by Councilmember Miles and seconded by Councilmember Bonato. Upon roll call vote the motion carried unanimously.

**ORDINANCE NO. 1967**

**AN ORDINANCE OF THE CITY OF TRINIDAD, COLORADO, REPEALING AND RE-ENACTING CHAPTER 7, FINANCE AND TAXATION, ARTICLE 6, ECONOMIC DEVELOPMENT FUND, TO RENAME IT ECONOMIC DEVELOPMENT INCENTIVE AND TO SET FORTH ALLOWABLE DEVELOPMENT INCENTIVES**

Public hearing for consideration of ordinance amending Article 11, Chapter 14, Section 14-202, License Required, to lift the restriction on the number of medical marijuana center licenses that may be issued within the corporate City limits. Mayor Reorda declared the public hearing open and called for comments, for or against the ordinance. Lee Hadaway addressed Council. Mr. Hadaway said that he has a limited liability corporation that has one of the original 15 medical marijuana conditional use permits. He reminded Council that when this started the City was going to issue five. The only way to get recreational was to first have medical, and there were only going to be five. However, since there were 15 who wanted to apply for the conditional use permits they let everyone apply. So from Friday to the following Tuesday it went from five to 15 and they were going to draw the names out of a hat. Then it was decided that all 15 would get conditional use permits. He said he was still under the impress until four weeks ago that an applicant had to have medical marijuana licensing first to get recreational. Now he said Council wants to lift the limit on the number of medical centers. There are only 400 medical marijuana cardholders in town. If all 15 were to set up shop, that's 26 customers per shop. He said they were told that the City was going to raise the limit to 15 but not to worry because not all would follow through. The most they'd have to worry about is six or seven. That's where we are not and now you want to raise it? What about the people who played the game, jumped through the hoops and have done everything they were supposed to? Every time you turn around the game is being changed. He recalled Council also saying they wanted to look out for the locals first, but all of that is out the window now. Whether he does anything with his or not, he said he'd like Council to stick with that they started out with, although it is too late to go back to the first come first served, but thought they should hold it to the 15. Barbara Santos addressed Council. She said she is deathly against putting in any more medical or retail marijuana businesses because we have a 7,000 plus people and there are 15 applications already. If you put in seven of these that's 100 people per. How many senior retired people, which we are a majority of, will use medical marijuana since they don't sell it in town, the doctors will not prescribe it in town, and who are you going to sell it to? How many businesses will go out of business because of the problems marijuana will bring in? It supposedly mellows out everybody. There are people now that are not working. Companies can't get people to work because they are drugged out. It's going to be worse. We have to live with Council's decisions and those decisions are making Trinidad the laughing stock of the entire state. Carolyn Dillow Phillips

addressed Council. She said she is from Pueblo and has family in Pueblo West. Her four sisters are active teachers in Pueblo. Pueblo proper will be putting it up for a vote in front of the people. They are not going to be so bold as to say we are going to allow all these medical and retail marijuana shops because they feel like they are there to represent the people. They have a population of over 100,000. Pueblo West on the other hand has medical marijuana shops and they are looking to repeal them because of the increased crime and problems it is causing in the schools. They have chaos in the schools right now according to her sisters because of the licensing of marijuana. She reiterated that it is reckless. She said Trinidad doesn't have to follow in the reckless footsteps. We can be intelligent. We don't have to be the laughing stock of the state of Colorado. Ms. Phillips said she has sat through these hearings and has watched these applicants from Pueblo to snap them up here in Trinidad because they can't get them in Pueblo. They are sitting out there laughing saying "Go to Trinidad if you want a license; they will approve anything." She urged Council to be intelligent, value our young people, and to value and listen to the people of the area. Bill Phillips addressed Council and stated he is owner of Big O Tires and Grease Monkey, commercial property owner in the City of Trinidad. He said he is against the increase in the number of conditional use permits for marijuana licenses to an infinite number. Conversely he said he's like to see the number go down. He said he did believe this to be an attempt to quell the black market. Mr. Phillips opined that the City is already in jeopardy with 3019 Toupal Drive, having multiple conditional use permits associated with it. We have our work cut out for us to stay above board with the two CUPs that are going to be issued or the two different companies who are going to own CUPs if it is overturned in a later part of the meeting for 3019 Toupal Drive. It is going to be a legal issue for the City. Councilmember Torres commended Bill Phillips on how he conducts himself with courtesy and in maintaining his professionalism and because he doesn't insult Council's intelligence. There being no further comments, the hearing was closed.

Second reading of an ordinance amending Article 11, Chapter 14, Section 14-202, License Required, to lift the restriction on the number of medical marijuana center licenses that may be issued within the corporate City limits. The ordinance title was read aloud. Councilmember Mattie moved to approve the ordinance on second reading, stating that with all due respect to the arguments presented tonight, yet recognizing the rule of the majority in the most recent vote statewide and locally, and true to his responsibility to endorse the Constitution and the Amendment therein, and with respect to the operation of the free enterprise system, whereby people should be given an opportunity and if they fail, that's their risk. The motion was seconded by Councilmember Miles. Upon roll call vote the motion carried with the following votes being cast:

Aye – Mattie, Miles, Reorda, Torres

Nay – Bolton, Bonato

#### ORDINANCE NO. 1968

#### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO, AMENDING ARTICLE 11, CHAPTER 14, SECTION 14-202, LICENSE REQUIRED, TO LIFT THE RESTRICTION ON THE NUMBER OF MEDICAL MARIJUANA CENTER LICENSES THAT MAY BE ISSUED WITHIN THE CORPORATE CITY LIMITS

**MISCELLANEOUS BUSINESS.** Consideration of removal of members of the Planning, Zoning and Variance Commission. Councilmember Bonato asked who put this on the Council agenda. City Attorney Downs answered that it was put on the agenda at the request of Mayor Reorda and Councilmember Mattie. Councilmember Bonato said he didn't know anything about it and was shocked to see it on the agenda. He said if there's a legal reason for putting this on the agenda there should be a legal memo provided. City Attorney Downs responded that it was part of the executive session so there was no need for him to provide a legal memo. He pointed out that he provided Council with a packet of information of relevant law on the Planning Commission and how they are installed and removed and a memo with reference to that also. It was not confidential, doesn't need to be, and he added that he is not trying to further an agenda or a cause. Councilmember Bonato asked why Council gets these things right before the meeting at their seating places. He asked why they didn't get it on Friday in their packets. City Attorney Downs said this was his decision at about 3:00 p.m. this afternoon to aid them in their discussion on how Planning Commission members are removed. Also, he provided it because there was a great deal of furor on Facebook. There's also a great deal of concern about whether Council should be the appellant body or the Planning Commission as the Appeal Board. He added that he wasn't tasked by anyone. He said he thought providing the information would be helpful to Council. Councilmember Torres commented that she thought what Councilmember Bonato was trying to say was her concern also. She said she first learned of this item being on the agenda from Facebook and she had a lot of questions at that point. She said she wasn't prepared at that point to remove anyone and wanted to know who, what and why. It should have come forward 24 or 48 hours before, not the day before. City Attorney Downs explained that everyone gets the City Council agenda at the same time. Council has them delivered to their houses. The media looks at the agenda as soon as they can. In this day and age of social media, people want to comment on anything out of the ordinary. He apologized for her learning about it from social media. Councilmember Torres said the packets were delivered Friday so obviously someone knew something. City Attorney Downs said the agenda is posted between 3:00 and 5:00 p.m. on Friday. As the packets are delivered we are posting the meetings publicly. Council may want a heads up but we are basically not trying to give an advantage to anyone. If two Council members ask for an item, it goes on the agenda generally. Posting is done as required. It's the normal course of events. Everyone gets it at the same time. Councilmember Bolton commented that she wasn't aware of the item being on the agenda either. Mayor Reorda said that is why it is being tabled. Councilmember Mattie said he too saw it only in his packet. He said when he had the discussion with City Attorney Downs after the last Planning Commission meeting, and the information presented to him at his work place regarding the Toupal Drive address having become a point of contention again, he said he felt they needed to meet to discuss the operations of Planning and Zoning in as much as from previous experience it creates situations for the City that could be libelous for us. It is important to look at the bigger picture. The City was put in a position of liability by perceived discrimination against a particular person and a particular address. He suggested when the Planning Commissioners vote in accordance with state law and follow the guidelines from staff and counsel, it is an appropriate act. But when they ignore those things, it creates a situation whereby he said he has a responsibility to protect the City. He asked for the agenda item to discuss the matter. At first blush it appears the intent is an attempt to preserve an ongoing relationship between a car dealership and

landowner. That's not a function of City government. City government should not tell a landowner who they can and cannot rent to. That is how the free market system works. That's how this came up. Sometimes you have to address the elephant in the room. He continued that he didn't think City government has a function in landlord-tenant relationships. If statutory and ordinance requirements are met we have a prescribed method to act within that area. At the conclusion of the Planning Commission meeting two meetings ago that resulted in the appeal from Mr. Sanchez, he reminded that he suggested training for the Planning Commission members so they may better understand the scope of their authority as provided by CIRSA. In response to his suggestion for training he had one member of the Planning Commission elected to resign. He continued that he respects and recognizes that all of the people who serve on our boards and commissions are volunteers and are not compensated. It was never his intention to belittle, demean or humiliate any of them. He pointed out his responsibility to be true to the desires of the majority of the most recent vote of the electors relative to the marijuana issue, even if it is inconsistent with his personal beliefs. This was intended to open dialogue between Council and the Planning Commission. The matter is suggested to be tabled to discuss this to better understand their motivation and the limits of their actions and how it impacts the City and all of us as taxpayers who would be responsible for judgment awards should that come to pass. Councilmember Bolton pointed out that she learned today that DOLA can and will provide training for the Planning Commission members. Councilmember Mattie suggested we can all do a better job. We need to not rush into things. He added that he is trying to adjust to situations presented to him and deal with them to the best of his abilities. Carolyn Dillow said that since he spoke about their business as an example, she wanted to respond that the argument he used is extreme tunnel vision. Having attended all of the Planning & Zoning Commission meetings founds that they asked a lot of questions in a lot of different areas and they weren't focused on tenant and property owner relationship. She opined that they were truly doing planning and zoning for the future economic growth of our City and community and were trying to ensure our children had something in the future, and they were not looking at immediate financial gain. Mayor Reorda reiterated that the Constitution of the state of Colorado states that marijuana is legal. City Attorney Downs asked that he not engage the audience. Councilmember Miles complimented the audience for being respectful and said it has been a good give and take. A motion to table this item to the November 5<sup>th</sup> regular meeting was made by Councilmember Miles and seconded by Councilmember Torres. Upon roll call vote the motion carried unanimously.

Tavern liquor license renewal request by Robert Leonetti d/b/a Park Café at 608 Arizona Avenue. Robert Leonetti was present on behalf of the applicant. Councilmember Bonato moved for the license approval and Councilmember Bolton seconded the motion. Upon roll call vote the motion carried unanimously.

Appointment to the City Tree Board. Jennifer Laidig, the applicant for re-appointment, was present. A motion to re-appoint Ms. Laidig was made by Councilmember Miles and seconded by Councilmember Bolton. The motion carried unanimously upon roll call vote.

Consideration of Performance Agreement between Trinidad-Las Animas County Economic Development, Inc. and the City of Trinidad for administration of Economic Development Incentive Program. Councilmember Bolton made a motion to approve the agreement and Councilmember Miles seconded the motion. Upon roll call vote the motion carried unanimously.

Approval of letter of support for Temple Aaron grant applications. Councilmember Bolton moved for the approval of the letter of support. Councilmember Torres seconded the motion, which upon roll call vote, carried unanimously.

Consideration of bid results for the 2014 Water SCADA System Project. Public Works/Utilities Director Mike Valentine advised Council that he conducted a bid opening today for the communication systems that functions between the water pumps and water tanks. He reminded Council that there had been a mandatory pre-bid whereby only one entity attended, the bid request, however, was sent to six or seven companies. Only one bid was received from Browns Hill Engineering & Controls, LLC. He also reminded Council that Browns Hill is the company that provides the communication and support from Monument Lake to North Lake. He concluded that the bid amount was \$111,834 and that it is an emergency situation. They thought the bid amount would be about \$110,000. He recommended they move forward with this bidder. A motion to approve the bid received from Browns Hill Engineering & Controls, LLC in the amount of \$111,834 was made by Councilmember Bolton and seconded by Councilmember Bonato. Upon roll call vote the motion carried unanimously.

First reading of an ordinance repealing and re-enacting Chapter 2, Article 17, Section 2-71(5)(a) and (b), and setting a hearing date for consideration of said ordinance. The ordinance was introduced by Councilmember Bolton and then read aloud in its entirety. A motion to approve the ordinance on first reading and consider it further at a public hearing at 7:00 p.m. on November 5, 2014, was made by Councilmember Bolton and seconded by Councilmember Mattie. Councilmember Mattie recalled language that stated members shall be punctual and prepared and corrected his second to include that language. Upon roll call vote the motion carried unanimously.

#### ORDINANCE NO.

AN ORDINANCE REPEALING AND RE-ENACTING CHAPTER 2, ADMINISTRATION, ARTICLE 17, CODE OF CONDUCT AND CODE OF ETHICS, SECTION 2-71(5)(A) AND (B), CODE OF CONDUCT FOR PUBLIC SERVANTS AND CONSEQUENCES FOR VIOLATION OF CODE OF CONDUCT, RESPECTIVELY

Appeal of a decision of the Planning, Zoning and Variance Commission filed by CannaCo, Application #2014-RMS-24, #2014-RPMF-24, and #2014-RMCF-24, Request for Conditional Use Permit to establish a Retail Marijuana Store, Retail Product Manufacturing Facility, and a Retail Marijuana Cultivation Facility at 3019 Toupal Drive. City Attorney Downs suggested Council schedule the hearing on this matter for November 5, 2014. He said there is a big agenda but the appellants would like the hearing scheduled as soon as possible. The hearing can't be set any earlier than ten or later than 60 days from filing, so the earliest date is November 5<sup>th</sup>. Councilmember Miles commented that sometimes the most important things are last on an agenda and not given ample consideration. Councilmember Mattie suggested a special

OCTOBER 21, 2014

meeting on November 6<sup>th</sup> at 5:30 p.m. Councilmember Miles pointed out that it allows people who want to comment to be here after work. Councilmember Bolton moved to set the appeal for hearing on November 6, 2014 at 5:30 p.m. The motion was seconded by Councilmember Bonato and carried unanimously upon roll call vote. City Attorney Downs clarified that the public will not be allowed to comment, the same as last time, and it will be posted accordingly.

New hotel and restaurant liquor license request by Jim and Marsha Royse d/b/a Royse's Black Jack Steakhouse at 225 W. Main Street. City Attorney Downs acknowledged the presence of the applicants. A motion to set the application for public hearing on December 2, 2014 at 7:00 p.m. and the tentative neighborhood boundary as the City limits was made by Councilmember Bolton and seconded by Councilmember Bonato. The motion carried unanimously upon roll call vote.

**BILLS.** Councilmember Bolton moved to approve the bills and Councilmember Bonato seconded the motion. The motion carried unanimously upon roll call vote.

**PAYROLL,** October 11, 2014 through October 24, 2014. A motion to approve the payroll was made by Councilmember Miles and seconded by Councilmember Torres. Roll call was taken and the motion carried unanimously.

**ADJOURNMENT.** There being no further business to come before Council, a motion to adjourn the regular meeting was made by Councilmember Bolton and seconded by Councilmember Bonato. The meeting was adjourned by unanimous roll call vote of Council.

ATTEST:

\_\_\_\_\_  
JOSEPH A. REORDA, Mayor

\_\_\_\_\_  
DONA VALENCICH, Asst. City Clerk



### COUNCIL COMMUNICATION

**CITY COUNCIL MEETING:** November 5, 2014  
**PREPARED BY:** Audra Garrett, ACM/City Clerk  
**DEPT. HEAD SIGNATURE:** *Audra Garrett*  
**# OF ATTACHMENTS:** 1

**SUBJECT:** Public Hearing for Capital Budget Estimates and 2015 Annual Budget  
**PRESENTER:** Audra Garrett, ACM/City Clerk

**RECOMMENDED CITY COUNCIL ACTION:** Conduct public hearings for the Capital Budget Estimates and 2015 Annual Budget

**SUMMARY STATEMENT:** The requirement that the hearing be set is set out in the Home Rule Charter.

**EXPENDITURE REQUIRED:** No

**SOURCE OF FUNDS:** N/A

**POLICY ISSUE:** Solicit public comment for the 2015 budget.

**ALTERNATIVE:** N/A

#### BACKGROUND INFORMATION:

The City’s Home Rule Charter requires that the annual budget and capital budget estimates be made available to the public when they are provided to Council at the first meeting in October of each year. Council shall within 14 days after the filing of the budget estimates set public hearings on the same. Publication of the hearings will be made at the earliest possible date once the hearings are set.

A preliminary budget is required to be submitted to Council in early October. Since that time much work has gone into the budget and will continue to until it is finalized.

This is an opportunity to receive public comment.

## NOTICE OF PUBLIC HEARINGS

A PUBLIC HEARING will be held by the City Council of the City of Trinidad, on Wednesday, November 5, 2014 at 7:00 p.m. in the City Council Chambers, City Hall, 135 N. Animas Street, Trinidad, Colorado, for the purpose of taking public comment on the following:

### CAPITAL BUDGET ESTIMATES

A PUBLIC HEARING will also be held by the City Council of the City of Trinidad, on Wednesday, November 5, 2014 at 7:00 p.m. in the City Council Chambers, City Hall, 135 N. Animas Street, Trinidad, Colorado, for the purpose of taking public comment on the following:

### 2015 ANNUAL BUDGET

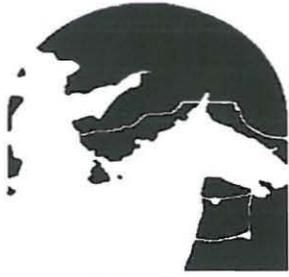
A copy of the proposed Capital Budget Estimates and the proposed 2015 Annual Budget will be available for review at City Hall beginning on October 7, 2014.

Any person wishing to make comments on the above may appear before the City Council at said hearings.

Any interested elector of the City of Trinidad may file any objections to the proposed budget at any time prior to the final adoption of the budget by the Trinidad City Council.

For the Trinidad City Council  
Audra Garrett, Acting City Manager

PUBLISH: October 24 & 31, 2014  
Furnish Proof of Publication  
Display Ad - 10 Pt. Type



CITY OF TRINIDAD, COLORADO  
1876

# COUNCIL COMMUNICATION

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**CITY COUNCIL MEETING:** November 5, 2014  
**PREPARED BY:** Audra Garrett, ACM/City Clerk  
**DEPT. HEAD SIGNATURE:** *Audra Garrett*  
**# OF ATTACHMENTS:**

**SUBJECT:**

**ANNEXATION** – Triple D Family Limited Partnership LLLP and Jose Manuel Garcia and Maria Nelly Garcia – Southside Annexation

- a) Public Hearing – Petition for annexation by Triple D Family Limited Partnership LLLP and Jose Manuel Garcia and Maria Nelly Garcia – Southside Annexation
- b) Resolution setting forth findings of fact and determinations regarding the proposed Southside Annexation
- c) First reading of an ordinance annexing certain territory to the City and setting a hearing date for consideration of said ordinance
- d) Public hearing – amending the zone map by establishing the zone class of certain land annexed into the City of Trinidad to Established-Community Commercial
  - 1) First reading of an ordinance amending the zone map by establishing the zone classification of certain land annexed into the corporate limits of the City and setting a hearing date for consideration of said ordinance

**PRESENTER:** Les Downs, City Attorney

**RECOMMENDED CITY COUNCIL ACTION:** Conduct the public hearing; Adopt the resolution setting forth the findings of fact; have the first reading annexing the territory; conduct a public hearing on the zoning of the property proposed for annexation and set both ordinances for public hearing and second reading on November 18, 2014

**SUMMARY STATEMENT:** N/A

**EXPENDITURE REQUIRED:** N/A

**SOURCE OF FUNDS:** N/A

**POLICY ISSUE:** Annexation of property outside of the City’s corporate limits

**ALTERNATIVE:** N/A

**BACKGROUND INFORMATION:**

- An annexation petition was filed officially with the City Clerk’s office on September 2, 2014

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**PETITION FOR ANNEXATION TO THE CITY OF TRINIDAD,**  
**COLORADO**

**TO: THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO**

**RE: PETITION KNOWN AS SOUTHSIDE ANNEXATION**

THE UNDERSIGNED, being "Landowners", as defined in C.R.S. § 32-12-103(6), hereby Petition the City of Trinidad for annexation for the following described property and further state:

1. The legal description of the land which Landowners request to be annexed to the municipality is attached hereto as Exhibit "A", hereinafter referred to as the "Property."
2. It is desirable and necessary that the Property be annexed to the City of Trinidad, Colorado.
3. The requirements of Article II Section 30 of the Colorado Constitution have been met.
4. The following requirements of C.R.S. § 31-12-104 exist or have been met:
  - a. Not less than one-sixth (1/6) of the perimeter of the Property is contiguous with the City of Trinidad, Colorado.
  - b. A community of interest exists between the Property and the City of Trinidad, Colorado. The Property is urban or will be urbanized in the near future; and the Property is capable of being integrated into the City of Trinidad, Colorado.
5. None of the limitations provided in C.R.S. § 31-12-105 are applicable and the requirements of that statute have been met because of the following:
  - a. The annexation of the Property will not result in the Property being divided into separate parts or parcels under identical ownership;
  - b. No land area within the Property held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate comprising 20 acres or more and having a valuation for assessment in excess of \$200,000 for ad valorem tax purposes has been included in the area of the Property to be annexed without the written consent of the landowners thereof.
  - c. No annexation proceedings have been commenced for the annexation of any part of the Property by any other municipality.
  - d. The entire width of all streets and alleys to be included within the area annexed are included.
  - e. The annexation of the Property will not result in the detachment of area from any school district or the attachment of same to another school district.
  - f. Annexation by the City of Trinidad, Colorado, of the Property will not have the effect of, and will not result in, the denial of reasonable access to landowners, owners of an easement, or owners of a franchise adjoining a platted street or alley, inasmuch as annexation of the Property will not result in annexation of a platted street or alley which is not bounded on both sides by the City of Trinidad.
6. The annexation of the Property will not have the effect of extending a boundary of the City of Trinidad more than three miles in any direction from any point of the municipal boundary in the past 12 months.

7. The Landowners comprise the owners in fee of more than 50 percent of the area of the Property, exclusive of public streets and alleys, and comprise more than 50 percent of the landowners of the Property. The legal description of the land owned by each signer of this petition is shown on Exhibit A.
8. The Landowners request that the City of Trinidad approve the annexation of the Property.
9. This Petition is accompanied by four (4) copies of an annexation boundary map in the form required by C.R.S. § 31-12-107(1)(d) and attached as Exhibit B.
10. This instrument may be executed in one or more counterparts, all of which taken together shall constitute the same document.

LANDOWNERS:

Owner: Triple D Family Limited Partnership, LLLP

By: Triple D Family Limited Partnership LLLP by Ray E. Duran <sup>Managing</sup> <sub>Member</sub>

Mailing Address: P O Box 810 Trinidad, CO 81082

Owner: Jose Manuel Garcia and Maria Nelly Garcia

José Manuel García  
Maria Nelly García

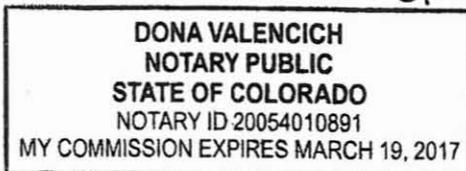
Mailing Address: 6900 Santa Fe Trail Dr., Trinidad, Co 81082

STATE OF COLORADO )  
 ) ss.  
 COUNTY OF LAS ANIMAS)

The foregoing instrument was acknowledged before me this 2 day of Sept 2014, by Ray E Duran.

Witness my hand and official seal

My commission expires: 3/19/17



Dona Valencich  
 Notary Public

STATE OF COLORADO )  
 ) ss.  
COUNTY OF LAS ANIMAS)

The foregoing instrument was acknowledged before me this 22 day of August 2014, by  
Jose Manuel Garcia

Witness my hand and official seal

My commission expires: 3/19/17

Dona Valencich  
Notary Public

**DONA VALENCICH  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20054010891  
MY COMMISSION EXPIRES MARCH 19, 2017**

STATE OF COLORADO )  
 ) ss.  
COUNTY OF LAS ANIMAS)

The foregoing instrument was acknowledged before me this 22 day of August 2014, by  
Marie Nelly Garcia

Witness my hand and official seal

My commission expires: 3/19/17

Dona Valencich  
Notary Public

**DONA VALENCICH  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20054010891  
MY COMMISSION EXPIRES MARCH 19, 2017**

AFFIDAVIT OF CIRCULAR IN SUPPORT OF PETITION

STATE OF COLORADO )  
 ) ss.  
COUNTY OF LAS ANIMAS)

Audra Garrett, being first duly sworn states as follows:

- a. I have circulated the Petition for Annexation to the City of Trinidad, Colorado, set forth herein.
- b. I know the persons whose names are subscribed to the foregoing Petition on behalf of the Landowners.
- c. The signatures on the foregoing Petition were affixed in my presence and each signature is a true, genuine and correct signature of the person it purports to be.
- d. To the best of my knowledge and belief, the persons whose names are affixed to the foregoing Petition are authorized to sign such document on behalf of the Petitioners.

CIRCULATOR

Audra Garrett

STATE OF COLORADO )  
 ) ss.  
COUNTY OF LAS ANIMAS)

The foregoing instrument was acknowledged before me this 2 day of Sept 2014, by Audra Garrett.

