



**CITY OF TRINIDAD
TRINIDAD, COLORADO**

The City Council of the City of Trinidad, Colorado,
will hold its regular Work Session on Tuesday, March 10, 2015 immediately following the Special
Meeting at 1:30 P.M.
in City Council Chambers at City Hall, Third Floor, City Hall

AGENDA

1. Petitions and Communications, Oral or Written
2. Consideration of the lease agreement for the Trinidad Municipal Golf Course Clubhouse at 1415 Nolan Drive with Ristras Restaurant and Cantina, LLC d/b/a Ristras Restaurant and Cantina
3. Consideration of Marketing Contract between ZIV, LLC, and the City of Trinidad, by and through the Trinidad Tourism Board
4. Consideration of Las Animas County E-911 Emergency Communications Authority applicants for appointment to the Authority board
5. Further discussion and consideration of the Monument Lake Resort Contract, and pertaining to Mike Robb and Westland Resources, LLC
6. Consideration of bid results for the Commercial Street Improvements Project #07-2015
7. Consideration of bid results for the Kit Carson Park Bandstand Remediation, Project #06-2015
8. Discussion of other agenda items



COUNCIL COMMUNICATION

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CITY COUNCIL MEETING: March 10, 2015 Work Session
PREPARED BY: Les Downs, City Attorney
PRESENTER: Les Downs, City Attorney
DEPT. HEAD SIGNATURE:
CITY MANAGER SIGNATURE:

SUBJECT: Consideration of the lease agreement for the Trinidad Municipal Golf Course Clubhouse at 1415 Nolan Drive with Ristras Restaurant and Cantina, LLC d/b/a Ristras Restaurant and Cantina

RECOMMENDED CITY COUNCIL ACTION: To consider forwarding this item to the regular meeting of March 17th, 2015, and to afford you the opportunity to further discuss this proposed agreement before doing so.

SUMMARY STATEMENT: To consider this agreement, as the bid proposal was submitted as the only response to the RFP for the golf course restaurant.

EXPENDITURE REQUIRED: No, other than to allow the financial arrangement as submitted in the proposed lease agreement, as it was contained in the original bid.

SOURCE OF FUNDS: N/A

POLICY ISSUE: No

ALTERNATIVE: Do not accept the bid/lease agreement

BACKGROUND INFORMATION: Previously provided, and the appropriate documents are enclosed in this packet.

CONTACT FOR INFORMATION: Les Downs, City Attorney, 846-9843, ext. 120

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LEASE AGREEMENT

REGARDING THE CLUBHOUSE AT TRINIDAD MUNICIPAL GOLF COURSE

*Between the City of Trinidad, Colorado, as Landlord,
and Ristras Restaurant and Cantina, LLC, as Tenant*

March 17, 2015

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LEASE AGREEMENT

THIS LEASE AGREEMENT ("**Lease**") is made as of the 17th day of March, 2015, by and between the *City of Trinidad, Colorado*, a home rule municipal corporation located in the County of Las Animas, State of Colorado (hereinafter, "the "**City**" or "**Landlord**"), and Ristras Restaurant and Cantina, LLC, a corporation of the State of Colorado (hereinafter, "**Tenant**").

RECITALS:

- A. WHEREAS, the City is the owner of a golf course clubhouse building (the "**Building**") located at 1415 Nolan Drive in the City of Trinidad, Colorado. The Building, the land upon which the Building is located, and all improvements thereon and appurtenances thereto are collectively referred to herein as the "**Premises**."
- B. WHEREAS, the Premises are contiguous to and serve the Trinidad Municipal Golf Course (the "**Golf Course**"), which is a nine-hole, natural turf golf course located on approximately 84 acres of land area within the City of Trinidad, Colorado.
- C. WHEREAS, Tenant desires to lease the Premises from the City, and the City is willing to lease the Premises to Tenant, upon the terms, conditions, covenants and agreements set forth herein.
- D. WHEREAS, the City has awarded this Lease pursuant to a competitive request for proposal process.

NOW, THEREFORE, in consideration of the foregoing recitals, the covenants and agreements herein set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending legally to be bound, hereby covenant and agree as set forth below.

ARTICLE 1. LEASE OF PREMISES

The City hereby leases to Tenant, and Tenant hereby leases from the City, for the term and upon the terms, conditions, covenants, and agreements herein provided, the Premises, consisting of approximately 5,485 square feet of building area and approximately 8,090 square feet of land area, as determined by agreement of the parties. The Premises shall not be subject to re-measurement, and the actual square footage shall in no way affect the fixed rent or any other sum payable hereunder, or any other provision of this Lease, should any variance be found to exist between said agreed-upon square footage and actual square footage. The Premises are highlighted on the Improvement Location Certificate attached as Exhibit A hereto and incorporated herein by this reference. The Premises are located entirely within the land parcel (the "**Property**") legally described in Exhibit A; however, the Premises encompass only that portion of the Property that is highlighted in Exhibit A.

ARTICLE 2. LEASE TERM

2.1 Term.

- (a) The term of this Lease ("**Lease Term**") shall commence on the Lease Commencement Date (as hereinafter defined), and shall last for a term of one year. Said lease may be renewable at the election of both parties, with said renewal terms also being for a period of one year. At the conclusion of the lease period for this one year term, said lease will be renegotiated. It is not contemplated by the parties that this lease agreement will

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automatically renew, and that is fully understood by both parties at the beginning of this lease term.

- (b) As used herein, the first "Lease Year" shall mean the period commencing on the Lease Commencement Date and continuing for any partial calendar month in which the Lease Commencement Date occurs and for twelve (12) full calendar months thereafter. Each successive twelve (12) month period thereafter during the Term shall constitute a subsequent "Lease Year," except that the last Lease Year shall end on the expiration of this Lease.
- (c) If the City is unable to give possession of the Premises because a certificate of occupancy or its equivalent has not been issued, or if repairs to or improvements of the Premises are not completed, or for any other reason, then, except as may be expressly stated elsewhere in this Lease, the City shall not be subject to any liability for the failure to give possession and no such failure to give possession shall in any other respect affect the validity of this Lease or the obligations of Tenant, nor shall the same extend the Lease Term.

2.2 Lease Commencement Date.

- (a) The Lease Commencement Date shall be March 17, 2015, or the date on which Tenant commences beneficial use of the Premises, whichever date occurs first ("**Lease Commencement Date**"). Tenant shall be deemed to have commenced beneficial use of the Premises when Tenant begins to move furniture and furnishings into the Premises and such beneficial use shall be deemed to be an acceptance of the nature and sufficiency of the entire Premises.
- (b) Promptly after the Lease Commencement Date, Landlord and Tenant, upon the request of either, shall execute a certificate in the form attached hereto as Exhibit B, setting forth the Lease Commencement Date and the date on which the Lease Term shall expire.

2.3 Extension Option.

- (a) It is contemplated that this lease will be renegotiated at a later date. There are no automatic renewal options being contemplated, at least not for the current terms of this lease agreement.

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**ARTICLE 3.
RENT**

3.1. Fixed Rent.

- (a) Tenant shall pay to Landlord as "**Fixed Annual Rent**" for each Lease Year for the Premises, without notice, set-off, counterclaim, deduction or demand, the following amounts:

Lease Year	Fixed Annual Rent	Fixed Monthly Rent
1	\$9,999.96	833.33
2		
3		
4		
5		

- (b) Fixed Annual Rent shall be payable in equal monthly installments beginning on the Lease Commencement Date and thereafter monthly, in advance, on the first day of each month during the Lease Term (each such monthly installment being referred to herein as "**Fixed Monthly Rent**"). Concurrently with the signing of this Lease, Tenant shall pay to Landlord a sum equal to one (1) month's Fixed Monthly Rent, which sum shall be credited by the City against the Fixed Monthly Rent due for the first (1st) full calendar month of the Lease Term for which Fixed Annual Rent is payable.
- (c) If the Lease Commencement Date is a date other than the first day of a month, rent from such date until the first day of the following month shall be prorated at the rate of one-thirtieth (1/30th) of the Fixed Monthly Rent for each day and shall be payable on the Lease Commencement Date.

3.2. Late Payment; Interest Charge. If Tenant fails to make any payment of rent on or before the date such payment is due and payable, Tenant shall pay to Landlord a late charge of five percent (5%) of the amount of such payment, together with interest on said overdue amount from the due date until paid at the rate of eighteen percent (18%) per annum or such lesser rate as may be the maximum allowed by applicable Colorado law. Such late charges and interest shall constitute additional rent due hereunder, shall be paid within five (5) days after demand therefor by Landlord, and shall be in addition to all other rights and remedies provided to Landlord in this Lease.

3.3. Rent Generally. As used in this Lease, "rent" includes all Fixed Annual Rent, Fixed Monthly Rent, all sums payable under Article 4, all additional rent and all other sums due to Landlord under this Lease, however called. All rent payable by Tenant shall be paid to Landlord in lawful money of the United States of America at the office of Landlord or to such other party or to such other address as Landlord may designate from time to time by written notice to Tenant. Unless specifically stated otherwise in this Lease, all rent payable under this Lease shall be paid in full by Tenant, in advance, without notice or demand and without set-off, deduction, recoupment, abatement, counterclaim, or adjustment of any kind. Tenant's covenant to pay rent is an independent covenant. If Landlord shall at any time or times accept rent to which Landlord is entitled hereunder after the same shall become due and payable, such acceptance shall not excuse a delay upon subsequent occasions, or constitute, or be construed as, a waiver of any or all of Landlord's rights hereunder. Tenant's obligation for the payment of rent shall survive the expiration or sooner termination of this Lease.

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**ARTICLE 4.
SECURITY DEPOSIT**

- 4.1 Definition.** Simultaneously with the execution of this Lease, Tenant shall deposit with Landlord the sum of Three Thousand Dollars (\$3,000.00) as a security deposit. Landlord shall not be required to maintain the Security Deposit in a separate account. The Security Deposit shall not earn interest unless required by applicable Colorado law. The Security Deposit shall be security for the performance by Tenant of all of Tenant's obligations, covenants, conditions, and agreements under this Lease.
- 4.2 Application.** In the event of any default by Tenant hereunder during the Lease Term, Landlord shall have the right, but shall not be obligated, to use, apply, or retain all or any portion of the Security Deposit for (a) the payment of any rent as to which Tenant is in default, or (b) the payment of any amount which Tenant may be obligated to pay to repair physical damage to the Premises or the Building pursuant to this Lease, or (c) the payment of any amount which Tenant may be obligated to pay for the compensation to Landlord for any losses incurred by reason of Tenant's default, including, but not limited to, any damage or deficiency arising in connection with the reletting of the Premises. If any portion of the Security Deposit is so used or applied, then within three (3) business days after written notice to Tenant of such use or application, Tenant shall deposit with Landlord cash in an amount sufficient to restore the Security Deposit to its original amount, and Tenant's failure to do so shall constitute a default under this Lease. The Security Deposit is not a measure of damages or liquidated damages, and Landlord's use of the Security Deposit is not a waiver of its other rights and remedies. Provided Tenant is not in default hereunder, Landlord shall return the Security Deposit to Tenant, less such portion thereof as Landlord shall have applied or be entitled to apply to satisfy any default by Tenant hereunder, within forty-five (45) days following the later to occur of the expiration of the Lease Term or the vacating and surrendering of the Premises by Tenant to Landlord.

**ARTICLE 5.
USE**

- 5.1 Permitted Use.** Tenant shall use and occupy the Premises for restaurant, bar, golf course clubhouse, and banquet/special event purposes and for no other use or purpose. Tenant shall not use or occupy the Premises for any unlawful purpose or in any manner that will constitute waste, nuisance, or unreasonable annoyance to Landlord. Tenant shall operate its business in the Premises under the trade name "Ristras Restaurant and Cantina" and no other trade name. Tenant hereby covenants to continuously operate in the Premises and to do so in a manner befitting a first-class restaurant and bar operation in a first-class building. Without limiting the foregoing, Tenant agrees to keep the Premises open for business between the hours of 8:00 a.m. and 8:00 p.m. during the golf season extending from April through November of each calendar year, and 11:00 a.m. through 8:00 p.m. during the off-season extending from December through March of each calendar year, or such other hours as Landlord may designate from time to time, well-stocked and fixtured and with an appropriate number and quality of personnel to maximize sales.
- 5.2 Compliance with Laws.** Tenant shall comply with all present and future laws, statutes, ordinances (including zoning ordinances and land use requirements), codes, rules, regulations, and orders of the United States of America, the State of Colorado, the City of Trinidad, Colorado, and any other public or quasi-public authority having jurisdiction over the Premises concerning the use, occupancy, facilities in and condition of the Premises and all machinery, equipment, facilities, entrances thereto, exits therefrom, and furnishings therein.

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5.3 Environmental Laws.

- (a) Tenant shall not use any portion or all of the Property for the use, generation, treatment, storage or disposal of "toxic substances," "contaminants," "pollutants," "hazardous materials," "hazardous waste," "hazardous substances" or "oil" (collectively, "**Hazardous Materials**"), as such terms are defined under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 *et seq.*, as amended, the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*, as amended, and any and all other environmental statutes which regulate the use of hazardous and/or dangerous substances, and the regulations promulgated thereunder and any and all state and local laws, statutes, codes, ordinances, rules and regulations, without the express prior written consent of Landlord, and then only to the extent that the presence and/or discharge of the Hazardous Materials is (i) properly licensed and approved by all appropriate governmental officials and in accordance with all applicable laws and regulations and (ii) in compliance with any terms and conditions stated in said prior written approval by Landlord. Notwithstanding the foregoing, Tenant may use such Hazardous Materials as are used for ordinary purposes in the ordinary course of Tenant's business, provided that such use is in accordance with all applicable statutes, laws, codes, ordinances, rules and regulations, and any manufacturer's instructions. Tenant shall be solely responsible for removing all such permitted Hazardous Materials from the Property at Tenant's sole cost and expense, and Landlord shall have no liability or obligation with respect thereto. Notwithstanding the permitted use of certain Hazardous Materials, Tenant may not discharge any Hazardous Materials except as provided by applicable statutes, laws, codes, ordinances, rules and/or regulations, and specifically may not discharge any Hazardous Materials in any public sewer or any drain and/or drainpipe leading or connected thereto. Tenant shall promptly give written notice to Landlord of any communication received by Tenant from any governmental authority or other person or entity concerning any complaint, investigation, or inquiry regarding any use, generation, treatment, storage, or disposal (or alleged use, generation, treatment, storage or disposal) by Tenant of any Hazardous Materials. Landlord shall have the right (but not the obligation) to conduct such investigations or tests (or both) as Landlord shall deem necessary with respect to any such complaint, investigation, or inquiry, and Tenant, at its expense, shall take such action (or refrain from taking such action) as Landlord may request in connection with such investigations and tests by Landlord.
- (b) The parties acknowledge that mold is a naturally occurring substance in many buildings and that there are concerns about the effect of certain molds on health, even if there is no scientific evidence supporting those fears. Landlord and Tenant represent and warrant to each other that neither has any actual knowledge of mold in the Building. In the event that Tenant hereafter obtains actual knowledge of mold in the Building or that Landlord hereafter obtains actual knowledge of mold in the Building and believes that such mold could have an adverse effect on the health of any person of normal susceptibility in the Premises, the party with such knowledge shall promptly notify the other party. The parties shall then attempt in good faith to address any health concerns relating thereto and ameliorate the same consistent with the then-current state of scientific knowledge and industry standard in comparable buildings.
- (c) Notwithstanding anything in this Lease to the contrary, Tenant shall not materially adversely affect (as determined by Landlord) the indoor air quality of the Premises or the Building; without limiting the preceding clause, it shall apply to (and take precedence over any other provision of this Lease concerning) the use of the Premises, the type of equipment, furniture, furnishings, fixtures and personal property that may be brought into the Premises, the construction materials used in Tenant improvements, the standard of

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maintenance required for the Premises, and compliance with any smoking policy now or hereafter adopted for the Building by Landlord or required by law.

- (d) This Section shall survive the expiration or termination of this Lease.

**ARTICLE 6.
PLAN OF OPERATION**

Tenant shall be required to submit to the City Manager an annual Plan of Operation by February 1st of each year of the Lease Term. Said Plan of Operation shall describe Tenant's proposed operation of the Premises for the ensuing Lease Year, including:

- A pro forma budget;
- Days and hours of operation;
- Menu(s) and pricing;
- Marketing plan for advertising and promoting the Premises;
- Planned improvements such as additional equipment, seating, furnishings, *etc.*; and
- Number of employees.

Upon receipt of Tenant's Plan of Operation, the City Manager shall submit the Plan of Operation to the City Council. The City shall have thirty (30) days to evaluate Tenant's Plan of Operation and provide written response. Failure on the part of the City to respond in writing within said thirty (30) day period shall constitute acceptance of Tenant's Plan of Operation.

**ARTICLE 7.
PARKING**

Tenant and Tenant's patrons shall have non-exclusive and non-reserved use of the Trinidad Municipal Golf Course parking area to the east and west of the Premises at no additional expense hereunder. However, Tenant shall, in no manner, obstruct the Nolan Drive roadway or the golf cart path that partially encircle the Premises.

