



CITY OF TRINIDAD  
TRINIDAD, COLORADO

The Regular Meeting of the City Council of the City of Trinidad,  
Colorado, will be held on Tuesday, December 15, 2015 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 THE AGENDA**
- 3) **APPROVAL OF MINUTES**, Regular Meeting of December 1, 2015 and Special Meeting of December 8, 2015
- 4) **PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN**  
*Members of the public may comment on matters within the jurisdiction of the City but not on the agenda. The Council's response is limited to responding to criticism, asking staff to review a matter commented upon, or asking that a matter be put on a future agenda.*
- 5) **PUBLIC HEARING - Zone change request by Noah's Ark Animal Welfare Association approximately along Moore's Canyon Road**
  - i) Executive session – quasi-judicial review
  - ii) First reading of an ordinance amending the zone classification of property described as a tract of land lying in part of the W1/2NE1/4, Section 25, Township 33 South, Range 64 West of the 6<sup>th</sup> P.M., City of Trinidad, County of Las Animas, State of Colorado, from Growth-Residential Estate (G-RE) zoning to Growth-Neighborhood Services (G-NS) zoning, and setting hearing date for consideration of said ordinance
- 6) **UNFINISHED BUSINESS**
- 7) **MISCELLANEOUS BUSINESS**
  - a) 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
  - b) Consideration of Amended and Restated Mutual Aid and Assistance Agreement between ARPA member communities for Electrical
  - c) ARPA Board appointment
  - d) Resolution approving submission of a grant application to the Colorado Department of Local Affairs to seek funding for improved water and sewer infrastructure
- 8) **COUNCIL REPORTS**
- 9) **REPORTS BY CITY MANAGER AND CITY ATTORNEY**
- 10) **BILLS**
- 11) **PAYROLL**, December 5, 2015 through December 18, 2015
- 12) **ADJOURNMENT**

Individuals with disabilities needing auxiliary aid(s) may request assistance by contacting Audra Garrett, City Clerk, 135 N. Animas Street, Phone (719) 846-9843, or FAX (719) 846-4140. At least a 48 hour advance notice prior to the scheduled meeting would be appreciated so that arrangements can be made to locate the requested auxiliary aid(s).

DECEMBER 1, 2015

CITY OF TRINIDAD  
TRINIDAD, COLORADO

The regular meeting of the City Council of the City of Trinidad, Colorado, was held on Tuesday, December 1, 2015, at 7:00 p.m. in City Council Chambers at City Hall.

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

The pledge of allegiance was recited.

**APPROVAL OF THE MINUTES.** Special Meetings of November 19 and 24, 2015. A motion to approve the minutes as submitted was made by Councilmember Bonato and seconded by Councilmember Mattie. The motion carried unanimously upon roll call vote.

Councilmember Mattie moved to consider items 4 and 5d through 6 at this time. Councilmember Miles seconded the motion which carried by a unanimous roll call vote. Councilmember Mattie suggested future agendas have an item after roll call for approval of the agenda.

**PETITIONS AND COMMUNICATIONS, ORAL OR WRITTEN.** None.

**UNFINISHED BUSINESS.** Public hearing for consideration of an ordinance amending Ordinance No. 1979 which vacated a strip of land 50 feet wide and 140 feet long between Lot 12, Block 11 and Lot 1, Block 14, Bellavista Addition of the City of Trinidad (between 1424 N. Linden and 1500 N. Linden Avenue). Mayor Reorda declared the public hearing open and called for comment. Asst. City Manager Garrett reminded Council that this affects a previously vacated right-of-way whereby the City reserved the entirety of the land for a utility easement. This ordinance reserves an easement only in that portion of the vacated property where the City's water main exists. There being no further comments the hearing was closed.

Second reading of an ordinance amending Ordinance No. 1979 which vacated a strip of land 50 feet wide and 140 feet long between Lot 12, Block 11 and Lot 1, Block 14, Bellavista Addition of the City of Trinidad (between 1424 N. Linden and 1500 N. Linden Avenue). The ordinance title was read aloud. A motion to approve the ordinance on second reading was made by Councilmember Mattie and seconded by Councilmember Miles. The motion carried unanimously upon roll call vote.

## ORDINANCE NO. 1994

AN ORDINANCE AMENDING ORDINANCE NO. 1979 WHICH VACATED A STRIP OF LAND 50 FEET WIDE AND 140 FEET LONG BETWEEN LOT 12, BLOCK 11 AND LOT 1, BLOCK 14, BELLAVISTA ADDITION OF THE CITY OF TRINIDAD

Public hearing for consideration of an ordinance appropriating certain sums of money out of the revenues of the City of Trinidad, Colorado, to defray and meet the liabilities of the City of Trinidad for the fiscal year beginning January 1, 2016 and ending December 31, 2016; said ordinance being termed the annual appropriation bill for the 2016 fiscal year. Mayor Reorda declared the public hearing open and called for comment. There being none, the hearing was closed.

Second reading of an ordinance appropriating certain sums of money out of the revenues of the City of Trinidad, Colorado, to defray and meet the liabilities of the City of Trinidad for the fiscal year beginning January 1, 2016 and ending December 31, 2016; said ordinance being termed the annual appropriation bill for the 2016 fiscal year. The ordinance title was read aloud. A motion to approve the ordinance on second reading was made by Councilmember Mattie and seconded by Councilmember Bonato. The motion carried unanimously upon roll call vote.

## ORDINANCE NO. 1995

AN ORDINANCE APPROPRIATING CERTAIN SUMS OF MONEY OUT OF THE REVENUES OF THE CITY OF TRINIDAD, COLORADO, TO DEFRAY AND MEET THE LIABILITIES OF THE CITY OF TRINIDAD FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2016 AND ENDING DECEMBER 31, 2016; SAID ORDINANCE BEING TERMED THE ANNUAL APPROPRIATION BILL FOR THE 2016 FISCAL YEAR

Public hearing for consideration of an ordinance amending the City's Flood Damage Prevention code, and setting a hearing date for consideration of said ordinance. Mayor Reorda declared the public hearing open and called for comment. There being none, the hearing was closed.

Second reading of an ordinance amending the City's Flood Damage Prevention code. The ordinance title was read

aloud. A motion to approve the ordinance on second reading was made by Councilmember Bonato and seconded by Councilmember Miles. The motion carried unanimously upon roll call vote.

DECEMBER 1, 2015

ORDINANCE NO. 1996

AN ORDINANCE REPEALING AND RE-ENACTING SECTIONS AND ADDING NEW SECTIONS TO CHAPTER 14 ("PLANNING AND ZONING"), ARTICLE 5 ("FLOOD DAMAGE PREVENTION") OF THE CODE OF THE CITY OF TRINIDAD, COLORADO, TO CONFORM TO THE MINIMUM STANDARDS OF BOTH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) AND THE STATE OF COLORADO REQUIREMENTS

Retail Marijuana Store license renewal filed by Southern Colorado Therapeutics, Inc. d/b/a Highland Health at 1505 Santa Fe Trail Drive. A representative was present. A motion to approve the renewal was made by Councilmember Mattie and seconded by Councilmember Torres. The motion carried unanimously excepting Councilmember Bonato who cast a dissenting vote.

**MISCELLANEOUS BUSINESS.** Modification of premises request by M & M Distributing, LLC at 422 N. Commercial Street. Gerri DeAngelis reminded Council that they applied for a modification that was approved on September 15<sup>th</sup> that affected the back of the building. She explained that through the construction, planning and inspection process with the City's inspector, their plans have changed. Instead of four rooms for cultivation it will be one open facility. She confirmed upon inquiry that was the way the area was originally planned and approved. She noted that the modification has already been approved by the state. Councilmember Mattie assuming the change complies with state and local law moved to approve the modification and the motion was seconded by Councilmember Miles. The motion carried unanimously excepting Councilmember Bonato who cast a dissenting vote.

Retail Marijuana Store license renewal request by M & M Distributing, LLC at 422 N. Commercial Street. A motion to approve the renewal was made by Councilmember Mattie and seconded by Councilmember Miles. The motion carried unanimously excepting Councilmember Bonato who cast a dissenting vote.

Retail Marijuana Cultivation Facility license renewal request by M & M Distributing, LLC at 422 N. Commercial Street. A motion to approve the renewal was made by Councilmember Mattie and seconded by Councilmember Miles. The motion carried unanimously excepting Councilmember Bonato who cast a dissenting vote.

Retail Marijuana Cultivation Facility expansion of square footage request by M & M Distributing, LLC at 422 N. Commercial Street. Gerri DeAngelis told Council that when they applied they had to specify the square footage they were planning to use for the grow operation. They wish to use an additional 4,300 square feet for cultivation. Councilmember Mattie moved for the approval of the expansion and Councilmember Fletcher seconded the motion. The motion carried unanimously excepting Councilmember Bonato who cast a dissenting vote.

Tavern liquor license renewal request by Gino's Sports Bar, LLC at 991 E. Main Street. Joseph Cordova was present on behalf of the licensee. Councilmember Mattie made a motion to approve the renewal and the motion was seconded by Councilmember Torres. Upon roll call vote the motion carried unanimously.

Consideration of one-time employee bonus. Councilmember Fletcher moved to approve the one-time bonus to employees (\$250 to full and part-time employees). The motion was seconded by Councilmember Torres and carried by a unanimous roll call vote.

Resolution agreeing to provide all services currently provided by the Fisher's Peak Fire Protection District to those areas annexed to the City of Trinidad, Colorado, as described in the Petition for Exclusion of property from the Fisher's Peak Fire Protection District pursuant to Section 32-1-502 of the Special District Act. Councilmember Mattie made a motion to approve the resolution and the motion was seconded by Councilmember Miles. Upon roll call vote the motion carried unanimously.

RESOLUTION NO. 1461

RESOLUTION AGREEING TO PROVIDE ALL SERVICES CURRENTLY PROVIDED BY THE FISHER'S PEAK FIRE PROTECTION DISTRICT TO THOSE AREAS ANNEXED TO THE CITY OF TRINIDAD, COLORADO, AS DESCRIBED IN THE PETITION FOR EXCLUSION OF PROPERTY FROM THE FISHER'S PEAK FIRE PROTECTION DISTRICT PURSUANT TO SECTION 32-1-502 OF THE SPECIAL DISTRICT ACT

Trinidad-Las Animas County Economic Development, Inc. property transfer approval. City Manager Engeland reminded Council that this action would transfer all of the property and lease from TLACED to the City as well as funds derived from the sale of land in the Industrial Park to the City to jointly fund economic development in the City and County. Councilmember Miles moved for the approval of the property transfer. Councilmember Fletcher seconded the motion. Roll call was taken on the motion and carried unanimously.

Acceptance of donation of 200 W. Main Street from International Bank. Councilmember Miles made a motion to accept the donation and the motion was seconded by Councilmember Fletcher. Upon roll call vote the motion carried unanimously.