Witness my hand and official seal

My commission expires: 3/19/17

Dona Valencich  
Notary Public

**DONA VALENCICH  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID: 20054010891  
MY COMMISSION EXPIRES MARCH 19, 2017**

## EXHIBIT A

### DESCRIPTION – ANNEXATION TRACT 1

A TRACT OF LAND LOCATED IN PART OF THE NW1/4NW1/4 OF SECTION 36, TOWNSHIP 33 SOUTH, RANGE 64 WEST OF THE 6<sup>TH</sup> P.M., COUNTY OF LAS ANIMAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST RIGHT OF WAY OF INTERSTATE 25, FROM WHICH THE NORTHWEST CORNER OF SECTION 36 BEARS N 89°30'51" W, 75.45 FEET; THENCE S 89°30'51" E, ALONG THE NORTH LINE OF SAID SECTION 36, 670.51 FEET TO A POINT; THENCE S 17°41'04" W, ALONG THE WEST LINE OF A TRACT OF LAND DEEDED TO TRIPLE D LLLP AS RECORDED IN BOOK 962, PAGE 552, 440.46 FEET TO A POINT; THENCE S 08°52'50" W, ALONG THE WEST LINE OF SAID TRIPLE D LLLP TRACT, 356.64 FEET TO THE SOUTHWEST CORNER OF SAID TRIPLE D LLLP TRACT, SAID POINT BEING THE NORTHWEST CORNER OF A TRACT OF LAND DEEDED TO JOSE MANUAL AND MARIA NELLY GARCIA AS RECORDED IN BOOK 1017, PAGE 638 AND IN BOOK 1025, PAGE 225; THENCE S 02°36'48" W, ALONG THE WEST LINE OF SAID GARCIA TRACT, 288.67 FEET TO THE SOUTHWEST CORNER OF SAID GARCIA TRACT; THENCE S 79°45'48" W, ACROSS INTERSTATE 25, 377.88 FEET TO A POINT ON THE WEST RIGHT OF WAY OF SAID INTERSTATE 25; THENCE ALONG THE WEST RIGHT OF WAY OF INTERSTATE 25 THE FOLLOWING (6) COURSES:

- 1) N 01°53'45" W, 98.30 FEET TO A POINT;
- 2) ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 513.00 FEET AN ARC DISTANCE OF 64.20 FEET TO A POINT (THE CHORD OF SAID CURVE BEARS N 10°59'08" W, 64.16 FEET);
- 3) N 14°34'15" W, 303.30 FEET TO A POINT;
- 4) ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 1492.50 FEET AN ARC DISTANCE OF 272.90 FEET TO A POINT (THE CHORD OF SAID CURVE BEARS N 09°19'57" W, 272.52 FEET);
- 5) N 00°52'45" E, 332.50 FEET TO A POINT;
- 6) N 23°58'25" E, 84.34 FEET TO A POINT,

SAID POINT BEING THE POINT OF BEGINNING, CONTAINING 13.37 ACRES.

### DESCRIPTION – ANNEXATION TRACT 2

A TRACT OF LAND LOCATED IN PART OF THE NW1/4NW1/4 OF SECTION 36, TOWNSHIP 33 SOUTH, RANGE 64 WEST OF THE 6<sup>TH</sup> P.M., COUNTY OF LAS ANIMAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT FROM WHICH THE NORTHWEST CORNER OF SECTION 36 BEARS N 89°30'51" W, 745.96 FEET; THENCE S 89°30'51" E, ALONG THE NORTH LINE OF SAID SECTION 36, 312.99 FEET TO A POINT; THENCE S 00°14'31" E, ALONG THE EAST LINE OF A TRACT OF LAND DEEDED TO TRIPLE D LLLP AS RECORDED IN BOOK 962, PAGE 552, 753.82 FEET TO A POINT; THENCE S 88°18'35" W, ALONG THE SOUTH LINE OF SAID TRIPLE D LLLP PROPERTY, 273.71 FEET TO A POINT, SAID POINT BEING THE NORTHEAST CORNER OF A TRACT OF LAND DEEDED TO JOSE MANUAL AND MARIA NELLY GARCIA AS RECORDED IN BOOK 1017, PAGE 638 AND IN BOOK 1025, PAGE 225; THENCE S 03°40'41" E, 320.53 FEET TO THE SOUTHEAST CORNER OF SAID GARCIA TRACT; THENCE N 84°49'13" W, ALONG THE NORTH LINE OF COUNTY ROAD 69.5, 266.24 FEET TO THE SOUTHWEST CORNER OF SAID GARCIA TRACT; THENCE N 02°36'48" E, ALONG THE WEST LINE OF SAID GARCIA TRACT, 288.67 FEET TO THE NORTHWEST CORNER OF SAID GARCIA TRACT, SAID POINT BEING THE SOUTHEAST CORNER OF SAID TRIPLE D LLLP TRACT; THENCE N 08°52'50" E, ALONG THE WEST LINE OF SAID TRIPLE D LLLP TRACT, 356.64 FEET TO A POINT; THENCE N 17°41'04" E, ALONG THE WEST LINE OF SAID TRIPLE D LLLP TRACT, 440.46 FEET TO THE POINT OF BEGINNING, CONTAINING 9.16 ACRES.



ORDINANCE NO.

AN ORDINANCE AMENDING THE ZONE MAP OF THE CITY OF TRINIDAD, COLORADO, BY ESTABLISHING THE ZONE CLASSIFICATION OF CERTAIN LAND ANNEXED INTO THE CORPORATE LIMITS OF THE CITY OF TRINIDAD, COLORADO

WHEREAS, the Trinidad City Council has taken action by the adoption of an ordinance causing the annexation of certain real property specified as the Southside Annexation into the corporate limits of the City of Trinidad, Colorado; and

WHEREAS, it is necessary to establish zone classification of land use of that property comprising such annexed territory.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO, that:

Articles 4, 5 and 6 of Chapter 14, Planning & Zoning, and the Zoning map incorporated therein, said ordinance and map being part of the Code of Ordinances of the City of Trinidad, Colorado, is hereby amended as follows:

That land area more particularly described in Exhibit "A", which is attached hereto and incorporated herein by reference and which territory was recently annexed into the corporate limits of the City of Trinidad, Colorado, owned by Jose Manuel Garcia and Maria Nelly Garcia and Triple D Family Limited Partnership LLLP, is hereby classified as Established-Community Commercial (E-CC) zoning.

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_, READ AND ORDERED PUBLISHED this \_\_\_\_ day of \_\_\_\_\_, 2014.

FINALLY PASSED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2014.

EFFECTIVE DATE OF THIS ORDINANCE SHALL BE the \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
JOSEPH A. REORDA, Mayor

ATTEST:

\_\_\_\_\_  
DONA VALENCICH, Acting City Clerk

**EXHIBIT "A"**

LEGAL DESCRIPTION

DESCRIPTION – ANNEXATION TRACT 1

A TRACT OF LAND LOCATED IN PART OF THE NW1/4NW1/4 OF SECTION 36, TOWNSHIP 33 SOUTH, RANGE 64 WEST OF THE 6<sup>TH</sup> P.M., COUNTY OF LAS ANIMAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST RIGHT OF WAY OF INTERSTATE 25, FROM WHICH THE NORTHWEST CORNER OF SECTION 36 BEARS N 89°30'51" W, 75.45 FEET; THENCE S 89°30'51" E, ALONG THE NORTH LINE OF SAID SECTION 36, 670.51 FEET TO A POINT; THENCE S 17°41'04" W, ALONG THE WEST LINE OF A TRACT OF LAND DEEDED TO TRIPLE D LLLP AS RECORDED IN BOOK 962, PAGE 552, 440.46 FEET TO A POINT; THENCE S 08°52'50" W, ALONG THE WEST LINE OF SAID TRIPLE D LLLP TRACT, 356.64 FEET TO THE SOUTHWEST CORNER OF SAID TRIPLE D LLLP TRACT, SAID POINT BEING THE NORTHWEST CORNER OF A TRACT OF LAND DEEDED TO JOSE MANUAL AND MARIA NELLY GARCIA AS RECORDED IN BOOK 1017, PAGE 638 AND IN BOOK 1025, PAGE 225; THENCE S 02°36'48" W, ALONG THE WEST LINE OF SAID GARCIA TRACT, 288.67 FEET TO THE SOUTHWEST CORNER OF SAID GARCIA TRACT; THENCE S 79°45'48" W, ACROSS INTERSTATE 25, 377.88 FEET TO A POINT ON THE WEST RIGHT OF WAY OF SAID INTERSTATE 25; THENCE ALONG THE WEST RIGHT OF WAY OF INTERSTATE 25 THE FOLLOWING (6) COURSES:

- 1) N 01°53'45" W, 98.30 FEET TO A POINT;
- 2) ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 513.00 FEET AN ARC DISTANCE OF 64.20 FEET TO A POINT (THE CHORD OF SAID CURVE BEARS N 10°59'08" W, 64.16 FEET);
- 3) N 14°34'15" W, 303.30 FEET TO A POINT;
- 4) ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 1492.50 FEET AN ARC DISTANCE OF 272.90 FEET TO A POINT (THE CHORD OF SAID CURVE BEARS N 09°19'57" W, 272.52 FEET);
- 5) N 00°52'45" E, 332.50 FEET TO A POINT;
- 6) N 23°58'25" E, 84.34 FEET TO A POINT,

SAID POINT BEING THE POINT OF BEGINNING, CONTAINING 13.37 ACRES.

DESCRIPTION – ANNEXATION TRACT 2

A TRACT OF LAND LOCATED IN PART OF THE NW1/4NW1/4 OF SECTION 36, TOWNSHIP 33 SOUTH, RANGE 64 WEST OF THE 6<sup>TH</sup> P.M., COUNTY OF LAS ANIMAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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ORDINANCE NO.

AN ORDINANCE ANNEXING CERTAIN TERRITORY TO THE  
CITY OF TRINIDAD, COLORADO

WHEREAS, the City of Trinidad, Colorado has found a Petition for Annexation filed by Jose Manuel Garcia and Maria Nelly Garcia and Triple D Family Limited Partnership LLLP, and the State of Colorado, owners of the hereinafter described land areas, specifically described in Exhibit "A" attached hereto, to be in substantial compliance with Section 31-12-107(1), C.R.S. and Article II, Section 30 of the Colorado Constitution; and

WHEREAS, after notice pursuant to Section 31-12-108 C.R.S., the City Council has held a public hearing on the proposed annexation to determine if the annexation complies with Section 31-12-104 and 105, C.R.S.; and

WHEREAS, the City Council has by Resolution # \_\_\_\_\_ determined that the requirements of Section 31-12-104 and 105, C.R.S., have been met, that an election is not required, and this ordinance is contingent on the execution of an annexation agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE  
CITY OF TRINIDAD, COLORADO, that:

Section 1. The annexation of the territory situated in the County of Las Animas, Colorado, described in Exhibit "A" attached hereto and incorporated herein, to the City of Trinidad, Colorado, be and the same is hereby ordained and approved, and said territory is hereby incorporated in and made a part of the City of Trinidad, Colorado.

Section 2. The annexation of such territory of the City of Trinidad, Colorado shall be complete and effective on the effective date of this Ordinance, except for the purpose of General Property Taxation on and after the first day of January, 2015.

Section 3. A request has been made for the zone classification of the land area which is the subject of this annexation and this ordinance annexing said territory is expressly made subject to the granting of said zoning as requested.

Section 4. Within thirty (30) days after the effective date of this ordinance, the City Clerk is hereby authorized and directed to:

- a) file one copy of the annexation map with the original of the annexation ordinance in the office of the City Clerk of the City of Trinidad, Colorado; and

- b) file two certified copies of the annexation ordinance and map of the area annexed containing a legal description of such area with the County Clerk & Recorder of Las Animas County, Colorado.

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_, READ AND ORDERED PUBLISHED this \_\_\_\_ day of \_\_\_\_\_, 2014.

FINALLY PASSED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2014.

EFFECTIVE DATE OF THIS ORDINANCE SHALL BE the \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
JOSEPH A. REORDA, Mayor

ATTEST:

\_\_\_\_\_  
DONA VALENCICH, Acting City Clerk

**EXHIBIT "A"**

LEGAL DESCRIPTION

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RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO SETTING FORTH FINDINGS OF FACT AND DETERMINATIONS REGARDING THE PROPOSED SOUTHSIDE ANNEXATION

WHEREAS, annexation proceedings were heretofore initiated for property to be known as the Southside Annexation; and

WHEREAS, following Notice given as required by law, the City Council has held a hearing on said Annexation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO:

1. That the City Council hereby finds that the requirements of the applicable parts of Sections 31-12-104 and 31-12-105, C.R.S., have been met.
2. That the City Council further finds and determines that an election pursuant to Section 31-12-107(2) or 31-12-112(1), C.R.S., is not required.
3. That no additional terms and conditions are to be imposed upon the area proposed to be annexed, beyond those identified within the annexation and development agreement.
4. That the City Council further finds that notice was given and hearing was held regarding the annexation in accordance with Sections 31-12-108 and 31-12-109, C.R.S., as applicable.
5. That the City Council concludes that the area proposed to be annexed in the Southside Annexation is eligible for annexation to the City of Trinidad and therefore may be annexed.

INTRODUCED, READ AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
JOSEPH A. REORDA, Mayor

ATTEST:

\_\_\_\_\_  
DONA VALENCICH, Acting City Clerk

# Las Animas County



## Board of County Commissioners

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Gary D. Hill  
Commissioner

Mack Loudon  
Commissioner

Anthony Abeyta  
Commissioner

October 8, 2014

City of Trinidad  
Attn: Audra Garrett  
Acting City Manager  
P.O. Box 880  
Trinidad, CO 81082

Dear Ms. Garrett:

At the October 7, 2014, regular meeting of the Las Animas County Board of Commissioners, the Board took under consideration the City's request for a waiver of an impact report regarding the annexation request submitted by Triple D Family Limited Partnership, LLLP, and Jose Manuel Garcia and Maria Nelly Garcia. During their deliberation of this matter, the Board received information from City Attorney Les Downs and County Attorney Dixie Newnam regarding issues pertaining to the annexation.

After discussion, the Board voted unanimously to waive the impact requirement pursuant to 31-12-108.5(1) regarding this proposed annexation. A copy of the minutes of the meeting will be forwarded to you when they are approved during the next regular meeting on October 21.

If there is any other information that you or City Council may need, please do not hesitate to contact me at any time.

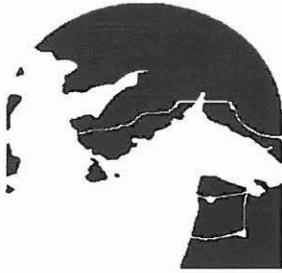
Sincerely,

A handwritten signature in cursive script that reads "Leeann Fabec".

Leeann Fabec  
County Administrator

Cc: Dixie Newnam





CITY OF TRINIDAD, COLORADO  
1876

## COUNCIL COMMUNICATION



**CITY COUNCIL MEETING:** November 5, 2014  
**PREPARED BY:** Les Downs, City Attorney  
**DEPT. HEAD SIGNATURE:**  
**# OF ATTACHMENTS:** 1

**SUBJECT:** Public hearing and second reading of an ordinance repealing and re-enacting Chapter 2, Article 17, Section 2-71(5)(a) and (b), Code of Conduct for Public Servants and Consequences for Violation of Code of Conduct, respectively

**PRESENTER:** Les Downs, City Attorney

**RECOMMENDED CITY COUNCIL ACTION:** Consider approval on second reading

**SUMMARY STATEMENT:** Rules of Council

**EXPENDITURE REQUIRED:** N/A

**SOURCE OF FUNDS:** N/A

**POLICY ISSUE:** Simplifying Code of Conduct

**ALTERNATIVE:** N/A

**BACKGROUND INFORMATION:**

- Councilmember Fletcher has provided a condensed summary of a Code of Conduct;
- Council provided input at the work session on October 14, 2014 and it was incorporated into the proposed ordinance
- An amendment was made to the ordinance upon first reading to include punctuality and preparedness





ORDINANCE NO.

AN ORDINANCE REPEALING AND RE-ENACTING CHAPTER 2, ADMINISTRATION, ARTICLE 17, CODE OF CONDUCT AND CODE OF ETHICS, SECTION 2-71 (5)(a) AND (b), CODE OF CONDUCT FOR PUBLIC SERVANTS AND CONSEQUENCES FOR VIOLATION OF CODE OF CONDUCT, RESPECTIVELY

WHEREAS, the City Council of the City of Trinidad, Colorado, recognizes a need for a simple and equitable Code of Conduct for its municipal public servants; and

WHEREAS, a public servant is defined in Chapter 2, Article 17 as an Officer, Independent Contractor, or Volunteer of the City; a candidate for such position; and former Officers, Independent Contractors, and Volunteers for six months after termination of service for the City.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO, that:

1. Section 2-71 (5)(a) of the Code of Ordinance of the City of Trinidad is hereby repealed and re-enacted as follows:

**Section 2-71 City of Trinidad Code of Conduct and Code of Ethics**

(5) Code of Conduct.

Trinidad, Colorado's City Council is composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, each Council Member has chosen to serve in public office in order to preserve and protect the present and the future of the City of Trinidad. This common goal should be acknowledged even as Council Members may "agree to disagree" on contentious issues.

(a) Code of Conduct for Public Servants.

(1) **Conduct at Meetings.** Members shall be punctual and prepared and shall have prepared themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers, making personal comments not germane to the business of the body, or otherwise interfering with the orderly conduct of the meetings. Members shall commit to honoring the role of the Chair in maintaining order, keeping discussion on track, and focusing discussion on agenda items at hand. Members shall avoid debate and argument with the public. Members shall not engage in personal attacks of any kind under any circumstance. Should a Council Member call for a point of order pursuant to Robert's Rules of Order, the issue shall be resolved by the City Attorney as the parliamentarian.

(2) **Avoid Personal Comments that Could Offend Other Council Members.** It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other Council Members, their opinions, and their actions. Honesty and respect for the dignity of each individual should be reflected in every word and action taken by Council Members. **It is a serious and continuous responsibility.** If a Councilmember is personally offended by remarks of another Councilmember, the offended Councilmember should make notes of the actual words used and call for a “point of personal privilege” that challenges the other Council Member to justify or apologize for the language used.

(3) **Be aware of the Insecurity of Written Notes, Voicemail Messages and E-Mail.** Technology allows words written or said without much forethought to be distributed wide and far. Council Members should take into consideration that anything sent out via fax, voicemail, e-mails, or correspondence could be distributed to the media and citizens. Written notes, voicemail messages and e-mail should be treated as potentially “public” communication.

(4) **Speak with One Voice.** Council Members will frequently be asked to explain a Council action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of the facts or City policies as they relate to Council action. Objectively present the Council’s collective decision or direction, even when you may not agree. If you feel the need to express your own opinion or directions, state it in terms such as “I would have preferred “x” but the Council wanted “y” so that’s what we will be doing.” Explaining Council’s decisions, without giving your personal criticism of the Council’s actions, will serve to strengthen the community’s image of the City Council.

(5) **Be Welcoming to Speakers and Treat Them with Care and Respect.** Because personal concerns are often the issue of those who come to present to the Council, Council members should remember that how they treat the speaker will either help them relax or push their emotions to a higher level of intensity.

2. Section 2-71(5)(b) of Chapter 2, Article 17, of the Code of Ordinances is hereby repealed and re-enacted as follows:

(b) **Consequences for Violation of Code of Conduct.** Any Council Member who violates the Code of Conduct is subject to disciplinary action. Disciplinary action toward a Council Member’s violation of the Code of Conduct shall be taken only upon approval by a vote of a majority of the City Council. The City reserves the right to take any of the following steps for violation of the Code of Conduct by a Public Servant, after consideration of the seriousness, duration, and/or repeated nature of the violation:

- (1) Private Warning;
- (2) Remedial or educational training on the subject of the violation intended to avoid or prevent future violations;
- (3) Public Warning;
- (4) Formal and public censure

3. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or in conflict with the Home Rule Charter of the City of Trinidad, the State or Federal Constitution, such decision shall not affect the validity of the remaining portions of this ordinance and shall remain in full force and effect.

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_, READ AND ORDERED  
PUBLISHED this \_\_\_\_ day of \_\_\_\_\_, 2014.

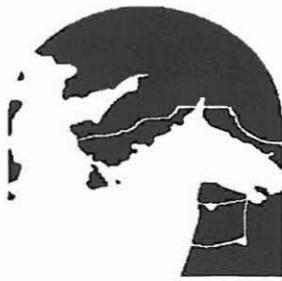
FINALLY PASSED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2014.

EFFECTIVE DATE OF THIS ORDINANCE SHALL BE the \_\_\_\_ day of \_\_\_\_\_,  
2014.

\_\_\_\_\_  
JOSEPH A. REORDA, Mayor

ATTEST:

\_\_\_\_\_  
DONA VALENCICH, Acting City Clerk



CITY OF TRINIDAD, COLORADO  
1876

# COUNCIL COMMUNICATION

**CITY COUNCIL MEETING:** October 31, 2014  
**PREPARED BY:** Les S. Downs  
**DEPT. HEAD SIGNATURE:**  
**# OF ATTACHMENTS:** 1

**SUBJECT:** Removal of Planning, Zoning and Variance Commission Members

**PRESENTER:** Les Downs, City Attorney

**RECOMMENDED CITY COUNCIL ACTION:** Consideration of the Possible Removal of Commissioners of the Planning and Zoning Commission

**SUMMARY STATEMENT:** As a result of the appeals from the denial of conditional use permits for retail and medical marijuana, and for certain commission members not following staff advice, City Council has discussed the possibility of pursuing the removal of one or more Planning and Zoning Commissioners, per section 14-14(b) of the Trinidad Code of Ordinances.

**EXPENDITURE REQUIRED:** No

**SOURCE OF FUNDS:** N/A

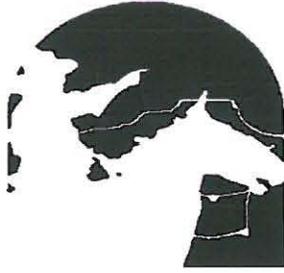
**POLICY ISSUE:** Whether Council wants to pursue this course of action as a consequence for the actions taken by Planning and Zoning.

**ALTERNATIVE:** Not remove the Commissioners.

**BACKGROUND INFORMATION:**

The code of Ordinances as it pertains to removal of Planning and Zoning Commissioners.

9a



CITY OF TRINIDAD, COLORADO  
1876

## COUNCIL COMMUNICATION

**CITY COUNCIL MEETING:** November 5, 2014  
**PREPARED BY:** Audra Garrett, ACM/City Clerk  
**DEPT. HEAD SIGNATURE:** *Audra Garrett*  
**# OF ATTACHMENTS:**

**SUBJECT:** Tavern liquor license renewal request by Trinidad Lanes, LLC at 823 Van Buren

**PRESENTER:** Representative of Trinidad Lanes, LLC

**RECOMMENDED CITY COUNCIL ACTION:** Consider renewal of the license

**SUMMARY STATEMENT:** N/A

**EXPENDITURE REQUIRED:** No

**SOURCE OF FUNDS:** N/A

**POLICY ISSUE:** N/A

**ALTERNATIVE:** N/A

### BACKGROUND INFORMATION:

- The renewal application is in order.
- The report from the Fire Chief indicates compliance.
- The Building Inspector reported the west exit light not working but a secondary is in place within five feet.
- The Police Department had no calls for service.
- The Health Department indicated the licensee's compliance.
- Disclosure statements provided by Councilmembers Miles and Torres are attached.
- Appropriate fees have been paid.

9a

**LIQUOR OR 3.2 BEER LICENSE  
 RENEWAL APPLICATION**

Fees Due	
Renewal Fee	\$500.00
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
Related Resort \$75 x _____	_____
<b>Amount Due/Paid</b>	<b>\$ 500.00</b>

TRINIDAD LANES LLC  
 1217 WILLOW ST  
 TRINIDAD CO 81082

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

**PLEASE VERIFY & UPDATE ALL INFORMATION BELOW**

**RETURN TO CITY OR COUNTY LICENSING AUTHORITY BY DUE DATE**

Licensee Name <b>TRINIDAD LANES LLC</b>		DBA <b>TRINIDAD LANES LLC</b>		
Liquor License # <b>28330900000</b>	License Type <b>Tavern (city)</b>	Sales Tax License # <b>28330900000</b>	Expiration Date <b>11/16/2014</b>	Due Date <b>10/2/2014</b>
Street Address <b>823 VAN BUREN TRINIDAD CO 81082-3681</b>				Phone Number <b>(719) 846 7201</b>
Mailing Address <b>1217 WILLOW ST TRINIDAD CO 81082</b>				
Operating Manager <b>KIMBERLY SALBATO</b>	Date of Birth [REDACTED]	Home Address <b>TRINIDAD CO 81082</b>		Phone Number [REDACTED]

- Do you have legal possession of the premises at the street address above?  YES  NO  
 Is the premises owned or rented?  Owned  Rented\* \*If rented, expiration date of lease \_\_\_\_\_
- Since the date of filing of the last annual application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested.  YES  NO  
**NOTE TO CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP APPLICANTS:** If you have added or deleted any officers, directors, managing members, general partners or persons with 10% or more interest in your business, you must complete and return immediately to your Local Licensing Authority, Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, along with all supporting documentation and fees.
- Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation.  YES  NO
- Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation.  YES  NO
- Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation.  YES  NO
- SOLE PROPRIETORSHIPS, HUSBAND-WIFE PARTNERSHIPS AND PARTNERS IN GENERAL PARTNERSHIPS:** Each person must complete and sign the DR 4679: Affidavit – Restriction on Public Benefits (available online or by calling 303-205-2300) and attach a copy of their driver's license, state-issued ID or valid passport.

**AFFIRMATION & CONSENT**

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name of Applicant/Authorized Agent of Business <b>KIMBERLY M SALBATO</b>	Title <b>OWNER/MANAGER</b>
Signature <i>Kimberly M Salbato</i>	Date <b>10-1-14</b>

**REPORT & APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY**

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 12, Articles 46 and 47, C.R.S. **THEREFORE THIS APPLICATION IS APPROVED.**

Local Licensing Authority For <b>Trinidad</b>	Date
Signature	Title <b>Mayor</b>
	Attest

10/3/14

DEPARTMENTAL INSPECTION REPORT  
3.2% BEER (FERMENTED MALT BEVERAGE)  
OR LIQUOR LICENSE

Applicant: Trinidad Lanes, LLC

dba:

Address: 823 Van Buren

Type of License: Tavern

Renewal  Transfer  Change of Location  New  Special Event

FOR CONSIDERATION AT  
COUNCIL MEETING DATE: October 21, 2014

\*\*\*\*\*

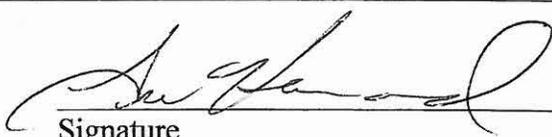
DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS: Jobs Done!

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10-6-14  
Date

  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: October 15, 2014

10/3/14

DEPARTMENTAL INSPECTION REPORT  
3.2% BEER (FERMENTED MALT BEVERAGE)  
OR LIQUOR LICENSE

Applicant: Trinidad Lanes, LLC

dba:

Address: 823 Van Buren

Type of License: Tavern

Renewal  Transfer  Change of Location  New  Special Event

FOR CONSIDERATION AT  
COUNCIL MEETING DATE: October 21, 2014

\*\*\*\*\*

DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS: wrest refit backup light not working  
but does have secondary within 5'

10-6-14  
Date

Chris S. Kelly  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: October 15, 2014

10/3/2014

**DEPARTMENTAL INSPECTION REPORT  
3.2 % BEER (FERMENTED MALT BEVERAGE)  
OR LIQUOR LICENSE**

Applicant's Name: Trinidad Lanes, LLC

DBA:

Business Address: 823 Van Buren

Type of License: Tavern

Renewal     Transfer     Change of Location     New     Special Event

FOR CONSIDERATION AT

COUNCIL MEETING DATE: October 21, 2014

\*\*\*\*\*

DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS:

No records found

10-8-14  
Date

Charles J. Sawyer  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: October 15, 2014

## Tom Acre

---

**From:** John Martinez [jmartinez@la-h-health.org]  
**Sent:** Friday, October 03, 2014 7:56 AM  
**To:** Audra Garrett  
**Subject:** RE: liquor

Hi Audra;  
Trinidad Lanes is in compliance with this Agency.