**ARTICLE 8.
ASSIGNMENT AND SUBLETTING**

8.1 Landlord's Consent Required.

- (a) Tenant shall not sell, assign, transfer, mortgage or otherwise encumber this Lease or its interest therein (collectively "assign" or "assignment") or sublet, rent or permit anyone to occupy the Premises, or any part thereof (collectively "sublet"), without obtaining the prior written consent of Landlord, which consent may be granted or withheld in Landlord's sole and absolute judgment as to any assignment and which consent shall not be unreasonably withheld, conditioned or delayed as to any subletting. Notwithstanding the foregoing, this Lease may not be assigned, and the Premises may not be sublet, to any person or entity who may claim the defense of sovereign immunity or any similar defense. When Landlord's "consent" is referenced herein, it shall refer to both approval of the proposed assignee/subtenant and approval of the instrument of assignment/sublet and any amendment thereof.
- (b) In no event may this Lease be assigned in part, nor may the Premises be subleased in part. No assignment or sublet may be effectuated by operation of law or otherwise without the prior written consent of Landlord as aforesaid. The consent of Landlord to any assignment or subletting, or the implementation of any assignment or subletting that may be permitted hereunder without Landlord's consent, shall not be construed as a

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waiver or release of Tenant from liability for the performance of all covenants and obligations to be performed by Tenant under this Lease, nor shall the collection or acceptance of rent from any assignee or subtenant constitute a waiver or release of Tenant from any of its liabilities or obligations under this Lease, and the assignor Tenant shall remain jointly and severally liable for the continued performance of Tenant's obligations. Tenant hereby waives all suretyship and similar technical defenses, including, without limitation, defenses arising from the amendment, renewal, termination or expiration of this Lease without its knowledge or consent. Landlord's consent to any assignment or subletting shall not be construed as relieving Tenant from the obligation of obtaining Landlord's prior written consent to any subsequent assignment or subletting. If Tenant is in default hereunder, Tenant hereby assigns to Landlord the rent due from any subtenant of Tenant and hereby authorizes each such subtenant to pay said rent directly to Landlord.

- (c) In all cases where Tenant seeks permission to take or do an act referred to in this Article, Tenant first shall give Landlord thirty (30) days' prior written notice enclosing a full and complete copy of the bona-fide sublet, assignment, or other agreement applicable to the proposed transaction and any processing fee required hereunder. For thirty (30) days following receipt thereof, Landlord shall have the right, exercisable by sending notice to Tenant, to retake from Tenant: (i) all of the Premises for the balance of the Lease Term in the event Tenant notified Landlord of its intention to assign this Lease; or (ii) only so much of the Premises for so much of the Term as Tenant intends to sublet in the event Tenant notified Landlord of its intention to sublet the Premises or a portion thereof. In either of the events described in clause (i) or (ii) above, this Lease shall be terminated as of the date specified for such termination in Landlord's notice aforesaid as to the portion or all of the Premises so retaken, provided that any and all liabilities of Tenant which accrued and remained unsatisfied prior to the date of such termination shall survive such termination. In the event Landlord does not exercise its aforesaid right within thirty (30) days of receipt of said notice and any processing fee required hereunder, Tenant then may assign or sublet, as the case may be, to the intended subleasee or assignee, provided Tenant has obtained the prior written consent of Landlord, which may be given or withheld according to the standard set forth in § 8.1(a).
- (d) Anything herein to the contrary notwithstanding, if Landlord shall not elect to exercise the right set forth in the immediately preceding paragraph, such election shall not under any circumstances be deemed a consent to the proposed subletting or assignment of Tenant's interest in and to this Lease and/or the Premises, and it is expressly understood that any determination by Landlord not to exercise such right shall not preclude Landlord from withholding its consent to such proposed subletting or assignment.
- (e) In the event of any assignment or sublet, then any purchase price, assignment fee, furniture or equipment purchase or rental payment, incremental monthly rent or other payment due to Tenant, if any, as the result of any such assignment or sublease which is in excess of the rent (or pro rata portion thereof) then payable by Tenant under this Lease shall be paid by Tenant to Landlord as additional rent as and when received by Tenant. If such sum is payable to Tenant in a lump sum, the lump sum shall be amortized on a straight-line basis over the then-remaining Lease Term to determine if the payment is in excess of the rent then payable by Tenant.
- (f) Tenant shall be responsible for and agrees to pay (i) a non-refundable processing fee of Five Hundred Dollars (\$500.00) upon submission of a proposed sublet or assignment to Landlord and (ii) any costs and expenses, including (without limitation) reasonable legal fees, incurred by Landlord in connection with any actual, proposed or purported assignment or sublease, whether or not Landlord consents thereto.

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8.2 **Transfers of Interests in Tenant.** If Tenant is a partnership or limited liability company, a withdrawal or change (whether by way of one or more withdrawals or changes) — whether voluntary, involuntary or by operation of law — of partners or members owning a controlling or majority interest in Tenant on the date hereof shall be deemed a voluntary assignment of this Lease and subject to the provisions of § 8.1. If Tenant is a corporation, any dissolution, merger, consolidation or other reorganization of Tenant, or the sale or transfer (whether by way of one or more sales or transfers) of a controlling or majority interest of the capital stock of Tenant shall be deemed a voluntary assignment of this Lease and subject to the provisions of § 8.1. However, the preceding sentence shall not apply to corporations whose stock is traded through a national or regional exchange or over-the-counter. It is understood and agreed that a controlling interest for purposes of this Article may be less than a majority interest.

**ARTICLE 9.
MAINTENANCE AND REPAIRS**

9.1 **Maintenance and Repairs.** Tenant will keep and maintain the Premises and all fixtures and equipment located therein in a clean, safe and sanitary condition, will take good care thereof and make all required repairs and replacements thereto (whether structural or non-structural, foreseen or unforeseen), will suffer no waste or injury thereto, and will, at the expiration or other termination of the Lease Term, surrender the Premises, broom clean, in the same order and condition they were in on the Lease Commencement Date unless otherwise directed by Landlord, ordinary wear and tear and insured damage by the elements excepted. Landlord shall provide and install all original bulbs, tubes, and lighting fixtures for the Premises as of the Lease Commencement Date; all replacement bulbs and tubes for the Premises shall be provided and installed by Tenant at Tenant's cost and expense.

9.2 **Landlord's Maintenance and Repairs.** Landlord shall endeavor to maintain and keep in repair the roof, foundation, and exterior walls of the Building and the Building heating, ventilating and air conditioning, plumbing, and electrical systems and shall make such repairs as become necessary after obtaining actual knowledge of the need for such repairs.

9.3 **Damage Caused by Tenant.** All injury, breakage and damage to the Premises caused by any act or omission of Tenant or any agent, employee, subtenant, licensee, contractor, customer, client, family member or invitee of Tenant, shall be repaired by and at the sole expense of Tenant, except that Landlord shall have the right, at its sole option, to make such repairs and to charge Tenant for all costs and expenses (including a market rate project management fee) incurred in connection therewith as additional rent hereunder. The liability of Tenant for such costs and expenses shall be reduced by the amount of any insurance proceeds received by Landlord on account of such injury, breakage or damage.

**ARTICLE 10.
ALTERATIONS AND TENANT IMPROVEMENTS**

10.1 **As-Is Condition of Premises.** Tenant agrees to and shall lease the Premises in its "AS IS" condition as of the date of this Lease, and it is understood and agreed that Landlord will not make or pay for, and is under no obligation to make or pay for, any structural or other alterations, decorations, additions, or improvements in or to the Premises (beyond the anticipated roof repairs the City has contracted for).

10.2 **Alterations.**

(a) Tenant will not make or permit anyone to make any alterations, decorations, additions or improvements (herein referred to collectively as "**Alterations**"), structural or otherwise, in or to the Premises or the Building without the prior written consent of Landlord. When

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granting its consent, Landlord may impose any conditions it deems appropriate, including without limitation, the approval of plans and specifications, approval of the contractor or other persons to perform the work, and the obtaining of a performance bond in an amount specified by Landlord and specified insurance. All Alterations permitted by Landlord must conform to all rules and regulations established from time to time by the Board of Fire Underwriters having jurisdiction or any similar body exercising similar functions, and to all laws, statutes, ordinances, codes, rules, regulations and requirements of the federal and/or state governments or of the City. Without limiting the foregoing, all cable installed by or for Tenant must be tagged every three (3) feet with an identification tag or other distinguishing mark to clearly identify it as relating to Tenant and/or the Premises, and Landlord must be given notice of the location of all such cable as and when it is installed.

- (b) As a condition precedent to such written consent of Landlord, Tenant agrees to obtain and deliver to Landlord written, unconditional waivers of mechanic's and materialmen's liens against the Building and the Premises from all work, labor and services to be performed, and any materials supplied, in connection with any Alterations. It is further understood and agreed that any Alterations, other than those made by Landlord directly, shall be conducted on behalf of Tenant and not on behalf of Landlord, and that Tenant shall not be deemed to be the agent of Landlord. It is further understood and agreed that in the event Landlord shall give its written consent to the making of any Alterations, such written consent shall not be deemed to be an agreement or consent by Landlord to subject its interest in the Premises, or any leasehold or other interest of Tenant in the Premises, the Building or the Property, to any mechanic's or materialmen's liens which may be filed in connection therewith. If, notwithstanding the foregoing, any mechanic's or materialmen's lien is filed against the Premises, Tenant's interest therein, the Building and/or the Property for work claimed to have been done for, or materials claimed to have been furnished to, the Premises or to Tenant, such lien shall be discharged by Tenant within five (5) days after notice, at Tenant's sole cost and expense, by the payment thereof or by the filing of a bond. If Tenant shall fail to discharge any such mechanic's or materialmen's lien, Landlord may, at its sole option, discharge such lien and treat the cost thereof (including attorney's fees incurred in connection therewith) as additional rent payable with the next Fixed Monthly Rent payment falling due. It is expressly agreed that such discharge by Landlord shall not be deemed to waive or release the default of Tenant in not discharging such lien.

10.3 Indemnification for Tenant Improvement Work and Alterations. Tenant shall defend, indemnify and hold Landlord harmless from and against any and all claims, suits, actions, proceedings, liens, liabilities, judgments, damages, losses, costs and expenses (including, without limitation, attorneys' fees) based on or arising directly or indirectly by reason of the making of any Alterations. If any Alterations are made without the prior written consent of Landlord, Landlord shall have the right to remove and correct such changes and to restore the Premises and the Building to their condition immediately prior thereto, and Tenant shall be liable for all expenses incurred by Landlord in connection therewith.

10.4 Ownership and Removal at End of Lease Term. Alterations to the Premises or the Building (except for personal property solely owned by Tenant) made by either party shall immediately become the property of Landlord and shall remain upon and be surrendered with the Premises as part thereof at the end of the Lease Term, except that (a) if Tenant is not in default under this Lease, Tenant shall have the right to remove, prior to the expiration of the Lease Term, all movable furniture, furnishings and equipment installed in the Premises solely at the expense of Tenant, and (b) Landlord shall have the right to require Tenant to remove all Alterations at the end of the Lease Term at the sole cost of Tenant. Unless Landlord otherwise specifically agrees in writing at or prior to the installation of the same, all data and communications cabling and

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equipment installed in the Premises or the Building for the exclusive use of Tenant, whether originally installed by Landlord or by Tenant, shall be removed by Tenant at its own cost and expense upon the expiration or termination of the Lease Term. All damage and injury to the Premises or to the Building caused by such removal shall be repaired by Tenant, at Tenant's sole expense. If such property of Tenant is not removed by Tenant prior to the expiration or termination of this Lease, the same shall be deemed to have been abandoned by Tenant and shall be surrendered with the Premises as a part thereof, which property may be retained by Landlord or disposed of at Tenant's expense. Tenant's obligation to pay for any costs incurred by Landlord for the disposal of such abandoned property shall survive the expiration or earlier termination of this Lease.

**ARTICLE 11.
SIGNAGE**

No sign, advertisement or notice shall be inscribed, painted, affixed or otherwise displayed by Tenant on any part of the exterior or the interior of the Premises or the Building except on such areas as are designated by Landlord. All signage, advertisements or notices must be only in such place, number, size, color and style as are approved by Landlord in its sole and absolute discretion. All of Tenant's signs that are approved by Landlord shall be obtained by Tenant at its sole cost and expense and installed by Landlord at Tenant's sole cost and expense. Tenant shall reimburse Landlord for such amount upon written demand from Landlord. If any sign, advertisement or notice that has not been approved by Landlord is exhibited or installed by Tenant, Landlord shall have the right to remove the same at Tenant's expense. Landlord shall have the right to prohibit any advertisement of or by Tenant which in Landlord's opinion tends to impair the reputation of the Building or its desirability as a high-quality building, and, upon written notice from Landlord, Tenant shall immediately refrain from and discontinue any such advertisement. Landlord reserves the right to affix, install and display signs, advertisements and notices on any part of the exterior or interior of the Building.

**ARTICLE 12.
TENANT'S EQUIPMENT**

Tenant shall not install any equipment of any type or nature that will or may necessitate any changes, replacement or additions to, or in the use of the water system, heating system, plumbing system, air-conditioning system or electrical system of the Premises or in the Building without first obtaining the prior written consent of Landlord, which consent may be withheld in Landlord's sole and absolute discretion. Any machines and mechanical equipment belonging to Tenant which cause noise or vibrations that may be transmitted to the structure of the Building or to any space therein to such a degree as to be objectionable to Landlord shall be installed and maintained by Tenant, at Tenant's expense, on vibration eliminators or other devices sufficient to reduce such noise and vibration to a level satisfactory to Landlord.

**ARTICLE 13.
INSPECTIONS BY LANDLORD**

Tenant shall permit Landlord or its agents or representatives to enter the Premises, at any time and from time to time, without charge therefor to Landlord and without diminution of the rent payable by Tenant, to examine, inspect and protect the Premises and the Building, to make such alterations and/or repairs as in Landlord's sole judgment may be deemed necessary, or, during the last twelve (12) months of the Lease Term or at any time following the initiation of any eviction proceeding, to exhibit the same to prospective tenants. In connection with any such entry, Landlord shall endeavor to minimize the disruption to Tenant's use of the Premises, but Landlord shall not be required to perform any alterations or repairs or make any entry at a time other than normal working hours.

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**ARTICLE 14.
INSURANCE**

14.1 Tenant's Insurance. Tenant covenants and agrees to procure at its expense on or before the Lease Commencement Date and to keep in force during the Lease Term the following insurance naming Landlord and Tenant as insured parties: (a) a commercial general liability insurance policy or such successor comparable form of coverage in the broadest form then available (a "**Liability Policy**") written on an "occurrence basis" including, without limitation, blanket contractual liability coverage, business interruption, automobile, broad form property damage, independent contractor's coverage and personal injury coverage, protecting Landlord and Tenant against any liability whatsoever occasioned by any occurrence on or about the Premises or any appurtenances thereto; and (b) a fire and other casualty policy (a "**Fire Policy**") insuring the full replacement value of all Tenant Improvement Work and Alterations, regardless by whom installed, and all of the furniture, trade fixtures and other personal property of Tenant located in the Premises against loss or damage by fire, theft and such other risks or hazard. Such policies are to be written by good and solvent insurance companies licensed to do business in the State of Colorado, shall have not less than a Best's A+ 10 rating and shall be in such limits and with such maximum deductibles as Landlord may reasonably require from time to time. As of the date of this Lease, Landlord reasonably requires limits of liability under: (x) the Liability Policy of not less than \$1,000,000 combined single limit per occurrence for bodily or personal injury (including death) and property damage combined; (y) the Fire Policy equal to the value of Tenant's Tenant Improvement Work, Alterations, furniture, trade fixtures and other personal property with a deductible of no more than \$1,000.00; and (z) machinery insurance for full replacement cost of equipment with a deductible of no more than \$1,000.00. Tenant will furnish Landlord with such information as Landlord may reasonably request from time to time as to the value of the items specified in clause (y) above within ten (10) days after request therefor. Such insurance may be carried under a blanket policy covering the Premises and other locations of Tenant, if any, provided that each such policy shall in all respects comply with this Article and shall specify (i) that the portion of the total coverage of such policy that is allocated to the Premises is in the amounts required pursuant to this Section and (ii) any sublimits in such blanket policy and such policy shall also specify, or Tenant shall furnish Landlord a written statement from the insurer under such policy, that the protection afforded Tenant under any such blanket policy shall be no less than that which would have been afforded under a separate policy relating only to the Premises. Prior to the time insurance under this Section is first required to be carried by Tenant, and thereafter at least fifteen (15) days prior to the expiration date of any such policy, Tenant agrees to deliver to Landlord an ACORD 27 certificate evidencing such insurance and payment of the premium therefor. Said certificate shall contain an endorsement that such insurance may not be canceled or amended except upon thirty (30) days' prior written notice to Landlord. Notwithstanding anything to the contrary contained in this Lease, the carrying of insurance by Tenant in compliance with this Section shall not modify, reduce, limit or impair Tenant's obligations and liabilities under any and every indemnity by Tenant to Landlord set forth in this Lease.