**PUBLIC HEARING.** New Retail Marijuana Cultivation Facility license application filed by High Sierra

Naturals, Incorporated at 3613 Freedom Road. Mayor Reorda opened the hearing. Harold Palmer and Brandon Turner were sworn in. To City Attorney Downs' questioning, Mr. Palmer testified that he is the only principal in High Sierra Naturals, Incorporated, the applicant. It is a C Corporation in good standing in the State of Colorado. The trade name is High Sierra Naturals and their proposed business, a grow facility, will be located at 3613 Freedom Road. No other license types are anticipated at this time. If approved he said they planned to sell locally and export. The grow facility is 7000 square feet with a 1000 square foot office in Industrial Park. The landlord is Diamond T Agronomics, owned by Brandon Turner, who will also be the manager of the facility. There is no other financial interest. Mr. Turner will be the landlord and has petitioned to be the manager and manage the business aspect. He is not expected to be the main grow person; he will manage the business aspect. Mr. Turner testified that he doesn't own the premises; rather he is in a lease-to-own arrangement currently. He added that he is scheduled to close on the property at the end of May/first of June. Diamond T Agronomics will be the owner of the premises. City Attorney Downs confirmed that the applicant has the permission of the landlord to locate a marijuana facility on the premises. If approved Mr. Palmer said they hope to be cultivating as soon as possible, but will be based on the timing of the state license. Mr. Turner confirmed that he is a keyed employee holding a key license. Upon inquiry, Mr. Palmer said that the rule of thumb is one keyed employee per 500 plants. They plan on starting with 3600 plants, requiring seven people to help cultivate that square footage. Mr. Palmer testified that he has no other interest in any other marijuana concerns nor does he plan on it. He further testified that all representations made in the application are correct and that he fully complied with all requests made of him by City officials to the best of his knowledge. His background check is clear and he has disclosed all of the financial interests. It is accurately represented as presently constituted. He further acknowledged the ongoing requirement of cooperating with all City officials and staff. City Attorney Downs advised that all employees will be assumed to have knowledge of the Trinidad and state marijuana codes. He also advised that he cannot order plants to grow until he has the state and local licenses. He made Mr. Palmer aware that in times of water austerity their water may be one of the first to be cut off. Finally Mr. Palmer stated that they do have a conditional use permit and have complied with the Planning Commission. Councilmember Mattie said if approved this will be the first grow facility. He asked for specifics. Mr. Palmer said that it will be an indoor grow, inside a metal, portioned-off building. They will not have any exterior air flow into the building. The air will be recirculated from inside. It will be a complete grow facility with nothing visible from the outside. There will be security and cameras. Councilmember Bonato commented that when City Attorney Downs mentioned the water the applicant was unaware of the City's position and suggested it should have been brought to his attention. Mr. Palmer said he understands but didn't know he would be the first to be cut off. Councilmember Miles emphasized that he may be one of the first. Councilmember Fletcher asked if they will package and ship off their product. Mr. Turner answered that it will be packaged. They want to market as much locally as possible and branch out from there. In the interim it is a little hard as they don't have product available to market with. Councilmember Mattie confirmed that they are wanting a grow license only and will not be distributing at this location. They will market to other purveyors/dispensaries. Councilmember Miles pointed out that Mr. Turner is the manager, landlord and provided direct loans equal to \$340,000. Mr. Turner said the third loan is pending based on licensing. Councilmember Miles said that a lot of economic of this deal is going to Mr. Turner. She asked if he was a Colorado resident, to which he answered he is not. Councilmember Miles said some people could see this as a way of subverting the requirement of being a Colorado resident. She asked what the market rates are for the lease, rates on the loans and what his salary is to be. Mr. Turner said the loans are against 6% interest and there is nothing securing them. If Mr. Palmer's business fails he still is liable for those loans. He added that he thought 6% interest to be pretty fair. Regarding lease prices he said it was tough because everything is fairly new. He said he came across \$20 to \$25 per square foot. It depends on what is being done in the business; it's profit driven. The more money to be made the higher the lease rates. He said he had to work with his accountant with this. His business leases facilities and he had to have legitimate pricing on the lease rates. It was legitimate for state-wide cultivation facilities such as in Denver and Boulder. Councilmember Miles commented that she would think Denver and Boulder rents would be higher than those in Trinidad. Upon inquiry Mr. Turner said the lease rate he is charging is \$25 per square foot starting at 3,500 square foot of grow area, which equates to \$87,500 per month. Councilmember Miles said that sounds like a lot and asked if there's anything besides money. She asked what his return on investment is. Mr. Turner said he is buying the property for right around \$300,000. Councilmember Miles commented that this sounds like equity. She asked his compensation as manager. Mr. Turner stated it will be \$2500 per month with no profits interest. Councilmember Miles opined that this looks like they are skirting the residency requirement. She asked if Mr. Palmer is paying \$87,000 per month what he is making. She said this sounds like a partnership. Mr. Palmer stated that he has started five or six businesses. He said he has never used marijuana. The research was unreal. Councilmember Miles reiterated that this sounds like an equity partnership. Mr. Palmer could have bought the property for \$300,000; plus Mr. Turner is providing \$340,000 to get the business off the ground. Mr. Turner said there's a real estate business in Denver doing that right now - leasing to growers for those kinds of monies. Councilmember Miles asked for an executive session for legal advice. City Attorney Downs noted that the promissory notes are part of the application with one-year pay back terms. Mr. Turner believed that to be correct, but said there are different dates on each of the three. City Attorney Downs noted that one is due February, 2016. Mr. Turner said that sounded correct because of the initial projections. Mr. Palmer thought the process would be quicker and the initial harvest would be coming in then. City Attorney Downs asked if Mr. Palmer's payments to Mr. Turner as landlord tied to the promissory notes in any way. Will the lease payments always be that high? It sounds really excessive. He asked if retirement of the promissory notes are tied to other financial deals. Mr. Turner answered that once they are paid off they are terminated. City Attorney Downs asked if the lease rates are comparative. Mr. Turner said they are. City Attorney Downs asked if that is true even though the square footage of the warehouse is considerably more here than in Denver. Mr. Turner said there is four and one-half acres tied to the facility - three lots. It allows for quite a large future expansion to increase sales. City Attorney Downs asked if Mr. Palmer's financial obligation would increase. Mr. Turner answered that it would not. Upon inquiry he told Council that he lives here and has been here about one year. He is in the process of obtaining residency in Colorado. Councilmember Miles reminded that there's a two-year residency requirement. Mr. Turner said there is not for cultivation for retail sales. Councilmember Mattie asked Mr. Turner if his vehicles are registered in Colorado and if he has a Colorado fishing license. Mr. Turner answered affirmatively to both questions. He said he moved here in March of this year and meets the definition of resident in Colorado. Councilmember Miles expressed concern that he has an equity interest in the business and is not a Colorado resident for two years. She pointed out that she has asked this question consistently in every marijuana hearing. It is a convenient way of getting a tremendous equity return without being a resident. Mr. Palmer said that is a small percentage of gross for this company. He added when you put the number together it is crazy. City Attorney Downs agreed

with Councilmember Miles that this information is relevant. Councilmember Miles said she'd like an executive session or suggested they table this hearing to talk with MED. She reiterated that she'd like an executive session. Councilmember Bonato seconded the motion. Upon roll call vote the motion carried by majority with Mayor Reorda casting the only no vote. The executive session for quasi-judicial review/legal advice ensued at 7:40 p.m. Upon conclusion of the executive session at 7:55 p.m., the meeting resumed. City Attorney Downs advised the applicant that the City would like more information about the rent agreement. Secondly, he pointed out that the City as part of the application requires a fee of \$1 per square foot for the area intended for cultivation and that the applicant paid \$1,647. He said Council would like to know where that figure comes from and upon what basis the rent will be determined. Will rent be paid on square footage that will not be used for cultivation? The City will be asking for more specifics from the applicant in what he will be paying, noting that he seemed unclear when it first came up. Councilmember Miles added that \$87,500 for 1600 square feet exacerbates her concern. City Attorney Down continued that he will inquire of MED whether the fee is so high that Mr. Turner will be an equity owner in the business, especially if the cultivation space is 1,647 square feet. The \$87,000 fee sounds excessive. He stated that his understanding is that they are planning on 7,000 square feet of cultivation, but asked if that is what will be paying on up front. Why does the applicant have only half and why did he pay even less than half of that in the application fee? Mr. Turner stated that the facility has 7,000 square feet of warehouse space and a 1,000 square foot office. There are three lots totaling 4.5 acres. The lease he currently holds is set up on a lease-to-own basis. He has use of 3,500 square feet of the warehouse space at this time which is what has leased to High Sierra Naturals. City Attorney Downs repeated his testimony that he will lease-to-own the building, Harold Palmer will be the license holder, but pay Mr. Turner \$87,000 in rent. He asked if paying that much money gives Mr. Turner equity interest in the business. Mr. Turner reminded that the rent is \$25 per square foot and that it is difficult to find these numbers. He had to do it for his bookkeeping. \$18 to \$20 per square foot was sure out there; he raised his to \$25. Councilmember Miles opined that one can't compare Trinidad to Denver. Mr. Turner said it is industry specific. Councilmember Miles moved to keep the public hearing open and recess it to January 5, 2016, pending discussion with MED regarding equity interest and straightening out of the square footage between the 1,647 and what they are using and owe the City. Councilmember Mattie seconded the motion which carried unanimously upon roll call vote.

*I, Les S. Downs, Attorney for the City of Trinidad, do hereby attest that the executive session held on this 1<sup>st</sup> day of December, 2015, was permissible under CRS Section 24-6-402 (4)(b).*

*As the City's 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*

Change of ownership of a Retail Marijuana Store license filed by LivWell VI, LLC at 124 Santa Fe Trail (formerly Peaceful Herbs Ltd., LLC). Mayor Reorda opened the hearing. John Lord was sworn in. He was accompanied by general counsel, Dean Heizer. Mr. Heizer identified in their accompaniment Chief Operating Officer John Secman, former Chief of Investigations for MED, and Brook Solano. City Attorney Downs announced that this is a change of ownership application from what was Peaceful Herbs. He suggested Council conduct the hearing as they would for a new application. Mayor Reorda recalled the letter read into the record from Sean Sheridan. City Attorney Downs reminded Council that they are in a quasi-judicial capacity and that it is appropriate to consider only the evidence at the hearing. Mr. Lord testified to City Attorney Downs' questioning that he is the principal of LivWell VI, LLC. The trade name of the business is LivWell. The application is for a retail marijuana store only. City Attorney Downs pointed out that Mr. Lord owns a number of marijuana concerns in Colorado and asked the number. Mr. Lord said approximately and subject to approval from MED he owns 19. Behind them are more with medical and recreational. He has approximately 15 operations around the state. He has medical and retail in Denver, Colorado Springs, Lakewood. The other facilities however are owned by either Beyond Broadway, LLC or Green Kiwi, LLC. LivWell VI, LLC is a Colorado corporation in good standing which has existed for several months, but is relatively new. The address proposed for LivWell to locate is 124 Santa Fe Trail. City Attorney Downs stated that a background check was undertaken of Mr. Lord and yielded two alleged incidents of domestic violence, one in 2000 and one in 2001. Mr. Lord explained that his alcoholic wife at the time had called the Jefferson County police. Under the regulations at the time he was arrested. The charges were subsequently dropped in both cases. He has no other criminal history. City Attorney Downs noted a stipulation with MED regarding a prior problem with one of his marijuana licenses. Mr. Heizer answered that there was an allegation about the Denver County Fair that they had purposely or inadvertently put medicated chocolate bars out to the public. He and his law firm and Mr. John Secman as the former Chief of Enforcement for MED did investigations. The investigations were inconclusive. Mr. Heizer said that he determined that they had been roofied by a competitor. However MED determined them to have committed a violation of a technical rule. A medical kitchen is prohibited from manufacturing non-infused products in their kitchen, which is what their kitchen did. As a consequence they paid a fine for the technical violation and entered into the stipulation agreement. They received no subsequent discipline related to that. Councilmember Miles pointed out that Mr. Heizer called it a technical violation but they paid a \$150,000 fine. Mr. Heizer said he was not making light of the violation, it was a real violation. The reason for the rule is because a mix up could happen in an infused-products kitchen. Like any reasonably, responsible corporate structure every person in that chain that was responsible for that behavior is no longer with the company and wasn't with the company within a couple of weeks of that incident. The company paid a very substantial fine. Councilmember Miles also pointed out that they did not have surveillance tapes for the period required as well. She asked if it was a coincidence that they made chocolate in a marijuana facility and served it at the Denver Fair. Mr. Heizer said they did have the tapes and MED did an investigation of the incident. He reiterated that he concluded that they had been roofied. There had been multiple reports of people not related to their business encouraging certain people to sample their chocolate. Councilmember Miles questioned if it was a coincidence that they made that chocolate. Mr. Heizer reiterated that the investigation was inconclusive. Part of the reason the company paid a \$150,000 fine was because the company couldn't prove that they didn't do it. Councilmember Torres asked if they are in good standing now. Mr. Heizer said all of their licenses are. Councilmember Miles confirmed that the employees responsible were fired but questioned why since they