John Martinez  
Las Animas-Huerfano Counties District Health Department  
Environmental Health Specialist III  
[jmartinez@la-h-health.org](mailto:jmartinez@la-h-health.org)

**From:** Audra Garrett [<mailto:audra.garrett@trinidad.co.gov>]  
**Sent:** Thursday, October 02, 2014 7:06 PM  
**To:** John Martinez  
**Subject:** liquor

Please confirm compliance with your office for Trinidad Lanes at 823 Van Buren.

*Audra Garrett* City Clerk  
City of Trinidad  
135 N. Animas Street  
Trinidad, CO 81082  
(719) 846-9843 ext. 135  
(719) 846-4140 fax  
[audra.garrett@trinidad.co.gov](mailto:audra.garrett@trinidad.co.gov)



**DISCLOSURE STATEMENT**

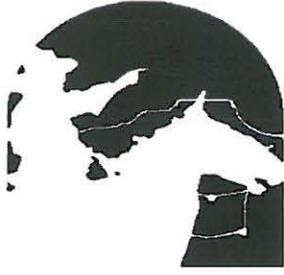
I, Michelle Miles, hereby state and affirm that I am a member of Opera House Wine & Spirits, LLC, a Colorado limited liability company formed on February 22, 2010, whose principal office address is 601 W. Main Street, Trinidad, Colorado, 81082; that said limited liability company owns and operates Tire Shop Wine & Spirits, a retail liquor store licensed entity, licensed under Title 12, Articles 46 or 47, CRS 1973, as amended of the State of Colorado and under Chapter 3 of the Municipal Code of the City of Trinidad, located at 601 W. Main Street, in the City of Trinidad, County of Las Animas, State of Colorado; that I hold a 99% interest in Opera House Wine & Spirits, LLC; and, that I am able to act independently upon liquor licensing matters that come before the Trinidad City Council, the local liquor licensing authority, of which I am a member.

  
\_\_\_\_\_  
Michelle Miles  
12/4/12  
\_\_\_\_\_  
Date

**DISCLOSURE STATEMENT**

I, Liz Torres, hereby state and affirm that I am a member of Ristras Restaurant and Cantina, LLC, a Colorado limited liability company formed on February 13, 2014, whose principal office address is 516 Elm Street, Trinidad, Colorado, 81082; that said limited liability company owns and operates Ristras Restaurant and Cantina, a hotel and restaurant licensed entity, licensed under Title 12, Articles 46 or 47, CRS 1973, as amended of the State of Colorado and under Chapter 3 of the Municipal Code of the City of Trinidad, located at 516 Elm Street, in the City of Trinidad, County of Las Animas, State of Colorado; that I hold a 34% interest in Ristras Restaurant and Cantina, LLC; and, that I am able to act independently upon liquor licensing matters that come before the Trinidad City Council, the local liquor licensing authority, of which I am a member.

  
\_\_\_\_\_  
Liz Torres  
4.8.14  
\_\_\_\_\_  
Date



CITY OF TRINIDAD, COLORADO  
1876

## COUNCIL COMMUNICATION

**CITY COUNCIL MEETING:** November 5, 2014  
**PREPARED BY:** Audra Garrett, ACM/City Clerk  
**DEPT. HEAD SIGNATURE:** *Audra Garrett*  
**# OF ATTACHMENTS:**

9b

**SUBJECT:** Tavern liquor license renewal request by Great Wall, LLC d/b/a Great Wall at 321 State Street

**PRESENTER:** Representative of Great Wall, LLC

**RECOMMENDED CITY COUNCIL ACTION:** Consider renewal of the license

**SUMMARY STATEMENT:** N/A

**EXPENDITURE REQUIRED:** No

**SOURCE OF FUNDS:** N/A

**POLICY ISSUE:** N/A

**ALTERNATIVE:** N/A

### BACKGROUND INFORMATION:

- The renewal application is in order.
- The report from the Fire Chief indicates compliance.
- The Building Inspector reported the emergency light is not working in the west dining room, kitchen and bar area.
- The Police Department had no calls for service.
- The Health Department indicated the licensee's compliance.
- Disclosure statements provided by Councilmembers Miles and Torres are attached.
- Appropriate fees have been paid.

9b

**LIQUOR OR 3.2 BEER LICENSE  
 RENEWAL APPLICATION**

GREAT WALL  
 321 STATE ST  
 TRINIDAD CO 07208

Fees Due	
Renewal Fee	\$500.00
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
Related Resort \$75 x _____	_____
<b>Amount Due/Paid</b>	

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

**PLEASE VERIFY & UPDATE ALL INFORMATION BELOW**

**RETURN TO CITY OR COUNTY LICENSING AUTHORITY BY DUE DATE**

Licensee Name <b>GREAT WALL LLC</b>		DBA <b>GREAT WALL</b>		
Liquor License # <b>42873300000</b>	License Type <b>Tavern (city)</b>	Sales Tax License # <b>42873300000</b>	Expiration Date <b>12/22/2014</b>	Due Date <b>11/7/2014</b>
Street Address <b>321 STATE ST TRINIDAD CO 81082-2532</b>				Phone Number <b>(719) 680 3434</b>
Mailing Address <b>321 STATE ST TRINIDAD CO 07208</b>				
Operating Manager <b>SHI MING XU</b>	Date of Birth _____	Home Address <b>TRINIDAD CO 81082</b>	Phone Number _____	
<p>1. Do you have legal possession of the premises at the street address above? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO                  Is the premises owned or rented? <input type="checkbox"/> Owned <input checked="" type="checkbox"/> Rented* *If rented, expiration date of lease <u>11/1/2020</u></p> <p>2. Since the date of filing of the last annual application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</p> <p><b>NOTE TO CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP APPLICANTS:</b> If you have added or deleted any officers, directors, managing members, general partners or persons with 10% or more interest in your business, you must complete and return immediately to your Local Licensing Authority, Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, along with all supporting documentation and fees.</p> <p>3. Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</p> <p>4. Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</p> <p>5. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</p> <p>6. <b>SOLE PROPRIETORSHIPS, HUSBAND-WIFE PARTNERSHIPS AND PARTNERS IN GENERAL PARTNERSHIPS:</b> Each person must complete and sign the DR 4679: Affidavit – Restriction on Public Benefits (available online or by calling 303-205-2300) and attach a copy of their driver's license, state-issued ID or valid passport.</p>				

**AFFIRMATION & CONSENT**

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name of Applicant/Authorized Agent of Business <b>SHI MING XU</b>	Title <b>Owner</b>
Signature 	Date <b>10.15.14</b>

**REPORT & APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY**

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 12, Articles 46 and 47, C.R.S. **THEREFORE THIS APPLICATION IS APPROVED.**

Local Licensing Authority For <b>Trinidad</b>	Date
Signature	Title <b>Mayor</b>
	Attest

10/15/14

DEPARTMENTAL INSPECTION REPORT  
3.2% BEER (FERMENTED MALT BEVERAGE)  
OR LIQUOR LICENSE

Applicant: Great Wall, LLC

dba: Great Wall

Address: 321 State Street

Type of License: Tavern

Renewal  Transfer  Change of Location  New  Special Event

FOR CONSIDERATION AT  
COUNCIL MEETING DATE: November 5, 2014

\*\*\*\*\*

DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS: Inspected OK

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10-22-14  
Date

Jon Carino  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: October 29, 2014

10/15/14

DEPARTMENTAL INSPECTION REPORT  
3.2% BEER (FERMENTED MALT BEVERAGE)  
OR LIQUOR LICENSE

Applicant: Great Wall, LLC

dba: Great Wall

Address: 321 State Street

*After  
10:00 was 22<sup>nd</sup>*

Type of License: Tavern

Renewal  Transfer  Change of Location  New  Special Event

FOR CONSIDERATION AT  
COUNCIL MEETING DATE: November 5, 2014

\*\*\*\*\*

DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS: Emergency lighting out  
west dining room and kitchen and  
BAR AREA  
will call when replaced

10-22-2014  
Date

Chin S. Kelly  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: October 29, 2014

10/15/2014

**DEPARTMENTAL INSPECTION REPORT  
3.2 % BEER (FERMENTED MALT BEVERAGE)  
OR LIQUOR LICENSE**

Applicant's Name: Great Wall, LLC

DBA: Great Wall

Business Address: 321 State Street

Type of License: Tavern

Renewal     Transfer     Change of Location     New     Special Event

FOR CONSIDERATION AT

COUNCIL MEETING DATE: November 5, 2014

\*\*\*\*\*

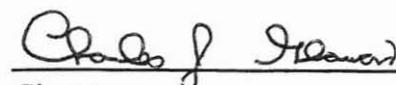
DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS:

No records found

10-28-14  
Date

  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: October 29, 2014

## Tom Acre

---

**From:** John Martinez [jmartinez@la-h-health.org]  
**Sent:** Thursday, October 16, 2014 1:56 PM  
**To:** Audra Garrett  
**Subject:** RE: liquor

Hi Audra,  
Great Wall, LLC at 321 State Street is in compliance with this Office.

John Martinez  
Las Animas-Huerfano Counties District Health Department  
Environmental Health Specialist III  
[jmartinez@la-h-health.org](mailto:jmartinez@la-h-health.org)

**From:** Audra Garrett [mailto:[audra.garrett@trinidad.co.gov](mailto:audra.garrett@trinidad.co.gov)]  
**Sent:** Wednesday, October 15, 2014 5:17 PM  
**To:** John Martinez  
**Subject:** liquor

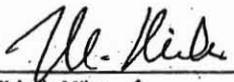
Hi John,  
Please confirm compliance with your office for Great Wall, LLC at 321 State Street.

*Audra Garrett* City Clerk  
City of Trinidad  
135 N. Animas Street  
Trinidad, CO 81082  
(719) 846-9843 ext. 135  
(719) 846-4140 fax  
[audra.garrett@trinidad.co.gov](mailto:audra.garrett@trinidad.co.gov)



DISCLOSURE STATEMENT

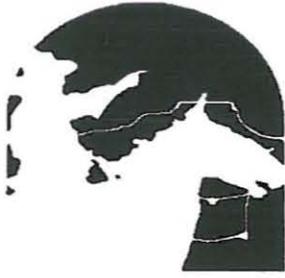
I, Michelle Miles, hereby state and affirm that I am a member of Opera House Wine & Spirits, LLC, a Colorado limited liability company formed on February 22, 2010, whose principal office address is 601 W. Main Street, Trinidad, Colorado, 81082; that said limited liability company owns and operates Tire Shop Wine & Spirits, a retail liquor store licensed entity, licensed under Title 12, Articles 46 or 47, CRS 1973, as amended of the State of Colorado and under Chapter 3 of the Municipal Code of the City of Trinidad, located at 601 W. Main Street, in the City of Trinidad, County of Las Animas, State of Colorado; that I hold a 99% interest in Opera House Wine & Spirits, LLC; and, that I am able to act independently upon liquor licensing matters that come before the Trinidad City Council, the local liquor licensing authority, of which I am a member.

  
\_\_\_\_\_  
Michelle Miles  
12/4/12  
\_\_\_\_\_  
Date

DISCLOSURE STATEMENT

I, Liz Torres, hereby state and affirm that I am a member of Ristras Restaurant and Cantina, LLC, a Colorado limited liability company formed on February 13, 2014, whose principal office address is 516 Elm Street, Trinidad, Colorado, 81082; that said limited liability company owns and operates Ristras Restaurant and Cantina, a hotel and restaurant licensed entity, licensed under Title 12, Articles 46 or 47, CRS 1973, as amended of the State of Colorado and under Chapter 3 of the Municipal Code of the City of Trinidad, located at 516 Elm Street, in the City of Trinidad, County of Las Animas, State of Colorado; that I hold a 34% interest in Ristras Restaurant and Cantina, LLC; and, that I am able to act independently upon liquor licensing matters that come before the Trinidad City Council, the local liquor licensing authority, of which I am a member.

  
\_\_\_\_\_  
Liz Torres  
4.8.14  
\_\_\_\_\_  
Date



CITY OF TRINIDAD, COLORADO  
1876

## COUNCIL COMMUNICATION

9c

**CITY COUNCIL MEETING:** November 5, 2014  
**PREPARED BY:** Audra Garrett, ACM/City Clerk  
**DEPT. HEAD SIGNATURE:** *Audra Garrett*  
**# OF ATTACHMENTS:**

**SUBJECT:** Tavern liquor license renewal request by Gino's Sports Bar, LLC at 991 E. Main Street

**PRESENTER:** Representative of Gino's Sports Bar, LLC

**RECOMMENDED CITY COUNCIL ACTION:** Consider renewal of the license

**SUMMARY STATEMENT:** N/A

**EXPENDITURE REQUIRED:** No

**SOURCE OF FUNDS:** N/A

**POLICY ISSUE:** N/A

**ALTERNATIVE:** N/A

### BACKGROUND INFORMATION:

- The renewal application is in order.
- The report from the Fire Chief indicates compliance.
- The Building Inspector reported compliance.
- The Police Department had one call for service.
- The Health Department indicated the licensee's compliance.
- Disclosure statements provided by Councilmembers Miles and Torres are attached.
- Appropriate fees have been paid.

9c

**LIQUOR OR 3.2 BEER LICENSE  
 RENEWAL APPLICATION**

GINOS SPORTS BAR LLC  
 991 E MAIN ST  
 TRINIDAD CO 81082-2724

Fees Due	
Renewal Fee	\$500.00
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
Related Resort \$75 x _____	_____
Amount Due/Paid	

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

**PLEASE VERIFY & UPDATE ALL INFORMATION BELOW**

**RETURN TO CITY OR COUNTY LICENSING AUTHORITY BY DUE DATE**

Licensee Name GINOS SPORTS BAR LLC		DBA GINOS SPORTS BAR LLC		
Liquor License # 12933190000	License Type Tavern (city)	Sales Tax License # 12933190000	Expiration Date 1/2/2015	Due Date 11/18/2014
Street Address 991 E MAIN ST TRINIDAD CO 81082-2724				Phone Number (719) 845 0388
Mailing Address 991 E MAIN ST TRINIDAD CO 81082-2724				
Operating Manager <i>Joseph Cordova</i>	Date of Birth [REDACTED]	Home Address [REDACTED]	Phone Number <i>846-4160</i>	

- Do you have legal possession of the premises at the street address above?  YES  NO  
 Is the premises owned or rented?  Owned  Rented\* \*If rented, expiration date of lease \_\_\_\_\_
- Since the date of filing of the last annual application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested.  YES  NO  
**NOTE TO CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP APPLICANTS:** If you have added or deleted any officers, directors, managing members, general partners or persons with 10% or more interest in your business, you must complete and return immediately to your Local Licensing Authority, Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, along with all supporting documentation and fees.
- Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation.  YES  NO
- Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation.  YES  NO
- Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation.  YES  NO
- SOLE PROPRIETORSHIPS, HUSBAND-WIFE PARTNERSHIPS AND PARTNERS IN GENERAL PARTNERSHIPS:** Each person must complete and sign the DR 4679: Affidavit – Restriction on Public Benefits (available online or by calling 303-205-2300) and attach a copy of their driver's license, state-issued ID or valid passport.

**AFFIRMATION & CONSENT**

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name of Applicant/Authorized Agent of Business <i>GINOS Sports Bar LLC</i>	Title <i>CO Owner</i>
Signature <i>Joseph Cordova</i>	Date <i>10/16/14</i>

**REPORT & APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY**

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 12, Articles 46 and 47, C.R.S. **THEREFORE THIS APPLICATION IS APPROVED.**

Local Licensing Authority For Trinidad	Date
Signature	Title Mayor
	Attest

10/16/14

DEPARTMENTAL INSPECTION REPORT  
3.2% BEER (FERMENTED MALT BEVERAGE)  
OR LIQUOR LICENSE

Applicant: Gino's Sports Bar, LLC

dba: Gino's Sports Bar

Address: 991 E. Main Street

Type of License: Tavern

Renewal  Transfer  Change of Location  New  Special Event

FOR CONSIDERATION AT  
COUNCIL MEETING DATE: November 5, 2014

\*\*\*\*\*

DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS:

inspected ok

10-22-14  
Date

[Signature]  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: October 29, 2014

10/16/14

DEPARTMENTAL INSPECTION REPORT  
3.2% BEER (FERMENTED MALT BEVERAGE)  
OR LIQUOR LICENSE

Applicant: Gino's Sports Bar, LLC

dba: Gino's Sports Bar

Address: 991 E. Main Street

*846-4160 manager*  
*846-4389 Bar 10:00*

Type of License: Tavern

Renewal  Transfer  Change of Location  New  Special Event

FOR CONSIDERATION AT  
COUNCIL MEETING DATE: November 5, 2014

\*\*\*\*\*

DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS: APPROVED

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10-22-2014  
Date

Chris S. Kelley  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: October 29, 2014

10/16/2014

**DEPARTMENTAL INSPECTION REPORT  
3.2 % BEER (FERMENTED MALT BEVERAGE)  
OR LIQUOR LICENSE**

Applicant's Name: Gino's Sports Bar, LLC

DBA:

Business Address: 991 E. Main Street

Type of License: Tavern

Renewal     Transfer     Change of Location     New     Special Event

FOR CONSIDERATION AT

COUNCIL MEETING DATE: November 5, 2014

\*\*\*\*\*

DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS:

<u>Date</u>	<u>Event Number</u>	<u>Call Type</u>	<u>Case number</u>
4/13/2014	14006363	Fight	No report

Two females fighting in bar. No weapons. Neither party wanted to press charges. Parties separated and told to leave.

10-28-14  
Date

*Charles J. Hancock*  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: October 29, 2014

# Detailed Report - Call #14006363

## Call Detail

<b>Call Date</b>	<b>Address</b>	<b>Apt</b>	<b>Zip</b>	<b>Mile Post</b>
04/13/2014 11:05:19	991 E MAIN		81082	
<b>City, State (County)</b>	<b>SubGrid - Grid (District)</b>	<b>Dispo of Call</b>		
TRINIDAD, CO (LAS ANIMAS)		CLEARED NO REPORT		
<b>Call Type</b>	<b>Priority</b>	<b>How Reported</b>	<b>CallTaker</b>	
FIGHTS	1	PHONE	CGUTIERREZ	
<b>DETOX FULL</b>	<b>ILLEGAL THC GROW</b>			
false	false			

## Involved Information

Last Name	First Name	Middle	Phone	Address	Apt	City	ST	DOB	Inv Type
CAGNINA	ROXANNE	MARIE	(702) 595-9401	1613 N DENVER		TRINIDAD	CO	07/06/1973	RPTG PARTY
MARTINEZ	MARY	ANN		1613 N DENVER ST		TRINIDAD	CO	02/13/1953	OTHER INV
FELTHAGER	SHERIDAN	JANELL		1613 N DENVER		TRINIDAD	CO	03/20/1971	OTHER INV

## Units Dispatched to Call ( = Primary Unit)

Unit	Activity	Started	Ended	Time	Location
104		04/13/2014 11:06:07	04/13/2014 11:16:42	10.58	
	DISPATCHED	04/13/2014 11:06:07	04/13/2014 11:06:43	0.60	
	ENROUTE	04/13/2014 11:06:43	04/13/2014 11:07:25	0.70	
	ARRIVED	04/13/2014 11:07:25	04/13/2014 11:16:42	9.28	
	CLEARED	04/13/2014 11:16:42	04/13/2014 11:16:42	0.00	
C40		04/13/2014 11:06:07	04/13/2014 11:16:42	10.58	
	DISPATCHED	04/13/2014 11:06:07	04/13/2014 11:06:43	0.60	
	ENROUTE	04/13/2014 11:06:43	04/13/2014 11:07:50	1.12	
	ARRIVED	04/13/2014 11:07:50	04/13/2014 11:16:42	8.87	
	CLEARED	04/13/2014 11:16:42	04/13/2014 11:16:42	0.00	

## Call Notes

04/13/2014 11:02:08 (CGUTIERREZ)

RP STATED SHERIDAN ATTACKED HER

04/13/2014 11:02:18 (CGUTIERREZ)

SHE IS STILL THERE NO WEAPONS UNKNOWN INJURY

04/13/2014 11:03:49 (CGUTIERREZ)

BOTH INSIDE BAR

04/13/2014 11:04:04 (CGUTIERREZ)

104 23

04/13/2014 11:04:30 (CGUTIERREZ)

C40 23

04/13/2014 11:05:06 (CGUTIERREZ)

C40 C4

## Detailed Report - Call #14006363

### Call Notes (continued)

04/13/2014 11:13:12 (KZUNIGA)

104-CLEAR, PTS LEFT TO GO SEPARATE PLACES, NEITHER WANTS TO PRESS CHARGES, CLEAR

## Tom Acre

---

**From:** John Martinez [jmartinez@la-h-health.org]  
**Sent:** Thursday, October 16, 2014 3:54 PM  
**To:** Audra Garrett  
**Subject:** RE: liquor

Gino's Sports Bar , LLC at 991 E. Main Street is in compliance with this office.

John Martinez  
Las Animas-Huerfano Counties District Health Department  
Environmental Health Specialist III  
[jmartinez@la-h-health.org](mailto:jmartinez@la-h-health.org)

**From:** Audra Garrett [mailto:[audra.garrett@trinidad.co.gov](mailto:audra.garrett@trinidad.co.gov)]  
**Sent:** Thursday, October 16, 2014 2:38 PM  
**To:** John Martinez  
**Subject:** liquor

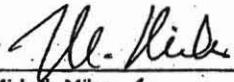
Hi John,  
Please verify compliance for Gino's Sports Bar, LLC at 991 E. Main Street. Thank you!

*Audra Garrett* City Clerk  
City of Trinidad  
135 N. Animas Street  
Trinidad, CO 81082  
(719) 846-9843 ext. 135  
(719) 846-4140 fax  
[audra.garrett@trinidad.co.gov](mailto:audra.garrett@trinidad.co.gov)



**DISCLOSURE STATEMENT**

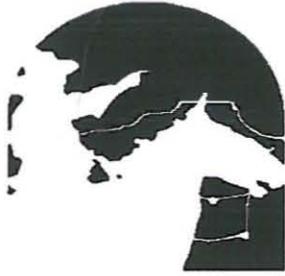
I, Michelle Miles, hereby state and affirm that I am a member of Opera House Wine & Spirits, LLC, a Colorado limited liability company formed on February 22, 2010, whose principal office address is 601 W. Main Street, Trinidad, Colorado, 81082; that said limited liability company owns and operates Tire Shop Wine & Spirits, a retail liquor store licensed entity, licensed under Title 12, Articles 46 or 47, CRS 1973, as amended of the State of Colorado and under Chapter 3 of the Municipal Code of the City of Trinidad, located at 601 W. Main Street, in the City of Trinidad, County of Las Animas, State of Colorado; that I hold a 99% interest in Opera House Wine & Spirits, LLC; and, that I am able to act independently upon liquor licensing matters that come before the Trinidad City Council, the local liquor licensing authority, of which I am a member.

  
\_\_\_\_\_  
Michelle Miles  
12/4/12  
\_\_\_\_\_  
Date

**DISCLOSURE STATEMENT**

I, Liz Torres, hereby state and affirm that I am a member of Ristras Restaurant and Cantina, LLC, a Colorado limited liability company formed on February 13, 2014, whose principal office address is 516 Elm Street, Trinidad, Colorado, 81082; that said limited liability company owns and operates Ristras Restaurant and Cantina, a hotel and restaurant licensed entity, licensed under Title 12, Articles 46 or 47, CRS 1973, as amended of the State of Colorado and under Chapter 3 of the Municipal Code of the City of Trinidad, located at 516 Elm Street, in the City of Trinidad, County of Las Animas, State of Colorado; that I hold a 34% interest in Ristras Restaurant and Cantina, LLC; and, that I am able to act independently upon liquor licensing matters that come before the Trinidad City Council, the local liquor licensing authority, of which I am a member.

  
\_\_\_\_\_  
Liz Torres  
4.8.14  
\_\_\_\_\_  
Date



CITY OF TRINIDAD, COLORADO  
1876

## COUNCIL COMMUNICATION

**CITY COUNCIL MEETING:** November 5, 2014  
**PREPARED BY:** Audra Garrett, City Clerk  
**DEPT. HEAD SIGNATURE:** *Audra Garrett*  
**# OF ATTACHMENTS:**

9d

**SUBJECT:** Retail liquor store license renewal request by Trinidad Plaza Liquors, Inc. d/b/a Main Street Liquors at 803 E. Main Street

**PRESENTER:** Trinidad Plaza Liquors, Inc. representative

**RECOMMENDED CITY COUNCIL ACTION:** Consider renewal of the license

**SUMMARY STATEMENT:** N/A

**EXPENDITURE REQUIRED:** No

**SOURCE OF FUNDS:** N/A

**POLICY ISSUE:** N/A

**ALTERNATIVE:** N/A

### BACKGROUND INFORMATION:

- The renewal application is in order.
- The Fire Department and Building Department report no issues /satisfactory inspection / recommend approval.
- The Police Department reported no calls for service.
- Disclosure statements from Councilmembers Miles and Torres are attached.
- Appropriate fees have been paid.