14.2 Indemnity by Tenant. Tenant shall indemnify and defend Landlord and save it harmless from and against any and all claims, suits, actions, proceedings, liabilities, damages, costs or expenses, including attorneys' fees, arising (i) from any act, omission or negligence of Tenant or its officers, contractors, licensees, agents, employees, guests, invitees or visitors in or about the Property, (ii) from Tenant's use or occupancy of the Premises or the business conducted by Tenant therein, (iii) from any breach or default under this Lease by Tenant, (iv) from, or relating to, the enforcement by Landlord of the provisions of this Lease as against Tenant, or (v) from any accident, injury or damage, howsoever and by whomsoever caused, to any person or property, occurring in or about the Building or the Premises. This provision shall not be construed to make Tenant responsible for loss, damage, liability or expense resulting from injuries (or death) to third parties to the extent caused solely and directly by the negligence of Landlord or its officers,

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contractors, licensees, agents, employees or invitees. The provisions of this Section shall survive the expiration or termination of this Lease.

- 14.3 Increases in Insurance Rates.** Tenant shall not do or permit to be done any act or thing upon or about the Premises which will (i) result in the assertion of any defense by the insurer to any claim under, (ii) invalidate, or (iii) be in conflict with, the policies covering the Premises, and fixtures and property therein, or which would increase the rate of fire insurance applicable to the Premises to an amount higher than it otherwise would be; and Tenant shall neither do nor permit to be done any act or thing, upon or about the Premises which shall or might subject Landlord to any liability or responsibility for injury to any person or persons or to property; but nothing in this Section shall prevent Tenant's use of the Premises for the purposes stated in this Lease. If, as a result of any act or omission by or on the part of Tenant or violation of this Lease by Tenant, whether or not Landlord has consented to the same, the rate of "All Risk" or other type of insurance maintained by Landlord on the Property shall be increased to an amount higher than it otherwise would be, Tenant shall reimburse Landlord for all increases of Landlord's insurance premiums so caused; such reimbursement to be additional rent payable within five (5) days after demand therefor by Landlord. If, due to abandonment of or failure to occupy the Premises by Tenant, any such insurance shall be canceled by the insurance carrier, then Tenant hereby indemnifies Landlord against liability which would have been covered by such insurance.
- 14.4 Notice of Accidents.** Tenant shall give Landlord notice in case of crimes, solicitations, fire, accidents or other adverse incidents in the Building or upon the Premises promptly after Tenant is aware of such event.

**ARTICLE 15.
SERVICES AND UTILITIES**

- 15.1 Services and Utilities.** All applications for utility services to the Premises shall be in the name of Tenant only, and Tenant shall be solely liable for utility charges as they become due, including those charges for electric, natural gas, water, sewer, garbage removal, and telecommunications services.
- 15.2 Interruption of Services and Utilities.** It is understood and agreed that Landlord shall not have any liability whatsoever to Tenant as a result of an interruption of utilities or services, whether resulting from breakdown, removal from service for maintenance or repairs, strikes, scarcity of labor or Hazardous Materials, acts of God, governmental requirements or from any other cause whatsoever. It is further agreed that any such interruption of utilities or services shall not be considered an eviction, actual or constructive, of Tenant from the Premises and shall not entitle Tenant to terminate this Lease or to an abatement or reduction of any rent payable hereunder.

**ARTICLE 16.
LIABILITY OF LANDLORD**

- 16.1 No Liability of Landlord.** Landlord shall not be liable to Tenant, its employees, agents, invitees, licensees, customers, clients, family members or guests for any damage, injury (including death), loss, compensation or claim, including, but not limited to, claims for the interruption or loss of Tenant's business, based on, arising out of, or resulting from any cause whatsoever, including, but not limited to, the following: repairs to any portion of the Premises or the Building; the negligence of Landlord or any of its servants, agents, contractors or employees; interruption in the use of the Premises; any accident or damage resulting from the use or operation (by Landlord, Tenant, or any other person or persons) of the heating, air-conditioning, electrical, or plumbing equipment or apparatus; the termination of this Lease by reason of the destruction of the Premises; any fire, explosion, falling plaster, steam, gas, robbery, theft, mysterious disappearance, and/or any other casualty; the actions of any other tenants of the Building or of

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any other person or persons; any failure or inability to furnish any of the utilities or services required to be furnished by Landlord hereunder; any leakage in any part or portion of the Premises or the Building, or from water, rain or snow that may leak into, or flow from, any part of the Premises or the Building, or from drains, pipes, appliances or plumbing work in the Building or from the roof, street or subsurface or resulting from dampness or from any other cause of whatsoever nature. The occurrence of any of the foregoing items described in this Section shall not be considered an eviction, actual or constructive, of Tenant from the Premises and shall not entitle Tenant to terminate this Lease or to an abatement, set-off, counterclaim against, or reduction of, any rent payable hereunder. Any goods, property or personal effects stored or placed by Tenant or its employees in or about the Premises or Building shall be at the sole risk of Tenant, and Landlord shall not in any manner be held responsible therefor. Notwithstanding the foregoing provisions of this Section, Landlord shall not be released from liability to Tenant for any damage or injury caused by the willful misconduct of Landlord or its employees. In no event shall Tenant make any claim against Landlord for consequential, indirect or punitive damages.

16.2 Transfer by Landlord. In the event that at any time Landlord shall sell or transfer the Building, the transferor Landlord shall not be liable to Tenant for any obligations or liabilities based on or arising out of events or conditions occurring on or after the date of such sale or transfer. Upon the closing date of such sale or transfer, Tenant is deemed to automatically attorn to the purchaser or transferee.

16.3 Disputed Payments. In the event that at any time during the Lease Term Tenant shall have a claim against Landlord, Tenant shall not have the right to deduct the amount allegedly owed to Tenant from any rent payable to Landlord hereunder, it being understood that Tenant's sole method for recovering upon such claim shall be to institute an independent action against Landlord.

**ARTICLE 17.
RULES AND REGULATIONS**

Tenant and its agents, employees, invitees, licensees, customers, clients, family members, guests and subtenants shall at all times abide by and observe the rules and regulations promulgated by Landlord and attached hereto as Exhibit C. In addition, Tenant and its agents, employees, invitees, licensees, customers, clients, family members, guests and subtenants shall abide by and observe all other rules or regulations that Landlord may promulgate from time to time for the operation and maintenance of the Building, provided that notice thereof is given to Tenant and such rules and regulations are not inconsistent with the provisions of this Lease.

**ARTICLE 18.
DAMAGE OR DESTRUCTION**

18.1 Casualty. If during the Lease Term the Premises or the Building are totally or partially damaged or destroyed by a casualty, thereby rendering the Premises totally or partially inaccessible or unusable, Landlord shall diligently (taking into account the time necessary to effectuate a satisfactory settlement with any insurance company involved) restore and repair the Premises and the Building to substantially the same condition they were in prior to such damage. Provided that such damage was not caused by the act or omission of Tenant or any of its employees, agents, licensees, subtenants, customers, clients, family members or guests, until the repair and restoration of the Premises is completed Tenant shall be required to pay rent only for that part of the Premises that Tenant is able to use while repairs are being made, based on the ratio that the amount of usable rentable area bears to the total rentable area in the Premises. Landlord shall bear the costs and expenses of repairing and restoring the Premises (with the exception of the Tenant Improvement Work), except that if such damage or destruction was caused by the act or omission of Tenant or any of its employees, agents, licensees, subtenants, customers, clients,

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family members or guests, upon written demand from Landlord Tenant shall pay to Landlord the amount by which such costs and expenses exceed the insurance proceeds, if any, received by Landlord on account of such damage or destruction.

18.2 Limitations on Landlord's Obligations. Notwithstanding anything in § 18.1 or any other part of this Lease, (a) Landlord shall not be obligated to spend more than the net proceeds of insurance proceeds made available for such repair and restoration, and (b) if Landlord is obligated to repair and restore the Premises as provided in § 18.1, Landlord shall not be required to repair or restore any Tenant Improvement Work or Alterations to the Premises (regardless of by whom they were made) or any trade fixtures, furnishings, equipment or personal property belonging to Tenant. It shall be Tenant's sole responsibility to repair and restore all such items. However, if requested by Tenant, Landlord shall repair any damage to the Tenant Improvement Work or Alterations to the extent Tenant's insurance proceeds are sufficient and are made available to Landlord for that purpose.

18.3 Right to Terminate. Notwithstanding anything to the contrary contained herein, (a) if there is a destruction of the Building that exceeds twenty-five percent (25%) of the replacement value of the Building from any risk, or (b) if Landlord reasonably believes that the repairs and restoration cannot be completed despite reasonable efforts within ninety (90) days after the occurrence of such damage, or (c) if Landlord reasonably believes that there will be less than two (2) years remaining in the Lease Term upon the substantial completion of such repairs and restoration, Landlord shall have the right, at its sole option, to terminate this Lease by giving written notice of termination to Tenant within sixty (60) days after the occurrence of such damage. If this Lease is terminated pursuant to the preceding sentence, all rent payable hereunder shall be apportioned and paid to the date of the occurrence of such damage.

**ARTICLE 19.
DEFAULT BY TENANT**

19.1 Events of Default.

The occurrence of any of the following shall constitute an "Event of Default" by Tenant under this Lease:

- (a) If Tenant fails to make any payment of rent when due or, if no due date is specified in this Lease, within ten (10) days after notice is given.
- (b) If Tenant violates or fails to perform any obligation set forth in Article 8, § 10.2, of § 14.1 of this Lease beyond the expiration of any period for performance or request, notice or cure period set forth or referred to therein.
- (c) If (i) Tenant violates or fails to perform any other term, condition, covenant or agreement to be performed or observed by Tenant under this Lease (other than as specified in this Section) and (ii) Tenant has not been given notice of the same or a substantially similar violation or failure on three (3) or more other occasions within the twelve (12) month period preceding the most recent violation or failure, regardless of whether such earlier violations or failures were cured within the allowed cure period, and (iii) such violation or failure shall continue for thirty (30) days after notice from Landlord to Tenant of such violation or failure; provided, however, that if such violation or failure is capable of being cured but is not capable of being cured within such thirty (30) day period despite reasonable diligence, then such thirty (30) day period shall be extended for such reasonable period, not to exceed an additional sixty (60) days, in which Tenant may cure the violation or failure if Tenant commences its cure within the initial thirty (30) day period and prosecutes the cure diligently to completion thereafter. If Tenant has been given

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notice of the same or a substantially similar violation or failure on two (2) or more other occasions within the twelve (12) month period preceding the most recent violation or failure, regardless whether such earlier violations or failures were cured within the allowed cure period, then any subsequent violation or failure of the same or substantially similar nature within that twelve (12) month period shall be an Event of Default, without any further notice or cure period being afforded.

- (d) If Tenant abandons the Premises.
- (e) If Tenant or any guarantor (i) is voluntarily adjudicated bankrupt or insolvent, (ii) seeks or consents to the appointment of a receiver or trustee for itself or for all or a part of its property, (iii) files a petition seeking relief under the bankruptcy or similar laws of the United States or any state or any other jurisdiction, (iv) makes a general assignment for the benefit of creditors, or (v) admits in writing its inability to pay its debts as they mature.
- (f) If a petition is filed against Tenant or any guarantor seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal or state law or other statute, law or regulation and shall remain undismissed or unstayed for thirty (30) days, or if any trustee, receiver or liquidator of Tenant or any guarantor, or of all or any substantial part of its properties, shall be appointed without the consent or acquiescence of Tenant or any guarantor and such appointment shall remain unvacated or unstayed for thirty (30) days.
- (g) If any attachment or execution of any type is issued against Tenant or any guarantor, or Tenant's property located on the Premises, or Tenant's rights or interest in the Lease, or guarantor's or Tenant's assets of any type or nature whatsoever, including but not limited to federal, state, or municipal tax liens, and such is not dismissed or released within ten (10) days thereafter, or such lesser time as may be necessary to avoid loss of such property, rights or assets.

19.2 Landlord's Rights.

If an Event of Default occurs under this Lease, Landlord shall have the following rights:

- (a) The right, at its sole option, to terminate this Lease. If Landlord elects to terminate this Lease, everything contained in this Lease on the part of the Landlord to be done and performed shall cease without prejudice, subject, however, to the right of Landlord to recover from Tenant all rent accrued up to the time of termination or recovery of possession by Landlord, whichever is later.
- (b) With or without terminating this Lease, Landlord may re-enter and take possession of the Premises, and the provisions of this Article shall operate as a notice to quit; any other notice to quit or notice of Landlord's intention to reenter the Premises is hereby expressly waived. If necessary, Landlord may proceed to recover possession of the Premises under and by virtue of the laws of the jurisdiction in which the Building is located, or by such other proceedings, including re-entry and possession, as may be applicable.
- (c) In addition, any abated rent provided in this Lease and the leasing commissions paid by Landlord in connection with this Lease shall immediately become due and payable by Tenant to Landlord.
- (d) Whether or not this Lease is terminated by reason of Tenant's default, the Premises may be re-let by Landlord for such rent and upon such terms as Landlord deems reasonable under the circumstances and, if the full rent provided herein plus the costs, expenses and damages described below shall not be realized by Landlord, Tenant shall be liable for all

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damages sustained by Landlord, including, without limitation, deficiency in fixed and additional rent, reasonable attorneys' fees, and the expenses of placing the Premises in first-class rentable condition. Any damages or loss of rent sustained by Landlord may be recovered by Landlord, at Landlord's option, at the time of the re-letting or in separate actions, from time to time, as said damage shall have been made more easily ascertainable by successive re-letting, or, at Landlord's option, may be deferred until the expiration of the Lease Term, in which event Tenant hereby agrees that the cause of action shall not be deemed to have accrued until the date of expiration of the Lease Term. Tenant shall not be entitled to receive any excess of any such rents collected from a third party over the rent reserved herein.

- (e) Landlord shall become entitled to recover from Tenant as and for liquidated damages for Tenant's default hereunder, the difference, discounted to present value by applying a discount rate equal to five percent (5%), between (i) the annual fixed rent reserved hereunder for what, but for any such termination, would have been the unexpired portion of the Lease Term, and (ii) the cash rental value of the Premises for such unexpired portion of the Lease Term (unless the statute that governs or shall govern the proceedings in which such damages are to be proved limits the amount of such claim capable of being so proved, in which case Landlord shall be entitled to prove as and for liquidated damages an amount equal to that allowed by or under any such statute). In calculating such liquidated damages, the then cash rental value of the Premises shall be deemed prima facie to be the actual rent received by Landlord for the Premises or, if not received, the estimated cash rental value of the Premises upon any re-letting, as determined by a broker or an appraiser selected by Landlord. The provisions of this subsection shall be without prejudice to Landlord's right to prove and collect, in full, damages for all rent accrued prior to the termination of this Lease but not paid.
- (f) Enforce any claim Landlord may have against Tenant for anticipatory breach of this Lease.

19.3 Landlord's Right to Cure. If Tenant defaults in the making of any payment or in the doing of any act herein required to be made or done by Tenant, then Landlord may, but shall not be required to, make such payment or do such act. If Landlord elects to make such payment or do such act, all costs and expenses incurred by Landlord, plus interest thereon at the rate of eighteen percent (18%) per annum (or such lesser rate as is then allowed by applicable law) from the date paid by Landlord to the date of payment thereof by Tenant, shall be immediately paid by Tenant to Landlord as additional rent upon demand. The making of any payment or the taking of such action by Landlord shall not be considered as a cure of such default by Tenant or prevent Landlord from pursuing any remedy it is otherwise entitled to pursue in connection with such default.

19.4 Landlord's Lien. In addition to any statutory lien granted by applicable law, Landlord shall have a lien upon, and Tenant hereby grants to Landlord a security interest in, all personal property of Tenant now or hereafter located in the Premises as security for the payment of all rent and the performance of all other obligations of Tenant required by this Lease. In order to perfect and enforce said lien and security interest, Tenant agrees to execute all required financing statements. At any time after an Event of Default by Tenant hereunder, Tenant may not remove and, without further notice to Tenant, Landlord may enter the Premises and seize and take possession of any and all personal property belonging to Tenant which may be found in and upon the Premises. If Tenant fails to redeem the personal property so seized by payment of all sums due Landlord under and by virtue of this Lease, Landlord shall have the right, after ten (10) days' written notice to Tenant, to sell such personal property so seized at public or private sale and upon such terms and conditions as may appear advantageous to Landlord. Landlord may be the purchaser at any such sale. After the payment of all proper charges incident to such sale, the

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proceeds thereof shall be applied to the payment of any and all sums due to Landlord pursuant to this Lease. In the event there shall be any surplus remaining after the payment of any sums due to Landlord, such surplus shall be paid over to Tenant.