thought their competitor did it. Mr. Heizer further clarified that they admitted to manufacturing non-infused in an infused kitchen but did not admit to putting contaminated chocolate out at the fair. They fired all of the people involved. Councilmember Miles asked if that included management. Mr. Heizer said that John Lord was held responsible. Their Chief Operating Officer at the time, Ben Berkhart, was terminated and forced to leave the company. The supervisory person at the kitchen at the time was also let go. The entire group was let go. Councilmember Miles asked if the City was able to get a statement from MED stating that there are not pending violations. City Manager Engeland answered that staff has called MED and have yet to hear back. Mr. Heizer stated that they have not received notice if there are any pending violations. Councilmember Miles pointed to page 45 of the application packet regarding being party to lawsuits. She said the list was not provided but the court orders were. Mr. Heizer said the list should have been provided. He clarified that the applicant before them had never been party to a lawsuit. Beyond Broadway however has been party to a couple of lawsuits with contractors, Mr. Burkhart and other business-related lawsuits. He said he was happy to provide the list for the parent company even though it is not the applicant. Councilmember Miles expressed her concern that sometimes one set of conditions become precedent. City Council hasn't granted a license to a licensee with prior violations. She said she would like legal advice so she can understand the precedence of granting a license to someone who had several violations with a \$150,000 fine. Are we precluded from denying ones with fines less than \$150,000? City Attorney Downs Council would not be bound. He suggested what happened was that the licensee committed a violation and paid the price. It doesn't mean Council can't consider that in terms of John Lord's moral character. Every case is different. He pointed out that Mr. Lord is the owner of 19 different locations. He added that he would not say that Council would be beholden or obligated to approve in the future if someone comes in with a violation. Councilmember Miles asked if a situation had come up with moral character. City Attorney Downs answered that it did, but moral character is usually determined primarily based on criminal record. The conduct of a marijuana business can be considered. Councilmember Miles asked if one has more precedent-setting value than the other. City Attorney Downs answered that it does not, and that it is not a reflection of his moral character. He added that ever violation is different and Councilmember Miles' point is apt that it is a large fine and there were days where tapes didn't exist and it seemed to coincide with the violation. Councilmember Miles said it bothered her that Mr. Heizer described it was a technical violation. Councilmember Mattie commented that owning 19 facilities he has climbed high in the food chain. He asked how far removed he has become in terms of responsibility and employees' behavior that were discharged. Mr. Lord answered that the bucks stops here. He clarified that the actual making of the chocolate was on video. They had recently gone to two shifts and it took up more DVR time. They were required to keep 40 days of recording but had lost some because they started a second shift. However the making of the chocolate was on video. Mr. Lord said he is ultimately responsible for the whole group and it comes back on his operating badge. Everyone responsible for making non-infused product in the kitchen was dismissed from the company. He commented that when this industry started it was a relatively casual situation - many companies were making their lunches in the same kitchen. The industry is more evolved and the practices more refined. They are not intentionally making mistakes. When they do make a mistake they take their beating. The fine was substantial; it was designed to hurt. The fine was designed to make us sit up and take notice. Every standard operating procedure within the company was totally revised after the incident. Councilmember Mattie surmised that the employees below him lost their jobs, the company paid a \$150,000 fine and the three investigations were inconclusive. He commented that inconclusive from his perspective could mean that there was not enough proof to say they weren't responsible. Mr. Heizer reiterated that there were three separate investigations which could not conclude that the product was manufactured in their kitchen and could not conclude that the product hadn't been bought at one of their retail stores and brought into the fair by a competitor, ex-employee, etc. Councilmember Mattie asked for an executive session. Mayor Reorda asked if there are any people in the present location involved. Mr. Heizer said they have extended offers of employment to all employees but no one will have ownership. City Attorney Downs noted that Dave Girdhar will be the landlord because he owns the building. Councilmember Mattie moved to enter into executive session for quasi-judicial review/legal advice. Councilmember Miles seconded the motion which carried unanimously upon roll call vote. The executive session ensued at 8:28 p.m. Upon conclusion of executive session the meeting resumed at 8:40 p.m. City Attorney Downs asked if there is a conditional use permit in support of this and if this will continue to be a retail marijuana store similar to others in the community. Mr. Lord answered affirmatively to both questions, adding that he is not planning on growing. He has cultivation facilities elsewhere to support the store. Upon inquiry he said the store is 2400 square feet. Dave Girdhar owns the building and he will lease from him. The lease is contained in the application. His lease is \$15 per square foot. There are no other financial interests in this business. Mr. Lord said he is 100% owner. He submitted the application, reviewed it and swore to its accuracy. All representations made were to the best of his understanding true and correct. He acknowledged the ongoing obligation to cooperate with City officials and MED if given the license. He also acknowledged that he is required to have familiarity with City ordinances regarding marijuana. He understood that training is required for employees. He said he would not be coming in and asking for a cultivation license. John Secman came forward to discuss what happened at the fair from his point of view. John Secman, Chief Operating Officer and Executive Director of LivWell addressed Council. He said he is responsible for the day-to-day operations of LivWell and its subsidiaries. He said prior to his employment here he was the Agent in Charge of MED. The investigation was inconclusive. He attended all interviews conducted by the MED. The kitchen was stripped of marijuana products. That was the violation, to have non-marijuana products in the kitchen. That was on video. There was none of any kind in there. They batches of chocolate were produced in vats that yielded 960 (chocolate) bars per vat. A medical vat would therefore have produced 960 bars and so conceivably there would be that many people getting high at the fair. However, there were less than ten reported even though thousands of bars were given out. The conclusion he and MED came to was that they could not prove that they did it. They knew they screwed up by making non-infused product. Councilmember Mattie asked Mr. Secman if he is a POST certified peace officer. Mr. Secman said he is. Councilmember Miles pointed out that the lease payment is \$15 square foot. Mr. Heizer said it is \$3,097 per month. Councilmember Bonato commented that he is taking over an established business. He asked if there are any major changes he will do. Mr. Lord answered that the operation will be fundamentally similar. Peaceful Herbs currently sells accessory items associated with marijuana and they will as well. He said they do plan to rebrand the store LivWell. Mayor Reorda called for comment against the application. Alex Rose, Manager of Faragosi Farms next door to this establishment, addressed Council. She said she is against the licensing of LivWell. From everything she has heard they haven't had the best business practices throughout the state with the fair incident and spraying illegal pesticides on their plants, which is dangerous. She said they are being sued by residents of Colorado currently for a pesticide use. The pesticides release hydrogen cyanide when heated. Marijuana is heated in various ways to be consumed and manufactured. It is very dangerous. Mayor Reorda asked if she's saying they did it. Ms. Rose

said that according to the news articles she has read they did. Pretty much the same thing as the fair - management didn't approve it but rouge employees did it without their knowledge and those employees were all fired. The way it sounds it that someone from management told employees to do things and fired them once they got in trouble. She also said that LivWell is known as the Walmart of pot corporations. She wasn't here when Walmart came to town but there are dozens of empty store fronts. She said it is not a fair playing field for the six other stores who are on a pretty even playing field. Jackie Vigil addressed Council. She identified herself as a budtender at Faragosi Farms. She said that from everything she has heard about LivWell tonight they don't take responsibility for their actions. They leave the responsibility to the budtenders when things go wrong. She added that there are six other dispensaries open and she would hate to see them go down. Rebecca Pepin addressed Council. She said she is a citizen of Trinidad and she doesn't work for any marijuana business. LivWell is very established company with very large growing operations up north. They could shut down every other dispensary with their prices. It is the Walmart of dispensaries. Doug Urgan addressed Council. He told them that he moved here in May to work at a dispensary and likes the town. For the people he works with and in the local industry, it is humbling to have a huge corporation come in with enough money to do what they want to. He opined that it is a horrible idea for this town. He concluded that he didn't approve of them at all and he doesn't like what they represent. Brandon Bingam addressed Council and said that he is against LivWell. He has known them since he started shopping for medical product in Colorado Springs. You can tell they use pesticide because there is something off with the flavor. They were sued by their medical clients because of the Eagle 20 pesticide used. He concluded that he can't stand behind the company. City Manager Engeland called to Council's attention letters of support for LivWell provided for the record for Council. Councilmember Miles pointed out that they didn't hear about the pesticide issue and recalled Sean Sheridan's letter discussing it. She reiterated that they were not provided a list of their lawsuits. She asked if that one is not resolved yet. Mr. Heizer answered that subsequent to their application someone filed a lawsuit in Denver by Rob Query, a marijuana lawyer, on behalf of two people claiming they improperly used pesticides. It was filed after the application was submitted and against someone unrelated. He provided Council a documented timeline that is to represent what happened. He provided the particulars of the timeline verbally as well. The documents provided proves their product is safe, he said. Denver released all of their products from their hold. Their products were never unhealthy in their facility in Denver's eyes. John Lord added that he endured trial by media. Denver came in and he was guilty until proven innocent. All of their products tested out zero. They took their reports back to the Denver Post but was told that it wasn't news. The plants having been put on hold was news, but the clean report was not. They have posted the results for people to look at in their facilities. City Attorney Downs pointed out that this information is not very relevant to the license application. Other businesses haven't had to talk about pesticides. No one wants them in marijuana. Mr. Heizer stated the information provided is for the public record and said that they are an open book on this issue. Councilmember Mattie moved to close the hearing and render their decision in 30 days. Councilmember Miles seconded the motion. The motion carried by majority with all Councilmembers present voting aye except Councilmember Torres and Mayor Reorda.

*I, Les S. Downs, Attorney for the City of Trinidad, do hereby attest that the executive session held on this 1<sup>st</sup> day of December, 2015, was permissible under CRS Section 24-6-402 (4)(b).*

*As the City's 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

Rice School acquisition. Mayor Reorda opened the hearing and called for public comment. There was none. Councilmember Fletcher made a motion to execute the documents for the City to purchase Rice School. Councilmember Mattie seconded the motion, which carried unanimously upon roll call vote.

Resolution authorizing acquisition of the Rice School property. Asst. City Manager Garrett asked Council specifically adopt the resolution that contained language that comports to TABOR. Councilmember Fletcher made a motion to adopt the resolution. Councilmember Mattie seconded the motion, which carried unanimously upon roll call vote.

#### RESOLUTION NO. 1459

A RESOLUTION OF THE CITY OF TRINIDAD, COLORADO, APPROPRIATING FUNDS FROM THE CAPITAL IMPROVEMENT PROJECTS FUND FOR THE ACQUISITION OF PROPERTY KNOWN AS THE RICE SCHOOL BUILDING AT 160 E. FIRST STREET, AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE PURCHASE DOCUMENTS ASSOCIATED THEREWITH

Public hearing for consideration of the Trinidad Urban Renewal Authority Plan. Mayor Reorda declared the public hearing open. Chairman of the Authority, Ed Griego, addressed Council. He identified in his accompaniment Vice Chair Nancy Lackey and Board members Phil Rico and John Tarabino. He told Council that the documents are a culmination of several months of work. The URA was reseeded earlier this year and the impact study, survey and plan were developed. He said they hoped City Council reviewed the plan and will pass it. In visiting with members of the public he said he learned that they want to be involved in future projects. The community is aware and supportive of it. He concluded that the Trinidad Urban Renewal Authority is anxious to go forward with it. Mayor Reorda and Councilmember Miles thanked and congratulated the TURA board for their hard work. Mr. Griego extended his appreciation to Development Services Director Tara Marshall for her time and effort to assist them, as well as City Attorney Downs and their other resources from out of town. Mayor Reorda confirmed that no one wished to speak in opposition to the plan and closed the hearing.

Resolution adopting the Trinidad Urban Renewal Authority Plan. Councilmember Mattie moved to adopt the resolution and Councilmember Fletcher seconded the motion. The motion carried unanimously upon roll call vote.

DECEMBER 1, 2015

## RESOLUTION NO. 1460

A RESOLUTION APPROVING THE TRINIDAD URBAN RENEWAL PLAN AND FINDING THAT THE PLAN AREA IS A BLIGHTED AREA, DESIGNATING SUCH AREA AS APPROPRIATE FOR AN URBAN RENEWAL PROJECT PURSUANT TO STATE LAW, AND FINDING THAT THE ACQUISITION, CLEARANCE, REHABILITATION, CONSERVATION, DEVELOPMENT, REDEVELOPMENT OR A COMBINATION THEREOF OF SUCH AREA IS NECESSARY IN THE INTEREST OF THE PUBLIC HEALTH, SAFETY, MORALS, AND WELFARE OF THE CITIZENS OF THE CITY OF TRINIDAD

**COUNCIL REPORTS.** Mayor Reorda extended his congratulations and praise to the downtown holiday group responsible for the tree lighting. He said it and the parade were a great success and pointed out that the people involved work hard all year long to put forth the events.

Councilmember Mattie reported that several weeks ago the Space to Create people were at the college and he learned about the survey. He further reported that he has taken the survey.

Councilmember Bonato thanked the City employees for decorating.

Councilmember Fletcher reported that the parade of lights was nice and it was great to see people happy. JM Tire won. Also she reported that the Parks and Recreation Advisory Board met with a consultant from Albuquerque regarding a site for tennis courts.

Councilmember Torres complimented the new Christmas décor on the trees on Main Street. She added that it is needed on Commercial Street and would hope to see it next year.

Councilmember Miles commented that the floats were beautiful.

**REPORTS BY CITY MANAGER.** None.

**REPORTS BY CITY ATTORNEY.** City Attorney Downs called to Council's attention a legal memorandum at their seating places. Secondly he advised of his unavailability for the regular meeting on December 15, 2015.