9d

## LIQUOR OR 3.2 BEER LICENSE RENEWAL APPLICATION

Fees Due	
Renewal Fee	
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
<b>Amount Due/Paid</b>	

Make check payable to: **Colorado Department of Revenue.**  
 The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

**PLEASE VERIFY & UPDATE ALL INFORMATION BELOW**

**RETURN TO CITY OR COUNTY LICENSING AUTHORITY BY DUE DATE**

Licensee Name <b>Trinidad Plaza Liquors, Inc.</b>		DBA <b>Main Street Liquors</b>	
Liquor License # <b>0960409000</b>	License Type <b>Liquor Store (city)</b>	Sales Tax License # <b>0960409000</b>	Expiration Date <b>12-8-2014</b>
Street Address <b>803 E. Main Street, Trinidad, CO 81082</b>			Phone Number <b>719-846-3525</b>
Mailing Address <b>803 E. Main Street, Trinidad, CO 81082</b>			
Operating Manager <b>Norma Wiggins</b>	Date of Birth [REDACTED]	Home Address [REDACTED] <b>Raton, NM 87740</b>	Phone Number [REDACTED]

1. Do you have legal possession of the premises at the street address above?  YES  NO  
 Is the premises owned or rented?  Owned  Rented\* \*If rented, expiration date of lease \_\_\_\_\_
2. Since the date of filing of the last annual application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested.  YES  NO  
**NOTE TO CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP APPLICANTS:** If you have added or deleted any officers, directors, managing members, general partners or persons with 10% or more interest in your business, you must complete and return immediately to your Local Licensing Authority, Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, along with all supporting documentation and fees.
3. Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation.  YES  NO
4. Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation.  YES  NO *paid fine in lieu of suspension. Staff members sale to minor FEB. 8, 2014.*
5. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation.  YES  NO
6. **SOLE PROPRIETORSHIPS, HUSBAND-WIFE PARTNERSHIPS AND PARTNERS IN GENERAL PARTNERSHIPS:** Each person must complete and sign the DR 4679: Affidavit – Restriction on Public Benefits (available online or by calling 303-205-2300) and **attach a copy of their driver's license, state-issued ID or valid passport.**

**AFFIRMATION & CONSENT**

*I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.*

Type or Print Name of Applicant/Authorized Agent of Business <b>Norma Wiggins</b>	Title <b>President</b>
Signature <i>Norma Wiggins</i>	Date <b>10.17.14</b>

**REPORT & APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY**

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 12, Articles 46 and 47, C.R.S. **THEREFORE THIS APPLICATION IS APPROVED.**

Local Licensing Authority For <b>Trinidad</b>	Date
Signature	Title <b>Mayor</b>
	Attest

10/17/14

DEPARTMENTAL INSPECTION REPORT  
3.2% BEER (FERMENTED MALT BEVERAGE)  
OR LIQUOR LICENSE

Applicant: Trinidad Plaza Liquors, Inc.

dba: Main Street Liquors

Address: 803 E. Main Street

Type of License: Retail Liquor Store

Renewal  Transfer  Change of Location  New  Special Event

FOR CONSIDERATION AT  
COUNCIL MEETING DATE: November 5, 2014

\*\*\*\*\*

DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS: inspected ok

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10/23/14  
Date

[Signature]  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: October 29, 2014

10/17/14

DEPARTMENTAL INSPECTION REPORT  
3.2% BEER (FERMENTED MALT BEVERAGE)  
OR LIQUOR LICENSE

Applicant: Trinidad Plaza Liquors, Inc.

dba: Main Street Liquors

Address: 803 E. Main Street

Type of License: Retail Liquor Store

Renewal  Transfer  Change of Location  New  Special Event

FOR CONSIDERATION AT  
COUNCIL MEETING DATE: November 5, 2014

\*\*\*\*\*

DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS: Approved  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10-21-2014  
Date

Chris S. Kelley  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: October 29, 2014

10/17/2014

**DEPARTMENTAL INSPECTION REPORT  
3.2 % BEER (FERMENTED MALT BEVERAGE)  
OR LIQUOR LICENSE**

Applicant's Name: Trinidad Plaza Liquors, Inc.

DBA: Main Street Liquors

Business Address: 803 E. Main Street

Type of License: Retail Liquor Store

Renewal     Transfer     Change of Location     New     Special Event

FOR CONSIDERATION AT

COUNCIL MEETING DATE: November 5, 2014

\*\*\*\*\*

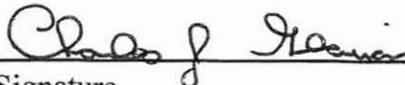
DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS:

No record found

10-28-14  
Date

  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: October 29, 2014

**DISCLOSURE STATEMENT**

I, Michelle Miles, hereby state and affirm that I am a member of Opera House Wine & Spirits, LLC, a Colorado limited liability company formed on February 22, 2010, whose principal office address is 601 W. Main Street, Trinidad, Colorado, 81082; that said limited liability company owns and operates Tire Shop Wine & Spirits, a retail liquor store licensed entity, licensed under Title 12, Articles 46 or 47, CRS 1973, as amended of the State of Colorado and under Chapter 3 of the Municipal Code of the City of Trinidad, located at 601 W. Main Street, in the City of Trinidad, County of Las Animas, State of Colorado; that I hold a 99% interest in Opera House Wine & Spirits, LLC; and, that I am able to act independently upon liquor licensing matters that come before the Trinidad City Council, the local liquor licensing authority, of which I am a member.

  
\_\_\_\_\_  
Michelle Miles  
12/4/12  
\_\_\_\_\_  
Date

**DISCLOSURE STATEMENT**

I, Liz Torres, hereby state and affirm that I am a member of Ristras Restaurant and Cantina, LLC, a Colorado limited liability company formed on February 13, 2014, whose principal office address is 516 Elm Street, Trinidad, Colorado, 81082; that said limited liability company owns and operates Ristras Restaurant and Cantina, a hotel and restaurant licensed entity, licensed under Title 12, Articles 46 or 47, CRS 1973, as amended of the State of Colorado and under Chapter 3 of the Municipal Code of the City of Trinidad, located at 516 Elm Street, in the City of Trinidad, County of Las Animas, State of Colorado; that I hold a 34% interest in Ristras Restaurant and Cantina, LLC; and, that I am able to act independently upon liquor licensing matters that come before the Trinidad City Council, the local liquor licensing authority, of which I am a member.

  
\_\_\_\_\_  
Liz Torres  
4.8.14  
\_\_\_\_\_  
Date

9e



CITY OF TRINIDAD, COLORADO  
1876

## COUNCIL COMMUNICATION

**CITY COUNCIL MEETING:** November 5, 2014  
**PREPARED BY:** Audra Garrett, City Clerk  
**DEPT. HEAD SIGNATURE:** *Audra Garrett*  
**# OF ATTACHMENTS:**

**SUBJECT:** 3.2% Beer Retail – Off Premises – license renewal request by JR’s Fuel Stop, Inc. d/b/a JR’s Fuel Stop 810 at 731 E. Main Street

**PRESENTER:** JR’s Fuel Stop, Inc. representative

**RECOMMENDED CITY COUNCIL ACTION:** Consider renewal of the license

**SUMMARY STATEMENT:** N/A

**EXPENDITURE REQUIRED:** No

**SOURCE OF FUNDS:** N/A

**POLICY ISSUE:** N/A

**ALTERNATIVE:** N/A

### BACKGROUND INFORMATION:

- The renewal application is in order.
- Fees have been paid.
- The departmental report from the Fire Department indicated the vent hood needs to be inspected.
- The Building Inspector the need to keep the rear door exit clear, as well as the electrical panel. He also indicated that a fire extinguisher needs to be a minimum of 12 inches above the floor to a maximum of 60 inches.
- The Police Department had no calls for service in the past year.
- Disclosure statements from Councilmembers Miles & Torres are attached.
- Appropriate fees have been paid.

9e

**LIQUOR OR 3.2 BEER LICENSE  
 RENEWAL APPLICATION**

J R'S FUEL STOP 810  
 PO BOX 930  
 TRINIDAD CO 81082-0930

Fees Due	
Renewal Fee	\$96.25
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
Related Resort \$75 x _____	_____
<b>Amount Due/Paid</b>	

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

**PLEASE VERIFY & UPDATE ALL INFORMATION BELOW**

**RETURN TO CITY OR COUNTY LICENSING AUTHORITY BY DUE DATE**

Licensee Name J R'S FUEL STOP INC		DBA J R'S FUEL STOP 810		
Liquor License # 40885040000	License Type 3.2% Beer Off Premises (city)	Sales Tax License # 40885040000	Expiration Date 1/24/2015	Due Date 12/10/2014
Street Address 731 E MAIN ST TRINIDAD CO 81082-2720				Phone Number (719) 846 4012
Mailing Address PO BOX 930 TRINIDAD CO 81082-0930				
Operating Manager Antoine He Choate	Date of Birth [REDACTED]	Home Address [REDACTED]	Trinidad Co 81082	Phone Number [REDACTED]

- Do you have legal possession of the premises at the street address above?  YES  NO  
 Is the premises owned or rented?  Owned  Rented\* \*If rented, expiration date of lease \_\_\_\_\_
- Since the date of filing of the last annual application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested.  YES  NO  
**NOTE TO CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP APPLICANTS:** If you have added or deleted any officers, directors, managing members, general partners or persons with 10% or more interest in your business, you must complete and return immediately to your Local Licensing Authority, Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, along with all supporting documentation and fees.
- Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation.  YES  NO
- Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation.  YES  NO
- Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation.  YES  NO
- SOLE PROPRIETORSHIPS, HUSBAND-WIFE PARTNERSHIPS AND PARTNERS IN GENERAL PARTNERSHIPS:** Each person must complete and sign the DR 4679: Affidavit – Restriction on Public Benefits (available online or by calling 303-205-2300) and attach a copy of their driver's license, state-issued ID or valid passport.

**AFFIRMATION & CONSENT**

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name of Applicant/Authorized Agent of Business Ray E. Duran	Title Owner / President
Signature [Signature]	Date 10-16-14

**REPORT & APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY**

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 12, Articles 46 and 47, C.R.S. **THEREFORE THIS APPLICATION IS APPROVED.**

Local Licensing Authority For Trinidad	Date
Signature	Title Mayor
	Attest

10/17/14

DEPARTMENTAL INSPECTION REPORT  
3.2% BEER (FERMENTED MALT BEVERAGE)  
OR LIQUOR LICENSE

Applicant: JR's Fuel Stop, Inc.

dba: JR's Fuel Stop #810

Address: 731 E. Main Street

Type of License: 3.2% Beer Off-Premises

Renewal  Transfer  Change of Location  New  Special Event

FOR CONSIDERATION AT  
COUNCIL MEETING DATE: November 5, 2014

\*\*\*\*\*

DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS: Vent Hood needs inspection

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10-22-14  
Date

[Signature]  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: October 29, 2014

10/17/14

DEPARTMENTAL INSPECTION REPORT  
3.2% BEER (FERMENTED MALT BEVERAGE)  
OR LIQUOR LICENSE

Applicant: JR's Fuel Stop, Inc.

dba: JR's Fuel Stop #810

Address: 731 E. Main Street

Type of License: 3.2% Beer Off-Premises

Renewal     Transfer     Change of Location     New     Special Event

FOR CONSIDERATION AT  
COUNCIL MEETING DATE: November 5, 2014

\*\*\*\*\*  
DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS: KEEP EXIT clear "near door"  
keep electrical panels "36" clear in front  
of panels  
hang fire exting 12" above floor min to  
60" max above floor

10-21-2014  
Date

Chris S. Kelley  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: October 29, 2014

10/17/2014

**DEPARTMENTAL INSPECTION REPORT  
3.2 % BEER (FERMENTED MALT BEVERAGE)  
OR LIQUOR LICENSE**

Applicant's Name: JR's Fuel Stop, Inc.  
DBA: JR's Fuel Stop #810  
Business Address: 731 E. Main Street  
Type of License: 3.2% Beer - Off Premises

Renewal     Transfer     Change of Location     New     Special Event

FOR CONSIDERATION AT  
COUNCIL MEETING DATE: November 5, 2014

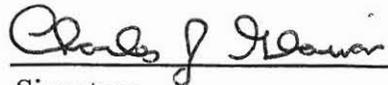
\*\*\*\*\*

**DEPARTMENT REVIEW**

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS:  
No records found

10-28-14  
Date

  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: October 29, 2014

**DISCLOSURE STATEMENT**

I, Michelle Miles, hereby state and affirm that I am a member of Opera House Wine & Spirits, LLC, a Colorado limited liability company formed on February 22, 2010, whose principal office address is 601 W. Main Street, Trinidad, Colorado, 81082; that said limited liability company owns and operates Tire Shop Wine & Spirits, a retail liquor store licensed entity, licensed under Title 12, Articles 46 or 47, CRS 1973, as amended of the State of Colorado and under Chapter 3 of the Municipal Code of the City of Trinidad, located at 601 W. Main Street, in the City of Trinidad, County of Las Animas, State of Colorado; that I hold a 99% interest in Opera House Wine & Spirits, LLC; and, that I am able to act independently upon liquor licensing matters that come before the Trinidad City Council, the local liquor licensing authority, of which I am a member.

  
\_\_\_\_\_  
Michelle Miles  
12/4/12  
\_\_\_\_\_  
Date

**DISCLOSURE STATEMENT**

I, Liz Torres, hereby state and affirm that I am a member of Ristras Restaurant and Cantina, LLC, a Colorado limited liability company formed on February 13, 2014, whose principal office address is 516 Elm Street, Trinidad, Colorado, 81082; that said limited liability company owns and operates Ristras Restaurant and Cantina, a hotel and restaurant licensed entity, licensed under Title 12, Articles 46 or 47, CRS 1973, as amended of the State of Colorado and under Chapter 3 of the Municipal Code of the City of Trinidad, located at 516 Elm Street, in the City of Trinidad, County of Las Animas, State of Colorado; that I hold a 34% interest in Ristras Restaurant and Cantina, LLC; and, that I am able to act independently upon liquor licensing matters that come before the Trinidad City Council, the local liquor licensing authority, of which I am a member.

  
\_\_\_\_\_  
Liz Torres  
4.8.14  
\_\_\_\_\_  
Date



## COUNCIL COMMUNICATION

9F

**CITY COUNCIL MEETING:** November 5, 2014  
**PREPARED BY:** Audra Garrett, ACM/City Clerk  
**DEPT. HEAD SIGNATURE:** *Audra Garrett*  
**# OF ATTACHMENTS:** 1

**SUBJECT:** Appointment to the Planning, Zoning and Variance Commission

**PRESENTER:**

**RECOMMENDED CITY COUNCIL ACTION:** Select an appointee for the four-year term

**SUMMARY STATEMENT:** N/A

**EXPENDITURE REQUIRED:** No

**SOURCE OF FUNDS:** N/A

**POLICY ISSUE:**

**ALTERNATIVE:** N/A

**BACKGROUND INFORMATION:**

One letter was received for appointment to the Commission. There are currently three vacancies.

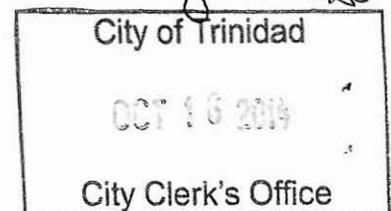
9F

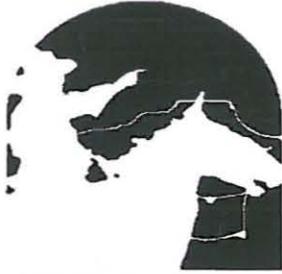
10-16-14

I Carl "Rusty" Goodall do hereby  
Express my desire to be on the  
Planning and Zoning Commission.

Carl Goodall  
1701 Santa Fe Trail  
Trinidad, CO 81082  
719-859-0523  
redrusty@comcast.net

verified residency +  
voter regis. *He*





CITY OF TRINIDAD, COLORADO  
1876

## COUNCIL COMMUNICATION

**CITY COUNCIL MEETING:** November 5, 2014  
**PREPARED BY:** Audra Garrett, ACM/City Clerk  
**DEPT. HEAD SIGNATURE:** *Audra Garrett*  
**# OF ATTACHMENTS:** 1

99

**SUBJECT:** Modification of premises request by Trinidad's Higher Calling U, LLC at 1000 Independence Road

**PRESENTER:** Trinidad's Higher Calling U, LLC

**RECOMMENDED CITY COUNCIL ACTION:** Consider approval of the modification as requested

**SUMMARY STATEMENT:** N/A

**EXPENDITURE REQUIRED:** No

**SOURCE OF FUNDS:** N/A

**POLICY ISSUE:** N/A

**ALTERNATIVE:** N/A

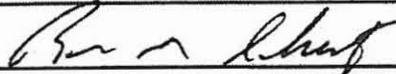
### BACKGROUND INFORMATION:

- The application is in order. The licensee seeks to modify the licensed premise by creating a separate room for retail sales and a separate room for medical sales to allow medical patients under 21 to visit the store and allow for added privacy.

99

DR 8545 (08/29/14)  
**COLORADO DEPARTMENT OF REVENUE**  
 Marijuana Enforcement Division  
 455 Sherman Street, Suite 390  
 Denver, CO 80203

## Marijuana Enforcement Division Report of Changes

Current License Number (All Answers Must Be Printed Legibly or Typewritten) 402R-00271			
1. Name of Business requesting changes or Person requesting duplicate badge Trinidad's Higher Calling U LLC			
2. Trade Name			
3. Business address or personal address if requesting a duplicate badge 1000 Independence Road		City Trinidad	State ZIP CO 81082
<b>Select the Appropriate Section Below and Proceed to The Instructions on Page2.</b> (Please refer to fee schedule on the website— <a href="http://www.colorado.gov/revenue/med">www.colorado.gov/revenue/med</a> )			
<b>Section A—Duplicate License</b>		<b>Section B</b>	
<input type="checkbox"/> Duplicate Business License	\$	<input type="checkbox"/> Change Corp. or Trade Name Permit (ea)	\$
<input type="checkbox"/> Duplicate Badge	\$	<input type="checkbox"/> Change Location Permit – Medical	\$
		<input type="checkbox"/> Change Location Permit – Retail	\$
		<input checked="" type="checkbox"/> Change, Alter or Modify Premises	
	\$ 120.00	x 1	Total Fee \$ 120.00
<b>Oath of Applicant (For Duplicate License or Badge Only)</b>			
I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge.			
Signature 		Date 10/15/14	
The State may convert your check to a one time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department of Revenue may collect the payment amount directly from your bank account electronically.		Total Amount Due	\$ 120.00

## Instruction Sheet

**For All Sections, Complete Questions 1-3 Located on Page 1**  
(Please refer to fee schedule on the website—[www.colorado.gov/revenue/med](http://www.colorado.gov/revenue/med))

**Section A**

**For a Duplicate Badge or Business License** be sure to include the license number in the upper portion of page 1 and sign at bottom of page 1.

**Section B**

Check the appropriate box in section C and proceed below.

- 1) **Change Trade Name:** go to page 3 and complete question 1 (be sure to check the appropriate box). Submit the necessary information and proceed to page 4 for Oath of Applicant signature.
- 2) **To Modify Premise:** go to page 4 and complete question 3. Submit the necessary information and proceed to Oath of Applicant signature.
- 3) **To Change Location:** go to page 3 and complete question 2. Submit the necessary information and proceed to page 4 for Oath of Applicant signature.

<b>1. Change Trade Name</b>			
<input type="checkbox"/> <b>Section C</b> <input type="checkbox"/> Change of Trade Name / DBA only (Attach the following supporting documents) <ol style="list-style-type: none"> <li>1. Copy of Change of Trade Name or Amendment filed with the Colorado Secretary of State</li> <li>2. Copy of new Trade Name registration</li> </ol>			
Old Trade Name		New Trade Name	
<b>2. Change of Location</b>			
A. Address of current premises			
Address	City	County	ZIP
B. Address of proposed new premises (Attach copy of the deed or lease that establishes possession of the premises by the licensee)			
Address	City	County	ZIP
C. New Mailing Address if Applicable.			
Address	City	County	ZIP
D. Attach detailed diagram of the premises including security equipment locations and proof from local licensing authority that the change has been submitted.			
<b>Report and Approval of Local Licensing Authority (City / County)</b>			
The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the applicable provisions of Title 12, Article 43.3 or 43.4, C.R.S. , as amended. <b>Therefore, this application is approved.</b>			
Local Licensing Authority (City or County)			Date Filed With Local Authority
Signature	Title	Date	

### 3. Modification of Premises

(Note: Licensees may not modify their licensed premises until approved by state and local authorities.)

#### A. Describe Change proposal

THCU would like to accommodate medical patients under the age of 21 by separating our medical and recreation sales areas into separate areas/rooms, having separate entrances and separate POS systems, with each POS being monitored by a security camera.

#### B. If the modification is temporary, when will the proposed change: NA

Start (MM/DD/YY)

End (MM/DD/YY)

#### C. Will the proposed change result in the licensed premises now being located within 1000 feet of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary?

(If yes, explain in detail, describe any exemptions that apply and provide a copy of the exemption or local ordinance) .....

Yes  No

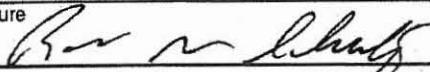
#### D. Attach a diagram of the current licensed premises and a diagram of the proposed changes for the licensed premises include security equipment locations.

#### E. Attach any existing lease that is revised due to the modification.

#### Oath of Applicant

I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge.

Signature



Title

Owner

Date

10/15/14

#### Report and Approval of Local Licensing Authority (City / County)

The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the applicable provisions of Title 12, Article 43.3 or 43.4, C.R.S., as amended. **Therefore, this application is approved.**

Local Licensing Authority (City or County)

Date Filed With Local Authority

Signature

Title

Date

#### Report of State Licensing Authority

The foregoing has been examined and complies with the filing requirements of Title 12, Article or 43.4, C.R.S., as amended.

Signature

Title

Date



**Tom Acre**

---

**From:** robert schultz [rmschultz@hotmail.com]  
**Sent:** Wednesday, October 15, 2014 1:54 PM  
**To:** Audra Garrett  
**Subject:** Trinidad's Higher Calling U LLC - Request for Premise Modification Form  
**Attachments:** thcu.modification.of.premises.form.10.15.14.pdf;  
thcu.modification.of.premises.plan.sheet.10.15.14.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Audra,

Good afternoon. I am having to submit the attached form and plan sheet to the State in order to accommodate medical patients under the age of 21. Not sure if the City has a form I need to submit for this as well, but thought I would inform you right away. Please let me know what I need to do to get the city's approval.

The only change is creating a separate room for retail sales and a separate room for medical sales. This will allow medical patients under 21 to visit our store and will also allow our medical patients more privacy when visiting our store.

Please let me know if you have any questions or need any further information.

Thank you

Robert Schultz

10/17/14

DEPARTMENTAL INSPECTION REPORT  
MEDICAL MARIJUANA LICENSE

Applicant: Trinidad's Higher Calling U, LLC

dba:

Address: 1000 Independence Road

Type of License: Retail and Medical Marijuana

Renewal  Transfer  Change of Location  New  Modification of Premises

FOR CONSIDERATION AT  
COUNCIL MEETING DATE: November 5, 2014, 7:00 p.m.

\*\*\*\*\*

DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS: when CO is issued then it will  
be approved

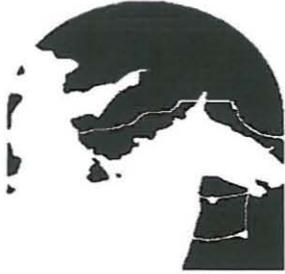
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10-21-2014  
Date

Chris S. Kelly  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: October 30, 2014

9i



CITY OF TRINIDAD, COLORADO  
1876

## COUNCIL COMMUNICATION

**CITY COUNCIL MEETING:** November 15, 2014  
**PREPARED BY:** Audra Garrett, ACM/City Clerk  
**DEPT. HEAD SIGNATURE:** *Audra Garrett*  
**# OF ATTACHMENTS:** 1

**SUBJECT:** New Retail Marijuana Store license application filed by Daryl DeMarco and Diane Irwin d/b/a Southern Colorado Therapeutics at 1505 Santa Fe Trail Drive

**PRESENTER:** Les Downs, City Attorney

**RECOMMENDED CITY COUNCIL ACTION:** Set the matter for public hearing.

**SUMMARY STATEMENT:** N/A

**EXPENDITURE REQUIRED:** No

**SOURCE OF FUNDS:** N/A

**POLICY ISSUE:** This is an application for a new license.

**ALTERNATIVE:** N/A

### BACKGROUND INFORMATION:

- The application appears to be in order and will be processed accordingly. A complete application packet will be provided for the hearing.
- City Council may not hold the hearing any earlier than 30 days from today. Therefore, the earliest a hearing may be set is December 16, 2014 at 7:00 p.m., the earliest regular Council meeting date following 30 days.
- Pursuant to TMC 14-204(f), the Local Licensing Authority may request that the state licensing authority conduct a concurrent review of a new license application prior to the local licensing authority's final approval of the license application.
- This is a quasi-judicial matter and as such Council should only consider evidence and testimony provided during the public hearing you set.

9i



**CITY OF TRINIDAD**  
City Clerk's Office  
135 N Animas St  
P.O. Box 880  
Trinidad, Colorado 81082  
719-846-9843

**RETAIL MARIJUANA LICENSE APPLICATION**

- New License Application Fee \$2,500.00
- Transfer of Ownership Application Fee \$1,500.00
- \$1.00 per square foot cultivation fee \_\_\_\_\_ Square feet = \$ \_\_\_\_\_
- Expansion of cultivation area @ \$1.00 per square foot charge for that additional area \$ \_\_\_\_\_
- License Fee/Renewal Fee \$2,500.00
- Change of Location \$1,500.00

**LICENSE TYPE**

- Marijuana Store
- Marijuana Cultivation Facility
- Marijuana Product Manufacturing Facility
- Marijuana Testing Facility

**TYPE OF BUSINESS**

- Corporation
- Limited Liability Corporation
- Partnership
- Other
- Individual\*

\*Sole Proprietorship (Individual) – Verification of Lawful Presence is required per State law (Signed Affidavit and Photo ID)

Applicant (Corporation/LLC) Daryl DeMarco & Diane Irwin

Applicant (Sole Proprietor) \_\_\_\_\_

First Name \_\_\_\_\_ Middle Initial \_\_\_\_\_ Last Name \_\_\_\_\_

Trade Name of Establishment (DBA) Southern Colorado Therapeutics

Address of Premise 1505 Santa Fe Trail Drive Trinidad CO 81082

Mailing Address PO Box 14 Weston CO 81091

Telephone 719-868-2468 Email Address anndemarco@peoplepc.com

Contact Person/Manager Daryl DeMarco Title Owner

Telephone 719-868-2468 Email Address anndemarco@peoplepc.com

Does the Applicant have legal possession of the premise for at least one (1) year from the date that this license will be issued by virtue of ownership, lease or other arrangement?

- Ownership
- Lease
- Other (explain in detail)

William Kancilia

\_\_\_\_\_

\_\_\_\_\_

If leased, list name of landlord and tenant, and date of expiration, EXACTLY as they appear on the lease:\*\*

Landlord	Tenant	Expires
William Kancilia	Daryl C DeMarco	10/31/2015

**\*\*If premises are leased, attach notarized consent by the owner of the property to the licensing of the premises for a retail marijuana facility.**

**ADDITIONAL DOCUMENTS TO BE SUBMITTED WITH APPLICATION**

Individual History Records attached and completed by each individual applicant, all general partners of a partnership, and limited partners owning 10% (or more) of a partnership; all officers and directors of a corporation, and stockholders of a corporation owning 10% (or more) of the stock of such corporation; all limited liability company *MANAGING* members, and officers or other limited liability company members with a 10% (or more) ownership interest in such company and all managers and employees of a Retail Marijuana License.