- 19.5 **Attorney's Fees.** If, as a result of any alleged breach or default in the performance of any of the provisions of this Lease, Landlord uses the services of an attorney in order to secure compliance with such provisions or recover damages therefor or possession of the Premises, or if Landlord is made a party to any action as a result of any alleged act or failure to act of Tenant, then Tenant shall reimburse Landlord upon demand for any and all reasonable attorneys' fees and expenses so incurred by Landlord as additional rent within five (5) days after Landlord's demand therefor.
- 19.6 **Landlord's Rights Cumulative.** All rights and remedies of Landlord set forth herein are in addition to all other rights and remedies available to Landlord at law or in equity. All rights and remedies available to Landlord hereunder or at law or in equity are expressly declared to be cumulative. The exercise by Landlord of any such right or remedy shall not prevent the concurrent or subsequent exercise of any other right or remedy.
- 19.7 **No Waiver By Landlord.** No delay in the enforcement or exercise of any right or remedy shall constitute a waiver of any default by Tenant hereunder or of any of Landlord's rights or remedies in connection therewith. Landlord shall not be deemed to have waived any default by Tenant hereunder unless such waiver is set forth in a written instrument signed by Landlord. If Landlord waives in writing any default by Tenant, such waiver shall not be construed as a waiver of any covenant, condition or agreement set forth in this Lease except as to the specific circumstances described in such written waiver. If Landlord institutes proceedings against Tenant and a compromise or settlement thereof is made, the same shall not constitute a waiver of the same or any other covenant, condition or agreement set forth herein or of any of Landlord's rights hereunder. Neither the payment by Tenant of a lesser amount than the rent due hereunder nor any endorsement or statement on any check or letter accompanying a check for payment of rent shall be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent or to pursue any other remedy available to Landlord. No reentry by Landlord, and no acceptance by Landlord of keys from Tenant, shall be considered an acceptance of a surrender of this Lease.

**ARTICLE 20.
DELIVERY AT END OF LEASE TERM**

- 20.1 **Surrender of Premises.** On the date of the expiration or termination of the Lease Term, Tenant shall quit and surrender the Premises broom clean and in good condition and repair (ordinary wear and tear and insured damage by fire or other casualty excepted), together with all the Tenant Improvement Work and any Alterations that may have been made in or attached to the Premises, but otherwise empty, unless otherwise directed by Landlord pursuant to § 10.4 hereof.
- 20.2 **Holding Over.** In the event that Tenant or any party claiming under Tenant shall not immediately surrender the Premises in the condition required by § 20.1, on the date of the expiration or termination of the Lease Term, Tenant shall become a tenant by the month at two hundred percent (200%) of the Fixed Monthly Rent in effect during the last month of the Lease Term, plus one hundred percent (100%) of all additional rent in effect during the last month of the Lease Term (subject to increases thereafter as determined by Landlord in accordance with the provisions of this Lease). Said monthly tenancy shall commence on the first day following the expiration of the Lease Term. As a monthly tenant, Tenant shall be subject to all the terms, conditions, covenants and agreements of this Lease, except as to the amount of the monthly rent, which shall be in the amount specified in this Section. As a monthly tenant, Tenant shall give to Landlord at least thirty (30) days' written notice of any intention to quit the Premises, and Tenant shall be entitled to thirty (30) days' written notice to quit the Premises, unless an Event of Default

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exists hereunder, in which event Tenant shall not be entitled to any notice to quit, the usual thirty (30) days' notice to quit being hereby expressly waived. Notwithstanding the foregoing provisions of this Section, in the event Tenant shall hold over after the expiration of the Lease Term and if Landlord shall desire to regain possession of the Premises promptly at the expiration of the Lease Term, then at any time prior to Landlord's acceptance of rent from Tenant as a monthly tenant hereunder Landlord, at its option, may forthwith re-enter and take possession of the Premises without process or by any legal process in force in the jurisdiction in which the Building is located. Landlord may accept rent in the holdover amount and concurrently commence legal proceedings to regain possession of the Premises. Tenant shall also pay to Landlord all damages sustained by Landlord resulting from retention of possession by Tenant, including the loss of any proposed subsequent tenant for all or any portion of the Premises. Force majeure is not an excuse to holding over.

ARTICLE 21.

TENANT'S QUIET ENJOYMENT; LANDLORD'S RESERVATION OF RIGHTS

- 21.1 **Quiet Enjoyment.** Landlord covenants that it has the right to make this Lease for the Lease Term and that if Tenant shall pay all rent when due and punctually perform all of the covenants, terms, conditions and agreements of this Lease to be performed by Tenant, Tenant shall have the right, during the Lease Term, to freely, peaceably and quietly occupy and enjoy the full possession of the Premises without molestation or hindrance by Landlord or any party claiming through or under Landlord, subject to the provisions of this Lease.
- 21.2 **Landlord's Reservation of Rights.** Landlord hereby reserves to itself and its successors and assigns the following rights (all of which are hereby consented to by Tenant): (a) to change the street address and/or name of the Building and/or the arrangement and/or location of entrances, passageways, doors, doorways, corridors, stairs, toilets or other public parts of the Building and to change the design or configuration of the Building; and (b) to erect, use, and maintain pipes and conduits in and through the Premises. Landlord may exercise any or all of the foregoing rights without being deemed to be guilty of an eviction, actual or constructive, or a disturbance or interruption of the business of Tenant or of Tenant's use or occupancy of the Premises.

**ARTICLE 22.
GENERAL PROVISIONS**

- 22.1 **No Representations.** Tenant acknowledges that neither Landlord nor any broker, agent or employee of Landlord has made any representations or promises with respect to the Premises or the Property except as herein expressly set forth, and no rights, privileges, easements or licenses are acquired by Tenant except as herein expressly set forth.
- 22.2 **No Partnership.** Nothing contained in this Lease shall be construed as creating a partnership or joint venture of or between Landlord and Tenant, or to create any other relationship between the parties hereto other than that of Landlord and Tenant.
- 22.3 **Notices.**
 - (a) Whenever any notice, demand or request is required or permitted hereunder, such notice, demand or request shall be hand-delivered (which term includes delivery by overnight courier services) or sent by United States Mail, registered or certified, return receipt requested, postage prepaid, to the addresses set forth below:

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Tenant's Address for Notices:

Ristras Restaurant and Cantina, LLC
Address
Trinidad, CO 81082
Attn: Mr. Reuben Torres, Jr.

Landlord's Address for Notices:

City of Trinidad, Colorado
135 North Animas Street
P.O. Box 880
Trinidad, Colorado
Attn: City Manager

- (b) Either Landlord or Tenant shall have the right from time to time to designate by written notice to the other party such other persons or places in the United States as Landlord or Tenant may desire written notice to be delivered or sent in accordance herewith; provided, however, at no time shall either party be required to send more than an original and two copies of any such notice, demand, or request required or permitted hereunder.
- (c) Any notice, demand, or request which shall be served upon either of the parties in the manner aforesaid shall be deemed sufficiently given for all purposes hereunder (i) at the time such notice, demand or request is hand-delivered or (ii) on the third (3rd) day after the mailing of such notice, demand or request in accordance with the preceding portions of this Section.

22.4 Severability. If any provision of this Lease or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

22.5 Successors and Assigns. The provisions of this Lease shall be binding upon, and shall inure to the benefit of, the parties hereto and each of their respective representatives, successors and assigns, subject to the provisions hereof prohibiting or restricting assignment or subletting by Tenant.

22.6 Entire Agreement; Amendments. This Lease contains the entire agreement of the parties, and no representations, inducements or agreements, oral or otherwise, not contained in this Lease shall be of any force or effect. This Lease may not be modified or changed in whole or in part in any manner other than by an instrument in writing duly signed by both parties hereto.

22.7 Governing Law; Jurisdiction and Venue.

- (a) This Lease shall be governed by and construed in accordance with the laws of the jurisdiction in which the Building is located without regard to conflicts of laws.
- (b) Venue of any action in law or equity brought under the terms of this contract shall be in the District Court sitting in and for the County of Las Animas, State of Colorado, and by the signing of this agreement, the parties consent hereto that the said venue shall be Las Animas County, Colorado.

Initials:

Landlord

Tenant

- 22.8 No Offer.** The submission of an unsigned copy of this document to Tenant for Tenant's consideration does not constitute an offer to lease the Premises or an option to or for the Premises. This document shall become effective and binding only upon the execution and delivery of this Lease by both Landlord and Tenant.
- 22.9 Multiple Counterparts.** This Lease may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document.
- 22.10 Time of Essence.** Time is of the essence with respect to the carrying out by Tenant of each term or provision of this Lease to be performed by Tenant.
- 22.11 Conflict.** In the event of any conflict between the main text of this Lease and any Exhibit hereto, the provisions of the main text of this Lease shall prevail unless otherwise stated.
- 22.12 Execution by Tenant.** If Tenant is a corporation, a limited liability company, an association or a partnership, it shall, concurrently with the signing of this Lease, at Landlord's option, furnish to Landlord certified copies of the resolutions of its board of directors (or of the executive committee of its board of directors) or consent of its members or partners authorizing Tenant to enter into this Lease. Moreover, each individual executing this Lease on behalf of Tenant hereby represents and warrants that he or she is duly authorized to execute and deliver this Lease and that Tenant is a duly organized corporation, limited liability company, association or partnership under the laws of the state of its incorporation or formation, is qualified to do business in the jurisdiction in which the Building is located, is in good standing under the laws of the state of its incorporation or formation and the laws of the jurisdiction in which the Building is located, has the power and authority to enter into this Lease, and that all corporate or partnership action requisite to authorize Tenant to enter into this Lease has been duly taken.
- 22.13 Joint and Several Liability.** If more than one person or entity shall ever be Tenant, the liability of each such person and entity shall be joint and several.
- 22.14 Force Majeure.** In the event that either party shall be directly or indirectly delayed or hindered in or prevented from the performance of any act or obligation required of it under this Lease by reason of acts of God, labor strike, lockout, inability to procure materials, failure of power, riot, insurrection, war or warlike act, terrorist act, utility blackout or brownout, legal requirement or other reason not within the reasonable control of that party, then performance of such act or obligation by that party shall be excused for a period equivalent to the period of such delay. Notwithstanding the foregoing, the provisions of this Section shall not apply to or affect any rental or other monetary obligation hereunder or Tenant's obligation to vacate the Premises at the expiration or termination of the Lease Term.
- 22.15 No Construction of Lease Against Drafter.** Should any provision of this Lease require judicial interpretation, it is agreed that the court interpreting or considering same shall not apply the presumption that the terms hereof shall be more strictly construed against a party by reason of the rule or conclusion that a document should be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that all parties hereto have participated in the preparation of this Lease and that legal counsel was consulted by each party hereto (or opportunity for such legal consultation afforded to each party) before the execution of this Lease.

Initials:

Landlord

Tenant

EXHIBIT A
THE "PREMISES"

[The Premises are highlighted on the attached Improvement Location Certificate]

Initials:

Landlord

Tenant

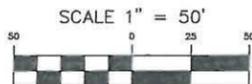
IMPROVEMENT LOCATION CERTIFICATE

DESCRIPTION

AS PER BOOK 1045, PAGE 1291.

ALL THAT CERTAIN PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER (SE1/4NW1/4) OF SECTION 24, TOWNSHIP 33 SOUTH, RANGE 64 WEST OF THE 6th P.M., COUNTY OF LAS ANIMAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 BEGINNING AT A POINT FROM WHICH THE CENTER OF SECTION 24, TOWNSHIP 33 SOUTH, RANGE 64 WEST OF THE 6th P.M. BEARS S 00°35'00" W A DISTANCE OF 1,123.52 FEET, THENCE S 78°08'00" W, 160.70 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING TRACT OF LAND; THENCE RUNNING ALONG THE NORTHERLY BOUNDARY OF THE TRINIDAD MUNICIPAL GOLF COURSE THE FOLLOWING 8 COURSES:

- 1) S 78°08'00" W, 170.16 FEET TO A POINT;
 - 2) N 11°52'00" W, 13.00 FEET TO A POINT;
 - 3) S 78°08'00" W, 94.67 FEET TO A POINT;
 - 4) N 11°52'00" W, 30.27 FEET TO A POINT;
 - 5) S 83°39'00" W, 97.69 FEET TO A POINT;
 - 6) S 16°04'00" W, 59.04 FEET TO A POINT;
 - 7) S 78°08'00" W, 101.50 FEET TO A POINT;
 - 8) S 48°35'00" W, 240.75 FEET TO A POINT, ON THE EASTERLY ROW OF INTERSTATE 25 HIGHWAY;
- THENCE RUNNING ALONG THE EASTERLY ROW OF INTERSTATE ROW THE FOLLOWING 3 COURSES:
- 1) N 35°01'50" E, 390.94 FEET TO A POINT;
 - 2) N 53°38'00" E, 162.70 FEET TO A POINT;
 - 3) N 31°45'00" E, 78.78 FEET TO A POINT.
- THENCE LEAVING SAID INTERSTATE 25 ROW AND RUNNING N 89°09'00" E (sic), 273.23 FEET TO A POINT ON THE WEST SIDE OF AN EXISTING ASPHALT ROADWAY; THENCE RUNNING S 02°20'36" W, ALONG THE WEST SIDE OF SAID ASPHALT ROADWAY, 226.58 FEET TO THE POINT OF BEGINNING, CONTAINING 2.529 ACRES.



LEGEND

- S— SANITARY SEWER LINE
- G— NATURAL GAS MAIN
- W— WATER LINE
- T— BURIED TELEPHONE LINES
- P— OVERHEAD POWER LINES
- U— UNDERGROUND POWER LINE
- ⊙ SANITARY SEWER MANHOLE
- ⊙ WATERLINE MANHOLE
- ☆ LIGHT STANDARD
- ⊕ POWER POLE
- GW— GUY WIRE
- ⊕ TELEPHONE PEDESTAL
- ⊕ GAS VALVE
- ⊕ FIRE HYDRANT
- ⊕ WATER METER
- ⊕ WATER VALVE

OWNER: THE CITY OF TRINIDAD, COLORADO A MUNICIPAL CORPORATION.

NOTES:

- 1) THE FOLLOWING ITEMS A THRU C ARE FINDINGS OF THE EXCEPTIONS WHICH ARE LISTED ON THE TITLE COMMITMENT, NO 78059, SUPPLIED TO TERRY SURVEYING INC. BY THE TRINIDAD ABSTRACT & TITLE COMPANY, TRINIDAD, COLORADO, LISTED IN SCHEDULE B, SECTION 2:
 - A) #15, RIGHT OF WAY - BOOK 737 PAGE 409 - THIS IS A WATER LINE RIGHT OF WAY. THE ALIGNMENT OF THE WATERLINE DIFFERS FROM THE EASEMENT ALONG THE NORTH LINE OF THE PROPERTY SURVEYED HEREON.
 - B) #17, ORDINANCE 1524- BOOK 927, PAGE 253 AND PAGE 260 - THIS ORDINANCE DOES NOT PERTAIN TO THE PROPERTY SURVEYED HEREON.
 - C) #18, EASEMENT BETWEEN TRINIDAD RAILWAY INC. AND THE MONTANA POWER CO. - BOOK 939, PAGE 933- THE LINES COVERED IN BOOK 939, PAGE 938 DOES NOT ENCUMBER THE PROPERTY SURVEYED HEREON.
- 2) NO APPARENT RECORDED EASEMENTS OR RIGHTS OF WAY EXIST FOR THE WATER LINE, SEWER LINE, TELEPHONE AND POWERLINES THAT RUN ACROSS THE PROPERTY SURVEYED HEREON.
- 3) UTILITY INFORMATION SHOWN IS FOR ILLUSTRATIVE PURPOSES ONLY, AND WAS TAKEN FROM PREVIOUS SURVEYS OF ADJOINING PROPERTY. A UTILITY LOCATED SHOULD BE PERFORMED BEFORE ANY DIGGING COMMENCES.

I HEREBY CERTIFY THAT THIS IMPROVEMENT LOCATION CERTIFICATE WAS PREPARED FOR CITY OF TRINIDAD, COLORADO, THAT IT IS NOT A LAND SURVEY PLAT OR IMPROVEMENT SURVEY PLAT, AND THAT IT IS NOT TO BE RELIED UPON FOR ESTABLISHMENT OF FENCE, BUILDING, OR OTHER FUTURE IMPROVEMENTS.

I FURTHER CERTIFY THAT THE IMPROVEMENTS ON THE ABOVE DESCRIBED PARCEL ON THIS DATE, OCTOBER 20, 2010, EXCEPT UTILITY CONNECTIONS, ARE ENTIRELY WITHIN THE BOUNDARIES OF THE PARCEL, EXCEPT AS SHOWN, THAT THERE ARE NO ENCROACHMENTS UPON THE DESCRIBED PREMISES BY IMPROVEMENTS ON ANY ADJOINING PREMISES EXCEPT AS INDICATED, AND THAT THERE IS NO EVIDENCE OR SIGN OF ANY EASEMENT CROSSING OR BURDENING ANY PART OF SAID PARCEL.



GARY L. TERRY, P.L.S. 12160
 TERRY SURVEYING, INC.
 P.O. BOX 851
 TRINIDAD, CO. 81082
 (719) 846-6921

ILC-1783

SET OR LOCATED 1/2" REBAR WITH PLASTIC CAP MKD LS 12160 (1pc.)

EXHIBIT B

CERTIFICATE OF LEASE COMMENCEMENT DATE AND EXPIRATION OF LEASE TERM

Attached hereto and made a part of the Lease dated the _____ day of March, 2015, by and between the City of Trinidad, Colorado, as Landlord, and Ristras Restaurant and Cantina, LLC, as Tenant.

Landlord and Tenant do hereby declare that:

- (1) The Lease Commencement Date is _____, 2015; and
- (2) The first Lease Year is the period _____, 2015 to _____, 2016; and

LANDLORD: CITY OF TRINIDAD, COLORADO

By: _____

Its: _____

TENANT: RISTRAS RESTAURANT AND CANTINA, LLC.