Councilmember Mattie read into the record concerning the recent resignation of City Attorney Les Downs the following: "Aside from the fact that I regard Les Downs as one member of a very small circle of close personal friends, I am nonetheless compelled to comment tonight as to my opinion of his professional service to the City of Trinidad during my tenure as a member of Council. Like me, Les came to serve the City at a time when there was much controversy, uncertainty and a general sense of mistrust of and within the City government. With legal expertise and competent general counsel tethered to his good-natured personality, he was able to guide a recovering City Council through the muck and mire of what was then a hot-bed of controversial issues. He was able to recognize what he did not know and he was quick to find the answers out for us. Together we were able to work our way through some very difficult situations and chart a course of transparency, trust and competence. In addition, Les was able to put forth a pleasant voice, a smiling face, and an air of competence to positively represent our City to external contacts in Denver and elsewhere. His efforts were such that our internal and external reputations have begun to improve and more importantly confidence in the City of Trinidad among our peers and associates has grown dramatically. Without question he has worked far more on behalf of the City than his 32 hours per week that the contract required. Therefore I want to tonight, again, publically thank him for his commitment of time to duty and competent service. We know that there's a time to all seasons. And, to all things there's a beginning and an end. And while I'm saddened by Les's departure from the office of City Attorney, I am encouraged that through the foundation he has helped us lay we can now continue to build a better and stronger future for the City in the shadow of Fisher's Peak. And, to my friend, Les Downs, I offer sincere, genuine, personal thanks for your service, I bid you good fortune and God speed in your future endeavors."

**BILLS.** Councilmember Miles moved to approve the bills. Councilmember Fletcher seconded the motion to approve the bills. The motion carried unanimously upon roll call vote.

**PAYROLL,** November 21, 2015 through December 4, 2015. A motion to approve the payroll was made by Councilmember Fletcher and seconded by Councilmember Mattie. 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 Fletcher and seconded by Councilmember Bonato. The meeting was adjourned by unanimous roll call vote of Council.

ATTEST:

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

\_\_\_\_\_  
KIMBERLY MARQUEZ, Asst. City Clerk

The City Council of the City of Trinidad, Colorado met in Special Session on Tuesday, December 8, 2015 immediately following the Work Session at 1:30 p.m. in 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, December 8, 2015 immediately following the Work Session at 1:30 p.m. in the Council Chambers at City Hall

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

- 1) Resolution of the City Council of the City of Trinidad, Colorado, levying general property taxes based upon the 2015 certification of valuation to help defray costs of government for the City of Trinidad, Colorado, for the 2016 budget year

The meeting was called to order at 3:25 p.m.

There were present:	Mayor	Reorda, presiding
	Councilmembers	Bolton, Bonato, Fletcher, Mattie, Miles, Torres

Also present:	City Manager	Engeland
	City Attorney	Downs
	Asst. City Clerk	Marquez

Resolution of the City Council of the City of Trinidad, Colorado, levying general property taxes based upon the 2015 certification of valuation to help defray costs of government for the City of Trinidad, Colorado, for the 2016 budget year. Asst. City Manager Garrett advised that this is an annual budgetary requirement to certify the mill levy to the County. A motion to adopt the resolution was made by Councilmember Bolton and seconded by Councilmember Miles. The motion carried unanimously upon roll call vote.

RESOLUTION NO. 1462

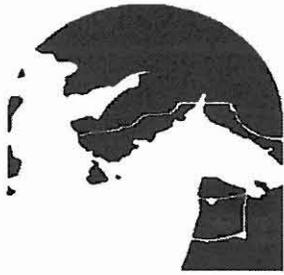
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO, LEVYING GENERAL PROPERTY TAXES BASED UPON THE 2015 CERTIFICATION OF VALUATION TO HELP DEFRAID COSTS OF GOVERNMENT FOR THE CITY OF TRINIDAD, COLORADO, FOR THE 2016 BUDGET YEAR

There being no further business, Councilmember Bolton moved to adjourn the meeting. Councilmember Mattie seconded the motion which carried unanimously. The meeting was adjourned.

ATTEST:

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

\_\_\_\_\_  
KIMBERLY MARQUEZ, Asst. City Clerk



CITY OF TRINIDAD, COLORADO  
1876

## COUNCIL COMMUNICATION

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**CITY COUNCIL MEETING:** December 15, 2015 Regular Meeting  
**PREPARED BY:** Tara Marshall, Development Services  
**PRESENTER:** Tara Marshall, Development Services  
**DEPT. HEAD SIGNATURE:** *Tom*  
**CITY MANAGER SIGNATURE:**

**SUBJECT:** Request for rezoning property donated to Noah’s Ark located at the juncture of Santa Fe Trail Drive and Moore’s Canyon Road.

**RECOMMENDED CITY COUNCIL ACTION:** Consideration of rezoning request after holding two (2) required public hearings on December 15, 2015 and January 5, 2016

**SUMMARY STATEMENT:**

The applicant, Noah’s Ark, is requesting the rezoning of the property located at Santa Fe Trail Drive and Moore’s Canyon Road from G-RE (Growth-Residential Estate) to G-NS (Growth-Neighborhood Services) in order to accommodate an animal shelter facility located on the subject property.

**EXPENDITURE REQUIRED:** No

**SOURCE OF FUNDS:** Not Applicable

**POLICY ISSUE:**

If the rezoning is consistent with the goals of the 2008 Comprehensive Plan regarding Established Districts and meetings the City of Trinidad Municipal Code, *Chapter 14, Division 16, Section 14-112 Declaration of Policies and Standards for Rezoning.*

Included as attachments:

- *Memo to City Council detailing PZVC findings*
- *Relevant Zoning Code Information on G-RE Zone District and G-NS Zone District*
- *Relevant Criteria for rezoning*
- *Ordinance*

**ALTERNATIVE:** Not Applicable

**BACKGROUND INFORMATION:**

The City of Trinidad Planning, Zoning and Variance Commission approved the rezoning application presented by Noah’s Ark on Tuesday, November 10, 2015. The PZVC’s findings are detailed in the subsequent memo to Trinidad City Council.

**CONTACT FOR INFORMATION:** Tara Marshall, Development Services Director  
 (719) 846-9843 ext. 131 or (719) 680-7238  
 tara.marshall@trinidad.co.gov

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## City of Trinidad

### Planning Department

135 N. Animas

Trinidad, Colorado 81082

Telephone (719) 846-9843 X 130

Fax (719) 846-4140

tara.marshall@trinidad.co.gov

To: Trinidad City Council

From: Tara Marshall, Development Services Director

Re: Rezoning from Growth-Residential Estate (G-RE) to Growth-Neighborhood Services (G-NS), Noah's Ark #2015-09

Date: December 11, 2015

The City of Trinidad Planning, Zoning and Variance Commission approved the rezoning of the subject property located at Santa Fe Trail Drive and Moore's Canyon Road from Growth-Residential Estate (G-RE) to Growth-Neighborhood Services (G-NS) for the applicant, Noah's Ark on Tuesday, November 10, 2015.

In reaching their decision, the Planning, Zoning and Variance Commission made the following findings:

- The applicant, Noah's Ark is a 501(c)(3) non-profit organization which provides Animal Control and Shelter Services for the City of Trinidad and is partially funded by the City through a General Fund allocation. Noah's Ark submitted an application for a Rezoning request on an unplatted parcel located at Santa Fe Trail and Moore's Canyon Road with the intention of operating a newly constructed animal shelter. The proposed site is comprised of 2.28 acres which was donated to the Shelter for this purpose.
- The subject property has not yet undergone a platting process, therefore prior to any building permit being issued, the applicant would be required undergo the City's Subdivision process. This would require the applicant to address site design and access, utility service provisions, traffic impacts, contours and site grading, landscaping, fencing, and screening as well as any other considerations placed on the property by the City Planning, Zoning and Variance Commission.
- The property is currently zoned G-RE (Growth-Residential Estate) which primarily accommodates single-family residential development. Areas designated as "Growth" area are meant to accommodate site design techniques such as density development, PUDs, shopping centers, industrial parks or other such uses, attracting retail businesses, achieving a broader mix of housing choices and targeting infrastructural improvements to help facilitate growth. Areas included in the "Growth" designation are meant to be drivers of economic development and public revenue generation for the City. The applicant proposes a rezoning to G-NS (Growth-Neighborhood Services), which primarily accommodates a variety of employment and services uses catered to neighborhood residents. Community Service Agencies are permitted as a use by right in the Neighborhood Services Zone District.
- The applicant is proposing a one (1) story building with sixteen (16) parking spaces and a setback of well over twenty five (25) feet.

- The subject property is located in a largely vacant area off Santa Fe Trail Drive (CO 93) which is designated as a minor arterial road and key north-south connection between the City's Downtown Core and Interstate 25 (I-25).
- The public hearing for the Rezoning application was publicly noticed in accordance with the public notification requirements set for in the City's Code of Ordinances, Section 14-113(2).
- In accordance with Chapter 14, Division 16, Section 14-112 Declaration of policy and standards for rezoning, of the City's Municipal Code the Planning, Zoning and Variance Commission made the following findings.
  - The applicant met the minimum standards regarding submittal requirements, Section 14-115. Including a certified Survey & Legal Description, methods of water supply, sewage disposal, snow removal, and interior site development. In reviewing these documents, PZVC made the following findings:
    - The City's Utility Director has confirmed that water, sewer and gas mains are located within Santa Fe Trail. Single phase electrical is also accessible.
    - The applicant has stated that "all utilities will be brought directly into the lot under City direction in an attempt to reduce impact to site/vegetation."
    - The applicant has further stated that the existing, City installed utility infrastructure "was designed to accommodate further expansion in the area."
    - The applicant had indicated that water usage by the new shelter would be comparable to a home with a lawn.
    - Regarding electrical service, the applicant states that the proposed shelter will be designed in the most energy-efficient way possible, and electrical use will be minimized.
    - Regarding sewer service, the applicant states that grinder for animal waste will be installed at the shelter in order to meet the sewage requirements of the City.
    - Access to the site has been shown off Moore's Canyon Road, which will require creative design for access to the site and would be handled through the City's required platting process prior to any building permits being issued.
  - Per Section 14-112(1), the Commission heard ample testimony to determine that the proposed rezoning is necessary in order to provide land for a community related use which was not contemplated at the time of development of the comprehensive plan. Noah's Ark Animal Shelter is a community service agency with a long history of servicing the community. In addition, the Commission found that as a non-profit organization partially funded by the City, they provide a needed Community Service and that without a larger facility their ability to continue providing this service to the Community is in jeopardy.
  - Per Section 14-112(2), the Commission heard ample testimony to determine that the rezoning fulfills the following conditions:
    - The change in zoning will advance a more effective use of land in harmony with the City's Comprehensive Plan and Zoning Regulations
      - Neighborhood Services has been identified as an appropriate zone district for "Growth" in both the 2008 City of Trinidad Comprehensive Plan and in the City's Zoning Ordinance.
    - The public interest has been met
      - The applicant held a Community Meeting on October 21, 2015 to address the issues of offensive noise, traffic generation, impact to the neighborhood, odor, and attraction of vermin and compatibility of the future residential uses in the neighboring area.
        - The applicant has indicated that the building will be centrally located on the site and that vegetation will be maintained throughout the site and the perimeter. "Noise abatement will be accomplished by sound modulating walls, ceilings, kennel dividers and doors on the inside."

- The applicant stated that school traffic will not be affected, as the shelter will not open or close at the times the school buses are in service.
- Animal excrement will be handled by indoor industrial grinders that lead to the sewer system which is the industry standard for animal shelters and “results in virtually zero-odor system.” All other waste will be taken to refuse containers located on site and surrounded by a 6” cedar privacy fence with locked gates.
- The applicant states that no recorded residential construction has occurred in the area since 2000. Additionally, the applicant states that “the well-designed, aesthetically-pleasing community resource that Noah’s Ark Animal Welfare Association is proponing, may increase property values in the area based strictly as a stand-alone facility and also intrinsically as it lends to the revitalization of the Trinidad and Las Animas County region.”

Based on these findings the Planning, Zoning and Variance Commission has approved the rezoning application and recommends the applicant to the Trinidad City Council.

## ARTICLE 4. ZONING ORDINANCE.

### Section 14-24. Establishment of zone districts.

(1) In order to carry out the purpose of this Article, the City of Trinidad, is hereby divided into four (4) basic zoning districts and eleven (11) secondary-level districts. The basic districts are defined as follows:

(a) E - Established District - Established areas of the community where the character of land use is stable and few changes are anticipated in the immediately foreseeable future. The district should also include rehabilitation or restoration, particularly of a historic nature, in order to maintain the area's established character. The quality of structures is not expected to deteriorate into a sub-standard classification in the immediately foreseeable future. The district may also include certain vacant lands immediately contiguous to or part of a single neighborhood contained within this district.

(b) G - Growth District - Areas where the use of land is in the process of major change, primarily from a vacant or rural character to a more intensive use of a variety of classifications. Most new development as well as areas of annexation are expected to occur in this district. The growth district should allow for such site design techniques as density development, planned unit development, shopping centers, industrial parks or other such uses.

(c) T - Transitional District - Areas of the community which are undergoing or are expected to undergo land use changes throughout the immediately foreseeable future which are a direct manifestation of plan implementation.