1. Fingerprinting by the Trinidad Police Department for:
  - all general partners of a partnership and limited partners owning 10% (or more) of a partnership;
  - all officers and directors of a corporation, and stockholders of a corporation owning 10% (or more) of the stock of such corporation;
  - all limited liability company *MANAGING* members, and officers or other limited liability company members with a 10% (or more) ownership interest in such company; and
  - all managers and employees of a Retail Marijuana License with the appropriate fee payable to Colorado Bureau of Investigation (currently \$39.50, March, 2014)
  
2. Lease or Deed – Evidence of Possession
  
3. Conditional Use Permit approval
  
4. Copy of alarm system contract
  
5. Copy of state sales tax license
  
6. Certificate of Good Standing
  
7. Affidavit of Lawful Presence (Sole Proprietors only)
  
8. Diagram of Premises:
  - A floor plan, drawn to scale on 8-1/2 x 11" paper, showing the layout of the center and the principal uses of the floor area. Floor plan must include location of lighting and cameras required by state rules.

A one-time fee of \$1.00 per square foot of that portion of the licensed premises in which plants are located for cultivation purposes, including greenhouses, shall be due to the City. Any expansion of the licensed premises in which plants are located for cultivation purposes shall result in an additional \$1.00 per square foot charge for that additional area.
  
9. Copy of State Application with attachments

**LIST OF OWNERS, OFFICERS, MANAGERS, EMPLOYEES & OTHERS WITH DIRECT OR INDIRECT FINANCIAL INTEREST**

1. Name: Daryl C DeMarco Title: Owner / Partner  
Address: PO Box 14 Weston CO 81091  
Financial Interest: 50% Partner

2. Name: Diane E Irwin Title: Owner / Partner  
Address: 3737 W. 25th Ave Denver, CO 80211  
Financial Interest: 50% Partner

3. Name: Ann C. DeMarco Title: Bookkeeper  
Address: PO Box 14 Weston CO 81091  
Financial Interest: 0

4. Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
Financial Interest: \_\_\_\_\_

5. Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
Financial Interest: \_\_\_\_\_

6. Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
Financial Interest: \_\_\_\_\_

7. Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
Financial Interest: \_\_\_\_\_

The applicant hereby acknowledges that the applicant and its owners, officers, and employees may be subject to prosecution under federal laws relating to the possession and distribution of controlled substances, that the City of Trinidad accepts no legal liability in connection with the approval and subsequent operation of the retail marijuana business; and that the application and documents submitted for other approvals relating to the retail marijuana business operation are subject to disclosure in accordance with the Colorado Open Records Act.

By accepting a license issued pursuant to this ordinance, a licensee releases the City, its officers, elected officials, appointed officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of dispensary owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.

By accepting a license issued pursuant to this ordinance a licensee, jointly and severally if more than one, agrees to indemnify and defend the City, its officers, elected officials, employees, attorneys, agents, insurers, and self-insurance pool against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with the operation of the retail marijuana business that is the subject of the license. The licensee further agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at its expense, and to bear all other costs and expenses related thereto, including court costs and attorney fees.

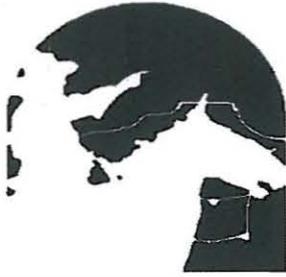
**I declare, under penalty of perjury, that this application has been examined by me; that the statements made herein are made in good faith and, to the best of my knowledge and belief, true, correct and complete.**

Signed: Diane E. Irwin Title: owner/partner  
Daryl C. DeMarco Title: Owner/Partner  
(Must be signed by individual Owner, Partner, or Officer)

Printed Name: Daryl C. DeMarco Date: 9-16-14  
Diane E. Irwin 9-16-14

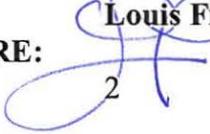






CITY OF TRINIDAD, COLORADO  
1876

## COUNCIL COMMUNICATION

CITY COUNCIL MEETING: November 4<sup>th</sup>, 2014  
PREPARED BY: Louis Fineberg  
DEPT. HEAD SIGNATURE:   
# OF ATTACHMENTS: 2

9j

**SUBJECT:** Purchase Agreement (PA) from BNSF for Multimodal Station Land Acquisition

**PRESENTER:** Louis Fineberg, Planning Director

**RECOMMENDED CITY COUNCIL ACTION:** Council should approve the PA.

**SUMMARY STATEMENT:**

Attached is copy of the PA for review by Council.

**EXPENDITURE REQUIRED:** \$13,600 plus closing costs plus the costs of improvements including sidewalk construction, possible utility relocations and flagging.

**SOURCE OF FUNDS:** CIP.

**POLICY ISSUE:** Should the Council purchase the land necessary for the construction of the multimodal station?

**ALTERNATIVE:** The Council could decide not to purchase the land.

9j



Jones Lang LaSalle Americas, Inc.  
4300 Amon Carter Blvd., Suite 100  
Fort Worth, Texas 76155  
tel +1 817-230-2604, fax +1 312-601-1166

October 28, 2014

Louis Fineberg  
City of Trinidad  
135 N Animas Street  
Trinidad, CO 81082

Mr. Fineberg:

Attached for your review and execution is the purchase agreement and Exhibit "A" print showing approximately **1.04** acres +/- of BNSF property at **Trinidad, Las Animas County, Colorado**. Please sign two original copies of the agreement and addendum, and return them to our office along with two (2) certified or cashier's checks payable as follows.

1. The first check for **\$13,600.00** should be made payable to **The Bank of New York Mellon Trust Company, NA** and covers the earnest money.
2. The second check for **\$2,000.00** should be made payable to **BNSF Railway Company** to cover the administrative fee for this transaction.

Once I receive the signed agreements and the checks, I will forward the package to the railroad for their final acceptance and execution. My submittal of the attached Agreement to you shall not constitute an offer to sell the property or provide a basis on which you may claim a reliance on any agreement. Instead, there shall be no binding agreement unless and until you and BNSF Railway Company execute a final Agreement.

As information, the Buyer responsible for all closing costs (i.e. recording fees, transfer stamps, documentary fees, title insurance, survey, etc.). Jones Lang LaSalle Americas, Inc. is acting as representative for the BNSF Railway Company.

Please be advised that Jones Lang LaSalle Americas, Inc. has been contracted by BNSF Railroad to conduct their real estate transactions. Due to this relationship neither company will be able to pay any commissions on this sale. You will need to negotiate the payment of this commission directly with your client/agent.

Please call or e-mail me if you have any questions or concerns.

Thanks,

Ryan Dwiggin  
Portfolio Manager  
**Jones Lang LaSalle Americas, Inc.**  
direct +1 817-230-2604  
fax +1 312-601-1166  
Ryan.Dwiggin@am.jll.com

**BNSF RAILWAY COMPANY**

**REAL ESTATE PURCHASE AND SALE AGREEMENT**

This Real Estate Purchase and Sale Agreement (“**Agreement**”) is entered into as of the Effective Date (defined below) between the **City of Trinidad**, a State of Colorado municipality (“**Buyer**”) and **BNSF RAILWAY COMPANY** (“**Seller**” or “**BNSF**”). This Agreement shall not be binding upon either party unless and until both parties have executed and delivered this Agreement. The submission of this document by Seller to Buyer shall not constitute an offer to sell by Seller.

In consideration of the mutual covenants set forth in this Agreement and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

**GENERAL TERMS AND DEFINITIONS**

1. The following terms shall have the meanings set forth below:

Closing. The consummation of the transaction contemplated by this Agreement, which shall be deemed to have occurred when both parties have delivered the items contemplated in Section 4 of this Agreement.

Closing Date Notwithstanding, anything herein, this sale shall close on or before December 15, 2014. Seller shall have the right to extend the closing up to ninety (90) days, at Seller’s sole judgment.

Earnest Money The cash sum of Thirteen Thousand Six Hundred and 00/100 (\$13,600.00) made payable to The Bank of New York Mellon.

Effective Date The date of Seller’s execution of this Agreement as indicated below Seller’s signature hereto.

Property That parcel of land situated in or near the City of Trinidad, County of Las Animas and State of Colorado, shown hatched black on map marked Exhibit A dated January 23, 2013 attached hereto and made a part hereof, subject to revision as set forth below in Section 3.

Purchase Price The sum of Two Dollars Ninety Eight Cents (\$2.98) per gross square foot with the square footage to be determined by the Survey pursuant to Subsection 3(a).

Review Period The period commencing on the Effective Date and expiring at 5:00 p.m. central time on the date that is 45 days after the Effective Date.

**PURCHASE AND SALE**

2. (a) Subject to the terms and conditions set forth in this Agreement, Seller agrees to sell to Buyer, and Buyer agrees to purchase and accept from Seller, for the Purchase Price, all of Seller’s right, title and interest (if any), in and to the Property.

(b) Seller may assign its rights (but not its obligations) under this Agreement to Goldfinch Exchange Company LLC, (“Goldfinch”) an exchange intermediary, in order for Seller to effect an exchange under Section 1031 of the Internal Revenue Code. In such event, Seller shall provide Buyer

with a Notice of Assignment, attached as Exhibit B, and Buyer shall execute an acknowledgement of receipt of such notice. Buyer may also assign its rights (but not its obligations) under this Agreement to an exchange intermediary in order for Buyer to effect an exchange under Section 1031 of the Internal Revenue Code.

(c) Upon submission by Buyer to Seller of this Agreement signed by Buyer, Buyer shall deposit the Earnest Money with Goldfinch as escrow agent. Goldfinch shall hold the Earnest Money in escrow pursuant to the terms and conditions of this Agreement. The Earnest Money shall be refunded to Buyer if this Agreement is not executed and delivered by Seller within forty five (45) days after the date Buyer delivers this Agreement fully executed by Buyer and deposits the Earnest Money. Buyer shall not be entitled to any interest on the Earnest Money held by Goldfinch pursuant to this Agreement. Buyer acknowledges that receipt by Goldfinch of the Earnest Money shall not constitute acceptance of this Agreement or Buyer's offer provided, however, that Goldfinch shall return the Earnest Money to Buyer if Seller does not execute and deliver this Agreement within forty-five (45) days after Buyer deposits the Earnest Money. Goldfinch shall deliver the Earnest Money to the party entitled thereto pursuant to this Agreement, provided, however if there is a dispute between Buyer and Seller as to who is so entitled, Goldfinch may deposit the Earnest Money with a court of competent jurisdiction pending resolution of such dispute.

(d) The balance of the Purchase Price shall be paid at Closing as provided below.

## INSPECTION

3. (a) Buyer shall cause to be prepared a survey of the Property certified to Seller, Buyer and such other parties as Buyer may choose showing the boundaries of the Property and any improvements located thereon (the "**Survey**"). Said Survey shall be delivered to Seller no later than thirty (30) days prior to the Closing Date. Seller shall have the right to review the Survey and either (i) approve or (ii) request changes to the Survey, provided said change requests are delivered within twenty (20) days of receipt of Survey. If Seller does not agree that the description of the Property contained on the Survey is the Property Seller wishes to sell or otherwise objects to the Survey then Seller may terminate this Agreement by written notice to Buyer in which case the Earnest Money shall be refunded to Buyer and neither party shall have any further obligation hereunder except those that expressly survive termination. If Seller agrees in writing that the Survey description is accurate then the description thereon shall be the definition of the Property for all purposes under this Agreement. In the event a city, county, or other governing authority where the Property is located (a "**Municipality**") requires a survey or plat to convey the Property (a "**Plat**"), the Buyer shall obtain, at Buyer's sole cost and expense, such Plat and the approval of such Municipality. Seller's obligations hereunder are conditioned upon Seller's approval of the Plat approved by the Municipality. Buyer shall provide the proposed Plat to Seller prior to submission to the Municipality and prior to the expiration of the Review Period.

(b) Buyer shall have until the end of the Review Period to examine title to the Property. If Buyer elects to obtain a title commitment for the Property Buyer may deliver to Seller no later than the expiration of the Review Period written notice of any objections to the status of title or matters reflected on the Survey that Buyer may have together with a copy of such title commitment, Survey and all matters referenced therein. Seller shall have no obligation to cure any such objection. If Seller notifies Buyer in writing that Seller will cure any such objection Seller (a) shall make good faith efforts to cure such matter by the Closing Date and if not cured by such date Buyer may terminate this Agreement in which case the Earnest Money shall be refunded to Buyer and neither party shall have any further obligation hereunder except those that expressly survive termination, and (b) may effect such cure by causing the title company issuing the title commitment to remove such matter as an exception from coverage by paying additional premium therefor or otherwise. If Seller at any time notifies Buyer in writing that Seller is not willing or able to cure any of the

such objections (including those which Seller has previously endeavored to cure) then Buyer or Seller may terminate this Agreement by written notice to the other delivered within five (5) days after Seller so notifies Buyer that Seller is unwilling or unable to cure such objection. In the event of such termination, the Earnest Money shall be refunded to Buyer and neither party shall have any further obligation hereunder except those that expressly survive termination. If this Agreement is not so terminated, the parties shall proceed to Closing according to the remaining provisions of this Agreement.

(c) Prior to any entry upon the Property by Buyer, the surveyor preparing the Survey or other individuals on behalf of Buyer (which shall not be deemed to include Amtrak (as defined below)), Buyer shall execute and deliver to Seller an Entry and Confidentiality Agreement in the form attached hereto as Exhibit C and incorporated herein (the "**Entry Agreement**"). The terms and provisions of the Entry Agreement are incorporated herein, shall survive the Closing, shall not be merged into the Deed or any document delivered at Closing and shall survive any termination of this Agreement. Any breach by Buyer of its obligations under the Entry Agreement shall be deemed a breach by Buyer under this Agreement. Notwithstanding anything in this Agreement to the contrary, including the provisions of Section 6(a), nothing in this Agreement or the exercise of any remedy by Seller under this Agreement shall limit or affect in any manner any remedy available to Seller under the Entry Agreement in the event of a breach of Buyer's obligations under the Entry Agreement.

(d) Notwithstanding the foregoing provisions of Section 3(b), Buyer shall not be entitled to object to any judgment against Seller which may appear of record as a lien against the Property. Seller shall pay such lien if and when it is judicially determined to be valid, and Seller hereby indemnifies the Buyer for all loss arising out of Seller's failure to have a judgment lien so settled and satisfied.

(e) Notwithstanding the foregoing provisions of Section 3(b), Buyer shall not be entitled to object to the lien of any of Seller's mortgages. Seller shall deliver to Buyer, who shall place of record, good and sufficient releases of the liens of any mortgages on the Property securing indebtedness to which Seller is obligated to pay within one hundred eighty (180) days after the first meeting of Seller's Board of Directors held after the Closing. In the event Seller shall be unable to obtain said releases for any reason, Seller shall have the right to repurchase the Property from Buyer for the Purchase Price and Buyer shall reconvey the Property to Seller free and clear of defects or objections arising after the Effective Date upon which this Agreement shall terminate and neither party shall have any further rights or obligations hereunder except those that expressly survive termination.

## **CLOSING**

4. (a) Subject to the terms of this Agreement, the Closing shall occur on the Closing Date. On or before the Closing Date Buyer shall (1) pay the Purchase Price, less the Earnest Money to Seller in cash, by certified check made payable to The Bank of New York Mellon or by wire transfer to Seller's account as designated by Seller and the Earnest Money shall become the property of Seller and no longer subject to the terms of this Agreement, and (2) such other affidavits or certificates as are reasonably necessary or customary to consummate the transaction.

(b) After Buyer has delivered the foregoing items, Seller shall deliver to Buyer (1) a Quitclaim Deed in recordable form, subject to all matters of record and restating the exceptions and reservations set forth in Section 8, Section 9 and Section 10 (the "**Deed**") conveying to Buyer Seller's interest, if any, in and to the Property, (2) counterparts of the Exchange Assignment, and (3) such other affidavits and certificates as is reasonably necessary or customary to consummate the transaction in form and substance acceptable to Seller.

## **PRORATIONS AND CLOSING COSTS**

5. (a) Real estate taxes and assessments payable or paid in the year of Closing shall be prorated by Seller and Buyer as of the Closing Date on the basis of the most recent ascertainable taxes assessed against the Property. If the Property is not separately assessed for tax purposes then there shall be no proration of taxes between Buyer and Seller, the parties shall cooperate post-Closing to cause the Property to be separately assessed and each party shall indemnify the other for any failure to pay real estate taxes and assessments due with respect to the properties constituting the tax parcel to which the Property is a part. Notwithstanding the foregoing, there shall be no proration for taxes to the extent the payment of same has been assumed by a tenant under an existing lease to be assigned to Buyer. All outstanding assessments on the Property levied or due in the year of Closing and afterward shall be paid by Buyer.

(b) The parties shall cooperate so that utilities serving the Property that are not the responsibility of a tenant under a lease to be assigned to Buyer at Closing, to the extent feasible, shall be switched into the name of Buyer as of the Closing Date, so that a final statement can be issued to Seller for the billing period ending on the Closing Date, and so that the first day of the first billing cycle in Buyer's name can begin on the Closing Date. If, however, the final statement covering the final period of ownership by Seller also includes periods of ownership by Buyer, Buyer shall pay Seller at Closing the amount attributable to Buyer's period of ownership. Buyer shall be responsible to pay all utilities serving the Property due after Closing.

(c) Buyer shall pay all closing costs associated with Closing including, but not limited to, any escrow fees, documentary stamps and other recording costs associated with this transaction, excise taxes, the cost of any state, county or local transfer taxes, the cost of the Survey, and the costs associated with any title insurance obtained by Buyer.

(d) If any real estate broker or agent can establish a valid claim for commission or other compensation as a result of Buyer having used their services in connection with the purchase of the Property, all such commission or other compensation shall be paid by Buyer. Seller shall not be liable for any real estate commissions or finder's fees to any party with respect to the sale of the Property, except amounts due to Jones Lang LaSalle Brokerage Inc. ("**Broker**") pursuant to a separate agreement. Buyer acknowledges that Broker has advised, and hereby advises, Buyer that the Broker is acting on behalf of the Seller, with the duty to represent Seller's interest, and Broker is not the agent of the Buyer. If a policy of title insurance is to be obtained, Buyer should obtain a commitment for title insurance which should be examined prior to closing by an attorney of Buyer's choice. Prior to the execution of this Agreement, Broker has advised and hereby advises the principals of this transaction, that this Agreement is binding on them, and the principals hereby acknowledge that they have been so advised. Broker has no authority to execute any document on behalf of Seller, make representations on behalf of Seller or bind Seller in any manner.

(e) The obligations of the parties in this Section 5, to the extent incurred, shall survive any termination of this Agreement.

(f) On or prior to the Effective Date of this Agreement, Broker has advised and hereby advises Buyer, by this writing and by other means, and Buyer hereby acknowledges that Buyer has been so advised, that Buyer should have the title to the Property examined and should use legal counsel.

## **DEFAULT AND REMEDIES**

6. (a) In the event of a default by Buyer under the terms of this Agreement, Seller's sole and exclusive remedies shall be: (a) terminate this Agreement whereupon the parties shall have no further obligations hereunder except those that expressly survive termination, or (b) waive such default and proceed to Closing,

or (c) obtain specific performance of this Agreement. If Seller terminates this Agreement as provided in the previous sentence Seller shall be entitled to retain the Earnest Money. Notwithstanding the foregoing, nothing contained herein shall waive or diminish any right or remedy Seller may have at law or in equity for Buyer's default or breach of any obligation hereunder to be performed by Buyer after Closing. It is hereby agreed that Seller's damages in the event of a default by Buyer hereunder are uncertain and difficult to ascertain, and that the Earnest Money constitutes a reasonable liquidation of such damages and is intended not as a penalty, but as liquidated damages.

(b) In the event of a default by Seller under the terms of this Agreement, Buyer's sole and exclusive remedies hereunder shall be to terminate this Agreement and receive a refund of the Earnest Money plus an additional amount from Seller not to exceed ten percent of the Purchase Price equal to the out-of-pocket expenses (including attorneys' fees) incurred by Buyer in connection with this Agreement as evidenced by copies of third party invoices delivered to Seller. Upon such termination and the payment of such sums by Seller the parties shall have no further obligations hereunder except those that expressly survive termination. Notwithstanding the foregoing, nothing contained herein shall waive or diminish any right or remedy Buyer may have at law or in equity for Seller's default or breach of any obligation hereunder to be performed by Seller after Closing.

## NATURE OF SALE

7. (a) Buyer has been allowed to make an inspection of the Property. **BUYER IS PURCHASING THE PROPERTY ON AN "AS-IS WITH ALL FAULTS" BASIS WITH ANY AND ALL PATENT AND LATENT DEFECTS, INCLUDING THOSE RELATING TO THE ENVIRONMENTAL CONDITION OF THE PROPERTY, AND IS NOT RELYING ON ANY REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER FROM SELLER AS TO ANY MATTERS CONCERNING THE PROPERTY,** including, but not limited to the physical condition of the Property; zoning status; tax consequences of this transaction; utilities; operating history or projections or valuation; compliance by the Property with Environmental Laws (defined below) or other laws, statutes, ordinances, decrees, regulations and other requirements applicable to the Property; the presence of any Hazardous Substances (defined below), wetlands, asbestos, lead, lead-based paint or other lead containing structures, urea formaldehyde, or other environmentally sensitive building materials in, on, under, or in proximity to the Property; the condition or existence of any of the above ground or underground structures or improvements, including tanks and transformers in, on or under the Property; the condition of title to the Property, and the leases, easements, permits, orders, licenses, or other agreements, affecting the Property (collectively, the "**Condition of the Property**"). Buyer represents and warrants to Seller that Buyer has not relied and will not rely on, and Seller is not liable for or bound by, any warranties, guaranties, statements, representations or information pertaining to the Property or relating thereto (including specifically, without limitation, property information packages distributed with respect to the Property) made or furnished by Seller, the manager of the Property, or any real estate broker or agent representing or purporting to represent Seller, to whomever made or given, directly or indirectly, orally or in writing. Buyer assumes the risk that Hazardous Substances or other adverse matters may affect the Property that were not revealed by Buyer's inspection and indemnifies, holds harmless and hereby waives, releases and discharges forever Seller and Seller's officers, directors, shareholders, employees and agents (collectively, "**Indemnitees**") from any and all present or future claims or demands, and any and all damages, losses, injuries, liabilities, causes of actions (including, without limitation, causes of action in tort or asserting a constitutional claim) costs and expenses (including, without limitation fines, penalties and judgments, and attorneys' fees) of any and every kind or character, known or unknown, arising from or in any way related to the Condition of the Property or alleged presence, use, storage, generation, manufacture, transport, release, leak, spill, disposal or other handling of any Hazardous Substances in, on or under the Property. Losses shall include without limitation (a) the cost of any investigation, removal, remedial, restoration or other response action that is required by any

Environmental Law, that is required by judicial order or by order of or agreement with any governmental authority, or that is necessary or otherwise is reasonable under the circumstances, (b) capital expenditures necessary to cause the Seller's remaining property or the operations or business of the Seller on its remaining property to be in compliance with the requirements of any Environmental Law, (c) losses for or related to injury or death of any person, (d) losses for or related to injury or damage to animal or plant life, natural resources or the environment, and (e) losses arising under any Environmental Law enacted after transfer. The rights of Seller under this section shall be in addition to and not in lieu of any other rights or remedies to which it may be entitled under this document or otherwise. This indemnity specifically includes the obligation of Buyer to remove, close, remediate, reimburse or take other actions requested or required by any governmental agency concerning any Hazardous Substances on the Property. The term "**Environmental Law**" means any federal, state or local statute, regulation, code, rule, ordinance, order, judgment, decree, injunction or common law relating in any way to human health, occupational safety, natural resources, plant or animal life or the environment, including without limitation, principles of common law and equity, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, and any similar or comparable state or local law. The term "**Hazardous Substance**" means any hazardous, toxic, radioactive or infectious substance, material or waste as defined, listed or regulated under any Environmental Law, and includes without limitation petroleum oil and any of its fractions.

(b) To the fullest extent permitted by law, Buyer waives its municipal immunity and its sovereign immunity with respect to Seller for matters arising out of this Agreement and the Entry Agreement, including, without limitation, (i) for environmental and other conditions of the real property that Seller is quitclaiming to Buyer pursuant to this Agreement and of property related to the development of the Multimodal Facility (as defined below) that was formerly, but not currently, owned by Seller and Seller's predecessors-in-interest, including, without limitation, environmental remediation costs, if any; (ii) for claims arising out of work performed by Buyer or its contractors pursuant to the provisions of this Agreement, any agreement setting forth terms of the Multimodal Facility construction, the Entry Agreement and the Station Lease (as hereinafter defined); and (iii) for claims arising out of continuing rights of Buyer to enter onto property of Seller, including work performed by Buyer and Buyer's contractors on such property of Seller. Any lawful waiver of Buyer's sovereign immunity herein shall be in addition to, and not in limitation of, any lawful waiver of Buyer's sovereign immunity pursuant to the terms and provisions of this Agreement, the Entry Agreement and the Station Lease.

(c) The provisions of this Section 7 shall be binding on Buyer, and its heirs, successors and assigns, shall be included in the Deed and shall be covenants running with the land.

## **RESERVATIONS**

8. The obligations in this Section 8 shall be binding upon Buyer and its heirs, successors and assigns, shall be included in the Deed and shall be covenants running with the land benefiting Seller and Seller's successors and assigns. For purposes of this Section 8, Grantor shall mean Seller and Grantee shall mean Buyer. Buyer may object to the reservations set forth in Section 8(a) below in accordance with the provision of Section 3 and if Seller is unwilling or unable to cure such objection either party may terminate this Agreement as set forth in Section 3.

(a) Grantee's interest shall be subject to the rights and interests of Grantor, Grantor's licensees, permittees and other third parties in and to all existing driveways, roads, utilities, fiber optic lines, tracks, wires and easements of any kind whatsoever on the Property whether owned, operated, used or maintained by the Grantor, Grantor's licensees, permittees or other third parties and whether or not of public record. Grantor shall have a perpetual easement on the Property for the use of such existing driveways, roads, utilities, fiber optic lines, tracks, wires and easements by Grantor and Grantor's

licensees, permittees and customers. Grantor shall have a non-exclusive easement for the construction, maintenance and operation of one or more pipelines or fiber optic lines and any and all communications facilities as may be located in the future on the Property within 60 feet of the center line of any main track on or adjacent to the Property and as may be presently located on the Property. In the exercise of the reservations, rights, interests, and easements referenced herein, the exercising party shall not unreasonably interfere with the use or occupation of the Property by Grantee, its successors or assigns, National Railroad Passenger Corporation, its successors or assigns, or the tenants, invitees, passengers, employees, agents, or contractors of any of them.