By: _____

Its: _____

Initials:

Landlord

Tenant

EXHIBIT C

BUILDING RULES AND REGULATIONS

The following rules and regulations have been formulated for the safety and well-being of all patrons of the Premises and the Trinidad Municipal Golf Course. Landlord reserves the right to amend these rules and regulations and to promulgate additional rules and regulations, but all rules and regulations shall be subject to Tenant's own Lease. Any violation of these rules and regulations and any successors or additions thereto by Tenant shall constitute a default by Tenant under the Lease.

1. Throughout the Lease Term, Tenant covenants and agrees to the following:
 - A. Not to use any equipment, machinery, or advertising medium which may be heard outside the Premises.
 - B. Not to use any plumbing facilities for any purpose other than that for which they were constructed.
 - C. Not to use or permit the use of any portion of the Premises as sleeping apartments, lodging rooms, or for any unlawful purpose or purposes.
 - D. To provide adequate security within the Premises for Tenant's employees, agents, licensees, invitees, assignees, subtenants, concessionaires, customers, clients, family members or guests.
 - E. Not to obstruct or encumber any sidewalks, entrances, passages, courts, vestibules, stairways, corridors, halls or any other part of the Property.
 - F. Not to permit any awnings, signs, placards and the like, or any projections of any kind whatsoever to be attached to the outside walls of the Premises or affixed to the windows thereof without the prior written consent of Landlord.
 - G. Not to permit any drapes, blinds, shades or screens to be attached to, hung in or used in connection with any window or door relating to the Premises without the prior written consent of Landlord.
 - H. Not to enter upon or use the roof of the Building.
 - I. If requested to do so by Landlord, to install a locking system for the Premises compatible with the locking system being used by Landlord at the Property.
 - J. Not to install or permit the installation of any wiring for any purpose on the exterior of the Premises or the Building.
 - K. Not to mark, paint, drill into or deface any part of the shell or core of the Building.
 - L. Not to bring in or keep any firearms in the Premises or the Building.
 - M. Not to affix any floor covering to any floor of the Premises with adhesive of any kind without obtaining Landlord's written consent.
 - N. Not to allow any animals in the Premises, except service animals assisting persons with disabilities or otherwise required by law.

Initials:

Landlord

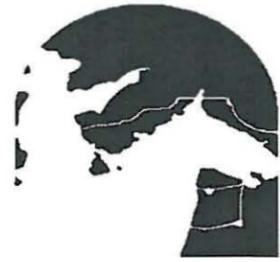
Tenant

2. Tenant acknowledges that it is Landlord's intention that the Property be operated in a manner which is consistent with the highest standards of cleanliness, decency, and morals in the community which it serves. Toward that end, Tenant shall not sell, distribute, display or offer for sale any item which, in Landlord's judgment, is inconsistent with the quality of operations of the Property or may tend to impose or detract from the moral character or image of the Property.
3. Landlord shall have the right to prescribe the weight and position of file systems, safes, computer systems, and other heavy items, equipment and fixtures, which shall, if considered necessary by Landlord, be positioned in consultation with Landlord in order to distribute their weight. Any and all damage or injury to the Premises or the Building caused by moving the property of Tenant into or out of the Building, or due to the same being in or upon the Premises, shall be repaired by and at the sole cost of Tenant.
4. Tenant shall, upon the expiration or termination of its tenancy, return to Landlord all keys used in connection with the Premises, including any keys to the Premises, to rooms and offices within the Premises, to storage rooms and closets, to cabinets and other built-in furniture, and to toilet rooms, whether such keys were furnished by Landlord or procured by Tenant and in the event of the loss of any such keys, Tenant shall pay to Landlord the cost of replacing the locks. On the expiration of this Lease, Tenant shall disclose to Landlord the combination of all locks for safes, safe cabinets and vault doors, if any, remaining in the Premises.

Initials:

Landlord

Tenant



CITY OF TRINIDAD, COLORADO
1876

COUNCIL COMMUNICATION

CITY COUNCIL MEETING: March 10, 2015 Work Session
PREPARED BY: Les Downs, City Attorney
PRESENTER: Les Downs, City Attorney
DEPT. HEAD SIGNATURE:
CITY MANAGER SIGNATURE: *Les D. Downs*

3

SUBJECT: Consideration of the Marketing Contract between ZIV, LLC, and the City of Trinidad, by and through the Trinidad Tourism Board

RECOMMENDED CITY COUNCIL ACTION: To consider forwarding this item to the regular meeting agenda of March 17th, 2015, and to afford you the opportunity to further discuss this proposed contract before doing so.

SUMMARY STATEMENT: To consider this contract, as it has been approved by the Trinidad Tourism Board, as a culmination of the contract negotiation process by Tourism.

EXPENDITURE REQUIRED: Yes, \$150,000, from the budget of Tourism

SOURCE OF FUNDS: Hotel/Lodging Tax Proceeds

POLICY ISSUE: No

ALTERNATIVE: Do not accept the contract.

BACKGROUND INFORMATION: This is the selected company of the three that submitted bids in response to the request for proposal from the City for the marketing contract.

CONTACT FOR INFORMATION: Les Downs, City Attorney, Cy Michaels, Tourism Chairperson.

3

MARKETING SERVICES AGREEMENT



CITY OF TRINIDAD, COLORADO
1876

CITY OF TRINIDAD TOURISM BOARD

City of Trinidad, Colorado
135 North Animas Street
P.O. Box 880
Trinidad, CO 81082
Telephone: 719-846-9843
Website: www.historictrinidad.com

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MARKETING SERVICES AGREEMENT

This Marketing Services Agreement ("**Agreement**") is entered into this 3rd day of March, 2015, by and between the City of Trinidad Tourism Board (the "**Board**"), on behalf of the City of Trinidad, Colorado, a Home Rule City and Municipal Corporation of the State of Colorado (the "**City**"), and ZIV, LLC, a Kansas limited liability company that is registered to do business in Colorado with a place of business in Colorado at 1035 Pearl Street, 5th Floor, Boulder, CO 80302 ("**Contractor**").

RECITALS

WHEREAS, § 7-47 of the Code of the City of Trinidad, Colorado, provides that the Board shall contract with a proven marketing entity for the purpose of advertising and marketing tourism; and

WHEREAS, the Board and Contractor desire to enter into an arrangement whereby Contractor provides tourism-related advertising and marketing services for the Board and the City upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the Board and Contractor hereby agree as follows:

ARTICLE I. CONTRACTOR RESPONSIBILITIES AND BASIC SERVICES

- 1.1. **Marketing Services.** During the term of this Agreement, Contractor, for and on behalf of the City, shall create, plan, and implement tourism-promotion strategies for the purpose of promoting the City as a visitor destination. Contractor's marketing services shall be performed in furtherance of the Board's following four (4) objectives:
- (a) To attract overnight visitors to the City, and to encourage visitors to extend their stay in the City;
 - (b) To increase demand for local attractions, businesses, and entertainment by visitors of all ages;
 - (c) To promote festivals and events, in furtherance of encouraging economic development; and
 - (d) To foster civic pride and ambassadorship.
- 1.2. **Authorization of Projects.** Contractor's tourism-related marketing services shall be overseen by, and performed in consultation with, the Board. All specific projects to be performed by Contractor shall be authorized in advance by the Board and shall be described in a Statement of Work and attached hereto and thereby incorporated herein.
- 1.3. **Time of Performance.** The parties shall negotiate and agree to a timeline for when services will be performed and the same shall be reduced to writing.
- 1.4. **Reporting Requirements.** Contractor shall provide status reports on a monthly basis to the Board and/or a designee by the board. If accounting statements are provided, said statements shall detail expenditures made and fees accrued during the subject month.
- 1.5. **Independent Contractor Status.** Contractor, and any and all personnel utilized by Contractor under the terms of this Agreement, shall remain the employees or independent contractors of

Initials:

CONTRACTOR

BOARD

Contractor and are not, nor shall be construed to be, agents or employees of the Board or the City. As an independent Contractor, Contractor is obligated to pay federal and state income tax on any monies earned pursuant to this Agreement. Additionally, it is understood that Contractor is not entitled to unemployment insurance coverage or workers' compensation benefits unless such coverage or benefits are provided by Contractor or some entity other than the City or the Board.

- 1.6. **Additional Firms.** Contractor shall inform the Board in writing of any additional firms it intends to hire to perform work in connection with this Agreement and shall keep the Board informed of any changes or additions to this information. The Board will approve Contractor's use of any additional firms prior to the commencement of specific projects pursuant to this Agreement. Contractor shall be responsible for the performance of the additional firm(s). Nothing contained herein shall create any contractual relationship between any additional firm(s) and the Board.

ARTICLE II. MUTUAL OBLIGATIONS OF THE BOARD AND CONTRACTOR

- 2.1. **Term.** The term of this Agreement shall extend from March 3, 2015, through March 1, 2016. Thereafter, this Agreement may be renewed on a calendar year basis, or as mutually agreed upon by the parties, provided such renewal is approved in writing (including email) by each of the parties.
- 2.2. **Nature of Agreement.** This Agreement does not guarantee to Contractor any work except as authorized by the Board or the City, nor does this Agreement create an exclusive contract.
- 2.3. **Assignment.** Except as otherwise provided in this Agreement, the services and any and all interests contemplated under this Agreement shall not be assigned, sublet, or transferred without the written consent of the Board. Notwithstanding the foregoing Contractor may use subcontractors in its performance of its services contemplated in this Agreement provided Contractor remains liable for the performance of its obligations and further provided Contractor uses commercially
- 2.4. **Ownership and Usage Rights of Marketing Materials.**
- a. **End Product(s).** All finished product(s) created by Contractor specifically for the City pursuant to this Agreement ("End Product(s)") shall, after payment in full to Contractor of all amounts described in this Agreement, become and be the property of the City. The City and the Board shall have the right to reproduce, re-use, and maintain all End Product(s); provided that the Board and/or the City do not alter said End Product(s) in a manner that unreasonably compromises the design integrity of Contractor's work and further provided such alterations are not attributed to Contractor without Contractor's prior written consent.
 - b. **Photography.** The parties acknowledge that this Agreement does not grant ownership or usage rights of photography from Contractor's photography library to the City or the Board, except to the extent that photography from Contractor's photography library is incorporated into End Product(s). Notwithstanding the foregoing, should the City or the Board desire to utilize any photograph(s) from Contractor's photography library that are (i) originated by Contractor and (ii) incorporated into End Product(s), Contractor hereby agrees to provide such photographs upon request in 72 dots per inch ("dpi") format for limited purposes, including, without limitation, use by the City or the Board in PowerPoint presentations. Notwithstanding the foregoing, additional or different restrictions may apply to any photographs or other materials provided by Contractor that are licensed to the Contractor and its clients from a third party stock photography or similar company.
 - c. **Contractor's Usage Rights.** Contractor shall retain the right to freely use, publish, and apply to other projects the information, data, results, and materials developed by Contractor in the course of performing under this Agreement.

2.5 Confidential Information. As a result of this Agreement, each party (the "Recipient") is likely to obtain access to the Confidential Information of the other party (the "Disclosing Party"). With respect to each particular item of Confidential Information, the Recipient shall not disclose to any person, partnership, entity, or other third party, or use for the Recipient's own benefit, any of the Disclosing Party's Confidential Information. "Confidential Information" means, without limitation, (a) all of the Disclosing Party's oral or written information or data disclosed to the Recipient which, under the circumstances, would appear to a reasonable person to be confidential or proprietary; and (b) any information or data of the type described above furnished to the Disclosing Party by third parties which is disclosed to the Recipient which the Disclosing Party has assumed obligations of confidentiality. "Confidential Information" does not include information that (i) the Recipient already knew; (ii) becomes public through no fault of the Recipient; (iii) was independently developed by the Recipient; or (iv) was rightfully given to the Recipient by another party. Upon termination of this Agreement for any reason, the Recipient shall promptly deliver to the Disclosing Party all software, data, memoranda, notes, records, copies, and other documents and repositories of information (and all copies thereof) constituting or relating to such Confidential Information which the Recipient may then possess. Notwithstanding the foregoing, the Recipient may disclose Confidential Information to its owners, managers, employees, agents, independent contractors, and vendors, as required in the ordinary course of the Recipient's business, provided such recipient agrees in writing to protect the confidentiality of the Confidential Information to the same extent it is protected in this Agreement. Notwithstanding the foregoing, Contractor acknowledges that the City is comprised of a public and municipal board and that this Agreement and Contractor's relationship with the City, is subject to the Colorado Open Meetings Law and Colorado Open Records Act.

ARTICLE III. PAYMENT AND FEE SCHEDULE

3.1. Payment and Fee Schedule. The Board shall pay Contractor for services performed, and Contractor shall accept as full payment for such services, lump sum fees per project, as mutually agreed upon by the Board and Contractor, and as authorized by the Board. Said lump sum fees shall be considered "not to exceed" costs to the Board and shall include all services rendered by Contractor pursuant to a project, including all travel and overhead expenses incurred in connection therewith. The Board and Contractor shall also mutually agree upon fee payment schedules for each project authorized by the Board (e.g., progress payments; full payment due upon completion; or a percentage payable upon commission and the remainder payable upon completion).

Notwithstanding the foregoing, the City shall reimburse Contractor for all out of pocket expenses incurred by Contractor in its performance of its obligations in this Agreement, provided that the City approved the same in writing.

3.2. Invoices. Unless otherwise approved by the parties in writing, Contractor shall submit invoices to the City (using Contractor's standard rates and fees) for all payments due Contractor and the City shall pay Contractor for all undisputed invoices within 60 days after receipt of the invoice. Contractor and the City shall use best efforts to resolve any disputed invoices. Any undisputed portions of an invoice that are not timely paid shall incur interest at the rate of 18% per annum and the City shall pay said interest to Contractor. Upon the expiration or termination of this Agreement, for any reason and at any time, all sums due to Contractor by the City shall be immediately due and payable to Contractor and the City shall pay the same to Contractor immediately upon said termination or expiration. Notwithstanding anything contrary in this Agreement, the City's obligations to pay Contractor as outlined in this Agreement shall survive the expiration or termination of this Agreement.

Contractor may add sales taxes to the sales price where required by applicable law, and the City shall pay such taxes unless the City provides Contractor with a duly executed sales tax exemption certificate.

ARTICLE IV. CHARTER, LAWS, AND ORDINANCES

- 4.1. **Charter, Laws, and Ordinances.** Contractor and the Board, at all times, agree to observe all applicable federal and state laws, ordinances, and home rule charter provisions of the City of Trinidad, and all rules and regulations issued pursuant thereto, which in any manner affect or govern the services contemplated under this Agreement. Notwithstanding the foregoing, Contractor's rights in this Agreement shall not be limited or changed without Contractor's prior written consent.

ARTICLE V. TERMINATION OF AGREEMENT

- 5.1. **Termination for Cause.** In the event that a material breach of this Agreement remains uncured following reasonable notice of said breach, the non-breaching party may terminate this Agreement upon written notice specifying the effective date thereof, provided the City and Contractor shall have at least thirty (30) days to cure any such alleged breach. The cure period contemplated in this Section shall not apply to any breach resulting from failure to pay any sums due to Contractor as provided in this Agreement

5.2. **Termination for Governmental Convenience.**

- a. **Change in City Policy.** The Board may terminate this Agreement due to a change in City policy at any time upon reasonable notice, but not less than thirty (30) days, specifying the date thereof, provided that Contractor shall be compensated in accordance with this Agreement for all work performed and incurred reimbursable expenses, if any, up to the effective date of termination.
- b. **Non-Appropriation of Funds.** The renewal of this Agreement is subject to annual appropriation of lodging tax revenues by the Trinidad City Council.

5.3. **Effect of Termination.**

- a. **Ownership of End Product.** In the event of termination, and provided the City is not otherwise in breach of its obligations in this Agreement, all End Product(s) prepared by Contractor pursuant to this Agreement shall become the sole property of the City.
- b. **Right to Set-Off and other Remedies.** Termination shall not relieve a party (the "Breaching Party") from liability to the other party for damages sustained as the result of the Breaching Party's breach of this Agreement; and the other may withhold funds or services otherwise due under this Agreement in lieu of such damages, until such time as the exact amount of damages, if any, has been determined.

ARTICLE VI. CHANGE ORDERS OR EXTENSIONS

- 6.1. **Change Orders or Extensions.** If the Board requires changes in the scope of the services of Contractor to be performed hereunder, then the Board shall make such request to Contractor and, if the parties mutually agree on said changes, including any increase or decrease in the amount of Contractor's compensation, then such agreement shall become binding on the parties only if the same is reduced to a written document (including email) that is signed (including acceptance via email) by each party.

ARTICLE VII. EQUAL EMPLOYMENT OPPORTUNITY

- 7.1. **Equal Employment Opportunity.** Contractor and the Board will not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, age, sex (gender), religion, creed, or physical or mental disability. Contractor and the Board may adhere to lawful equal employment opportunity guidelines in selecting employees, provided that no person is illegally discriminated against on any of the preceding bases. This provision shall govern, but shall not be limited to, recruitment, employment, promotion, demotion, and transfer, and advertising therefor; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.