(d) R - Redevelopment District - Areas which will be subject to substantial changes of land use character. The redevelopment aspects could include such techniques as the clearing and rebuilding of areas, the use or reuse of lands for new or different purposes, all as rehabilitation of buildings in an area for different uses; all as opposed to the maintenance of an area's character as intended by the Established District.

(2) For more definitive use separation and for distinction by control of density, any one or all of the basic zoning districts may be sub-classified into as many or as few of the following districts, hereinafter known as second-level zoning districts, as may be in harmony with the character and application of the basic district. The second-level districts are defined as follows:

(a) O - Open - Areas which are used for open space, parks, major public areas or vacant land.

(b) RE - Residential Estate - Land used for large lot residential development of a single family conformity and containing a minimum lot area of 15,000 square feet.

(c) LDR - Low Density Residential - Land used for single family residential, purposes and containing a minimum lot area of 6,250 square feet.

(d) MDR - Medium Density Residential - Land uses for residential purposes accommodating a variety of housing types such as those of a single-family, duplex, triplex or townhouse conformity. Maximum density is ten (10) dwelling units per acre and minimum lot area is 6,000 square feet.

- (e) HDR - High Density Residential - Land used for multiple-family residential purposes. Maximum density is twenty-five (25) dwelling units per acre and minimum lot area is 6,000 square feet.
- (f) MHR - Mobile Home Residential - Land used exclusively for mobile homes. Minimum land area for this district is five (5) acres and the land area for individual mobile homes is 5,000 square feet.
- (g) NS - Neighborhood Service - Areas which are served by convenience types of retail establishments primarily on a neighborhood basis.
- (h) CC - Community Commercial - The areas of most intensive commercial use in the community.
- (i) I - Industrial - All areas of industrial use in which are accommodated the processing, manufacturing and fabricating enterprises. This district may also accommodate certain commercial uses.
- (j) PUD - Planned Unit Development - Development of an area by means of a design technique which allows flexibility and imagination in the types of uses and arrangements of facilities in an optimum manner in harmony with adjacent properties.
- (k) HP - Historic Preservation - The area of Trinidad which has been identified for historic preservation. The area is subject to special design requirements and use restrictions in order to preserve its historic character.

**Section 14-28. Zone district classifications.**

(1) The E - Established District shall be sub-classified into the following second level zone districts:

- (a) Open - O
- (b) Low Density Residential - LDR
- (c) Medium Density Residential - MDR
- (d) High Density Residential - HDR
- (e) Neighborhood Service - NS
- (f) Community Commercial - CC
- (g) Industrial - I
- (h) Historic Preservation - HP

(2) The Growth District shall be sub-classified into the following second level zone districts:

- (a) Open - O
- (b) Residential Estate - RE
- (c) Low Density Residential - LDR
- (d) Medium Density Residential - MDR
- (e) High Density Residential - HDR
- (f) Mobile Home Residential - MHR
- (g) Neighborhood Service - NS
- (h) Community Commercial - CC
- (i) Industrial - I
- (j) Planned Unit Development - PUD

(3) The Transitional District shall be sub-classified into the following second level zone districts):<sup>1</sup>

- (a) Open – O
- (b) Low Density Residential - LDR
- (c) Medium Density Residential - MDR
- (d) High Density Residential - HDR
- (e) Mobile Home Residential- MHR
- (f) Neighborhood Service – NS
  
- (g) Community Commercial – CC<sup>2</sup>
- (h) Industrial - I
- (i) Planned Unit Development - PUD

(4) The Redevelopment District shall be sub-classified into the following second level zone districts:

- (a) Open - O
- (b) Low Density Residential - LDR
- (c) Medium Density Residential- MDR
- (d) High Density Residential - HDR
- (e) Neighborhood Service - NS
- (f) Community Commercial - CC
- (g) Industrial - I
- (h) Planned Unit Development - PUD

**THIS IS THE CURRENT ZONE DISTRICT FOR THE SUBJECT PROPERTY**

**DIVISION 3. ZONE DISTRICT REGULATIONS FOR THE RE -RESIDENTIAL ESTATE DISTRICT.**

**Section 14-35. Uses permitted by right.**

- (1) Single family dwelling units.
- (2) Home occupations.
- (3) Domestic animals, provided such animals are household pets and kennels are not maintained.
- (4) Farm animals, provided such animals are kept on a parcel of land not less than one (1) acre in area.
- (5) Fences, hedges and walls, provided they are located where they will not obstruct motorists' vision at street intersections.
- (6) Accessory buildings and uses customarily incident to the uses permitted in this district.

**Section 14-36. Conditional uses.**

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<sup>1</sup> Amended Ord. 1906, eff. 11/26/10

<sup>2</sup> Ord. 1906, eff. 11/26/10

(1) The following conditional uses may be permitted within the Residential Estate District:

- (a) Electric substations and gas regulator stations.
- (b) Fire stations, police stations and telephone exchanges.
- (c) Water reservoirs, water storage tanks, water pumping stations and sewer lift stations.
- (d) Churches and schools or other public or semi-public uses.

(2) For each instance, the Commission shall be provided with site development plans showing the proposed development or use and its relationship to adjacent properties. The site development shall show existing contours of the site at two foot (2') intervals, the location of improvements on the site, the height and bulk of structures proposed, description and placement of screening or screen planting, availability of utilities if applicable, a statement of the time sequence of development and environmental impact on properties in the immediate vicinity.

(3) The Commission may in addition, prescribe any additional conditions regarding intensity or limitation of use, appearance, hours of operation, set-backs or required open space, or other such conditions which may be deemed necessary by the Commission.

**Section 14-37. Building height limit.**

Except as provided in Section 14-101, the height regulations are as follows:

No dwelling or other structure shall exceed two and one-half (2 ½) stories or twenty-five feet (25') in height.

**Section 14-38. Area regulations.**

Except as provided in Section 14-101, the area regulations are as follows:

(1) Minimum floor area: Eight hundred (800) square feet per dwelling unit.

(2) Minimum lot area:

(a) Fifteen thousand (15,000) square feet per dwelling unit.

(b) For all conditional uses, fifteen thousand (15,000) square feet unless otherwise specified by the Planning, Zoning and Variance Commission.

(3) Minimum lot frontage: Seventy five feet (75').

(4) Minimum front yard: Measured from the front property line, there shall be a front yard of not less than twenty-five feet (25') feet for all principal structures, unless otherwise specified by the Commission.

(5) Minimum rear yard: Measured from the rear property line, every principal or accessory building shall have a rear yard of not less than ten feet(10').

(6) Minimum side yard: Measured from the side property lines, there shall be side yards of not less than ten feet (10') on each side of the lot.

**THIS IS THE PROPOSED ZONE DISTRICT FOR THE SUBJECT PROPERTY**

**DIVISION 8. ZONE DISTRICT REGULATIONS FOR THE NS -NEIGHBORHOOD SERVICE DISTRICT.**

**Section 14-58. Uses permitted by right:**

- (1) Business, professional and semi-professional offices.
- (2) Medical clinics and pharmacies operated in conjunction with a clinic.
- (3) Barber and beauty shops.
- (4) Club or lodge (nonprofit).
- (5) Community service agency.
- (6) Day nursery or child-care center.
- (7) Accessory building or use (not involving open storage), when located on the same lot.
- (8) Commercial and public parking lots.
- (9) All uses permitted in the HDR District.

**Section 14-59. Conditional uses.**

- (1) The following conditional uses may be permitted within the Neighborhood Service District:
  - (a) Enterprises or businesses of the same nature or class as those listed above in Section 14-58, which in the opinion of the Commission, as evidenced by a resolution of record, are not more obnoxious or detrimental to the welfare of the area than are those listed in said Section 14-58.
  - (b) Enterprises of a retail trade nature catering specifically to neighborhood convenience trade which in the opinion of the Commission, as evidenced by a resolution of record, are not of a different intensity of use or character, nor are more obnoxious or detrimental to the welfare of the area than existing businesses. Under no circumstance shall this provision allow gasoline service stations, automobile parts supply stores or automobile repair garages of any kind.
  - (c) Electric substations and gas regulator stations.
  - (d) Fire stations, police stations and telephone exchanges.
  - (e) Water reservoirs, water storage tanks, water pumping stations and sewer lift stations.

(2) For each instance, the Commission shall be provided with site development plans showing the proposed development or use and its relationship to adjacent properties. The site development shall show existing contours of the site at two foot (2') intervals, the location of improvements on the site, the height and bulk of structures proposed, description and placement of screening or screen planting, availability of utilities if applicable, and a statement of the time-sequence of development and environmental impact on properties in the immediate vicinity.

(3) The Commission may, in addition, prescribe any additional conditions regarding intensity or limitation of use, appearance, hours of operation, setbacks or required open space, or other such conditions which may be deemed necessary by the Commission.

**Section 14-60. Building height limit.**

Except as provided in Section 14-101, the height regulations are as follows: No structure shall exceed three and one-half (3 ½) stories or thirty-five feet (35') in height.

**Section 14-61. Area regulations.**

Except as provided in Section 14-101, the area regulations are as follows:

- (1) Minimum floor area: No minimum requirements.
- (2) Minimum lot area: No minimum requirements.
- (3) Minimum lot frontage: No minimum requirements.
- (4) Minimum front yard: Measured from the front property line, there shall be a front yard of not less than twenty-five feet (25') for all principal structures, which may be used to meet off-street parking requirements, unless otherwise specified by the Commission.
- (5) Minimum rear yard: No minimum requirements.
- (6) Minimum side yard: No minimum requirements.

**CRITERA AND REGULATIONS RELATED TO REZONING A SUBJECT PROPERTY**

**DIVISION 16. AMENDMENTS.**

**Section 14-111. Authority.**

Amendments to the Zoning Map shall be in accordance with the statutes of the State of Colorado, with report and recommendations from the Planning, Zoning and Variance Commission to the City Council required prior to the adoption of any such amendment.

**Section 14-112. Declaration of policy and standards for rezoning.<sup>3</sup>**

- (1) For the purposes of establishing and maintaining sound, stable and desirable development within

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<sup>3</sup> 14-112 Repealed and Re-enacted (Ord. 1529, 4-13-96)

the City of Trinidad, the rezoning of land is to be discouraged and allowed only under certain circumstances as provided hereafter. This policy is based on the opinion of the City Council that the City's zoning map is the result of a detailed and comprehensive appraisal of the City's present and future needs regarding land use allocation and, as such, should not be amended unless to correct a manifest error or because of changed or changing conditions in a particular area or the City in general. Rezoning shall only be allowed if the applicant demonstrates by clear and convincing evidence that rezoning is necessary because of one or more of the following reasons:

(a) The land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the City's comprehensive plan; or

(b) The area for which rezoning is requested has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or a new approach to development; or

(c) The proposed rezoning is necessary in order to provide land for a community related use which was not contemplated at the time of development of the comprehensive plan.

(2) In addition, no rezoning shall be allowed unless all of the following conditions are found to have been met:

(a) That a change in zoning will advance a more effective use of land in harmony with the City's comprehensive plan; and

(b) The public interest has been met.

(3) This declaration of standards for rezoning shall not control a rezoning which occurs incidentally to a comprehensive revision of the City's zoning map.

#### **Section 14-113. Procedure for amendments in general.**

The City Council may, from time to time, on its own motion, on petition of any person or persons in interest, or on initial recommendation of the Planning, Zoning and Variance Commission, amend, supplement or repeal the regulations and provisions of this Article, provided that where territory is sought to be rezoned on a proposal other than by the City Council or the Planning, Zoning and Variance Commission, the person proposing or petitioning for rezoning of territory shall have a property interest in the subject territory. The applicant shall submit a list of the abutting owners of record and their addresses from available County records.

(1) Planning, Zoning and Variance Commission advisory report. Any proposed amendment or change to this Article or to the Zoning Map when initiated by the City Council shall be referred to the Commission for an advisory report thereon. When a proposed amendment or change is initiated by the Commission, said advisory report shall accompany the initial recommendations of the Commission.

(2) Procedure before Planning, Zoning and Variance, Commission. Before giving an advisory report or initial recommendations on any proposed amendment to this Article, the Commission shall first conduct a public hearing thereon. Notice of the time and place of such hearing and a brief summary or explanation of the subject matter of the hearing shall be given by the City Planner, by one publication of the same at least fifteen (15) days prior to the hearing, in a newspaper of general circulation in the City of Trinidad.

(3) Procedure before the City Council. After receiving the advisory report from the Planning Zoning and Variance Commission, the City Council shall hold a public hearing before acting on the proposed amendment to this Article or to the Zoning Map. Notice of the time and place of the public hearing before the City Council shall be given by the City Planner, by one publication of the same at least fifteen (15) days prior to the hearing, in a newspaper of general circulation in the City of Trinidad.