(b) Grantee's interest shall be subject to a reservation to Grantor of all coal, oil, gas, casing-head gas and all ores and minerals of every kind and nature including sand and gravel underlying the surface of the Property, together with the full right, privilege and license at any and all times to explore, or drill for and to protect, conserve, mine, take, remove and market any and all such products in any manner which will not damage structures on the surface of the Property, together with the right of access at all times to exercise said rights. In the exercise of the reservations, rights, privileges and licenses referenced herein, Grantor and its successors and assigns shall not unreasonably interfere with the use or occupation of the Property by Grantee, its successors or assigns, National Railroad Passenger Corporation, its successors or assigns, or the tenants, invitees, passengers, employees, agents, or contractors of any of them.

(c) Any improvements constructed or altered on the Property after the date Grantor quitclaims its interest, if any, to Grantee shall be constructed or altered in such a manner to provide adequate drainage of water away from any of Grantor's railroad tracks on nearby property.

*(d) Grantor reserves unto itself, its successors and assigns, in perpetuity, any and all non-riparian water and water rights associated with the Property, including but not limited to, any and all ditches and ditch rights, water wells, springs, diversion works, water lines, pipes, pumps, motors, generators, electrical gear and wires, and any related equipment and improvements whatsoever, historically used upon or associated with the Property, including all mutual water company shares, ditch shares, water service agreements and contracts, and water claims, and including but not limited to, all unappropriated, undeveloped or unused water and water rights associated with or underlying the Property, and the exclusive right to develop and take water from the Property by any means, and including all appropriations, priorities, permits and certificates which are appurtenant to, associated with, used upon, flowing over, under, or lying on, in, or under the Property, together with the perpetual right to construct, install, operate, replace, rework, reconstruct, rehabilitate and maintain any and all water diversion, production, and transportation structures, equipment, improvements and piping, including but not limited to, headgates, diversion structures, water wells, water well houses, water well casing, water well screens, spring collection galleries, sumps, water pipes, and related electrical gear and wires, and to construct, install, operate and maintain water pumps and hydroelectric generation equipment and all equipment necessary, convenient or related to the production, transportation or delivery of water from, on, under or across the Property, or any portion thereof. In the exercise of the reservations and rights referenced herein, Grantor, and its successors and assigns shall not unreasonably interfere with the use or occupation of the Property by Grantee, its successors or assigns, National Railroad Passenger Corporation, its successors or assigns, or the tenants, invitees, passengers, employees, agents or contractors of any of them.*

(e) Grantee acknowledges and affirms that Grantor may not hold fee simple title to the Property, that Grantor's interest in all or part of the Property, if any, may rise only to the level of an easement for railroad purposes. Grantee is willing to accept Grantor's interest in the Property, if any, on this basis and expressly releases Grantor, its successors and assigns from any claims that Grantee or its successors may have as a result of an abandonment of the line of rail running over or adjacent to any portion of the

Property. In light of Grantor's disclosure that it may not hold a fee interest in all or part of the Property, Grantee agrees to indemnify, defend and hold Grantor harmless from any suit or claim for damages, punitive or otherwise, expenses, attorneys' fees, or civil penalties that may be imposed on Grantor as the result of any person or entity claiming an interest in any portion of the Property or claiming that Grantor did not have the right to transfer all or part of the Property to Grantee.

(f) Within 90 days after closing, Grantee shall, at its sole cost and expense, construct a protective chain link fence a minimum of six (6) feet in height upon, over and across the Property as shown X-X-X on the attached Exhibit "A" and by this reference made a part hereof. Grantee shall thereafter repair, maintain and renew said fence, so as to keep same in good repair at the sole cost of the Grantee. If fence is not constructed within this time frame, Grantor may construct said fence at the sole cost of Grantee and Grantee shall pay Grantor all associated costs within 10 days of receipt of bills.

(g) Grantor reserves unto itself, its successor and assigns, in perpetuity, the right, privilege and easement to maintain a 50' unobstructed sight zone or area over that portion of the premises shown on the attached Exhibit "A" and by this reference made a part hereof, including the right to remove any or all obstructions thereon that would interfere with the view between the railroad tracks and right of way of Grantor in the vicinity of said premises and any pedestrian or vehicular traffic on the roads or passageways approaching said railroad tracks or right of way. Grantee covenants and agrees to keep said area free of all buildings, structures, trees, shrubbery, fences or any other obstructions that will interfere in any way whatsoever with the view across said area, which covenant shall run with the land.

(h) Seller's Reserved Right to Repurchase the Property. In the event of a Repurchase Event (defined below), Seller shall have the right to repurchase the Property from Buyer at any time (the "Repurchase Right") commencing on the Closing Date and continuing for the Repurchase Period (defined below). For purposes of this Agreement, the "Repurchase Period" shall commence on the Closing Date and continue thereafter until the date that is the later of: (i) ninety-nine (99) years after the Closing Date or (ii) twenty-one (21) years less one day after the death of the last survivor of the lineal descendants of Queen Elizabeth II of England living on the Closing Date.

(1) A "**Repurchase Event**" as used herein shall mean either:

(i) Buyer's receipt of a bona fide third party offer to purchase or acquire any interest in the Property or any portion thereof on terms which Buyer desires to accept and/or Buyer's offering to sell or transfer any interest in the Property or any portion thereof to a third party on terms which such third party desires to accept (any of the above as may be contemplated being referred to herein as a "**Contemplated Transfer**") (*i.e.*, there shall be no sale or other transfer of any interest in the Property or any portion thereof without Seller having the right to exercise its Repurchase Right); or

(ii) Seller requires that ownership of the Property be transferred to Seller for railroad purposes or activities in order to comply with any law or regulation, or if Seller otherwise determines such ownership is necessary or desirable for railroad purposes as determined by Seller in its sole discretion ("**Railroad Need**").

(2) In the case of a Contemplated Transfer, Buyer must immediately provide written notice to Seller of the details of the Contemplated Transfer, including without limitation the name, address and background of the third party involved with the Contemplated Transfer, and a true and complete copy of any proposed purchase and sale agreement, letter of intent or other document evidencing the proposed terms under which the Contemplated Conveyance would

occur (the “**Contemplated Transfer Notice**”) (and following the Contemplated Transfer Notice, Buyer shall provide such other details regarding the Contemplated Transfer as Seller may reasonably request). Seller will have until thirty (30) days after the date Seller has received a Contemplated Transfer Notice (the “**Exercise Period**”) to decide whether or not to exercise its Repurchase Right to purchase the Property (or such lesser amount as may be contained in the Contemplated Transfer) and to provide Buyer with written notice of its decision (the “**Exercise Notice**”). In no event shall Buyer have the right to complete any Contemplated Transfer unless a Contemplated Transfer Notice has been given to Seller and Seller has elected not to deliver an Exercise Notice as provided above.

(3) If Seller exercises its Repurchase Right to purchase the Property (or such lesser amount as may be designated by Railroad in the Exercise Notice) because of a Railroad Need, the Closing Date designated in the Exercise Notice delivered to Buyer will be at least one (1) year from the date of the Exercise Notice. Notwithstanding the foregoing, however, if Seller must acquire the Property (or such lesser amount as may be designated by Seller in the Exercise Notice) sooner in order to comply with any law or regulation, Seller may designate an earlier Closing Date.

(4) Notwithstanding the foregoing, in any event, the Repurchase Right shall terminate upon: (i) Seller's exercise of the Repurchase Right to acquire all of Buyer's interests in and to the Property, or (ii) conveyance of all of Buyer's interests in and to the Property to a third party upon Seller's failure to exercise the Repurchase Right. If Buyer conveys a portion of Buyer's interests in and to the Property to a third party upon Seller's failure to exercise the Repurchase Right with respect to such portion, then Seller's Repurchase Right shall expire with respect to such portion conveyed to a third party.

(5) If Seller decides to exercise its Repurchase Right, then the purchase price for Seller's repurchase of the Property (the “**Repurchase Price**”) shall be the lesser of:

- (i) the purchase price contained in the Contemplated Transfer Notice, or
- (ii) the Purchase Price (or a pro-rated amount based on square footage for less than all of the Property).

(6) If Seller exercises its Repurchase Right with respect to a Contemplated Transfer, then the closing of such repurchase (“**Repurchase Closing**”) will occur sixty (60) days from the date of the Exercise Notice, or such earlier date as may be specified by Seller in the Exercise Notice (the “**Repurchase Closing Date**”). At the Repurchase Closing:

- (i) Seller shall tender the Repurchase Price to Buyer;
- (ii) Buyer shall convey the Property to Seller in accordance with the terms and conditions of the Contemplated Transfer; provided, however, that Buyer agrees to execute Seller's standard Real Estate Purchase and Sale Agreement (“**Purchase Contract**”) modified to incorporate the terms of the Contemplated Transfer; and
- (iii) all other obligations contained in the Contemplated Transfer and the Purchase Contract shall be performed by the respective parties in accordance with the terms and conditions contained therein.

(7) If Seller exercises its Repurchase Right with respect to a Railroad Need, then the Repurchase Closing will occur one (1) year from the date of the Exercise Notice, or such earlier date as may be specified by Seller in the Exercise Notice. At the Repurchase Closing:

- (i) Seller shall tender the Repurchase Price to Buyer;
- (ii) Buyer shall convey the Property to Seller; provided, however, that Buyer agrees to execute Seller's standard Purchase Contract; and
- (iii) all other obligations contained in the Purchase Contract shall be performed by the respective parties in accordance with the terms and conditions contained therein.

(8) During the term of the Repurchase Right, any leases by Buyer of some or all of the Property to third parties, except Buyer's lease with Amtrak's, its successors and assigns, shall expressly state in such leases that such lease rights are subject and subordinate to Seller's Repurchase Right and any such lease rights are subject to termination upon a reconveyance of the Property from Buyer to Seller pursuant to a Repurchase Closing.

(9) Seller has the right to freely assign the Repurchase Right at any time during the term to any party without Buyer's consent. For purposes of this Section 8(h), all references to Seller shall include Seller's assignee of its Repurchase Right. A memorandum of the Repurchase Right ("**Memorandum of Repurchase Right**") in the form attached hereto as Exhibit "D" shall be filed in the Las Animas County Records at Closing.

#### **AMTRAK DEED PROVISIONS**

9. The obligations in this Section 9 shall be binding upon Buyer, its successors and assigns, and Seller, its successors and assigns, and shall be included in the Deed and shall be covenants running with the land benefiting Seller, its successors and assigns, Buyer, its successors and assigns, and Amtrak, its successors and assigns. For purposes of this Section 9, Grantor shall mean Seller and Grantee shall mean Buyer. The Deed shall contain the following provisions ("**Amtrak Deed Provisions**"):

Grantor and Grantee acknowledge that the National Railroad Passenger Corporation, its successors, assigns (collectively, "Amtrak") currently uses portions of the [**Demised Premises\***] for operation of passenger rail services and that the continued use by Amtrak of the [Demised Premises] for such uses is of benefit to both Grantor and Grantee. This Deed is hereby restricted and Grantor, for itself, its successors and assigns and for Amtrak, hereby reserves rights and the transfer of the [Demised Premises] shall be subject to, the right to use the [Demised Premises] or a portion thereof, for the operation of passenger rail services and railroad business which shall include, but in no way shall be limited to: depots, platforms, canopies, parking areas, railroad servicing facilities, waiting rooms, ticket offices and the right of continued, unrestricted ingress and egress to the [Demised Premises] and to such passenger rail services, railroad operations, business and facilities, for consideration of one dollar (and no additional charge), for as long as Amtrak desires to utilize such portion of the [Demised Premises] for passenger rail services, railroad purposes or business. Amtrak does not waive any rights it has pursuant to the Rail Passenger Service Act, 49 U.S.C. §§ 24101 et seq, as amended or as may be amended in the future ("Act") and all rights under the Act are hereby preserved for the benefit of Amtrak. Such restrictions, reservations and rights shall be permanent and

perpetual easements, rights and restrictions that shall run with the land until such time as Amtrak shall notify the then current owner that it no longer desires or intends to utilize such portions of the [Demised Premises] for railroad purposes or business. Grantee shall in no way interfere with such railroad purposes or business or use or reduce the portion of the [Demised Premises] that is currently used for railroad purposes or business or impede the ingress or egress to such facilities. Grantor hereby assigns to Amtrak, its successors and assigns, all of its rights, restrictions and reservations as set forth herein.

\*Conform to the terminology used in the deed.

## POST-CLOSING OBLIGATIONS

10. Buyer and Seller agree that the following “**Post-Closing Obligations**” shall survive Closing as follows:

(a) Multimodal Facility. The parties acknowledge that Buyer has authority to regulate the location of any proposed building, facility, parking lot or garage, or other structures constituting a multimodal facility (“**Multimodal Facility**”). Buyer shall cause any Multimodal Facility not fully constructed and in operation on the Effective Date hereof to be located twenty-five (25) feet from the center line of the existing BNSF right of way area and the centerline of the closest existing BNSF track (“**Minimum Distance**”). Buyer shall ensure that the distance between any point on the exterior building line of the Multimodal Facility and any point on the centerline of the closest existing track does not amount to less than the Minimum Distance. Any other structures installed, erected, or constructed in connection with the Multimodal Facility shall be located a minimum distance of twenty-five feet (25) from the northwesterly property line of the existing BNSF right of way area and the centerline of the closest existing BNSF track, as measured from the right of way property line and/or centerline point nearest said structure(s). Buyer agrees to submit for Seller's review plans, specifications and “as built” drawings to facilitate Seller's review of Buyer's compliance herewith.

(b) Sidewalk. Within 12 months of the Effective Date, Buyer shall build, at Buyer's sole cost and expense, a sidewalk within the Property, to be located northwest of the fenceline and running along the entire length of the Amtrak platform (“**Sidewalk Area**”), such Sidewalk Area to be generally located north and west of the fence area described in Section 8(f) herein and illustrated in Exhibit “A” attached hereto and made a part hereof.

(c) Utility Relocations. Buyer shall, at its sole cost and expense, relocate (or cause to be relocated) all utilities (whether of utility lines, poles, components or other appurtenant parts) that Seller requests in writing be relocated, the decision as to which utilities to be relocated being in Seller's sole and absolute discretion. All requests by the Seller to relocate utilities shall be made, in writing, prior to closing. For purposes of this Section (10)(c), utility relocation costs incurred in connection with Buyer's acquisition of or use of the Property, including the costs and expenses incurred as a result of the development of plans, reports or specifications prepared in connection with any relocation activity (all such costs and expenses, “**Relocation Costs**”) shall be borne by Buyer at its sole cost and expense.

(d) Flagging and Other Costs. Buyer shall not conduct any activities on, or be present on, any portion of the Premises or Seller's rail corridor or property that is within twenty-five (25) feet of any active railroad track, except in the presence of a flagman. In any case where a flagman or flagmen are required in connection with the presence of individuals on Seller's rail corridor or the Premises, Buyer shall provide as much advance notice as possible prior to any entry upon the Premises. Seller shall arrange for the presence of the flagman or flagmen as soon as practicable after receipt of such notice from Buyer. Buyer shall reimburse to Seller, within thirty (30) days following Buyer's receipt of each bill

therefor, Seller's costs in arranging for and providing the flagman or flagmen, which shall be billed to Buyer at Seller's then applicable standard rate. Buyer agrees to reimburse Seller (within thirty (30) days after receipt of a bill therefore) for all other costs and expenses incurred by Seller in connection with Buyer's use of the Premises or the presence, construction, maintenance, and use of any Improvements situated thereon. Notwithstanding the foregoing paragraph (d), Seller agrees to waive all costs associated with arranging for and providing flagging for a period of twenty-five (25) days, such waiver period beginning no later than 10 days after the Effective Date hereof.

## REPRESENTATIONS

11. (a) Buyer represents and warrants to Seller that if Buyer is other than a natural person or persons that it is a validly formed municipality under the laws of the State of Colorado; that it is in good standing in the state of its organization and in the state in which the Property is located; that it has all requisite authorizations to enter into this Agreement; and that the parties executing this Agreement on behalf of Buyer are duly authorized to so do. Buyer represents and warrants to Seller that it is not subject to any bankruptcy proceeding. Seller represents and warrants to Buyer that it is a validly formed corporation under the laws of the State of Delaware; that it is in good standing in the state of its organization and in the state in which the Property is located; that it is not subject to any bankruptcy proceeding; that it has all requisite corporate authorizations to enter into this Agreement; and that the parties executing this Agreement on behalf of Seller are duly authorized to so do. It shall be a condition of each party's obligations to close this transaction that the representations and warranties of the other party contained herein are true and accurate as of Closing, provided, however that if one party waives such condition by proceeding to Closing with knowledge that any of the second party's representations or warranties are inaccurate, the second party shall have no liability with respect to such inaccuracy known by the first party.

(b) Amtrak Agreements. Buyer acknowledges that the Property is subject to that certain agreement between National Railroad Passenger Corporation ("**Amtrak**") and Burlington Northern Railroad Company and The Atchison, Topeka and Santa Fe Railway Company, dated September 1, 1996, as amended ("**Operating Agreement**"). Buyer also acknowledges that BNSF is obligated to provide property in the City of Trinidad, CO for intercity rail passenger use under the terms of the federal Rail Passenger Service Act (Title 49 United States Code Section 24308(a)). On or prior to the Closing, (i) Buyer shall enter into a lease with Amtrak that provides for Amtrak's use of the Property and the Multimodal Facility in Trinidad, CO on terms and conditions acceptable to Amtrak in its sole and absolute discretion and that is consistent with the Amtrak Deed Provisions (collectively, "**Station Lease**"), and (ii) Amtrak shall release BNSF in writing from all obligations under the Operating Agreement and applicable laws with respect to providing the Multimodal Facility for Trinidad, Colorado ("**Amtrak Release**"), which Amtrak Release shall be in form and substance acceptable to BNSF.

## MISCELLANEOUS

12. (a) Any notice under this Agreement must be written. Notices must be either (i) hand-delivered; (ii) placed in the United States certified mail, return receipt requested, addressed to the recipient; (iii) deposited with a nationally recognized overnight delivery service, addressed to the recipient as specified below; or (iv) telecopied by facsimile transmission to the party at the telecopy number listed below, provided that such transmission is followed with a copy sent by overnight delivery or regular mail to the address specified below. Any notice is effective upon deposit with the U.S. Postal Service or with the overnight delivery service, as applicable; all other notices are effective when received. All notices shall be addressed to the address of the recipient indicated below the signature of such party below. Either party may change its address for notice by proper notice to the other party.

(b) If the approval of any governmental agency is required for the sale of Seller's interest (if any) in the Property, it is understood and agreed that Seller's obligations under this Agreement are conditioned upon obtaining such approval and that both parties shall use good faith efforts to obtain such approval. If such approval cannot be obtained by the Closing Date, Seller may elect to extend the Closing Date to a date no later than ninety (90) days after the original Closing Date. In the event said approval cannot be obtained by such extended date, either party may terminate this Agreement without liability to the other, except that the Earnest Money shall be refunded to Buyer and thereafter neither party shall have any obligation hereunder except those that expressly survive termination.

(c) Nothing in this Agreement shall prevent Seller from discontinuing service over any railroad line or lines by which rail service may be provided to the Property.

(d) If, prior to Closing, the Property or any portion thereof is destroyed or damaged, or becomes subject to a taking by virtue of eminent domain to any extent whatsoever then either party may terminate this Agreement by written notice to the other within thirty (30) days after notice of such fact (but in any event prior to Closing). If so terminated, the Earnest Money shall be refunded to Buyer and neither party shall have any further obligations hereunder except those that expressly survive termination. If not so terminated the parties shall proceed with the Closing.

(e) Time is of the essence of each of the party's respective obligations under this Agreement. Whenever a date specified in this Agreement falls on a Saturday, Sunday, or federal holiday, the date will be extended to the next business day.

(f) This Agreement and, to the extent executed, the Entry Agreement, contains the entire Agreement between Seller and Buyer with respect to the Property. Oral statements or prior written matters not specifically incorporated into this Agreement are superseded hereby. No variation, modification, or change to this Agreement or the Entry Agreement shall bind either party unless set forth in a document signed by both parties. No failure or delay of either party in exercising any right, power or privilege hereunder shall operate as a waiver of such party's right to require strict compliance with any term of this Agreement. The captions above the section numbers of this Agreement are for reference only and do not modify or affect this Agreement. Each party has had the opportunity to have counsel review this Agreement and the Entry Agreement and, therefore, no rule of construction that any ambiguities are to be resolved against the drafting party is to be employed to interpret this Agreement, the Entry Agreement or any closing document. This Agreement and the Entry Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute the same Agreement. This Agreement and the Entry Agreement are intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any term or provision of this Agreement or the Entry Agreement or the application thereof to any person or circumstance shall for any reason and to any extent be held to be invalid or unenforceable, then such term or provision shall be ignored, and to the maximum extent possible, this Agreement and the Entry Agreement (to the extent executed) shall continue in full force and effect, but without giving effect to such term or provision.

(g) Buyer may not assign its interest in this Agreement or the Entry Agreement without Seller's prior written consent. The provisions of this Agreement and, to the extent executed, the Entry Agreement, shall bind Seller, the Buyer, and their heirs, executors, administrators, successors and assigns and shall inure to the benefit of the Seller, the Buyer and their heirs, executors, administrators, permitted successors and assigns. If Buyer is more than one person or entity, Buyer's obligations under this Agreement and, to the extent executed, the Entry Agreement, shall be joint and several.

(h) This Agreement relates only to land. Unless otherwise herein provided, any conveyance shall exclude Seller's railroad tracks and appurtenances thereto, Seller's buildings and any other improvements

on the Property, all of which may be removed by Seller within 90 days following conveyance of the Property, and if not removed, shall be deemed abandoned by the Seller without obligation on the Seller's part and shall thereafter be and become the property of the Buyer in place. Notwithstanding the foregoing, Seller shall not have to remove any improvements or fixtures for which an easement has been reserved hereunder or in the Deed.

(i) Seller is not a foreign person as the term is used and defined in Section 1445 of the Internal Revenue Code of 1986, as amended and the regulations promulgated thereunder. Seller shall, upon request of Buyer, complete an affidavit to this effect and deliver it to Buyer on or before closing of said sale.

(j) The provisions of Sections 5 through 10 and Section 12 of this Agreement shall survive Closing and shall not be merged into the Deed or any other document delivered at Closing. The provisions of Section 11 of this Agreement shall survive Closing for a period of one year and shall not be merged into the Deed or any other document delivered at Closing. Nothing in this section shall alter any requirement in any other Section of this Agreement for the provisions of such section to be incorporated into the Deed, such as Sections 7, 8, 9, and 10.

(k) If any action at law or in equity is necessary to enforce or interpret this Agreement, the prevailing party will be entitled to reasonable attorneys' fees, costs, and discovery or investigation expenses in addition to any other relief to which that party may be entitled.

(l) SELLER AND BUYER IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR COUNTERCLAIM ARISING IN CONNECTION WITH, OUT OF OR OTHERWISE RELATING TO, THIS AGREEMENT.

#### **ADMINISTRATIVE FEE**

13. Buyer acknowledges that a material consideration for this agreement, without which it would not be made, is the agreement between Buyer and Seller, that the Buyer shall pay upon return of this Agreement signed by Buyer to Seller's Broker a processing fee in the amount of \$2,000.00 over and above the agreed upon Purchase Price. Said fee shall be made payable to BNSF Railway Company by a separate check.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Buyer and Seller have executed this Agreement to be effective as of the Effective Date.

**BUYER:**

City of Trinidad

Buyer's name as it is to appear on deed  
(PRINTED/TYPED)

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Buyer's Address:

\_\_\_\_\_  
\_\_\_\_\_

Attn: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Phone: \_\_\_\_\_

Buyer's SSN or EIN: \_\_\_\_\_

**SELLER:**

**BNSF RAILWAY COMPANY**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Seller's Address:

c/o Jones Lang LaSalle Brokerage Inc.  
4300 Amon Carter Blvd., Ste 100  
Fort Worth, Texas 76155  
Attn: Transaction Manager  
Fax: 817-306-8129  
Phone: 817-230-2600

\_\_\_\_\_  
Date of Seller's Execution (Effective Date)

**EXHIBIT "A"**

[Attach Map showing Property cross-hatched in black]

**EXHIBIT "B"**

NOTICE OF ASSIGNMENT

**Goldfinch Exchange Company LLC**

*A Delaware limited liability company*

*40 Lake Bellevue Drive, Suite 275*

*Bellevue, WA 98005*

*425-646-4020*

*425-637-2873 fax*

**NOTICE OF ASSIGNMENT**

**TO:** City of Trinidad  
and any assignees or exchange intermediaries of Buyer

You and BNSF Railway Company ("BNSF") have entered into the Real Estate Purchase and Sale Agreement, dated \_\_\_\_\_, 2014 for the sale of the real property described therein. You are hereby notified that BNSF has assigned its rights as Seller, but not its obligations, to Goldfinch Exchange Company LLC for the purpose of effecting a tax deferred exchange under Internal Revenue Code Section 1031. This is an assignment of rights only and BNSF will deed the property directly to you.

**ACKNOWLEDGED:**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT "C"**

ENTRY AND CONFIDENTIALITY AGREEMENT

## ENTRY AND CONFIDENTIALITY AGREEMENT

THIS ENTRY AND CONFIDENTIALITY AGREEMENT ("Agreement") is made as of the Effective Date (defined below) by BNSF RAILWAY COMPANY, a Delaware corporation ("Railroad") and \_\_\_\_\_ ("Permittee").

WHEREAS, Permittee as Buyer and Railroad as Seller have entered into that certain Real Estate Purchase and Sale Agreement (the "Sale Contract") dated as of           [Insert Effective Date of Purchase and Sale Agreement] concerning the property(ies) set forth therein (the "Property"). Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Sale Contract.

WHEREAS, in order to evaluate the acquisition of the Property, Permittee has requested access to the Property to inspect the condition of the Property.

WHEREAS, Railroad is willing to permit such access only on the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the foregoing recitals, which are incorporated herein, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the following:

1. RIGHT OF ENTRY. In accordance with the provisions of this Agreement, Railroad hereby grants Permittee a non-exclusive, revocable license, subject to all rights, interests, and estates of third parties including, without limitation, any leases, licenses, easements, liens, or other encumbrances, to enter the Property for the purpose of inspecting the Property for said potential acquisition and for no other purpose or use.