ARTICLE VIII. MISCELLANEOUS PROVISIONS

- 8.1. **Examination of Records.** At reasonable times and upon reasonable notice, Contractor shall permit the City's finance director, or a duly authorized representative from the City, to have access to and the right to examine Contractor's directly pertinent books or other pertinent records relating to (i) litigation of claims arising from the performance of this Agreement, or (ii) costs and expenses of this Agreement to which the City's finance director, or duly authorized representative from the City, has taken material exception.
- 8.2. **Indemnification.** Each party (the "Indemnifying Party" shall indemnify, defend, and hold harmless the other party (the "Indemnified Party"), its legal managers, members, officers, agents, and employees, from and against all claims, damages, liabilities, and court awards, including costs, expenses, and reasonable attorney fees, to the extent caused by any negligent or otherwise wrongful act, error, or omission of the Indemnifying Party, its officers, agents, and employees. The Indemnifying Party shall provide the Indemnified Party with prompt notice of any claim for which Indemnifying Party may be liable. Likewise, the Indemnified Party agrees to provide the Indemnifying Party with prompt notice of any claim for which indemnification may be sought hereunder and, further, to cooperate with the Indemnifying Party in the resolution of such claim. Nothing herein is intended to be or shall be construed to be a waiver of the City's governmental immunity under § 24-10-101, *et. seq.*, C.R.S., as amended.
- 8.3. **Severability, Waiver.** The provisions of this Agreement are severable. Illegality or unenforceability of a provision herein shall not affect the validity or enforceability of the remaining provisions in this Agreement. The failure or delay by any party to exercise any right or remedy set forth herein will not operate as a waiver thereof. The waiver by any party of a breach of any provision hereof will not operate as a waiver of any subsequent breach. No waiver will be effective unless and until it is in written form and signed by the waiving party.
- 8.4. **Entire Agreement.** This Agreement and all exhibits and attachments represent the entire agreement between the parties and no additional or different oral representation, promise, or agreement shall be binding on any of the parties hereto with respect to the subject matter of this Agreement, unless stated in writing and signed by Contractor and the Board. Notwithstanding the forgoing, if the Board requests services or projects from Contractor that fall under the scope of this Agreement via email or other written document, and if Contractor agrees to the same via email or other written document, then the same shall be deemed incorporated herein and subject to this agreement as though the same were a statement of work to this Agreement.
- 8.6. **Notice.** Unless otherwise provided in this Agreement, any notice, demand or other communication (each a "Notice") required or permitted to be given or made by this Agreement or applicable law shall be in writing and all expenses, if any, related to its delivery prepaid. All Notices shall be addressed to the proper address contained in this Section or at such party's

Initials:

CONTRACTOR

BOARD

most current address that has been provided to the other parties in accordance with the notice provision of this Agreement. If a Notice is mailed in accordance with the terms of this Section, then such Notice shall be deemed to have been delivered as follows: (a) at the time of delivery if actual delivery is made to that party by hand; (b) at the time of delivery of an electronic communication, including email, if confirmation of receipt, either express or implied, of that notice is made by personalized written or electronic confirmation by the intended recipient; (c) one business day after having been given to an overnight courier for overnight delivery; or (d) four business days after being deposited in the United States mail using certified mail.

If to the City or the Board:

City of Trinidad, Colorado
Attn: Tourism Board
135 North Animas Street
P.O. Box 880
Trinidad, CO 81082

If to the Contractor:

ZIV, LLC
2060 Broadway St.
Boulder, CO 80303

- 8.7. Governing Law and Jurisdiction.** This Agreement shall be construed in accordance with the laws of the United States of America and the State of Colorado. In the event of any dispute over the Agreement's terms and conditions, the exclusive venue and jurisdiction for any litigation arising thereunder shall be in the District Court of Las Animas County, Colorado, and, if necessary for exclusive federal questions, the United States District Court for the District of Colorado.
- 8.8. Authorization of Execution.** The signatories to this Agreement affirm and warrant that they are fully authorized to enter into this Agreement, and that all necessary actions, notices, meetings, and/or hearings pursuant to any law required to authorize execution of this Agreement have been made.
- 8.9 DISCLAIMER AND LIMITATION OF LIABILITY.** Contractor does not warrant, represent, or guaranty that its deliverables under this agreement will be profitable or will have success. Except as otherwise expressly provided in this agreement, each party hereby specifically disclaims any and all warranties, implied or express, including without limitation the implied warranties of merchantability and fitness for a particular purpose. Contractor shall not be liable for any loss of profits, sales, or revenues, loss of use, interruption of business, or damages arising out of the services provided by contractor under this agreement. Neither party shall be liable to the other party under this agreement for consequential, special, exemplary, punitive, indirect, or incidental damages. Contractor's liability under this agreement (save in respect of any liability caused by its gross negligence or willful misconduct) shall not exceed the amount paid by city to contractor under this agreement.
- 8.10 Counterparts, Digital Signatures, and Copies.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one instrument and may be signed using digital signatures, which shall be deemed valid and effective for all purposes with the same force and effect as if such digital signature were ink-signed. The parties may rely on photocopies of this Agreement as if such photocopy were an original.

[Remainder of Page Intentionally Left Blank – Signature Page to Follow]

Initials:

CONTRACTOR BOARD

PROJECT STATEMENT OF WORK

City of Trinidad Tourism Board Engagement



Version Control

Version	Date	Author	Client
1	2/17/2015	Cara Miller	City of Trinidad Tourism Board

INTRODUCTION

Establishing Trinidad, Colorado as a tourism destination can become a realized accomplishment by combining our world-class expertise, innovative insights, and a process that covers the bases with your perspective on the very best that Trinidad has to offer.

It is understood that the targeted launch for the marketing initiative is February 2015. We will begin with our 'Shine' and 'Study' phase around specific needs, requirements and dependencies. This will help us confirm exact timelines and deliverables.



BUSINESS OBJECTIVES

The objectives of the City of Trinidad Tourism Board Tourism Board initiative have been defined as follows:

- **Attract overnight visitors and encourage visitors to extend their stay**
- Reach travelers along I-25
- Fellow Coloradans as a quick, in-state and unique get-away
- Reach families in neighboring cities like Pueblo, Colorado Springs
- Reach neighboring states as an easy access destination with a wide variety of attractions and amenities

A. Increase demand for local attractions, businesses and entertainment by visitors of all ages

- Prioritize increasing foot traffic within the downtown area
- Increase awareness about all that Trinidad has to offer, focusing specifically on niche markets who are looking for unique experiences

B. Promote festivals and events in furtherance of encouraging economic development

- Create collateral and digital assets that allow the Board to communicate local attractions and festivities

C. Foster civic pride and ambassadorship

- Develop a brand and vision for the city of Trinidad that citizens can rally behind and consumers can connect with
- Use established metrics to measure results

PROJECT STATEMENT OF WORK

City of Trinidad Tourism Board Engagement



SOLUTION OBJECTIVES

The objective of the engagement described in this scope of work is to grow Trinidad's tourism, economic development and community pride.

SCOPE

1.0 RUN ZIV SHINE & STUDY

The following are high-level descriptions of key aspects that comprise this portion of the overall project. This process includes the following tasks:

- Review existing collateral and past project scopes
- Understand the business objectives and challenges in order to define a targeted approach that will support objectives long-term
- Gather insights from partners and other City of Trinidad organizations and businesses to understand community offerings and available data and research
- Understand city and competitor context
- Fine-tune the approach for moving forward

In effect, it is the upfront discovery that lays the foundation for the year and finalizes it's scope as follows:

1. Public Relations

- Pitch to publications, media, and influencers that target market reads such as lifestyle magazines or travel information sites like AARP, Amtrak, Colorado Expressions to name a few
- Press releases on notable events and survey results
- Develop talking points and draft media materials such as email pitches, FAQs, news releases, etc. Includes two rounds of edits – ZIV creates all copy with the city of Trinidad Tourism Board approval
- Integrate advertising buys with potential editorial opportunities – ZIV creates advertisements and facilitates buys but advertising buy dollars are NOT a part of this SOW/budget
- Develop an editorial calendar of proactive story ideas to be pitched on an ongoing basis as well as populate the "What's New/Blog" and ensure consistent exposure across platforms and email
- Integrating with the social media strategy to share ideas across social channels
- Pitching story angles and following up with reporters, bloggers, and content aggregation sites
- Ongoing client communication with monthly results reporting

2. Social Media

- Create a content marketing strategy, with editorial calendar to provide shareable information on the site and e-newsletter
- Post 5 to 14x a week on Facebook and Twitter with information important and relevant to target audience
- Design on-brand assets to support posted content as well as manage social media pages with a focus on Facebook and Twitter initially

PROJECT STATEMENT OF WORK

City of Trinidad Tourism Board Engagement



3. Marketing

- Develop marketing collateral that works to create packages, information, and visitor guide with map (assumes brochure style)
- Design a set of billboards that entice travellers to stop in Trinidad
- Ad placement via Facebook, mobile and web banner ads placed based on relevant and connected keywords to increase awareness of Trinidad's unique attractions.

4. Web platform communications and management

- Architect site framework for optimal brand and guest experience, insuring site is structured well while connecting with and accommodating the target demographic
- Repurpose and rewrite copy for website content with integration of keywords for SEO
 - events listing
 - email sign up
 - social media 'lounge'
 - business directory
 - social media sharing integration
 - group planning section with downloadable resources like a pdf visitor guide
 - content/information
- Build and launch a quality checked website on a robust content management system
- Monitor site analytics to understand site visitors and traffic patterns

1.0.1 DELIVERABLES

The overall engagement consists of a year long plan with assigned deliverables to facilitate increase reach and movement. Generally we will have a ramp up phase, and then move into a monthly pattern of support. The following are our deliverables:

1. **Review and audit:** An in-depth study and appraisal of the existing.

DELIVERABLES:

- a. Kick-off meeting feedback

2. **Prioritized actionable recommendations** integrated into a solid plan for moving forward.

DELIVERABLES:

- a. PR plan
- b. Social Media Plan and editorial calendar
- c. Graphics and social media pages to represent
- d. Email Marketing templates

3. **Updated web presence**

DELIVERABLES:

Website:

- a. Information architecture
- b. Content Strategy
- c. Wireframe Templates
- d. Visual Design comps
- e. Quality checked website

4. **Collateral**

DELIVERABLES:

- a. Informational Rack card/brochure

PROJECT STATEMENT OF WORK

City of Trinidad Tourism Board Engagement



- b. Group gatherings brochure
- c. Visitor guide with map (assumes brochure style)
- d. Billboard ad design
- e. Other ads as needed

1.0.2 INVESTMENT STRUCTURE

Facebook Increase followers, fans and likes	<ul style="list-style-type: none"> • Post on Facebook and Twitter 4 to 14x weekly depending on needs • Monthly report 	<p>\$8,800 \$800/monthly</p>
Twitter	<ul style="list-style-type: none"> • Autopilot – feed from Facebook posts • Initial set up and follow sponsors • Follow between 25 and 50 accounts a week based on current number of followers and in line with Twitter's algorithm • Unfollow people who do not follow back within 3 to 7 days to keep your account growing and to maximize Twitter following • Send a direct message thanking every follower and forwarding to Facebook page or website • Engage with followers through retweets, favoriting posts 	<p>\$4,400 \$400/monthly</p>
Social media assets	<ul style="list-style-type: none"> • Facebook and twitter page graphics updated quarterly • Find and create imagery and graphics for articles and social media posts <p><small>* Note images purchased from stock will have a fee associated with them, assumes we will be able to utilize Trinidad CVB photography.</small></p>	<p>\$2,750 \$250/monthly</p>
Email Marketing	<ul style="list-style-type: none"> • Bi-monthly emails that ties in with content marketing strategy, communicating events, featuring vendors, advertising solutions. 	<p>\$6,435 \$585/monthly</p>
TOTAL		\$22,385
Ongoing proactive outreach to media	<ul style="list-style-type: none"> • Developing an editorial calendar of proactive story ideas to be pitched on an ongoing basis. • Collaborating with the social media strategist to share ideas across social channels. • Pitching story angles and following up with reporters and bloggers as appropriate. • Drafting relevant media outreach materials • Ongoing client communication • Results reporting 	<p>\$20,280 \$1,690/monthly</p>

PROJECT STATEMENT OF WORK

City of Trinidad Tourism Board Engagement



- 13 hours/month

On brand visitor guide	Copywriting <ul style="list-style-type: none"> • Design and development (5 rounds of edits) 	\$8800
Rack card*	Design (assumes 2 rounds of changes) <ul style="list-style-type: none"> • Print coordination 	\$2600
State marketing publications	<ul style="list-style-type: none"> • Ad in the Instate Colorado visitor emails to 28,800 readers through Colorado.com x1 \$850 • Colorado.com sponsored content: \$4000 	\$4850
Local publications and nearby visitor guides	Colorado Parent <ul style="list-style-type: none"> o Everything Family edition \$1300 o eNews \$190/wk for 3 weeks \$570 Colorado Springs visitor guide (Non-Premium Inside page - \$220) ALIVE Colorado Summer Travel Magazine (\$1,223 for half page)	\$3313
Billboards	Design of billboards – assumes: <ul style="list-style-type: none"> o 3 locations for June/July/August o Allotted media spend: \$2150x3 	\$6450
Photography and asset creation	<ul style="list-style-type: none"> • Invest in stunning photography • Both locally purchased and stock photography • Create ad/campaigns x6 *Amount of photography will be based on budget	\$6900
TOTAL		\$36,213
Project Kick off	<ul style="list-style-type: none"> • Gather detailed stakeholder requirements • Create and review project plan • Schedule weekly meetings 	\$1750
Research/Needs assessment	<ul style="list-style-type: none"> • Group constituents and assess needs • Document key information pathways and tasks • Analyze web traffic • High level competitor context analysis 	\$3345
Content strategy	<ul style="list-style-type: none"> • Audit current content 	\$3048

PROJECT STATEMENT OF WORK

City of Trinidad Tourism Board Engagement



	<ul style="list-style-type: none">• Sitemap and information structure• Develop content workbook• Source appropriate imagery and assets	
Copy Development	<ul style="list-style-type: none">• Make existing copy come to life and write new copy as needed (assumes 50 pages @1-2 hours per page)• Optimize for SEO	\$10,100
Wireframes and website planning	<ul style="list-style-type: none">• Templates for 10 key pages and interactions• Mobile wireframes• The assumption is that this will include:<ul style="list-style-type: none">○ events listing○ email sign up○ social media 'lounge'○ business directory○ social media sharing integration○ group planning section with downloadable resources like a pdf visitor guide	\$3625
Moodboards	<ul style="list-style-type: none">• Create mood boards to establish visual direction• Assumes two options	\$2000
Visual Design/Interface Design	<ul style="list-style-type: none">• Begin defining the brand (the current logo will act as a starting place)• Design the custom interface for 2 templates then apply to remaining• Validate direction with informal user testing	\$4350
Website build and implementation	<ul style="list-style-type: none">• Front-end CSS/HTML buildout• Dev Ops set up site, certificate• Back-end color/logo dashboard• MailChimp integration• Vendor edit with internal approval of external submissions• Google Map mashup• Maintain existing SEO	\$12,480
QA, training and handoff	<ul style="list-style-type: none">• Quality assurance testing including proofing and stress testing (30)• Provide a training session on use of the website admin side• Push new site live	\$3250
	Investment total	\$40,000

PROJECT STATEMENT OF WORK

City of Trinidad Tourism Board Engagement



Additional Expenses

Travel	<ul style="list-style-type: none"> • We assumed 4 on-site visits for the team. Additional trips can be billed separately dependent on travel costs and length of stay.* 	\$6500
Project management	<ul style="list-style-type: none"> • Edits and features quoted individually on an ongoing basis • Meeting agendas • Keep team on track with deliverables 	\$10,700
Post launch content development and site updates	<ul style="list-style-type: none"> • Assumes 5 hours a month post launch for incremental improvements on the site 	\$4550
Maintain website	<ul style="list-style-type: none"> • Web server and database server fully managed by Tekniq • Use of CMS platform • Bug fixes • Maintenance of servers and code to eliminate published security vulnerabilities • \$300/month 	\$2400
Social media	<ul style="list-style-type: none"> • Hootsuite at \$120/year 	\$1440
Integrating social sharing	<ul style="list-style-type: none"> • Addthis (a more robust service than the currently used sharethis) at \$144/year 	\$1584
	TOTAL	\$27,174

Optional add ons (If needed)

Printing of marketing materials	<ul style="list-style-type: none"> • Printing costs dependent on volume • Visitor Guide with map • Rack card/brochures for surrounding rest areas and visitor centers • Group gatherings planning brochure 	TBD
Ongoing site edits and feature additions	Edits and features quoted individually on an ongoing basis	\$130/hour as needed
Google adwords	<ul style="list-style-type: none"> • Set up Google Analytics & Google Webmaster account and fill out the Google non-for-profit membership (DCSS) • Create Adwords account • Competitive analysis 	\$6600