#### **Section 14-114. Amendments to the Official Zoning Map.**

Any person petitioning for an amendment to the Official Zoning Map shall submit a petition to the Planning, Zoning and Variance Commission through the City Planner.

(1) Planning, Zoning and Variance Commission advisory report. Any proposed amendment to the Zoning Map, when initiated by individual petition, shall be referred to the Planning, Zoning and Variance Commission for an advisory report thereon.

(2) Procedure before Planning, Zoning and Variance Commission. Before giving an advisory report or initial recommendation on any proposed amendment to the Zoning Map, the Planning, Zoning and Variance Commission shall first conduct a public hearing thereon. Prior to the public hearing, the applicant requesting amendment to the Zoning Map shall post his/her property with a sign, furnished by the Planning Department, notifying the general public of the time and place of the public hearing before the Planning, Zoning and Variance Commission at which said application for amendment shall be reviewed. Said sign shall be posted on the property in two (2) conspicuous locations, one (1) of which shall be posted along the property frontage; said sign shall be posted at least fifteen (15) days prior to the scheduled hearing; and said sign shall recite the rezoning applied for. In addition, notice of the time and place of the public hearing before the Planning, Zoning and Variance Commission shall be issued by the City Planner, by one publication of the same at least fifteen (15) days prior to the hearing in a newspaper of general circulation in the City of Trinidad.<sup>4</sup>

(3) Procedure before the City Council. After receiving the advisory report from the Planning, Zoning and Variance Commission, the City Council shall hold a public hearing before acting on the proposed amendment. Notice of the time and place of the public hearing before the City Council shall be given by the City Planner by one publication of the same at least fifteen (15) days prior to the hearing, in a newspaper of general circulation in the City of Trinidad.

#### **Section 14-115. Data to be submitted.**

Prior to any consideration for amendment to the Official Zoning Map, the petitioner shall file the following data with the Planning, Zoning and Variance Commission at least ten (10) days prior to the scheduled date of Planning, Zoning and Variance Commission review:

- (1) Certified survey and legal description by a registered land surveyor or professional engineer.
- (2) Proposed method of water supply and sewage disposal.
- (3) Snow storage facilities and removal.
- (4) Other such site plans or drawings to show a demonstrated need for zoning change.
- (5) The following additional data may be required to accompany the petition for any zone change:

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<sup>4</sup> Section 14-114(2) Repealed & Reenacted by Ord. 1932, eff. 12/14/2012.

- (a) A site plan showing location of structures, number of dwelling units per structure, existing contours at an interval of 2 feet (2'), location of open space to be retained, location of off-street parking spaces, location of common areas and their proposed usage.
- (b) Evidence of availability of public water and sewer facilities. Such evidence shall be in the form of a written commitment by a municipal or quasi-municipal agency stating that such service will be available to the property.
- (c) In the event a private water and sewer system is proposed, a written engineering report shall be submitted assuring the availability of water and sewer service and written approval by the Colorado Department of Public Health and the local health authority.
- (d) When a private water and sewer system is proposed, a surety bond in the amount of one hundred twenty-five percent (125%) of the estimated cost of such system shall be made in favor of the City of Trinidad and presented at the public hearing concerning the proposed zoning change. Such bond will be held until construction of said system is completed and approved by the Colorado Department of Public Health and the local health authority. In lieu of a surety bond, the City Council may authorize other such proof of financing or security which will satisfy construction guarantees.



ORDINANCE NO.

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION OF PROPERTY DESCRIBED AS A TRACT OF LAND LYING IN PART OF THE W1/2NE1/4, SECTION 25, TOWNSHIP 33 SOUTH, RANGE 64 WEST OF THE 6<sup>TH</sup> P.M., CITY OF TRINIDAD, COUNTY OF LAS ANIMAS, STATE OF COLORADO, FROM GROWTH-RESIDENTIAL ESTATE (G-RE) ZONING TO GROWTH-NEIGHBORHOOD SERVICES (G-NS) ZONING

WHEREAS, Noah's Ark Animal Welfare Association has made application to the City Planning, Zoning and Variance Commission and the City Council of the City of Trinidad, Colorado for a change in zoning classification of the following described property:

Beginning at a Point on the East ROW of Santa Fe Trail, from which the North ¼ Corner of said Section 25 bears N 01°46'54" W, 1488.06 Feet; Thence along the East ROW of Santa Fe Trail, along the Arc of a Curve to the Left, having a Radius of 2915.00 Feet, an Arc Distance of 231.27 Feet to a Point on the South ROW of Moores Canyon Road (the Chord of said Curve bears N 24°16'00" E, 231.21 Feet); Thence along the South ROW of Moores Canyon Road the following (4) Courses:

- 1.) S 66°46'28" E, 103.13 Feet to a Point;
- 2.) Along the Arc of a Curve to the Right, having a Radius of 255.00 feet, an Arc Distance of 127.50 Feet to a Point (the Chord of said Curve bears S 52°27'01" E, 126.18 Feet);
- 3.) S 44°57'50" E, 125.99 Feet to a Point;
- 4.) Along the Arc of a Curve to the Left, having a Radius of 330.00 feet, an Arc Distance of 305.03 Feet to a Point (the Chord of said Curve bears S 62°14'36" E, 269.49 Feet); Thence departing the South ROW of Moores Canyon Road, S 88°54'55" W, 547.36 Feet to a Point; Thence N 36°20'13" W, 165.28 Feet to the Point of Beginning, Containing 2.28 acres.

WHEREAS, all notices have been posted pursuant to law; and

WHEREAS, all required public hearings have been held by the City Council on the application for a change in zoning classification; and

WHEREAS, the City Council of the City of Trinidad, Colorado, finds that the proposed change in zoning classification of the above-described property does not materially alter the City Zoning Ordinance (Articles 4, 5 and 6 of Chapter 14, Planning & Zoning) and is in keeping with the Comprehensive Plan for the regulation of land uses within the City of Trinidad, Colorado.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO, to-wit:

1. The Zoning Map of the City of Trinidad is hereby amended by changing the zone classification of the above-described property from the existing Growth-Residential Estate to Growth-Neighborhood Services.
2. This zone change is made pursuant to Articles 4, 5 and 6 of Chapter 14 Planning & Zoning of the Code of Ordinances of the City of Trinidad, Colorado.

INTRODUCED BY \_\_\_\_\_, READ AND ORDERED  
PUBLISHED this \_\_ day of December, 2015.

FINALLY PASSED AND APPROVED this \_\_\_\_ day of January, 2016.

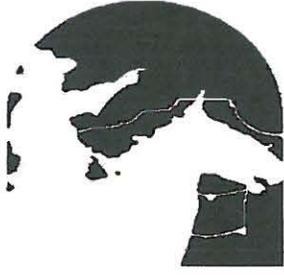
EFFECTIVE DATE OF THIS ORDINANCE SHALL BE the \_\_\_\_ day of January, 2016.

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

ATTEST:

\_\_\_\_\_  
KIM MARQUEZ, Asst. City Clerk

7a



CITY OF TRINIDAD, COLORADO  
1876

## COUNCIL COMMUNICATION

**CITY COUNCIL MEETING:** December 15, 2015 Regular Mtg  
**PREPARED BY:** Audra Garrett, Asst. City Mngr  
**PRESENTER:** Representative of JR's Fuel Stop  
**DEPT. HEAD SIGNATURE:** *Audra Garrett*  
**CITY MANAGER SIGNATURE:**

**SUBJECT:** 3.2% Beer Retail License (Off-Premises) renewal request by JR'S Fuel Stop, Inc. d/b/a JR's Fuel Stop 810 at 731 E. Main Street

**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 Fire Department reported that the inspection report is on file.
- The Building Inspector reported is pending.
- The Police Department had one call for service in the past year.
- Disclosure statements from Councilmembers Miles & Torres are attached.

### CONTACT FOR INFORMATION:

Audra Garrett, Asst. City Manager  
 719-846-9843, ext. 135

7a

**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>	<b>96.25</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 1/24/2016	Due Date 12/10/2015
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 Antoinette Cheate	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, President, JR's Fuel Stop, Inc.	Title President
Signature [Signature]	Date 11/20/2015

**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

12/1/15

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: December 15, 2015

\*\*\*\*\*

DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS: inspection on file

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

12/2/15  
Date

[Signature]  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: December 9, 2015

12/1/2015

**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: December 12, 2015

\*\*\*\*\*

DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS:

<u>Date</u>	<u>Event Number</u>	<u>Call Type</u>	<u>Case number</u>
9/12/2015	15017541	Vice drugs	None

Drug paraphernalia was found in the men's restroom. Officers collected it.

12-8-15  
Date

Charles J. Donovan  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: December 9, 2015

# Detailed Report - Call #15017541

## Call Data

<b>Call Date</b>	<b>Address</b>	<b>Apt</b>	<b>Zip</b>	<b>Mile Post</b>
09/12/2015 21:37:50	731 E MAIN		81082	
<b>City, State (County)</b>	<b>SubGrid - Grid (District)</b>	<b>Dispo of Call</b>		
TRINIDAD, CO		CLEARED NO REPORT		
<b>Call Type</b>	<b>Priority</b>	<b>How Reported</b>	<b>CallTaker</b>	
VICE DRUGS	1	PHONE	CCANTORIA	
<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
ROMERO	MATHEW	ALAN		2622 ESPINOZA		TRINIDAD	CO		RPTG PARTY OTHER INV

## Vehicle(s) Information

Lic Plate	St	VIN	Make	Model	Style	Year	Color	Owner	DL#
[REDACTED]	CO	[REDACTED]		SEDAN	PC	1991	WHI	TRUJILLOPATRI	

## Units Dispatched to Call ( = Primary Unit)

Unit	Activity	Started	Ended	Time	Location
112		09/12/2015 21:38:36	09/12/2015 21:44:34	5.97	
	DISPATCHED	09/12/2015 21:38:36	09/12/2015 21:38:45	0.15	
	ENROUTE	09/12/2015 21:38:45	09/12/2015 21:39:45	1.00	
	ARRIVED	09/12/2015 21:39:45	09/12/2015 21:44:34	4.82	
	CLEARED	09/12/2015 21:44:34	09/12/2015 21:44:34	0.00	
303		09/12/2015 21:38:35	09/12/2015 21:44:34	5.98	
	DISPATCHED	09/12/2015 21:38:35	09/12/2015 21:38:38	0.05	
	ENROUTE	09/12/2015 21:38:38	09/12/2015 21:38:38	0.00	
	ARRIVED	09/12/2015 21:38:38	09/12/2015 21:38:38	0.00	
	ARRIVED	09/12/2015 21:38:38	09/12/2015 21:44:34	5.93	
	CLEARED	09/12/2015 21:44:34	09/12/2015 21:44:34	0.00	

## Call Notes

09/12/2015 21:36:54 (CCANTORIA)

JRS EAST MAIN FOUND DRUG PARA IN BATHROOM

09/12/2015 21:37:25 (CCANTORIA)

303 AR

09/12/2015 21:38:37 (CGUTIERREZ)

112 23

09/12/2015 21:41:48 (CGUTIERREZ)

303 CLR FROM JRS THEY RECOVERED A SPOON W/BURNT SUBSTANCE ON IT WILL DISPOSE OF IT BELEIVE MATT ROMERO WAS USING IT HE LEFT EB ON MAIN

## Detailed Report - Call #15017541

### Call Notes (continued)

09/12/2015 21:42:07 (CGUTIERREZ)

HE WAS WEARING GREEN SHIRT AND BACK PACK

**DISCLOSURE STATEMENT**

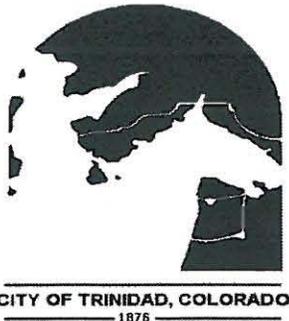
I, Michelle Miles, hereby state and affirm that I am a member of Opera House Wine & Spirits, LLC, a Colorado limited liability company formed on February 22, 2010, whose principal office address is 601 W. Main Street, Trinidad, Colorado, 81082; that said limited liability company owns and operates Tire 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

76

**CITY COUNCIL MEETING:** December 15, 2015 Regular Session  
**PREPARED BY:** Mike Valentine, Utility Director  
**PRESENTER:** Mike Valentine, Utility Director  
**DEPT. HEAD SIGNATURE:**   
**CITY MANAGER SIGNATURE:**

**SUBJECT:** Amended and Restated Mutual Aid and Assistance Agreement between ARPA member communities for Electrical Utilities

**RECOMMENDED CITY COUNCIL ACTION:** Consider the agreement for approval.

**SUMMARY STATEMENT:** This agreement came before council earlier this year and questions arose regarding liability and indemnification clauses. The issues were presented to ARPA legal counsel and changes were incorporated. The agreement is amended and restated because several member communities had agreed to the first draft.