2. RESTRICTIONS CONCERNING ENTRY.

(a) Permittee shall enter the Property only during normal business hours and may inspect the condition thereof and conduct such surveys and to make such engineering and other inspections, tests and studies as Permittee shall determine to be reasonably necessary, all at Permittee's sole cost and expense. Notwithstanding the foregoing, Permittee shall not conduct or allow any physically intrusive testing of, on or under the Property and under no circumstances shall Permittee be permitted to conduct any tests, investigations or any other activity using mechanized equipment and/or machinery, or place or store any mechanized equipment, tools or other materials, within twenty-five (25) feet of the centerline of any railroad track on the Property unless Permittee has obtained prior written approval from Railroad, which approval may be withheld in Railroad's sole discretion.

(b) Permittee agrees to give Railroad notice at least five (5) business days prior to any such entry, examinations or surveys and Railroad has the right to be present during any such entry, examination or survey. Such notice shall be made to Railroad's Roadmaster at                   [fill in address and phone # of Roadmaster]. Permittee agrees to conduct all examinations and surveys of the Property in a manner that will not interfere with the operations or improvements of Railroad or other lessees, Permittees or license holders and in such a manner and not at any time to be a source of danger to or interference with the existence or use of present or future tracks, roadbed or property of Railroad, or the safe operation and activities of Railroad.

(c) Permittee shall comply with, and cause its agents to comply with, any and all laws, statutes, regulations, ordinances, rules, orders, common law, covenants or restrictions (“**Legal Requirements**”) applicable to the Property and their activities thereon and any and all safety requirements of Railroad and if ordered to cease any activities upon the Property by Railroad’s personnel Permittee shall immediately do so. Notwithstanding the foregoing right of Railroad, the parties agree that Railroad has no duty or obligation to monitor Permittee’s activities on the Property to determine the safe nature thereof, it being solely the Permittee’s responsibility to ensure that Permittee’s activities on the Property are safe. Neither the exercise nor failure by Railroad to exercise any rights granted in this Section will alter the liability allocation provided by this Agreement.

(d) Permittee shall not harm or damage the Property or cause any claim adverse to Railroad.

(e) Permittee shall promptly reimburse Railroad for any additional costs/expenses incurred by Railroad in connection with such safety requirements (including, but not limited to, furnishing a flagman or flagmen if Railroad determines that furnishing a flagman or flagmen is necessary during any such examinations or surveys).

(f) Permittee shall not contact any governmental or quasi governmental authorities concerning the Property without Railroad’s prior written consent and Railroad shall have the right to be present during any such contacts.

(g) Permittee will not have more than 5 persons present on any individual Property at a one time. Any officer, employee, agent, contractor, consultant, lender, surveyor or attorney entering the Property on behalf of or at the direction of Permittee, shall be deemed agents of Permittee for purposes of this Agreement.

3. TERM. This Agreement shall commence on the date Railroad executes this Agreement as indicated below its signature (the “**Effective Date**”) and shall be in effect until the earlier of the date the Sale Contract is terminated pursuant to its terms, or the Closing Date. No expiration or termination of this Agreement shall release either party from any liability or obligation under this Agreement, whether of indemnity or otherwise, resulting from any acts, omissions or events occurring prior to the date of termination or expiration.

4. INSURANCE. Permittee shall obtain and maintain the insurance required below:

A. Commercial General Liability Insurance. This insurance shall contain broad form contractual liability with a combined single limit of a minimum of \$1,000,000 each occurrence and an aggregate limit of at least \$ 2,000,000. Coverage must be purchased on a post 2004 ISO occurrence form or equivalent and include coverage for, but not limited to, the following:

- ◆ Bodily Injury and Property Damage
- ◆ Personal Injury and Advertising Injury
- ◆ Fire legal liability
- ◆ Products and completed operations

B. Business Automobile Insurance. This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:

- ◆ Bodily injury and property damage
  - ◆ Any and all vehicles owned, used or hired
- C. Workers Compensation and Employers Liability insurance including coverage for, but not limited to:
- ◆ Permittee's statutory liability under the worker's compensation laws of the state(s) in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.
  - ◆ Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.

Other Requirements:

Permittee agrees to waive its right of recovery against Railroad and Indemnitees (defined below) for all Liabilities (defined below) that could be insured against by the insurance required to be maintained hereby. In addition, its insurers, through the terms of the policy or policy endorsement, must waive their right of subrogation against Railroad for all claims and suits. The certificate of insurance must reflect the waiver of subrogation endorsement. Permittee further waives its right of recovery, and its insurers also waive their right of subrogation against Railroad for loss of its owned or leased property or property under Permittee's care, custody or control.

All policy(ies) required above (excluding Workers Compensation) shall include a severability of interest endorsement and Railroad [*and Jones Lang LaSalle Brokerage, Inc.*] shall be named as an additional insured with respect to work performed under this agreement. Severability of interest and naming Railroad [*and Jones Lang LaSalle Brokerage, Inc.*] as additional insured shall be indicated on the certificate of insurance.

Prior to commencing any work or entering the Property, Permittee shall furnish to Railroad an acceptable certificate(s) of insurance including an original signature of the authorized representative evidencing the required coverage, endorsements, and amendments and referencing the contract audit/folder number if available. The policy(ies) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Railroad in writing at least 30 days prior to any cancellation, non-renewal, substitution or material alteration. This cancellation provision shall be indicated on the certificate of insurance. In the event of a claim or lawsuit involving Railroad arising out of this Agreement, Permittee will make available any required policy covering such claim or lawsuit.

Acceptance of a certificate that does not comply with this section shall not operate as a waiver of Permittee's obligations hereunder.

The fact that insurance (including, without limitation, self-insurance) is obtained by Permittee shall not be deemed to release or diminish the liability of Permittee including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad shall not be limited by the amount of the required insurance coverage.

For purposes of this section, **Railroad** shall mean "Burlington Northern Santa Fe, LLC", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

5. COMPLETION OF INSPECTION. Upon completion of any inspection by Permittee or its agents on the Property or upon the expiration or termination of this Agreement, whichever shall occur first, Permittee shall, at its sole cost and expense:

- (a) remove all of its equipment from the Property;
- (b) report any damage to the Property arising from, growing out of, or connected with Permittee's entry upon the Property and restore the Property to their condition immediately prior to such entry by Permittee or its agents; and
- (c) remedy any unsafe conditions on the Property created by Permittee or its agents.

6. INDEMNITY. TO THE FULLEST EXTENT PERMITTED BY LAW, PERMITTEE SHALL INDEMNIFY, RELEASE, DEFEND AND HOLD HARMLESS RAILROAD AND RAILROAD'S AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS (COLLECTIVELY, "INDEMNITEES") FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION) (COLLECTIVELY "LIABILITIES") OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART):

- (a) ANY BREACH OF THIS AGREEMENT BY PERMITTEE INCLUDING, BUT NOT LIMITED TO, PERMITTEE'S OBLIGATION TO COMPLY AND CAUSE ITS AGENTS TO COMPLY WITH LEGAL REQUIREMENTS INCLUDING, BUT NOT LIMITED TO, WORKERS' COMPENSATION AND CERCLA,
- (b) ANY RIGHTS OR INTERESTS GRANTED PURSUANT TO THIS AGREEMENT,
- (c) PERMITTEE'S OR ITS AGENTS ACTIVITIES UPON OR USE OF ANY OF THE PROPERTY, OR
- (d) ANY ACT OR OMISSION OF PERMITTEE OR PERMITTEE'S AGENTS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER,

EVEN IF SUCH LIABILITIES ARISE FROM OR ARE ATTRIBUTED TO, IN WHOLE OR IN PART, ANY NEGLIGENCE OF ANY INDEMNITEE. THE ONLY LIABILITIES WITH RESPECT TO WHICH PERMITTEE'S OBLIGATION TO INDEMNIFY THE INDEMNITEES DOES NOT APPLY ARE LIABILITIES TO THE EXTENT PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AN INDEMNITEE.

7. CONFIDENTIALITY. Except to the extent otherwise required by Legal Requirements, Permittee shall not disclose to any third parties any information Permittee discovers or obtains concerning the Property as a result of any inspections, surveys, tests or other activities conducted with respect to the Property ("**Confidential Information**") including, but not limited to, any oral, electronic or written information provided by Railroad or on Railroad's behalf. Notwithstanding the foregoing, Buyer may disclose Confidential Information to those of Buyer's agents directly involved with Permittee with respect

to the acquisition of the Property, provided such individuals and firms have agreed to maintain the confidentiality of Confidential Information pursuant to this Agreement and provided further that Permittee shall be liable hereunder for any breach by such parties of such obligation. Confidential Information shall not include information that is or becomes in the public domain other than as a result of a breach by Permittee or its agents. If Permittee or any of its agents receive a request to disclose any part of the Confidential Information, Permittee shall (a) notify Railroad immediately of the existence, terms and circumstances of such request, (b) consult with Railroad on the advisability of taking legally available steps to resist or narrow such requests, and (c) if disclosure of such Confidential Information is required to prevent Permittee being held in contempt or subject to other penalty, shall (i) furnish only such information as is legally required to be so disclosed, and (ii) use its best efforts to obtain an order or other reliable assurance that confidential treatment will be afforded to the disclosed Confidential Information. If the transaction contemplated in the Sale Contract does not close for any reason then Permittee shall, promptly upon Railroad's request, forward to Railroad all Confidential Information without keeping any copies thereof.

8. DEFAULT. Permittee acknowledges and agrees that in the event of a breach of this Agreement, Railroad would be irreparably harmed and could not be made whole by monetary damages. Accordingly, in addition to any other remedy to which it may be entitled at law, in equity or under this Agreement, Railroad shall be entitled to injunctive relief (without the posting of any bond and without proof of actual damages) to prevent such breach and/or to compel specific performance. Permittee and its agents shall not oppose the granting of such relief. In the event of any breach by Permittee or its agents under this Agreement, Railroad may terminate this Agreement and shall be entitled to any other remedy available at law, in equity or under this Agreement. No failure or delay of either party in exercising any right, power or privilege hereunder shall operate as a waiver of such party's right to require strict compliance with any term of this Agreement.

9. GOVERNING LAW, JURY WAIVER. All questions concerning the interpretation or application of provisions of this Agreement shall be decided according to the laws of the State of Texas without regard to principles of conflicts of law. Any action relating to this Agreement may be brought in the courts of Tarrant County, Texas, Permittee hereby consenting to the jurisdiction and venue of such courts. PERMITTEE AND RAILROAD IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR COUNTERCLAIM ARISING IN CONNECTION WITH, OUT OF OR OTHERWISE RELATING TO, THIS AGREEMENT.

10. SALE CONTRACT. The provisions of this Agreement shall be deemed incorporated into the Sale Contract, shall survive the closing thereunder and shall not be merged into the deed conveying the Property or any other closing document, provided, however that nothing in the Sale Contract shall limit or modify any remedy available to Railroad under this Agreement for a breach by Permittee of its obligations under this Agreement. All notices hereunder shall be delivered in the manner set forth in the Sale Contract.

IN WITNESS WHEREOF, this Agreement has been duly executed as of the Effective Date.

PERMITTEE:

\_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

RAILROAD:

BNSF RAILWAY COMPANY

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Date of Execution by Railroad (Effective Date)

**EXHIBIT "D"**

**FORM OF**

**MEMORANDUM OF REPURCHASE RIGHT**

THIS MEMORANDUM OF REPURCHASE RIGHT ("**Memorandum**") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2014, by and between CITY OF TRINIDAD, COLORADO, a political subdivision of the State of Colorado, located at \_\_\_\_\_ (hereinafter referred to as "**Grantor**"), and BNSF RAILWAY COMPANY, a Delaware corporation located at 2600 Lou Menk Drive, Fort Worth, Texas 76131 (hereinafter referred to as "**Grantee**").

WITNESSETH

WHEREAS, pursuant to that certain Real Estate Purchase and Sale Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 2014, Grantee, as seller, conveyed to Grantor, as purchaser, certain real property (the "**Property**") located in the County of Las Animas, State of Colorado, the location of which is more particularly shown on **Exhibit "A"** attached hereto and made a part hereof.

WHEREAS, pursuant to that certain Real Estate Purchase and Sale Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 2014 (the "**Real Estate Purchase and Sale Agreement**"), Grantee reserved to itself a right to repurchase the Property, including a right of first refusal ("**Repurchase Right**"), in accordance with the terms and conditions of that Real Estate Purchase and Sale Agreement.

NOW, THEREFORE, Grantor, for and in good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confirmed, does hereby acknowledge and agree with the terms of the Grantee's reservation of the Repurchase Right to be held by Grantee and to be exercised in accordance with the terms and provisions of the Real Estate Purchase and Sale Agreement.

This Memorandum has been entered into by Grantor and Grantee for purposes of recordation in the appropriate real property records of the County of Las Animas, State of Colorado, to provide notice to third parties of the existence of the Real Estate Purchase and Sale Agreement and the Repurchase Right contained therein and nothing contained herein shall be deemed or construed to amend, modify, change, alter, amplify, interpret or supersede any of the terms of the Real Estate Purchase and Sale Agreement or the Repurchase Right contained therein.

[THE REST OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK]

IN WITNESS THEREOF, the parties hereto have caused this Memorandum to be executed by their respective authorized representatives as of the date first above written.

**GRANTOR:**

CITY OF TRINIDAD, COLORADO

By:  
Name:  
Title:

**GRANTEE:**

BNSF RAILWAY COMPANY, a Delaware corporation

By:  
Name:  
Title:

STATE OF COLORADO           §  
  §  
COUNTY OF                   §

This instrument was acknowledged before me on \_\_\_\_\_, 2014 by  
(name) as (title) of CITY OF TRINIDAD,  
COLORADO, a Colorado political subdivision.

Notary Public

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_, 2014 by  
(name) as (title) of THE BURLINGTON  
NORTHERN AND SANTA FE RAILWAY COMPANY, a Delaware corporation.

Notary Public

**Exhibit "A"**

*To Memorandum of Right to Repurchase in favor of BNSF*

**Description of the Property attached hereto.**

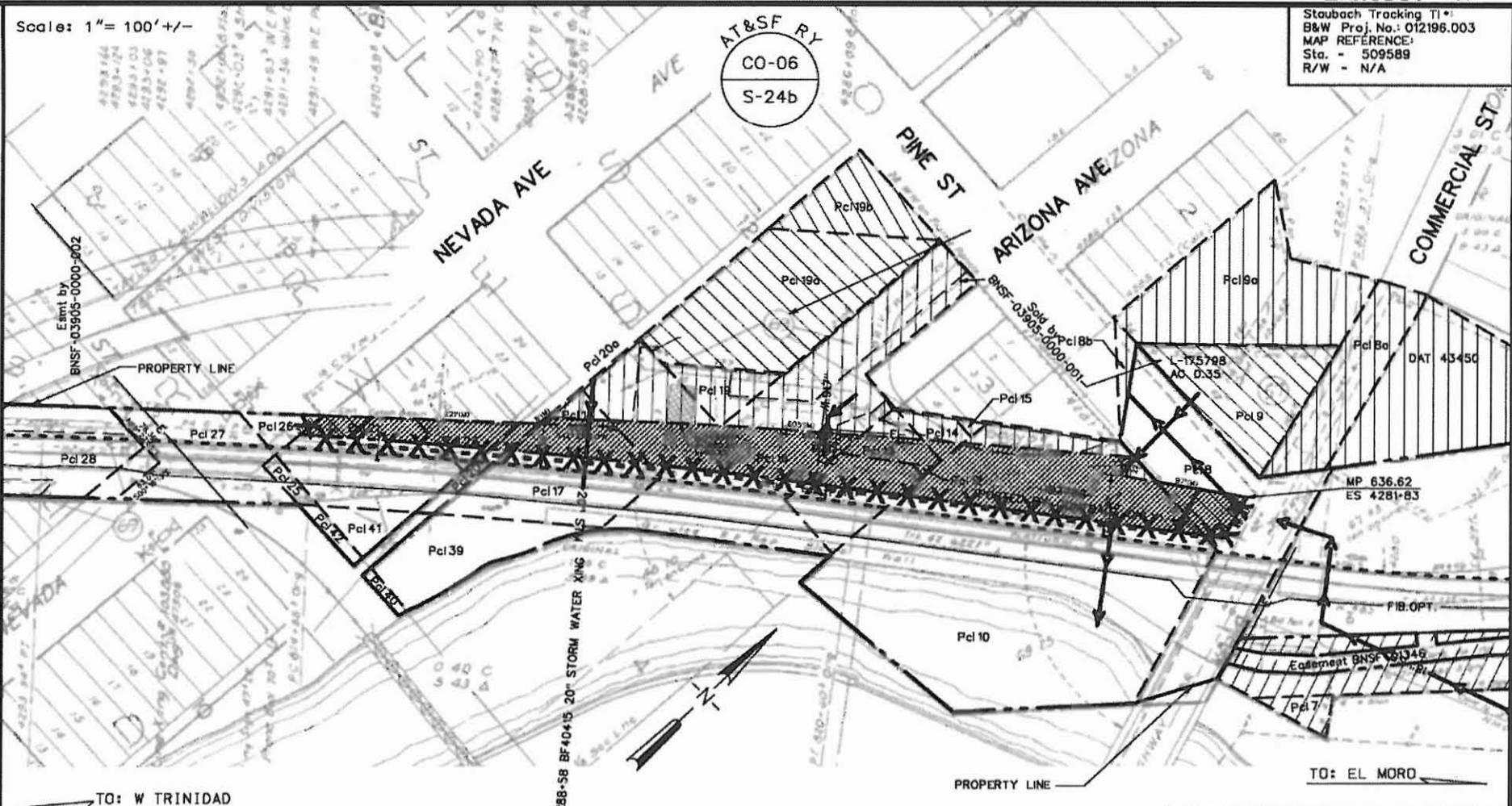
**EXHIBIT "A"**

Staubach Tracking T1\*  
 B&W Proj. No.: 012196.003  
 MAP REFERENCE:  
 Sta. - 509589  
 R/W - N/A

AT&SF RY  
 CO-06  
 S-24b

Scale: 1" = 100' +/-

This map used by BNSF RAILWAY COMPANY in the ordinary course of business, but it is subject to audit and should be used only with the expressed understanding the BNSF make no representation or warranty about the quality, accuracy, errors or omissions relating to this map.



To: THE CITY OF TRINIDAD  
 At: TRINIDAD  
 LAS ANIMAS COUNTY  
 CO

Legend:  
 Sale Area  
 Sight Esm't  
 X.X.X Fence

MEASUREMENTS BASED ON PROVIDED SURVEYS  
 (S) MEASUREMENTS TAKEN OFF SURVEY  
 (M) MEASUREMENT

SOUTHWEST DIVISION  
 RATON SUBDIVISION - L.S. 7300-6  
 Val. Sec. 43020  
 AT&SF RY CO-06, Map S-24b  
 Sec. 13, T33S, R64W 6PM  
 OCT. 16, 2012 REV. JAN. 10, 2013  
 JAN. 23, 2013 M.P. 636.62 ANB

9K



**COUNCIL COMMUNICATION**

**CITY COUNCIL MEETING:** November 4<sup>th</sup>, 2014  
**PREPARED BY:** Louis Fineberg  
**DEPT. HEAD SIGNATURE:** [Signature]  
**# OF ATTACHMENTS:** 1

**SUBJECT:** State Trails Program Grant Application – Milosevich Acquisition

**PRESENTER:** Louis Fineberg, Planning Director

**RECOMMENDED CITY COUNCIL ACTION:** Council should authorize grant application.

**SUMMARY STATEMENT:**

The proposed grant application will request funds in the amount of \$200K from the State Trails Program to acquire approximately (40) acres of land along the Purgatoire River adjacent to the Boulevard Addition Nature Park for the purpose of constructing Section Two of the Old Sopris Trail and creating an expanded river park as described in the Old Sopris Trail Plan. The parcels targeted for acquisition are shown in the attachments. A sample letter of commitment from the Charles Milosevich Family Limited Partnership is also attached as well as letter of commitment from the City.

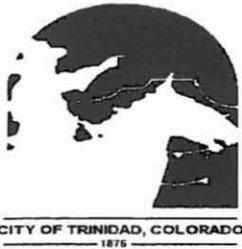
**EXPENDITURE REQUIRED:** There is a 30% local match requirement for the grant. The landowner has agreed to accept 15% below appraised value for the property. This would constitute a donation of half of the local match requirement. The City would therefore be responsible for 15% of the project cost, or approximately \$45K depending on the final award.

**SOURCE OF FUNDS:** NA.

**POLICY ISSUE:** Should the City of Trinidad support the application?

**ALTERNATIVE:** The City of Trinidad could decide not to support the application.

9K



City of Trinidad  
135 N. Animas  
Trinidad, Colorado 81082  
Telephone (719) 846-9843  
Fax (719) 846-4140  
Email: joe.reorda@trinidad.co.gov

Colorado Parks and Wildlife Division  
Trails Program  
13787 S. Hwy 85  
Littleton, CO 80125

October 28, 2014

Re: Old Sopris Trail Land Acquisition – Section Two

To Whom It May Concern:

I am writing this letter on behalf of the City Council of the City of Trinidad to express enthusiastic support for the City's grant request to the State Trails Program for funding in the amount of \$200,000 to acquire approximately forty (40) to forty-five (45) acres of land along the Purgatoire River corridor to accommodate the construction of Section Two of the Old Sopris Trail. As you are aware, the City recently completed the Old Sopris Trail Master Plan with the help of a planning grant from the State Trails Program and has been working feverishly to implement that plan. Since the plan was completed late last year, the City has acquired over forty (40) acres of riverfront property with the help of a GOCO grant to create the ninety (90) acre Boulevard Addition Nature Park as outlined in the Plan. The City has also received an additional \$200K grant from the State Trails Program to construct the pedestrian bridge over the Purgatoire River referenced in Section One of the Plan and has secured an additional \$540K from CDOT to implement the remainder of Section One in its entirety. The City has also secured funding from the Fishing is Fun program to implement Reach 5 of the City's Trout Habitat Improvement Project adjacent to the Boulevard Addition Nature Park.

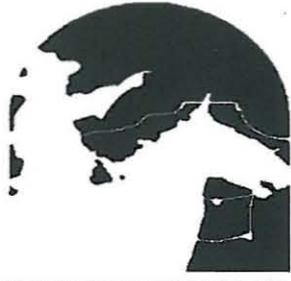
With funding for all of Section One in place, the City is now looking to acquire the land necessary to accommodate the construction of Section Two of the Plan. In order to keep the momentum of this project moving in a positive direction, the City intends to apply for funding from GOCO in March 2015 to acquire the remaining land necessary for the construction of the entire trail. When complete, the Old Sopris Trail will not only provide over four (4) trail miles that the City is sorely lacking, it will provide a vital, heretofore non-existent, non-motorized trail connection between the Corazon de Trinidad Historic District and the southern Entrance to Trinidad Lake State Park.

The City Council is extremely excited at the pace of the Old Sopris Trail project and the recreational and economic development opportunities that it will provide. We wholeheartedly endorse this project and have committed to the financial match as outlined in the grant request.

Thank you for your consideration.

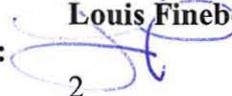
Sincerely,

  
Joseph Reorda  
Mayor



**CITY OF TRINIDAD, COLORADO**  
1876

## COUNCIL COMMUNICATION

**CITY COUNCIL MEETING:** November 4<sup>th</sup>, 2014  
**PREPARED BY:** Louis Fineberg  
**DEPT. HEAD SIGNATURE:**   
**# OF ATTACHMENTS:** 2

91

**SUBJECT:** EPA Brownfields Assessment Grant – Stantec Contract

**PRESENTER:** Louis Fineberg, Planning Director

**RECOMMENDED CITY COUNCIL ACTION:** Council should authorize contract and grant application process.

### SUMMARY STATEMENT:

The attached contract is to retain the services of Stantec to apply for an EPA Brownfields Assessment Grant on behalf of the City and possibly the County and other jurisdictions within the County. The amount of the grant would be \$400K if the City applies alone and \$600K if the County and one other participates. There is no match requirement for the grant. Stantec does not charge for preparing the application if they are selected to implement the grant. Staff will be approaching the County to see if they would like to participate in the project. Stantec was selected out of two firms that responded to the City's RFP for grant services.

**EXPENDITURE REQUIRED:** NA.

**SOURCE OF FUNDS:** NA.

**POLICY ISSUE:** Should the City of Trinidad support the application?

**ALTERNATIVE:** The City of Trinidad could decide not to support the application.

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**MASTER SERVICES AGREEMENT**

THIS AGREEMENT is made and entered into effective October 24, 2012 (the "Agreement Date") by and between:

**"CLIENT"**

Name: CITY OF TRINIDAD  
Address: 135 N. Animas Street, Trinidad, CO 81082  
Phone: (719) 680-7296 Fax:  
Representative: Louis Fineberg, Planning Director

**"STANTEC"**

Name: STANTEC CONSULTING SERVICES INC.  
Address: 11130 NE 33<sup>rd</sup> Place, Suite 200  
Phone: 425-289-7335 Fax: 425-869-1190  
Representative: Chris Gdak, Senior Associate

WHEREAS this **MASTER SERVICES AGREEMENT** ("AGREEMENT") is between STANTEC CONSULTING SERVICES INC. ("STANTEC") and CITY OF TRINIDAD ("CLIENT") for Services to be provided by STANTEC on projects as described in the Individual Task Order issued pursuant to this AGREEMENT (which sections are incorporated into this AGREEMENT).

NOW THEREFORE, in consideration of the mutual promises hereinafter contained, it is hereby agreed as follows:

The scope of STANTEC's services ("SERVICES") will be set forth in individual Task Orders, which are incorporated into this AGREEMENT. All work authorized by a Task Order issued pursuant to this AGREEMENT shall be completed in accordance with, and subject to, the Terms and Conditions set forth herein, on pages 2 through 6.

STANTEC's Fee for the SERVICES will be set forth in the individual Task Orders which are incorporated into this AGREEMENT.

The Parties, intending to be legally bound, have made, accepted and executed this AGREEMENT as of the Agreement Date noted above:

**CITY OF TRINIDAD**

**STANTEC CONSULTING SERVICES INC.**

\_\_\_\_\_  
Louis Fineberg, Planning Director

\_\_\_\_\_  
Chris Gdak, Senior Associate

Per:

Per:

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Print Name and Title

Per:

Per:



**DESCRIPTION OF WORK:** STANTEC shall render the services described in each Task Order (hereinafter called the "SERVICES") in accordance with this AGREEMENT. STANTEC may, at its discretion and at any stage, engage subconsultants to perform all or any part of the SERVICES. The CLIENT and STANTEC by written amendment to this AGREEMENT may from time to time make changes to the SERVICES. All changed work shall be carried out under this AGREEMENT. The time for completion of the SERVICES shall be adjusted accordingly.

**COMPENSATION:** Charges for the SERVICES rendered will be made in accordance with the CONTRACT PRICE indicated in each Task Order, or, if no CONTRACT PRICE is indicated, in accordance with STANTEC's Schedule of Fees and Disbursements in effect from time to time as the SERVICES are rendered.