PROJECT STATEMENT OF WORK

City of Trinidad Tourism Board Engagement



	<ul style="list-style-type: none"> • Initial set up of campaign with structure, keywords, ads, negatives and ad extensions • Link analytics and Adwords account to generate the necessary tracking tags • Weekly update emails and a monthly snapshot of trended performance • Approach success measurement with a blended approach of clicks, brochure downloads and tour requests • Targeted digital ads (ie adwords) \$600/month for 10 months • Ad Creation – Write ad copy & populate in Adwords 	
Group planning brochure	<ul style="list-style-type: none"> • Design and develop a brochure that provides high level group visit ideas (assumes 4 rounds of revisions/proofing) 	\$2800
Search engine optimization	<ul style="list-style-type: none"> • Begin after website is up \$700/month • Integrate into directories, websites, and continuous optimization 	\$4900
Refine the existing logo	<ul style="list-style-type: none"> • Recommended but not required • Take current city seal and refine it for better balance and scalability and website usage 	\$5590
Redefine the Trinidad Brand*	<ul style="list-style-type: none"> • Two branding workshops to deep dive into who Trinidad is and what they want to be • Create three draft versions of wordmark and/or logo based on research, committee ideas, city council insights and ZIV expertise • Select one draft version to move forward with and refine • Include four rounds of revisions • Develop a color scheme to represent the city and integrate into the logo • Brand usage style guide that includes essence who Trinidad is as well as guidelines for using the logo 	\$15,590
YouTube/Instagram Pinterest	<ul style="list-style-type: none"> • Grow these three platforms to attract attention from both residents and non-locals 	\$700/monthly
Fonts	<ul style="list-style-type: none"> • If needed would be purchased 	\$100 - \$300

Note

1.0.3 RESOURCES

The resources required to deliver the scoped items outlined for this initiative include:

PROJECT STATEMENT OF WORK

City of Trinidad Tourism Board Engagement



- Chief Creative Strategist and Founder
- Director of Accounts and Insights
- Content Strategist
- Production Designer
- Web Development Team
- Social Media
- City of Trinidad Executive/Marketing Team

1.0.4 TIME ESTIMATE

Below is a preliminary estimate of the time required for the initial phase of this initiative

TOTAL TIME FOR SCOPE/STRATEGY: 6 weeks

TOTAL TIME FOR IMPLEMENTATION (OF WEBSITE AND STRATEGY): 4-5 months

LAUNCH/ASSESS/PIVOT/MAINTAIN: 5-12 months

1.0.5 PROJECT PLAN (TO BE FINALIZE IN OUR PROJECT PLAN)

March 3, 2015

- Project kick off
- Put plan together
- Finalize SOW
- Gather competitor set

March 4 to 20, 2015

(Potential travel dates are week of March 9th to 13th or 19/20th or 23rd to 24th)

- Research
- Brand strategy research and workshops
- Set up social media and develop social media calendar
- Editorial Strategy
- Content audit and gathering for web and print materials
- Email marketing set up
- Content strategy and website planning

March 23 to April 3, 2015

- Information structure
- Wireframe and website planning
- Initial brand explorations
- PR Strategy

April 6 to April 17, 2015

- Moodboards
- Photography planning
- Visual design concepts
- Content workbook

PROJECT STATEMENT OF WORK

City of Trinidad Tourism Board Engagement



- Ad campaign assets/strategy
- Begin plan for social media
- Begin to execute PR strategy

April 20 to June 5, 2015

- Visual design finalized – hand off
- Website build begins
- Content migration
- Ad campaigns/Billboards
- QA Push website live
- Email launch
- Begin to execute social media plan

Gantt chart project plan to be provided upon engagement

1.0.6 COST ESTIMATE

Below is the investment to complete this initiative for the year

TOTAL COST: \$150,000

INVESTMENT SUMMARY

Q1 2015 Investment:

DELIVERABLE	TIME FRAME	INVESTMENT
Shine/Study	4 weeks	\$12,500 (due upfront)
Spark/Synthesize/Sustain	Monthly	\$12,500 monthly retainer

All costs are estimates, pending establishment of strategic approach and technical implementation requirements. Printing, photography, fonts and ad spend are in addition to this estimate. Please note with the workload being heavier early in the year, hours will be tracked so that if the contract is terminated early, the City of Trinidad would compensate ZIV hours that exceeded 4 months worth of retainer. ZIV retains the right to bill for the additional hours.

ROLES & RESPONSIBILITIES

ROLE	PERSON	RESPONSIBILITIES
Client	Cy Michaels	Provide research and data and information for engagement success
Director of Marketing and PR	Lyssa Surface	Approve content strategy and assets PR and campaign strategist, Account management, Research
Social Media and Brand builder	Lindsay Lovejoy	Production of assets and social media strategist
Chief Creative Strategist and Founder	Cara Miller	Research and strategist, creative direction



COUNCIL COMMUNICATION

4

CITY COUNCIL MEETING: March 10, 2015 Work Session
PREPARED BY: Audra Garrett, City Clerk
PRESENTER: Audra Garrett, City Clerk
DEPT. HEAD SIGNATURE: *Audra Garrett*
CITY MANAGER SIGNATURE:

SUBJECT: Consideration of Las Animas County E-911 Emergency Communications Authority applicants for appointment to the Authority board

RECOMMENDED CITY COUNCIL ACTION: Forward to Regular Meeting of March 17, 2015 for appointment of two members to the Authority.

SUMMARY STATEMENT: N/A

EXPENDITURE REQUIRED: No

SOURCE OF FUNDS: N/A

POLICY ISSUE: N/A

ALTERNATIVE: Re-advertise to solicit additional letters of interest

BACKGROUND INFORMATION:

- On February 17, 2015, the City, as a party to the Third Amended and Restated Intergovernmental Agreement concerning the Las Animas County E-911 Emergency Communications Authority, approve the amendment (agreement).
- The amendment caused the automatic appointments to the board of the Trinidad Police Chief, Trinidad Fire Chief, Sheriff and Trinidad Ambulance District Chief Executive Officer.
- The City is allowed two additional seats on the board and new appointments need to be made.
- Previous appointees included Mary Blecha, David Barrack, Charles Glorioso and Nick DeBono.
- Advertisement was made to fill the two appointments. The three "at-large" individuals on the Authority were called to let them know the requirement to seat two members and the deadline to submit a letter of interest.
- Two letters of interest were received by the February 27th deadline, from Mary Blecha and from David Barrack.

CONTACT FOR INFORMATION:

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

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February 17, 2015
Trinidad, Colorado

To the Mayor and Members of City Council:

In light of the approval of the amended E911 Intergovernmental Agreement, I am re-submitting a letter of interest in the position for the E911 Authority Board.

I retired in early 2013 from the Aurora Colorado Police Department where I was employed for 10 years as a Senior Records Clerk. I also worked in the Bell Telephone System as a long distance operator in the days before 911. We dispatched police, fire and ambulance for the areas we serviced.

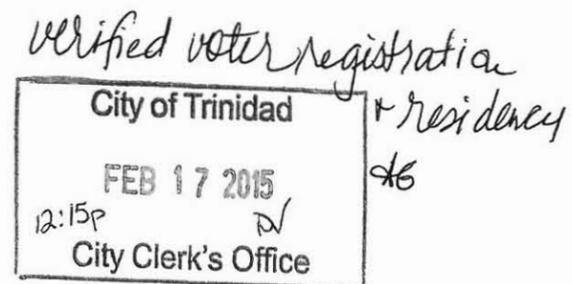
For the past year I have volunteered at the Trinidad Police Department.

I am aware of the necessity for competent emergency services both with regard to adequate training and equipment. I have been acquainting myself with aspects of the board and am looking forward to serve the board to the best of my ability.

If you have questions or need to contact me, I can be reached at 303-913-8142. Thank you for your consideration.

Sincerely,

Mary Blecha
Mary BLECHA



David J. Barrack
115 E. Elm Street
Trinidad, CO 81082

February 18, 2015

Mayor Joe Reorda, Sr. and City Council Members
135 N. Animas Street
Trinidad, CO 84102

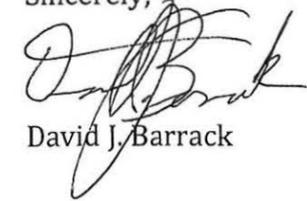
Dear Mr. Mayor and City Council Members:

It is amazing how quickly time has passed. I feels like I was just reappointed.

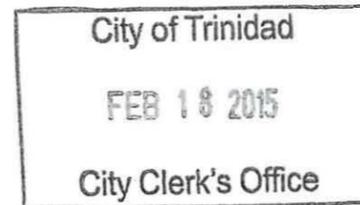
Please accept my application to be reappointed to the 911 Authority Board. I was on the original board when 911 came into this community. I have spent the last four years helping to update the software, renegotiate the Intergovernmental Agreement and rewrite the Bylaws.

Though this process was recently completed I continue to believe that my knowledge of and experience with 911 qualifies me to remain on the board. I am willing to make myself available to you for an interview and/or discussions about 911. Please fill free to contact me to schedule at time.

Sincerely,



David J. Barrack



*Verified voter registration
& residency*

PUBLIC NOTICE

The Trinidad City Council is accepting letters of interest from citizens within the City to fill the following vacancies:

One (1) on the Tourism Board; and
two (2) on the City Tree Board; and
two (2) on the Las Animas County E-911 Emergency Communications Authority.

In order to be considered eligible to serve individuals must be a resident of the City and have resided within the City for not less than one year immediately preceding appointment and must be registered to vote. However, in order to serve on the Tourism Board an applicant shall be either a resident and registered voter of the City of Trinidad, or a resident and registered voter of Las Animas County, Colorado, who is employed in a restaurant operation within the City of Trinidad.

Letters of interest in serving on any of these boards will be accepted at the City Clerk's Office at City Hall, 135 N. Animas Street or P. O. Box 880, Trinidad, CO 81082, until 12:00 p.m., February 27, 2015. Please include your qualifications for the position.

Further information may be obtained by calling the City Clerk's Office at 846-9843.

City of Trinidad
Audra Garrett, City Clerk

Publish: February 18, 25
Legal ad
Furnish Proof of Publication



COUNCIL COMMUNICATION

5

CITY COUNCIL MEETING: March 10, 2015 Work Session
PREPARED BY: Les Downs, City Attorney
PRESENTER: Les Downs, City Attorney
DEPT. HEAD SIGNATURE:
CITY MANAGER SIGNATURE: *Les D. Downs*

SUBJECT: Further Discussion and Consideration of the Monument Lake Resort Contract, and pertaining to Mike Robb and Westland Resources, LLC

RECOMMENDED CITY COUNCIL ACTION: To consider forwarding this item to the regular meeting of March 17th, 2015, and to afford you the opportunity to further discuss this proposed agreement before doing so.

SUMMARY STATEMENT: To consider approving the agreement as discussed, and as presently constituted.

EXPENDITURE REQUIRED: No, other than to allow the financial arrangement with Mr. Robb to continue, if in fact you elect to do so.

SOURCE OF FUNDS: N/A

POLICY ISSUE: No

ALTERNATIVE: Do not accept the contract.

BACKGROUND INFORMATION: Previously provided, and a copy of the agreement is Enclosed.

CONTACT FOR INFORMATION: Les Downs, City Attorney

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COUNCIL COMMUNICATION

6

CITY COUNCIL MEETING: March 10, 2015 Work Session
PREPARED BY: Mike Valentine
PRESENTER: Mike Valentine, PW/Utilities Dir.
DEPT. HEAD SIGNATURE: *Mike Valentine*
CITY MANAGER SIGNATURE:

SUBJECT: Consideration of bid results for the Commercial Street Improvements Project #07-2015

RECOMMENDED CITY COUNCIL ACTION: Review of three bids received on March 5, 2015. Please see attached bid results tabulation. Consider forwarding to Regular Meeting of March 17, 2015 for acceptance of lowest qualified bid from Purgatoire Valley Construction, Inc. in the amount of \$1,991,199.74.

SUMMARY STATEMENT: Construction and rehabilitation of Commercial Street from Main Street to the Commercial Street Bridge at the Purgatoire River: to include the following elements: sewer, water, primary and secondary electrical conduits, street light bases, storm sewer, curb ramps, curb, gutter, sidewalk and both brick and concrete paving.

EXPENDITURE REQUIRED: Yes, \$ 1,991,199.74

SOURCE OF FUNDS:	CIP (City Match)	\$ 540,512.00
	Energy Impact Assistance Fund Grant	<u>\$1,720,000.00</u>
	Total	\$2,260,512.00

POLICY ISSUE: N/A

ALTERNATIVE: Do not accept the bids/re-bid

BACKGROUND INFORMATION: In 2012/13 grants were applied for through Department of Local Affairs Energy Impact Assistance Fund for the re-construction of Commercial Street from the Commercial Street Bridge south to Main Street. EIAF grants were awarded for three phases. Phase I included that section of Commercial from the bridge to Plum Street. Phase II included that section of Commercial from Plum Street to Main Street. Phase III is for round-a-bout design only at the five points intersection.

Request for Proposals for engineering services were received in February of 2014 and the engineering firm of SGM was selected in April of 2014 to prepare the design plans and specifications for construction of the improvements. It was determined during the design that combining Phase I and II into one project would be best in order to minimize disruption of traffic and businesses through the construction area. Public meetings were conducted through the design phase to gather input from the community and in particular the businesses that would be affected by the construction/disruption.

A mandatory pre-bid meeting was held on February 18, 2015 and 10 prospective general and sub-contractors attended. Three general contractors submitted their bids which were then opened and read publically on March 5, 2015.

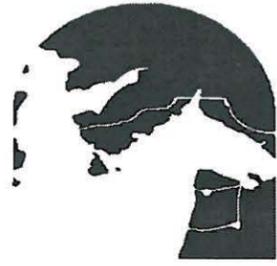
If council elects to award the bid at the March 17th regular meeting, the work effort would begin on or about April 1, 2015 after receipt of insurance requirements, performance and payment bonds.

CONTACT FOR INFORMATION: Mike Valentine, Public Works/Utilities Director
 (719) 846-9843, ext. 122 (719) 680-3795

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**Commercial Street Improvements
Bid Results ~ Thursday March 5, 2015**