**EXPENDITURE REQUIRED:** N/A

**SOURCE OF FUNDS:** N/A

**POLICY ISSUE:** N/A

**ALTERNATIVE:** The City can elect not to participate in the agreement.

### BACKGROUND INFORMATION:

- In the past the City of Trinidad Power and Light Department in conjunction with other ARPA member electric departments has aided other ARPA member communities with personnel and equipment in times of emergency. The most recent incident was to assist the town of Holly rebuild a mile of transmission line after the devastating tornado that hit a few years ago;
- There has never been any type of agreement for indemnification, coordination, or reimbursement/repayment of any kind;
- The member communities felt it prudent to draft an agreement for future mutual aid;
- No participant shall be required to provide any personnel, equipment, or expertise that it does not believe it is reasonably able to provide at its sole discretion.

### CONTACT FOR INFORMATION:

Mike Valentine, Utility Director  
719-846-9843, ext. 122

76

**Amended and Restated Mutual Aid and Assistance Agreement for  
Electric Utilities**

Between

ARKANSAS RIVER POWER AUTHORITY

and

The Colorado municipalities of Holly, La Junta, Lamar,  
Las Animas, Springfield and Trinidad

This Amended and Restated Mutual Aid and Assistance Agreement ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, by and among the Arkansas River Power Authority, a political sub-division of the state of Colorado, hereinafter called "Coordinator," and the Colorado municipalities of Holly, La Junta, Lamar, Las Animas, Springfield and Trinidad hereinafter called "Participants."

## Section 1

### Services to be Provided

1.1. Each of the Participants is a Colorado municipality that owns and operates an electric utility enterprise to provide retail electric service to end use customers within its municipal boundaries and, in some cases, to end use customers outside of its municipal boundaries pursuant to a Certificate of Public Convenience and Necessity. This Agreement is intended to provide for "Mutual Aid" among the Participants in cases of:

- a. **Emergency Work.** Emergencies caused by the destruction or damage of electric lines, equipment, or facilities on a scale that overtaxes the manpower, equipment and other facilities of one or more Participants and which results in a major breakdown of service; and
- b. **Operations Work.** Distribution, transmission, or other electric operations work, as identified by the Participants that may require manpower, equipment, or expertise that is in addition to the Participants' existing resources.

1.2. Under the terms of this Agreement, Coordinator shall be responsible only for the coordination of efforts among the Participants. Coordinator, as a corporate entity, has no manpower, equipment or facilities to pledge in assistance.

1.3. Coordinator will assist the Participants, as requested by the Participants, in coordinating available personnel and available equipment to aid the Participants in coordinating the Services that are the subject of this Agreement.

1.4. Attached as Exhibit A is a listing of all Participants that are signatories to this Agreement. Exhibit A may be modified by Coordinator from time to time.

1.5. It is agreed and understood among the parties that any obligations of performance created hereunder shall be performed solely by the Participant's electric utility enterprise, and nothing herein shall be construed to create a debt or pledge of the revenues of the Participant, nor shall this Agreement be construed as creating a multiple fiscal year obligation of the Coordinator or any of the Participants.

## **Section 2**

### **Pledge of Assistance**

2.1. In the event Emergency Work or Operations Work affecting one or more of the Participants arises, the Participants pledge and agree to come to the aid and assistance of a Participant, hereinafter called the "Assisted Participant." Any Participant providing aid and assistance shall hereinafter be called an "Assisting Participant."

2.2. The Participants pledge to aid one another, as follows:

- a. Upon the request of the Assisted Participant, made directly to a Participant or through Coordinator, each Assisting Participant will make such of its personnel, equipment, and expertise available to the Assisted Participant as the Assisting Participant can reasonably provide in its sole discretion. No Participant shall be required to provide any personnel, equipment or expertise that it does not believe it is reasonably able to provide in its sole discretion.
- b. The Assisted Participant shall be responsible to pay all of its own costs, as well as the costs of the Assisting Participants, as provided in this Agreement.
- c. The Assisted Participant will release Assisting Participants' personnel and equipment from any obligations of performance as soon as reasonably practical.
- d. In the event any Assisting Participant determines it can no longer provide assistance, it shall notify the Assisted Participant and shall be released from the work as soon as is reasonably possible.

## **Section 3**

### **Liability**

3.1. In performing any work or providing assistance under the terms of this Agreement, each Participant shall be responsible only for its own actions and those of its officers, agents, employees and directors, as it does with its day-to-day operations. All Participants in the Agreement represent that their employees are properly trained and equipped and that they have received safety training in accordance with the American Public Power Association (APPA) Safety Manual.

3.2. Coordinator makes no representations, and assumes no liability, regarding the adequacy or inadequacy of any individual Participant's equipment or facilities, or as to the adequacy or inadequacy of any of the Participants' employees or their training, or the performance of any work by the employees, agents or contractors of any Participant.

3.3. To the extent permitted by law, each Participant ("Indemnifying Participant") in this Agreement hereby agrees to indemnify, defend and hold Coordinator, the other Participants, and their respective officers, agents, employees, and directors, harmless from and against any and all claims, demands, damages or expenses for which such Indemnifying Participant is determined to be legally liable resulting from negligent acts, errors, or omissions by such Indemnifying Participant in the performance of services required of it pursuant to this Agreement.

3.4. Neither the Participants nor the Coordinator, nor their respective officers, agents, employees and directors shall be liable for incidental or consequential damages.

3.5. Nothing in this Agreement shall be construed to create a duty to any standard of care with reference to or any liability to any person not a Party to this Agreement. Neither the Participants nor the Coordinator, nor their respective officers, agents, employees, nor their directors, shall be liable to third Parties or others not a Party to this Agreement, unless such potential liability is expressly recognized and agreed to in this Agreement.

3.6. Nothing in the Agreement shall be construed as a waiver of immunity under the Colorado Government Immunity Act, C.R.S. § 24-10-101, et seq., or any similar limitation on liability applicable to municipal entities.

3.7. Each Participant, during the term of this Agreement, shall keep and maintain such insurance as is necessary to protect the interests of the Participant and its employees, agents or contractors. Such insurance shall include, but not be limited to:

- a. Worker's Compensation and Employers' Liability for the State of Colorado (as may be required by law)
- b. General Liability
- c. Automobile Liability coverage

3.8. Employer's liability insurance: Limits for the coverages required above, and all other liability insurance shall be in the amount of at least \$500,000 per claim/occurrence. Each Participant shall file a certificate with Coordinator confirming that the required insurance is in full force and effect and each Participant shall keep such certificate continuously current.

## **Section 4**

### **Responsibilities of Assisting Participant**

- 4.1. Each Assisting Participant will:
- a. Provide personnel, including foremen, trained in accordance with the APPA Safety Manual and provided with proper equipment, including safety equipment, in good working order.
  - b. Provide an accurate and complete inventory of materials delivered to the Assisted Participant and provide an accurate account of hours worked and equipment used.
  - c. Work in collaboration with the Assisted Participant to identify and inform its own personnel of expected working conditions including but not limited to safety rules and procedures as set forth by the Participants, specifications for construction, repair, and maintenance work, and the need for continued coordination and communication between all Participants.
  - d. Submit final itemized bill to Assisted Participant within 90 days after completion of work for all costs to Assisted Participant.

## **Section 5**

### **Responsibilities of Assisted Participant**

- 5.1. The Assisted Participant will:
- a. Organize and integrate all Assisting Participants' personnel and equipment with its own personnel and equipment.
  - b. Provide necessary liaison services with each crew or group of units operating, as necessary.
  - c. Provide, as necessary, each crew from Assisting Participants with necessary schematics and diagrams of the Assisted Participant's system, showing to the extent possible, source of supply, direction of feed, and location of sectionalizing equipment.
  - d. Request from Assisting Participants equipment of proper capability and personnel with the proper skills, to perform the necessary work.
  - e. Provide procedures to properly account for materials used and retired, hours worked by its own employees, distribution of time charged to maintenance, operation, construction, etc., and transportation of equipment.

- f. Work in collaboration with the Assisting Participant(s) and its personnel to identify expected working conditions, safety rules and procedures, and specifications for construction, repair, and maintenance work.
- g. Inform the Assisting Participant when the work is completed.
- h. The Assisted Participant, in cooperation with the Assisting Participant, shall assign work to the Assisting Participant and they shall work as a unit under direct supervision of their own supervisors unless mutually agreed to by the Parties.

## **Section 6**

### **Materials**

- 6.1. Each Assisting Participant may provide, in its sole discretion, any materials requested by the Assisted Participant.
- 6.2. The Assisting Participant furnishing materials shall maintain records of materials furnished.
- 6.3. The Assisted Participant shall indicate the amount, if any, of materials to be returned to the Assisting Participant that supplied the materials within ten (10) days after the completion of the Emergency Work or Operations Work. If the Assisted Participant fails to provide notice of the materials to be returned within this time, it shall be conclusively presumed that all such materials will be purchased by the Assisted Participant.
- 6.4 The above paragraphs on "Materials" shall not prevent any outside or special arrangements between the Assisted Participant and any Assisting Participant.

## **Section 7**

### **Transportation and Other Equipment**

- 7.1. Vehicles and specialized equipment shall be operated only by personnel of the Participant owning such vehicles or equipment, unless otherwise agreed to by the parties. All equipment operators shall be properly trained in the operation of such equipment.
- 7.2. The Assisting Participant shall be responsible for all its own vehicle operating supplies and repair parts such as fuel, oil, tire, etc., unless the parties have agreed otherwise.

7.3. Crew supervisors shall keep an accurate daily log of the hours or miles of operation on all transportation and other equipment.

## **Section 8**

### **Safety Rules**

8.1. All personnel shall comply with the APPA Safety Manual and any existing safety rules and procedures of their individual utilities. Additional safety rules may be established by the Assisted Participant as conditions require, provided they do not decrease the margin of safety.

8.2. The Assisted Participant shall provide a dispatching system which will ensure safety by maintaining control over lines and equipment being worked on and shall be the final clearing house and authority.

8.3. The parties agree that all personnel performing Emergency Work or Operations Work shall comply with the following minimum safety rules, in addition to any such other safety rules as may be established:

- a. Hardhats shall be worn at all times while performing the Services as described herein.
- b. A visible opening of switches is required and ground clusters shall be used at all times while working on de-energized power lines.
- c. Rubber gloves rated for the voltage being worked on shall be used while working on energized power lines. Rubber sleeves may also be required.
- d. In no case shall Assisting Participant personnel be required to work under safety regulations which are less restrictive than those of their own systems.

## **Section 9**

### **Personnel**

9.1. Personnel shall be supplied by the Assisting Participants, in their sole discretion, at the request of the Assisted Participant. All such personnel performing work for the Assisted Participant under the terms of this Agreement shall be paid pursuant to their own utility's policies and procedures.

9.2. If required, Assisting Participants should furnish a crew coordinator if they supply more than one working crew to the Assisted Participant.

9.3. The Assisted Participant shall make arrangements for meals and lodging for personnel furnished by the Assisting Participants. Employees, agents and contractors of Assisting Participants shall pay for their own meals and lodging expense and shall bill the Assisted Participant for the actual cost of meals and lodging expenses, unless other arrangements may be made by the Assisted Participant to pay for such expenses.

## **Section 10**

### **Billing**

10.1. For services, materials, supplies, and equipment supplied by the Assisting Participant, the Assisted Participant shall pay to the Assisting Participant the sum of the following:

- a. Material and supplies billed at replacement cost including storeroom handling charges at the then prevailing rate of the Assisting Participant.
- b. The actual "out-of-pocket" labor costs, including the Assisting Participant's current percentages applicable for labor overheads, which includes vacation, sick leave, holidays, Workmen's Compensation insurance, social security, retirement, medical insurance, etc. Direct engineering and supervision will be included as a labor charge.
- c. For food, lodging and subsistence expenses in the amount actually incurred.
- d. For truck, automobile, and equipment expenses at the Assisting Participants prevailing "charge-out" rate, which includes a tool charge adder.

10.2. In the event the Assisted Participant desires to dispute all or any part of the charges submitted by an Assisting Participant, the Assisted Participant shall pay the full amount of the charges when due and give notification to the Assisting Participant in writing within sixty (60) days from the date of the invoice stating the specific grounds on which the charges are disputed and the amount in dispute. If the parties are unable to resolve the dispute among themselves, they shall submit the dispute to the Coordinator who shall gather all relevant information and submit it to the ARPA Executive Committee for resolution. The decision of the Executive Committee shall be final and binding on the parties. Those members of the Executive Committee who's Utility is directly involved in the dispute shall not be included in the dispute resolution process. The complaining Participant will not be entitled to any adjustment on account of any disputed charges which are not brought to the attention of the Participant within the time and manner herein prescribed. If settlement of the dispute results in a refund, interest at one percent (1%) per month or fraction thereof shall be added to the refund.