Invoices shall be paid by the CLIENT in the currency of the jurisdiction in which the SERVICES are provided without deduction or setoff upon receipt. Failure to make any payment when due is a material breach of this Agreement and will entitle STANTEC, at its option, to suspend or terminate this Agreement and the provision of the SERVICES. Interest will accrue on accounts overdue by 30 days at the lesser of 1.5% per month (18% per annum) or the maximum legal rate of interest.

**REPRESENTATIVES:** Each party shall designate in the space provided on the Task Order a representative who is authorized to act on behalf of that party and receive notices under this AGREEMENT. Such representatives have complete authority to act on behalf of their principals in respect to all matters arising under this AGREEMENT.

**NOTICES:** All notices, consents, and approvals required to be given hereunder shall be in writing and shall be given to the representatives of each party. All notices required by this AGREEMENT to be given by either party shall be deemed to be properly given and received within two (2) business days if made in writing to the other party by certified mail, telegram, email, facsimile or telex, addressed to the regular business address of such party as identified above.

**CLIENT'S RESPONSIBILITIES:** The CLIENT shall provide to STANTEC in writing, the CLIENT's total requirements in connection with each PROJECT described in a Task Order, including the PROJECT budget and time constraints. The CLIENT shall make available to STANTEC all relevant information or data pertinent to the PROJECT which is required by STANTEC to perform the SERVICES. STANTEC shall be entitled to rely upon the accuracy and completeness of all information and data furnished by the CLIENT, including information and data originating with other consultants employed by the CLIENT whether such consultants are engaged at the request of STANTEC or otherwise. Where such information or data originates either with the CLIENT or its consultants then STANTEC shall not be responsible to the CLIENT for the consequences of any error or omission contained therein.

When required by STANTEC, the CLIENT shall engage specialist consultants directly to perform items of work necessary to enable STANTEC to carry out the SERVICES. Whether arranged by the CLIENT or STANTEC, these services shall be deemed to be provided under direct contracts to the CLIENT unless expressly provided otherwise.

The CLIENT shall give prompt consideration to all documentation related to the PROJECT prepared by STANTEC and whenever prompt action is necessary shall inform STANTEC of CLIENT's decisions in such reasonable time so as not to delay the schedule for providing the SERVICES.

When applicable, the CLIENT shall arrange and make provision for STANTEC's entry to the PROJECT site as well as other public and private property as necessary for STANTEC to perform the SERVICES. The CLIENT shall obtain any required approvals, licenses and permits from governmental or other authorities having jurisdiction over the PROJECT so as not to delay STANTEC in the performance of the SERVICES.

**STANTEC'S RESPONSIBILITIES:** STANTEC shall furnish the necessary qualified personnel to provide the SERVICES. STANTEC represents that it has access to the experience and capability necessary to and agrees to perform the SERVICES with the reasonable skill and diligence required by customarily accepted professional practices and procedures normally provided in the performance of the SERVICES at the time when and the location in which the SERVICES were performed. This undertaking does not imply or guarantee a perfect PROJECT and in the event of failure or partial failure of the product of the SERVICES, STANTEC will be liable only for its failure to exercise diligence, reasonable care and professional skill. This standard of care is the sole and exclusive standard of care that will be applied to measure STANTEC's performance. There are no other representations or warranties expressed or implied made by STANTEC. In particular, but not by way of limitation, no implied warranty of merchantability or fitness for a particular purpose shall apply to the SERVICES provided by STANTEC nor shall STANTEC warrant or guarantee economic, market or financial conditions, proforma projections, schedules for public agency approvals, or other factors beyond STANTEC's reasonable control. STANTEC does not warrant the SERVICES to any third party and the CLIENT shall indemnify and hold harmless STANTEC from any demands, claims, suits or actions of third parties arising out of STANTEC's performance of the SERVICES.

In performing the SERVICES under this AGREEMENT, STANTEC shall operate as and have the status of an independent contractor and shall not act as, or be an employee of the CLIENT.

The SERVICES performed by STANTEC shall be subject to the inspection and the review of the CLIENT at all times but such inspection and review shall not relieve STANTEC from its responsibility for the proper performance of the SERVICES.

**TERMINATION:** Either party may terminate this MASTER SERVICE AGREEMENT or an Individual Task Order without cause upon thirty (30) days' notice in writing. If either party breaches this MASTER SERVICE AGREEMENT or an Individual Task Order, the non-defaulting party may terminate this MASTER SERVICE AGREEMENT and/or an Individual Task Order after giving seven (7) days' notice to remedy the breach. On termination of this MASTER SERVICE AGREEMENT, the CLIENT shall forthwith pay STANTEC for the SERVICES performed to the date of termination. Non-payment by the CLIENT of STANTEC's invoices within 30 days of STANTEC rendering same is agreed to constitute a material breach of this MASTER SERVICE AGREEMENT and, upon written notice as prescribed above, the duties, obligations and responsibilities of STANTEC are terminated.

**SUSPENSION OF SERVICES:** If the SERVICES from an Individual Task Order are suspended for more than thirty (30) calendar days in the aggregate, STANTEC shall be compensated for services performed and charges incurred prior to receipt of notice to suspend and, upon resumption, an equitable adjustment in fees to accommodate the resulting demobilization and remobilization costs. In addition, there shall be an equitable adjustment in the project schedule based on the delay caused by the suspension. If the SERVICES from an Individual Task Order are suspended for more than ninety (90) days, STANTEC may, at its option, terminate the Task Order upon giving notice in writing to the CLIENT.

**ENVIRONMENTAL:** Except as specifically described in an Individual Task Order, STANTEC's field investigation, laboratory testing and engineering recommendations will not address or evaluate pollution of soil or pollution of groundwater.

Where the SERVICES include storm water pollution prevention (SWPP), sedimentation or erosion control plans, specifications, procedures or related construction observation or administrative field functions, CLIENT acknowledges that such SERVICES proposed or performed by Stantec are not guaranteed to provide complete SWPP, sedimentation or erosion control, capture all run off or siltation, that any physical works are to be constructed and maintained by the CLIENT's contractor or others and that STANTEC has no control over the ultimate effectiveness of any such works or procedures. Except to the extent that there were errors or omissions in the SERVICES provided by STANTEC, CLIENT agrees to indemnify and hold STANTEC harmless from and against all claims, costs, liabilities or damages whatsoever arising from any storm water pollution, erosion, sedimentation, or discharge of silt or other deleterious substances into any waterway, wetland or woodland and any resulting charges, fines, legal action, cleanup or related costs.

**BUILDING CODES, BYLAWS AND OTHER PUBLIC REGULATIONS:** STANTEC shall, to the best of its ability, interpret building codes, by-laws and other public regulations as they apply to the PROJECT and as they are published at the time SERVICES commence. Furthermore, STANTEC shall observe and comply with all applicable laws, ordinances, codes and regulations of government agencies, including federal, state, provincial, municipal and local governing bodies having jurisdiction over the conduct of the SERVICES ("LAWS"). However, it is expressly acknowledged and agreed by the CLIENT that as the PROJECT progresses such building codes, by-laws, other public regulations and LAWS may change or the interpretation of any public authority may differ from the interpretation of STANTEC, through no fault of STANTEC, and any extra costs necessary to conform to such changes or interpretations during or after execution of the SERVICES will be paid by the CLIENT.

STANTEC shall continue to provide equal employment opportunity to all qualified persons and to recruit, hire, train, promote and compensate persons in all jobs without regard to race, color, religion, sex, age, disability or national origin or any other basis prohibited by applicable laws.

**COST AND SCHEDULE OF CONSTRUCTION WORK:** In providing opinions of probable cost and project schedule, it is recognized that neither the CLIENT nor STANTEC has control over the costs of labor, equipment or materials, or over the Contractor's methods of determining prices or time. The opinions of probable cost or project duration are based on STANTEC's reasonable professional judgment and experience and do not constitute a warranty, express or implied, that the Contractors' bids, project schedules, or the negotiated price of the Work or schedule will not vary from the CLIENT's budget or schedule or from any opinion of probable cost or project schedule prepared by STANTEC. Exact costs and times will be determined only when bids have been received for the PROJECT and when the construction work has been performed and payments finalized.

**ADMINISTRATION OF CONSTRUCTION CONTRACTS:** When applicable, STANTEC shall provide field services during the construction of the PROJECT only to the extent that such SERVICES are included and defined in a particular Task Order. The performance of the construction contract is not STANTEC's responsibility nor are STANTEC's field services rendered for the construction contractor's benefit.

It is understood and agreed by the CLIENT and STANTEC that only work which has been seen during an examination by STANTEC can be said to have been appraised and comments on the balance of any construction work are assumptions only.

When field services are provided by STANTEC, the authority for general administration of the PROJECT shall reside with STANTEC only to the extent defined in this AGREEMENT. In such case, STANTEC shall coordinate the activities of other consultants employed by the CLIENT, only to the extent that STANTEC is empowered to do so by such other consultants' contracts with the CLIENT.

STANTEC shall not be responsible for any contractor's failure to carry out the work in accordance with the contract documents nor for the acts or omissions of any contractor, subcontractor, any of their agents or employees, or any other persons performing any of the work in connection with the PROJECT. When field services are provided, no acceptance by STANTEC of the work or services of a construction contractor or other consultants, whether express or implied, shall relieve such construction contractor or other consultants from their responsibilities to the CLIENT for the proper performance of such work or services and further, STANTEC shall not be responsible to the CLIENT or to the construction contractor or to the other consultants for the means, methods, techniques, sequences, procedures and use of equipment of any nature whatsoever, whether reviewed by STANTEC or not, which are employed by the construction contractor or the other consultants in executing, designing, or administering any phases of the PROJECT, or for placing into operation any plant or equipment or for safety precautions and programs incidental thereto.

When field services are provided, STANTEC will not be designated as the party responsible for the compliance by others on the construction work site with the purposes or requirements of applicable environmental, occupational health and safety, or similar legislation. The CLIENT shall designate a responsible party, other than STANTEC, for the coordination and performance of environmental, occupational health and safety activities on the construction work site as required by applicable legislation and associated regulations.

**JOBSITE SAFETY:** Neither the professional activities of STANTEC, nor the presence of STANTEC or its employees and subconsultants at a construction site, shall relieve the CLIENT and any other entity of their obligations, duties and responsibilities with respect to job site safety. Subject only to applicable legislation, STANTEC and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions.

**LIMITATION OF LIABILITY:** The CLIENT releases STANTEC from any liability and agrees to defend, indemnify and hold STANTEC harmless from any and all claims, damages, losses, and/or expenses, direct and indirect, or consequential damages, including but not limited to attorney's fees and charges and court and arbitration costs, arising out of, or claimed to arise out of, the performance of the SERVICES, excepting liability arising from the negligence or willful misconduct of STANTEC.

It is further agreed that the total amount of all claims the CLIENT may have against STANTEC under an Individual Task Order or arising from the performance or non-performance of the SERVICES called for by a specific Individual Task Order under any theory of law, including but not limited to claims for negligence, negligent misrepresentation and breach of contract, shall be strictly limited to the lesser of the fees paid to STANTEC pursuant to that Individual Task Order or \$500,000. No claim may be brought against STANTEC in contract or tort more than two (2) years after the cause of action arose. As the CLIENT's sole and exclusive remedy under this AGREEMENT or any Task Order, any claim, demand or suit shall be directed and/or asserted only against STANTEC and not against any of STANTEC's employees, officers or directors.

STANTEC's liability with respect to any claims arising out of this AGREEMENT or any Task Order shall be absolutely limited to direct damages arising out of the SERVICES and STANTEC shall bear no liability whatsoever for any consequential loss, injury or damage incurred by the CLIENT, including but not limited to claims for loss of use, loss of profits and loss of markets.

**INDEMNITY FOR MOLD CLAIMS:** It is understood by the parties that existing or constructed buildings may contain mold substances that can present health hazards and result in bodily injury, property damage and/or necessary remedial measures. If, during performance of the SERVICES, STANTEC knowingly encounters any such substances, STANTEC shall notify the CLIENT and, without liability for consequential or any other damages, suspend performance of services until the CLIENT retains a qualified specialist to abate and/or remove the mold substances. The CLIENT agrees to release and waive all claims, including consequential damages, against STANTEC, its subconsultants and their officers,

directors and employees arising from or in any way connected with the existence of mold on or about the project site whether during or after completion of the SERVICES. The CLIENT further agrees to indemnify and hold STANTEC harmless from and against all claims, costs, liabilities and damages, including reasonable attorneys' fees and costs, arising in any way from the existence of mold on the project site whether during or after completion of the SERVICES, except for those claims, liabilities, costs or damages caused by the sole gross negligence and/or knowing or willful misconduct of STANTEC. STANTEC and the CLIENT waive all rights against each other for mold damages to the extent that such damages sustained by either party are covered by insurance.

**DOCUMENTS:** All documents prepared by STANTEC or on behalf of STANTEC in connection with an Individual Task Order are instruments of service for the execution of the PROJECT. STANTEC retains the property and copyright in these documents, whether the PROJECT is executed or not. Payment to STANTEC of the compensation prescribed in this AGREEMENT shall be a condition precedent to the CLIENT's right to use documentation prepared by STANTEC. These documents may not be used for any other purpose without the prior written agreement of STANTEC. The CLIENT shall have a permanent non-exclusive, royalty-free license to use any concept, product or process which is patentable or capable of trademark, produced by or resulting from the SERVICES rendered by STANTEC in connection with the PROJECT, for the life of the PROJECT. The CLIENT shall not use, infringe upon or appropriate such concepts, products or processes without the express written agreement of STANTEC. In the event STANTEC's documents are subsequently reused or modified in any material respect without the prior consent of STANTEC, the CLIENT agrees to indemnify STANTEC from any claims advanced on account of said reuse or modification.

Any document produced by STANTEC in relation to the SERVICES is intended for the sole use of CLIENT. The documents may not be relied upon by any other party without the express written consent of STANTEC, which may be withheld at STANTEC's discretion. Any such consent will provide no greater rights to the third party than those held by the CLIENT under the contract, and will only be authorized pursuant to the conditions of STANTEC's standard form reliance letter.

STANTEC cannot guarantee the authenticity, integrity or completeness of data files supplied in electronic format ("Electronic Files"). CLIENT shall release, indemnify and hold STANTEC, its officers, employees, consultants and agents harmless from any claims or damages arising from the use of Electronic Files. Electronic files will not contain stamps or seals, remain the property of STANTEC, are not to be used for any purpose other than that for which they were transmitted, and are not to be retransmitted to a third party without STANTEC's written consent.

**PROJECT PROMOTION:** Where the CLIENT has control or influence over construction signage, press releases and/or other promotional information identifying the project ("Project Promotion"), the CLIENT agrees to include STANTEC in such Project Promotion.

**FORCE MAJEURE:** Any default in the performance of this AGREEMENT or any Individual Task Order caused by any of the following events and without fault or negligence on the part of the defaulting party shall not constitute a breach of contract: labor strikes, riots, war, acts of governmental authorities, unusually severe weather conditions or other natural catastrophe, or any other cause beyond the reasonable control or contemplation of either party.

**GOVERNING LAW; NONDISCRIMINATION:** This AGREEMENT shall be governed, construed and enforced in accordance with the laws of the jurisdiction in which the majority of the SERVICES are performed. STANTEC shall observe and comply with all applicable laws, provide equal employment opportunity to all qualified persons and recruit, hire, train, promote and compensate persons in all jobs without regard to race, color, religion, sex, age, disability or national origin or any other basis prohibited by applicable laws.

STANTEC shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

STANTEC shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

**DISPUTE RESOLUTION:** If requested in writing by either the CLIENT or STANTEC, the CLIENT and STANTEC shall attempt to resolve any dispute between them arising out of or in connection with this AGREEMENT or an Individual Task Order by entering into structured non-binding negotiations with the assistance of a mediator on a without prejudice basis. The mediator shall be appointed by agreement of the parties. If a dispute cannot be settled within a period of thirty (30) calendar days with the mediator, if mutually agreed, the dispute shall be referred to arbitration pursuant to laws of the jurisdiction in which the majority of the SERVICES are performed or elsewhere by mutual agreement.

**ATTORNEYS FEES:** In the event of a dispute hereunder, the prevailing party is entitled to recover from the other party all costs incurred by the prevailing party in enforcing this AGREEMENT and prosecuting the dispute, including reasonable attorney's and expert's fees, whether incurred through formal legal proceedings or otherwise.

**ASSIGNMENT AND SUCCESSORS:** Neither the CLIENT nor STANTEC shall, without the prior written consent of the other party, assign the benefit or in any way transfer the obligations of this AGREEMENT or any part hereof. This AGREEMENT shall enure to the benefit of and be binding upon the parties hereto, and except as otherwise provided herein, upon their executors, administrators, successors, and assigns.

**PROTECTION OF PRIVACY LAWS:** STANTEC will comply with its statutory obligations respecting the collection, use, disclosure, access to, correction, protection, accuracy, retention and disposition of personal information that may be collected or created under this AGREEMENT. STANTEC will refer any request for access to or correction of personal information that is made under statute to the CLIENT and will comply with any directions from the CLIENT respecting the access request, or respecting correction and annotation of personal information. STANTEC will, at reasonable times and on reasonable notice, allow the CLIENT to enter its premises and inspect any personal information of the CLIENT's that is in the custody of STANTEC or any of STANTEC's policies or practices relevant to the management of personal information subject to this AGREEMENT.

**ENTIRE AGREEMENT:** This AGREEMENT constitutes the sole and entire agreement between the CLIENT and STANTEC relating to the PROJECT and supersedes all prior agreements between them, whether written or oral respecting the subject matter hereof and no other terms, conditions or warranties, whether express or implied, shall form a part hereof. This AGREEMENT may be amended only by written instrument signed by both the CLIENT and STANTEC. All attachments and Task Orders referred to in this AGREEMENT are incorporated herein by this reference; however, in the event of any conflict between attachments, Task Orders and the terms and conditions of this AGREEMENT, the terms and conditions of this AGREEMENT shall take precedence.

**SEVERABILITY:** If any term, condition or covenant of this AGREEMENT is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this AGREEMENT shall be binding on the CLIENT and STANTEC.

**THE PARTIES EXPRESSLY ACKNOWLEDGE THAT THIS AGREEMENT CONTAINS LIMITATION OF LIABILITY PROVISIONS RESTRICTING RIGHTS FOR THE RECOVERY OF DAMAGES.**



**MASTER SERVICES AGREEMENT  
TASK ORDER**

Attached to and forming part of the MASTER AGREEMENT

BETWEEN:

CITY OF TRINIDAD

(hereinafter called the "CLIENT")

- and -

STANTEC CONSULTING SERVICES INC.

(hereinafter called "STANTEC")

EFFECTIVE: October 24, 2014

This TASK ORDER is issued under the **MASTER SERVICES AGREEMENT** (dated October 24, 2014) between STANTEC CONSULTING SERVICES INC. ("STANTEC") and CITY OF TRINIDAD ("CLIENT") for Services to be provided by STANTEC on the U.S. EPA Grant Application and Implementation Assistance project ("Project"), as more fully described below. This Task Order is incorporated into and part of the Master Services Agreement.

The CLIENT's representative shall be: Louis Fineberg, Planning Director.

**SERVICES:** STANTEC shall perform the following SERVICES:

Prepare a single grant application for U.S. EPA Brownfields Community-Wide Assessment Grants (further described in Trinidad RFQ dated September 17, 2014 and Stantec SOQ dated October 3, 2014) during the Fiscal Year 2015 brownfields grant competition to be held during Fall of 2014.

(hereinafter called the "SERVICES")

**CONTRACT TIME:** Commencement Date: October 24, 2014

Estimated Completion Date: September 30, 2015

**CONTRACT PRICE:** Subject to the terms below, CLIENT will compensate STANTEC as follows:

\$0 (see additional conditions applying to contract price below).

An eight percent (8%) flat rate disbursement (FRD) recovery charge will be applied to the Stantec fees to cover miscellaneous project expenses, internal incidental printing, copying and plots, film, CDs and report materials; communications expenses (e.g., faxes, office and mobile phones, blackberries, pagers, and other devices); office expenses (e.g., postage, couriers, equipment, common software and other supplies); staff local mileage/kilometrage; and archive maintenance. As this is a FRD, no supporting document will be provided with invoices.

Project specific charges, such as subconsultants; travel, accommodations and meals; project-specific printing of deliverables; consumables; usage charges for specialized field equipment and company-owned, leased or rented project vehicles; external testing lab charges and other external services charges; specialized computer software costs; and other significant project-specific expenses will be invoiced in addition to labor fees and to the FRD.

Where not stated as being included in the fees, project specific subconsultant, contractor, lab and other similar

third party charges will be charged as invoiced to STANTEC with a ten percent (10%) markup.

Unless otherwise noted, the fees in this agreement do not include any value added, sales, or other taxes that may be applied by Government on fees for services. Such taxes will be added to all invoices as required.

Where the SERVICES or services conditions change, STANTEC shall submit to the CLIENT in a timely manner, documentation of the revisions to this Task Order adjusting the Contract Services Time and Price as required.

Unless otherwise specified, charges for SERVICES are based on STANTEC'S hourly billing rate table ("Rate Table"), attached hereto. The Rate Table is subject to escalation from time to time.

**ADDITIONAL  
CONDITIONS:**

The following additional conditions shall be read in conjunction with and constitute part of this Task Order:

*The following conditions apply to Stantec's assistance:*

- 1. In the event that the Client terminates the grant application process prior to the application deadline, Stantec will be compensated for labor and expenses incurred in preparing the applications up to, but not to exceed, the amount of one-half of the success fee for the grants (\$8,000). Labor costs would be calculated based on Stantec's standard fee schedule.*
- 2. In the event that the Client withdraws the application after the date of submittal, but prior to the announcement of awards, or in the event that the Client is awarded the grants, but is unable to execute a cooperative agreement with U.S. EPA, Stantec will be compensated for the applicable success fee(s) in full. This applies provided that Client's inability to execute said cooperative agreement does not arise, either directly or indirectly, from Stantec's performance of services for the Client.*
- 3. In the event that the grant application is not successful as part of the Fiscal Year 2015 Grant Competition, Stantec will be provided with the opportunity to schedule and participate in debriefing(s) with U.S. EPA to identify areas where the application(s) could be improved, and to revise and resubmit the application(s) on behalf of the Client as part of the Fiscal Year 2016 competition. No additional application fee will be owed to Stantec for time, effort, and expense associated with revision and resubmittal of application(s).*
- 4. In the event Stantec fails to submit a complete grant application for the grant by the application deadline, the Client shall owe Stantec no application fee for such application; furthermore, Stantec shall not be authorized to resubmit the late or incomplete application for Fiscal Year 2016, and the Client shall not be responsible to compensate Stantec for this prohibition on reapplication.*
- 5. In the event Stantec terminates the agreement prior to a decision by the U.S. EPA to grant or deny award, in full or in part, or after the grant application is not successful, but prior to the resubmission deadline for Fiscal Year 2016 the Client shall not be obligated to compensate Stantec for any costs, including labor and expenses incurred in preparing the application..*

**ADDITIONAL  
ATTACHMENTS:**

The following additional attachments shall be read in conjunction with and constitute part of this Task Order:

Additional details regarding the scope of work and contract price (including the rate table) are provided in the Stantec SOQ dated October 3, 2014 (attached).



MASTER SERVICES AGREEMENT  
TASK ORDER

**INSURANCE  
REQUIREMENTS:**

Before any services are provided under this agreement, STANTEC shall procure, and maintain in effect during the term of this agreement, insurance coverage in amounts and on terms not less than set forth below.

**General Liability:** Commercial general liability insurance for personal and bodily injury, including death, and property damage in the amount of \$1,000,000 each occurrence and not less than \$2,000,000 in the aggregate.

**Automobile Liability:** Automobile liability insurance for bodily injury, including death, and property damage in the amount of \$1,000,000 each occurrence.

**Professional Liability:** Professional liability insurance for damages incurred by reason of any negligent act, error or omission committed or alleged to have been committed by STANTEC in the amount of \$1,000,000 per claim and in the aggregate.

**Workers' Compensation:** As prescribed by applicable law.

**Certificates:** Upon request, STANTEC shall provide certificates of insurance evidencing coverage required above. Each certificate shall provide that the coverage therein afforded shall not be cancelled except with thirty (30) days prior written notice to the CLIENT.

**CITY OF TRINIDAD**

**STANTEC CONSULTING SERVICES INC.**

Louis Fineberg, Planning Director

Chris Gdak, Senior Associate

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## COUNCIL COMMUNICATION

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**CITY COUNCIL MEETING:** November 5, 2014  
**PREPARED BY:** Audra Garrett, ACM/City Clerk  
**DEPT. HEAD SIGNATURE:** *Audra Garrett*  
**# OF ATTACHMENTS:** 1

**SUBJECT:** Formalization of Vilas Tonape's appointment to the Arts and Culture Advisory Commission

**PRESENTER:** Audra Garrett, ACM/City Clerk

**RECOMMENDED CITY COUNCIL ACTION:** Formal appointment with full voting rights is recommended.

**SUMMARY STATEMENT:** N/A

**EXPENDITURE REQUIRED:** No

**SOURCE OF FUNDS:** N/A

**POLICY ISSUE:** One year residency and being a registered voter of the City are requirements of the Home Rule Charter to serve on City boards and commissions

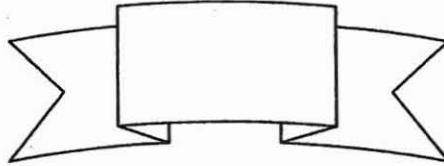
**ALTERNATIVE:** N/A

### BACKGROUND INFORMATION:

In February, 2014, City Council appointed Mr. Tonape to the Arts and Culture Advisory Commission as an ad hoc member without voting rights until he attained one-year residency as required by the Charter.

As of August, 2014, Mr. Tonape surpassed the one-year residency requirement.

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## CERTIFICATE OF APPOINTMENT

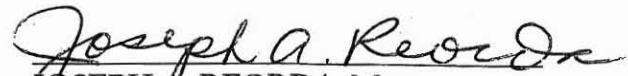
I, Joseph A. Reorda, Mayor of the City of Trinidad, Colorado, and Chairman of the City Council thereof, do hereby certify that the following named person was appointed to the Arts and Culture Advisory Commission (ad-hoc w/o voting rights until attaining one year residency requirement, thereafter with full voting rights) for the City of Trinidad for the term set out below:

NAME:

Vilas Tonape

TERM EXPIRATION DATE:

January 2, 2018

  
JOSEPH A. REORDA, Mayor

ATTEST:

  
AUDRA GARRETT, City Clerk

Date of Appointment: February 4, 2014  
Appointed by: City Council