Item No	Description	Unit	Quantity	Engineer Estimate		Lacy Construction		PVC		Avalanche	
				Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1	Mobilization /Demobilization	LS	1	\$50,000.00	\$50,000.00	\$100,000.00	\$100,000.00	\$87,700.00	\$87,700.00	\$126,000.00	\$126,000.00
2	Construction Traffic Control	LS	1	\$30,000.00	\$30,000.00	\$50,000.00	\$50,000.00	\$10,182.00	\$10,182.00	\$35,000.00	\$35,000.00
3	Remove Tree Grate Frames and Root Ball	Each	23	\$150.00	\$3,450.00	\$400.00	\$9,200.00	\$450.00	\$10,350.00	\$500.00	\$11,500.00
4	Remove Light Post Base	Each	34	\$250.00	\$8,500.00	\$515.00	\$17,510.00	\$281.41	\$9,567.94	\$550.00	\$18,700.00
5	Remove and Reset Mailbox	Each	1	\$500.00	\$500.00	\$400.00	\$400.00	\$143.00	\$143.00	\$800.00	\$800.00
6	Remove 78" Type-R Storm Drain Inlet	Each	2	\$1,200.00	\$2,400.00	\$500.00	\$1,000.00	\$1,065.00	\$2,130.00	\$2,700.00	\$5,400.00
7	Remove 72" Type-R Storm Drain Inlet	Each	4	\$1,100.00	\$4,400.00	\$500.00	\$2,000.00	\$1,062.50	\$4,250.00	\$3,000.00	\$12,000.00
8	Remove 19" Circular Storm Drain Grate	Each	5	\$1,000.00	\$5,000.00	\$250.00	\$1,250.00	\$218.40	\$1,092.00	\$400.00	\$2,000.00
9	Remove 24" Circular Storm Drain Grate	Each	6	\$1,000.00	\$6,000.00	\$250.00	\$1,500.00	\$227.50	\$1,365.00	\$400.00	\$2,400.00
9a	REMOVE STORM DRAIN MANHOLE	Each	6	\$1,400.00	\$8,400.00	\$1,500.00	\$9,000.00	\$796.66	\$4,779.96	\$1,800.00	\$10,800.00
10	Remove Curb and Gutter	LF	2,800	\$5.50	\$15,400.00	\$4.00	\$11,200.00	\$6.31	\$17,668.00	\$6.00	\$16,800.00
11	Remove Concrete Pavements	SY	2,800	\$25.00	\$70,000.00	\$10.00	\$28,000.00	\$9.27	\$25,956.00	\$7.00	\$19,600.00
12	Remove Brick Sidewalk And Ped. Area Pavers	SY	410	\$5.00	\$2,050.00	\$25.00	\$10,250.00	\$12.15	\$4,981.50	\$6.00	\$2,460.00
13	Remove 12" Water Line	LF	1,350	\$17.00	\$22,950.00	\$26.00	\$35,100.00	\$16.15	\$21,802.50	\$18.00	\$24,300.00
14	Remove Fire Hydrants	Each	4	\$2,500.00	\$10,000.00	\$1,350.00	\$5,400.00	\$1,090.50	\$4,362.00	\$800.00	\$3,200.00
15	Remove Storm Drain Piping	LF	1,235	\$16.00	\$19,760.00	\$26.00	\$32,110.00	\$18.10	\$22,353.50	\$12.00	\$14,820.00
16	Install New Light Post Bases	Each	34	\$675.00	\$22,950.00	\$1,275.00	\$43,350.00	\$1,057.21	\$35,945.14	\$1,200.00	\$40,800.00
17	Install New Tree Frames and Grates	Each	20	\$1,500.00	\$30,000.00	\$200.00	\$4,000.00	\$996.50	\$19,930.00	\$1,400.00	\$28,000.00
18	Install New Street Signs	Each	2	\$750.00	\$1,500.00	\$500.00	\$1,000.00	\$845.00	\$1,690.00	\$900.00	\$1,800.00
19	4" Hot Bituminous Asphalt	SY	120	\$22.00	\$2,640.00	\$75.00	\$9,000.00	\$83.04	\$9,964.80	\$145.00	\$17,400.00
20	Class 6 Aggregate Base Course	Ton	5,500	\$18.00	\$99,000.00	\$35.00	\$192,500.00	\$23.53	\$129,415.00	\$19.00	\$104,500.00
21	12" Concrete Band	LF	200	\$15.00	\$3,000.00	\$26.00	\$5,200.00	\$26.28	\$5,256.00	\$28.00	\$5,600.00
22	Curb and Gutter	LF	2,885	\$26.00	\$75,010.00	\$35.00	\$100,975.00	\$23.67	\$68,287.95	\$17.00	\$49,045.00
23	Pedestrian Crossings (Cross Walks)	LF	308	\$120.00	\$36,960.00	\$62.00	\$19,096.00	\$56.43	\$17,380.44	\$120.00	\$36,960.00
24	4' Wide Concrete Valley Pan	LF	220	\$28.00	\$6,160.00	\$54.00	\$11,880.00	\$33.27	\$7,319.40	\$25.50	\$5,610.00
25	Concrete Paving in Road	SY	1,300	\$38.00	\$49,400.00	\$85.00	\$110,500.00	\$31.78	\$41,314.00	\$43.00	\$55,900.00
26	Concrete Sidewalk	SY	2,700	\$29.00	\$78,300.00	\$70.00	\$189,000.00	\$22.52	\$60,804.00	\$48.00	\$129,600.00
27	Install Brick Pavers - Parkway and Pedestrian Areas	SY	770	\$38.00	\$29,260.00	\$80.00	\$61,600.00	\$67.18	\$51,728.60	\$71.00	\$54,670.00
28	Install Brick Pavers - Parkway and Pedestrian Areas	SY	3,475	\$42.00	\$145,950.00	\$145.00	\$503,875.00	\$117.78	\$409,285.50	\$123.00	\$427,425.00
29	Sidewalk Ramp Type 1A Modified	Each	20	\$1,800.00	\$36,000.00	\$3,250.00	\$65,000.00	\$948.50	\$18,970.00	\$1,500.00	\$30,000.00
30	1" Schedule 40 PVC Electrical Conduit	LF	2,448	\$28.00	\$68,544.00	\$17.00	\$41,616.00	\$18.01	\$44,088.48	\$16.50	\$40,392.00
31	Electric Pull Boxes (traffic rated)	Each	10	\$450.00	\$4,500.00	\$1,600.00	\$16,000.00	\$1,233.50	\$12,335.00	\$1,500.00	\$15,000.00
31a	4' DIA SDMH	Each	1	\$3,300.00	\$3,300.00	\$3,500.00	\$3,500.00	\$3,625.00	\$3,625.00	\$2,200.00	\$2,200.00
31b	5' DIA SDMH	Each	1	\$4,000.00	\$4,000.00	\$4,000.00	\$4,000.00	\$4,262.00	\$4,262.00	\$3,500.00	\$3,500.00
32	Curb Inlet and Box	Each	8	\$2,850.00	\$22,800.00	\$3,000.00	\$24,000.00	\$1,701.25	\$13,610.00	\$2,600.00	\$20,800.00
33	Valley Pan Inlet and Box	Each	6	\$3,200.00	\$19,200.00	\$4,500.00	\$27,000.00	\$3,391.67	\$20,350.02	\$3,600.00	\$21,600.00
34	Valley Pan inlet and Box - Type 2	Each	5	\$3,300.00	\$16,500.00	\$4,750.00	\$23,750.00	\$3,782.00	\$18,910.00	\$3,800.00	\$19,000.00
35	Trench Drain	LF	27	\$68.00	\$1,836.00	\$100.00	\$2,700.00	\$55.37	\$1,494.99	\$16.00	\$432.00
36	24" HDPE Storm Drainage Pipe	LF	225	\$66.00	\$14,850.00	\$56.00	\$12,600.00	\$90.38	\$20,335.50	\$80.00	\$18,000.00
37	18" HDPE Storm Drainage Pipe	LF	721	\$55.00	\$39,655.00	\$47.00	\$33,887.00	\$76.21	\$54,947.41	\$70.00	\$50,470.00
38	15" HDPE Storm Drainage Pipe	LF	142	\$52.00	\$7,384.00	\$42.00	\$5,964.00	\$75.35	\$10,699.70	\$66.00	\$9,372.00
39	12" HDPE Storm Drainage Pipe	LF	162	\$40.00	\$6,480.00	\$35.00	\$5,670.00	\$70.68	\$11,450.16	\$65.00	\$10,530.00
40	4" C900 Water Line	LF	15	\$45.00	\$675.00	\$50.00	\$750.00	\$173.87	\$2,608.05	\$70.00	\$1,050.00
41	6" C900 Water Line	LF	42	\$52.00	\$2,184.00	\$55.00	\$2,310.00	\$107.38	\$4,509.96	\$70.00	\$2,940.00
42	8" C900 Water Line	LF	61	\$50.00	\$3,050.00	\$75.00	\$4,575.00	\$123.94	\$7,560.34	\$74.00	\$4,514.00
43	12" C900 Water Line	LF	1,099	\$65.00	\$71,435.00	\$65.00	\$71,435.00	\$79.90	\$87,810.10	\$96.00	\$105,504.00
44	1" Water Service Line Assembly (east)	Each	10	\$2,200.00	\$22,000.00	\$2,800.00	\$28,000.00	\$1,753.50	\$17,535.00	\$1,300.00	\$13,000.00
45	1" Water Service Line Assembly (west)	Each	10	\$2,200.00	\$22,000.00	\$2,500.00	\$25,000.00	\$1,673.00	\$16,730.00	\$1,400.00	\$14,000.00
46	2" Water Service Line Assembly (east)	Each	12	\$2,800.00	\$33,600.00	\$4,000.00	\$48,000.00	\$2,685.83	\$32,229.96	\$1,800.00	\$21,600.00
47	2" Water Service Line Assembly (west)	Each	12	\$2,800.00	\$33,600.00	\$3,500.00	\$42,000.00	\$2,470.83	\$29,649.96	\$1,800.00	\$21,600.00
48	4" Water Service Line Assembly (east)	Each	3	\$3,500.00	\$10,500.00	\$5,400.00	\$16,200.00	\$3,653.33	\$10,959.99	\$2,000.00	\$6,000.00
49	4" Water Service Line Assembly (west)	Each	3	\$3,500.00	\$10,500.00	\$5,000.00	\$15,000.00	\$3,636.67	\$10,910.01	\$2,000.00	\$6,000.00
50	4" Gate Valves	Each	1	\$1,500.00	\$1,500.00	\$2,000.00	\$2,000.00	\$1,275.00	\$1,275.00	\$1,800.00	\$1,800.00
51	6" Gate Valves	Each	1	\$1,750.00	\$1,750.00	\$2,500.00	\$2,500.00	\$1,480.00	\$1,480.00	\$1,850.00	\$1,850.00
52	8" Gate Valves	Each	2	\$1,900.00	\$3,800.00	\$3,500.00	\$7,000.00	\$1,835.00	\$3,670.00	\$3,000.00	\$6,000.00
53	12" Gate Valves	Each	8	\$2,600.00	\$20,800.00	\$4,000.00	\$32,000.00	\$2,971.88	\$23,775.04	\$3,500.00	\$28,000.00
54	Connect to Existing 4" Water Main	Each	1	\$1,200.00	\$1,200.00	\$2,500.00	\$2,500.00	\$1,165.00	\$1,165.00	\$2,200.00	\$2,200.00
55	Connect to Existing 6" Water Main	Each	1	\$1,400.00	\$1,400.00	\$3,000.00	\$3,000.00	\$1,290.00	\$1,290.00	\$2,800.00	\$2,800.00
56	Connect to Existing 8" Water Main	Each	3	\$1,600.00	\$4,800.00	\$3,500.00	\$10,500.00	\$1,371.67	\$4,115.01	\$3,600.00	\$10,800.00
57	Connect to Existing 12" Water Main	Each	2	\$1,800.00	\$3,600.00	\$3,700.00	\$7,400.00	\$1,685.00	\$3,370.00	\$3,800.00	\$7,600.00
58	Fire Hydrant Assembly	Each	4	\$5,200.00	\$20,800.00	\$7,500.00	\$30,000.00	\$5,041.25	\$20,165.00	\$6,100.00	\$24,400.00
59	Sewer Manhole	Each	3	\$4,800.00	\$14,400.00	\$5,000.00	\$15,000.00	\$5,726.67	\$17,180.01	\$4,500.00	\$13,500.00
60	Drop Manhole	Each	1	\$5,200.00	\$5,200.00	\$10,000.00	\$10,000.00	\$9,085.00	\$9,085.00	\$7,500.00	\$7,500.00
61	12" PVC Sewer Main	LF	9	\$70.00	\$630.00	\$100.00	\$900.00	\$411.67	\$3,705.03	\$200.00	\$1,800.00
62	16" PVC Sewer Main	LF	330	\$75.00	\$24,750.00	\$100.00	\$33,000.00	\$105.02	\$34,656.60	\$110.00	\$36,300.00
63	Connect to existing sewer main	Each	4	\$3,500.00	\$14,000.00	\$3,000.00	\$12,000.00	\$760.00	\$3,040.00	\$3,000.00	\$12,000.00
64	Sewer Service Line Assembly	Each	11	\$3,200.00	\$35,200.00	\$4,500.00	\$49,500.00	\$2,555.00	\$28,105.00	\$1,200.00	\$13,200.00
65	Sewer Cleanouts	Each	2	\$500.00	\$1,000.00	\$750.00	\$1,500.00	\$1,270.00	\$2,540.00	\$1,000.00	\$2,000.00
66	15" Sewer Main Slip Lining (CIPP)	LF	742	\$65.00	\$48,230.00	\$135.00	\$100,170.00	\$60.00	\$44,520.00	\$70.00	\$51,940.00
67	6" HDPE Gas Main and tie-in	LF	246	\$45.00	\$11,070.00	\$75.00	\$18,450.00	\$37.64	\$9,259.44	\$144.00	\$35,424.00
68	Erosion Control and Storm Water Management	LS	1	\$5,500.00	\$5,500.00	\$10,000.00	\$10,000.00	\$15,995.00	\$15,995.00	\$28,000.00	\$28,000.00
69	Construction Staking	LS	1	\$7,500.00	\$7,500.00	\$80,000.00	\$80,000.00	\$87,920.00	\$87,920.00	\$18,000.00	\$18,000.00
70	Multi-axial Geogrid Fabric	SY	3,575	\$5.00	\$17,875.00	\$5.00	\$17,875.00	\$3.57	\$12,762.75	\$5.00	\$17,875.00
71	Concrete Electrical Vault and 4" PVC Conduits	LS	1	\$10,000.00	\$10,000.00	\$40,000.00	\$40,000.00	\$24,720.00	\$24,720.00	\$35,000.00	\$35,000.00
72	Demolish Concrete Sub-Base below existing pavers	SY	2,500	\$18.00	\$45,000.00	\$10.00	\$25,000.00	\$9.96	\$24,900.00	\$15.00	\$37,500.00
73	Demolish Asphalt Sub-Base below existing pavers	SY	2,000	\$15.00	\$30,000.00	\$8.00	\$16,000.00	\$9.96	\$19,920.00	\$13.00	\$26,000.00
74	Minor Contract Revisions	LS	1	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00
Calculated Total					\$1,673,538.00		\$2,661,148.00		\$1,991,199.74		\$2,172,083.00
Amount as shown on Bid							\$2,660,068.00		\$1,991,415.00		\$2,172,083.00



CITY OF TRINIDAD, COLORADO
1876

COUNCIL COMMUNICATION

CITY COUNCIL MEETING: March 10, 2015 Work Session
PREPARED BY: Mike Valentine
PRESENTER: Mike Valentine, PW/Utilities Dir.
DEPT. HEAD SIGNATURE: *Mike Valentine*
CITY MANAGER SIGNATURE:

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SUBJECT: Consideration of bid results for the Kit Carson Park Bandstand Remediation, Project #06-2015

RECOMMENDED CITY COUNCIL ACTION: Review of three bids received on March 5, 2015. Please see attached bid results tabulation. Consider forwarding to Regular Meeting of March 17, 2015 for acceptance of lowest qualified bid from Purgatoire Valley Construction, Inc. in the amount of \$80,957.00.

SUMMARY STATEMENT: Repair/restoration of historic local landmark

EXPENDITURE REQUIRED: Yes, \$ 80,957.00

SOURCE OF FUNDS: Lottery. \$ 80,000 was budgeted for this purpose in the 2015 Lottery budget. Consideration of utilizing CIP funds line item budget for City Wide Park Maintenance to fund the remainder of the project.

POLICY ISSUE: Safety

ALTERNATIVE: Do not accept the bids/re-bid

BACKGROUND INFORMATION: In 2011 an inspection of city owned property by CIRSA, the city's insurance carrier, the concrete floor and substructure of the Kit Park Bandstand was deemed unsafe and in need of repair. A design engineer was hired and design plans and bid specifications were prepared to initiate the needed repairs.

The scope of the work includes the demolition of the substandard concrete floor and substructure and installation of a new flooring system with proper slope for drainage along with new LED accent lighting in the interior of the dome, new paint, an electrical upgrade, and tuck and pointing or replacement of deteriorating sandstone as required.

The project was bid out in 2013 but was not awarded due to, from what I have been told, lack of funds at time. In the 2015 Budget council approved an \$80,000 amount in the Lottery fund budget to complete the work. The project was re-advertised and three bids were received. If council elects to award the bid at the March 17th regular meeting, the work effort would begin on or about April 1, 2015 after receipt of insurance requirements, performance and payment bonds.

CONTACT FOR INFORMATION: Mike Valentine, Public Works/Utilities Director
(719) 846-9843, ext. 122
(719) 680-3795

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Kit Carson Bandstand Remediations Project #06-2015
Bid Results ~ Thursday March 5, 2015

Item No	Description	Unit	Estimated Quantity	Contractor: PVC		Contractor: Bassett Construction		Contractor: Latcon	
				Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1	Mobilization, bond, and insurance and any items not defined within the bid schedule but shown on plans	LS	1	\$3,862.00	\$3,862.00	\$25,513.35	\$25,513.35	\$23,465.00	\$23,465.00
2	Scrape and remove loose paint from existing fascias, soffits, moldings, hand rails and some ceiling and prime and repaint	LS	1	\$5,125.00	\$5,125.00	\$5,678.73	\$5,678.73	\$16,120.00	\$16,120.00
3	Replace top stones along stairs at front entrance, use mortar epoxy on remainder of top row of stones and tuck point all remaining mortar joints	LS	1	\$17,500.00	\$17,500.00	\$14,232.97	\$14,232.97	\$15,210.00	\$15,210.00
4	Remove existing concrete floor, sub-floor, floor joists, wooden beam, and 10x10 post. Sawcut existing floor for 42x42 new support pad	LS	1	\$6,910.00	\$6,910.00	\$6,645.35	\$6,645.35	\$13,475.00	\$13,475.00
5	Install w 10x39 steel I beam, pressure treated plate and new double 2x10 floor joist @ 12" O.C. Cut and reinstall 10x10 post in the center of steel beam, install Vulcraft steel decking, and 2, 3-1/2" steel posts	LS	1	\$24,445.00	\$24,445.00	\$12,711.55	\$12,711.55	\$14,340.00	\$14,340.00
6	Install 2" floor drain and pvc piping, french drain, and drain outlet. Include piping, fittings, excavation, backfill, patches and sod replacement	LS	1	\$4,175.00	\$4,175.00	\$4,150.72	\$4,150.72	\$5,100.00	\$5,100.00
7	Install concrete 42x42 bearing pads, and reinforcement in basement, install 4" concrete floor and reinforcement	SF	800	\$14.25	\$11,400.00	\$12.50	\$10,000.00	\$8.50	\$6,800.00
8	Remove existing basement door and framework, install new pressure treated frame and new "Bilco" type access door or approved equal	LS	1	\$3,760.00	\$3,760.00	\$3,252.17	\$3,252.17	\$1,520.00	\$1,520.00
9	Remove abandoned electrical conduits, repair / replace outlet around railing, "clean-up" basement electrical system leaving lights, on outlet and sprinkler system power. Remove neon lights around inside of dome and replace with LED rope lights.	LS	1	\$3,780.00	\$3,780.00	\$3,361.53	\$3,361.53	\$3,235.00	\$3,235.00
				Total:	\$80,957.00	Total:	\$85,546.37	Total:	\$99,265.00