## **Section 11**

### **Term of Agreement**

11.1. This Agreement shall become effective and binding upon the Parties immediately after they have executed this Agreement.

11.2. Any Participant may terminate its participation in this Agreement provided that:

- a. It has fulfilled all of its obligations hereunder; and
- b. It has provided ninety (90) days written notice to Coordinator, which will then send written notice to all other Participants notifying them of the termination.

11.3. Coordinator may terminate its participation in this Agreement on ninety (90) days written notice to all Participants.

11.4. In the event a Participant fails to perform its obligations pursuant to this Agreement, Coordinator shall give written notice to such Participant specifying such failure to perform and establishing a reasonable period that Participant shall have to fulfill its obligations pursuant to this Agreement. In accordance with such notice, Coordinator shall review the performance of such Participant and if the failure to perform its obligation is continuing, Coordinator may immediately terminate such Participant's participation in this Agreement.

11.5. Any Participant that terminates its participation, or is terminated, shall continue to fulfill any contractual obligation under this Agreement with respect to pending Emergency Work or Operations Work until completion, including the payment of any sums due to any party hereunder; provided, however, that no Participant shall be bound by any amendment of this Agreement which becomes effective after a Participant has provided notice of its intent to terminate its participation in this Agreement.

## **Section 12**

### **General**

12.1. Any formal notice, demand, or request required or authorized by this Agreement shall be deemed properly given if hand delivered, mailed postage prepaid, or sent via e-mail to Coordinator and to the City/Town Clerk of the Participant concerned at the address of such Participant.

12.2. No Participant shall assign its rights or obligations under this Agreement without the consent in writing of the other Participants and Coordinator. Coordinator shall not assign its rights or obligations under this Agreement without the consent in writing of all Participants or in connection with the sale and merger of a substantial portion of its assets.

12.3. The laws of the State of Colorado shall govern this Agreement.

12.4. No modification or amendment to this Agreement and no waiver of any provision shall be valid unless in writing, signed by duly authorized representatives of all the Parties. The validity or invalidity of any provision of this Agreement will not affect the validity or enforcement of any other provision of this Agreement. All provisions of this Agreement shall be deemed severable, and to the extent any provision of this Agreement is deemed unenforceable or invalid as a matter of law, all other terms and conditions shall remain in full force and effect.

12.5. A separate copy of this Agreement will be executed by each Participant when it becomes a Party to the Agreement. When the Party has executed a copy, its separately executed copy will be joined together with all other similarly executed copies and one conformed master copy of said Agreement shall be prepared, which shall bind all of the parties to the same extent and purpose as if all of said parties had joined in the execution of said master copy.

12.6. IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed by its duly authorized officer as of the date and year shown below.

**COORDINATOR  
ARKANSAS RIVER POWER  
AUTHORITY**

By: \_\_\_\_\_  
Title: General Manager  
Date: \_\_\_\_\_

**PARTICIPANT**

\_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## Exhibit A

Participants to this Mutual Aid Agreement are as follows:

Town of Holly  
100 Tony Garcia Drive  
PO Box 458  
Holly, CO 81047  
Town Phone: 719.537.6622  
Administrator – Jerry L' Estrange  
Direct: 719.537.6633  
Cell:

City of La Junta  
601 Colorado Avenue  
PO Box 489  
La Junta, CO 81050  
City Phone: 719.384.5991  
Electric Superintendent-Reuben  
DeLeon  
515 Lacey Street  
Electric Dept. Phone: 719.384.8454  
Cell: 719.980.1860

City of Lamar  
102 East Parmenter  
Lamar, CO 81052  
City Phone: 719.336.4376  
Lamar Utilities Board  
Superintendent-Houssin Hourieh  
100 North Second Street  
Lamar, CO 81052  
Phone: 719.336.7456  
Cell: 719.688.0985

City of Las Animas  
532 Carson  
PO Box 271  
Las Animas, CO 81054  
City Phone: 719.456.0422  
Utilities Electric Superintendent-  
Ron Clodfelter  
Direct: 719.456.2013  
Cell: 719.469.0260

Town of Springfield  
748 Main Street  
PO Box 4  
Springfield, CO 81073  
Town Phone: 719.523.4528  
Utilities Electric Superintendent-  
  
Cell: 719.529.0739

City of Trinidad  
135 North Animas Street  
PO Box 880  
Trinidad, CO 81082  
City Phone: 719.846.9843  
City Manager-Gabe Engeland  
Cell:  
Utilities Foreman-Dean Duran  
Cell: 719.680.1417

COORDINATOR  
Arkansas River Power Authority  
3409 South Main Street  
PO Box 70  
Lamar, CO 81052  
Office Phone: 719.336.3496  
General Manager-Rick Rigel  
Cell: 719.688.0984

For additional contact information  
and utility information please refer  
to Mutual Aid Contact Booklet.



## COUNCIL COMMUNICATION

7c

**CITY COUNCIL MEETING:** December 15, 2015 Regular Mtg  
**PREPARED BY:** Audra Garrett, Asst. City Manager  
**PRESENTER:** Audra Garrett, Asst. City Manager  
**DEPT. HEAD SIGNATURE:** *Audra Garrett*  
**CITY MANAGER SIGNATURE:**

**SUBJECT:** Consideration of appointment to ARPA Board

**RECOMMENDED CITY COUNCIL ACTION:** Consider an appointment of a new individual or reappointment of Councilmember Pat Fletcher.

**SUMMARY STATEMENT:** N/A

**EXPENDITURE REQUIRED:** No

**SOURCE OF FUNDS:** N/A

**POLICY ISSUE:** Requirement of ARPA Organic Contract

**ALTERNATIVE:** N/A

### BACKGROUND INFORMATION:

ARPA submitted a letter to the City indicating that Councilmember Fletcher's term on the ARPA Board of Directors is set to expire on December 31, 2015. Council is required to fill the seat for a four-year term beginning 1/1/2016 through 12/31/2019.

### CONTACT FOR INFORMATION:

Audra Garrett, Asst. City Manager  
(719) 846-9843, ext. 135

7c



Rick Rigel, *General Manager*  
P O Box 70  
Lamar, Colorado 81052  
Phone: (719) 336-3496  
Fax: (719) 336-5966  
E-mail: rrigel@arpapower.org

September 16, 2015

Audra Garrett  
City of Trinidad  
P O Box 880  
Trinidad, CO 81082

Dear Audra:

According to our records, Pat Fletcher's term on the ARPA Board of Directors expires on December 31, 2015. Per section 2.5.2 - 2.5.3 of the Organic Contract, "each Director shall file a certified copy of the appropriate action taken by the Municipality evidencing his/her appointment." A copy of this section of the Contract is enclosed for your information.

At your convenience, please send notification to ARPA confirming Pat's reappointment, or stating the appointment of a new individual, for the four-year-term of January 1, 2016-December 31, 2019. This confirmation may in the form of a resolution, or a copy of your governing board's meeting minutes; however, please note that this information must be certified by a notary or the City Clerk.

If you have any questions regarding this matter, please feel free to call me. Thank you in advance for your time and attention to this matter.

Sincerely,

Arvenia L. Morris  
Office Manager

Enclosure

2.5.2            APPOINTMENT:    The governing body of each of the Municipalities (acting alone, or with the concurrence of its Utilities Board, Power Board, or other appropriate local agency, in the discretion of the governing body, unless such concurrence be required by home rule charter or other applicable law) shall appoint two (2) members to the Board of Directors. Each Director so appointed shall be a citizen and resident of the appointing Municipality, or a customer receiving electric service within the appointing Municipality's service area.

The City Council or City Commission may seek the advice of its Power Board or Utilities Board prior to making the appointments required hereunder. Further, the City Council or Commission may, but shall not be required to, request that its Power Board or Utilities Board submit a list of qualified candidates to the City Council or Commission to assist the members thereof in making the appointments to the Board of Directors.

Each Director shall file with the Board of Directors a certified copy of the appropriate action taken by the Municipality evidencing his appointment. The initial appointments to the Board and the term of office of the Directors shall be made in accordance with Section 2.5.3.

2.5.3            TERM:

INITIAL BOARD OF DIRECTORS

Each Municipality shall nominate and appoint its two (2) representatives to serve on the initial Board of Directors in the following manner:

a.            One Director shall be appointed by each Municipality to serve an initial term to expire on December 31, 1985 and until his successor is appointed and written notice thereof has been received by the Authority.

b. The second representative appointed to the initial Board by each Municipality shall serve a term to expire on December 31, 1983 and until his successor is appointed and written notice thereof has been received by the Authority.

APPOINTMENTS SUBSEQUENT TO EXPIRATION OF  
TERM OF INITIAL BOARD OF DIRECTORS

Successive representatives on the Board of Directors shall be appointed for a period of four (4) years and until their successors are appointed and written notice of such appointments has been received by the Authority.

2.5.4 REMOVAL: Any Director appointed by a Municipality may be removed at any time by such Municipality, with or without cause.

2.5.5 VACANCIES: A vacancy occurring on the Board of Directors, whether such vacancy be the result of resignation, death, removal or disability, shall be filled by the appointment of a successor Director by the Municipality which appointed the Director whose office has become vacant. Any such successor Director so appointed shall serve the unexpired remainder of the term of the Director causing the vacancy.

2.5.6 COMPENSATION: Directors shall not receive compensation for their services, but the Board of Directors may, by resolution, provide for reimbursement to Directors of their actual expenses for attendance at meetings of the Board of Directors and for expenses otherwise incurred on behalf of the Authority.

2.5.7 ANNUAL MEETINGS: An annual meeting of the Board of Directors shall be held on the second Tuesday in January in each year at such time and place as shall be designated in the notice of the meeting, for the purpose of



## COUNCIL COMMUNICATION

7d

**CITY COUNCIL MEETING:** December 15<sup>th</sup>, 2015 Council Meeting  
**PREPARED BY:** Anna Mitchell, Asst. to the City Manager  
**PRESENTER:** Anna Mitchell, Asst. to the City Manager  
**DEPT. HEAD SIGNATURE:**  
**CITY MANAGER SIGNATURE:** *Anna Mitchell*

**SUBJECT:** DOLA Grant Submission Resolution: Water and Sewer Infrastructure

**RECOMMENDED CITY COUNCIL ACTION:** Review and approve the Resolution to submit the DOLA Grant application for the December 1<sup>st</sup>, DOLA Grant Round.

**SUMMARY STATEMENT:** Submitting an application for matching funds of \$1.5 million dollars to go towards the City's Water and Sewer Infrastructure creating a total project of \$3 million dollars.

**EXPENDITURE REQUIRED:** \$1.5 million in matching funds

**SOURCE OF FUNDS:** CIP and Water Reserves

**POLICY ISSUE:** Water Infrastructure

**ALTERNATIVE:** N/A

### BACKGROUND INFORMATION:

- The City of Trinidad is seeking funds to improve the water and sewer infrastructure within the heart of our downtown area to improve the amount of water loss as well as update infrastructure that is at least 50 years past the normal life cycle. The new infrastructure would allow for additional upgrades to be made to the sewer system as well. The completion of this project will allow for better water and sewer services to be provided to the citizens of Trinidad.

**CONTACT FOR INFORMATION:** Anna Mitchell, Asst. to the City Manager  
719-846-9843, ext. 133

7d



RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO, APPROVING SUBMISSION OF A GRANT APPLICATION TO THE COLORADO DEPARTMENT OF LOCAL AFFAIRS TO SEEK FUNDING FOR IMPROVED WATER AND SEWER INFRASTRUCTURE

WHEREAS, the City of Trinidad has an opportunity to submit a grant application to the Colorado Department of Local Affairs, seeking funding for the replacement of water infrastructure and the improvement of sewer infrastructure; and

WHEREAS, the City has needed the improvement of these infrastructures for many years on at least seventy five percent (75%) of the City of Trinidad water infrastructure; and

WHEREAS, Capital Improvement funds have been set aside to contribute to the improvement of the water and sewer infrastructures; and

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

The City Council of the City of Trinidad hereby approves submission of a grant application to the Colorado Department of Local Affairs to seek funding for improved water and sewer infrastructures.

INTRODUCED, READ AND ADOPTED this 15<sup>th</sup> day of December, 2015.

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JOSEPH A. REORDA, Mayor

ATTEST:

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KIM MARQUEZ, Asst. City Clerk