



**CITY OF TRINIDAD  
TRINIDAD, COLORADO**

The Regular Meeting of the City Council of the City of Trinidad, Colorado, will be held on Tuesday, August 16, 2011 at 7:00 P.M. in City Council Chambers at City Hall

The following items are on file for consideration of Council:

- 1) **ROLL CALL**
- 2) **READING OF MINUTES**, Regular Meeting of August 2 and Special Meeting of August 9, 2011
- 3) **PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN**
- 4) **REPORTS BY CITY MANAGER AND CITY ATTORNEY**
- 5) **COMMITTEE REPORTS**
- 6) **UNFINISHED BUSINESS**
  - a) Public hearing for consideration of an ordinance of the City of Trinidad, Colorado, submitting proposed Home Rule Charter amendments regarding elected officials' candidacy and term limitation to the registered electors of the City at the Regular Municipal Election to be held on November 1, 2011
    - 1) Second reading of an ordinance of the City of Trinidad, Colorado, submitting proposed Home Rule Charter amendments regarding elected officials' candidacy and term limitation to the registered electors of the City at the Regular Municipal Election to be held on November 1, 2011
  - b) Hotel and Restaurant with Optional Premises liquor license renewal request by Trinidad Golf, LLC d/b/a Cougar Canyon Golf Links at 306 Fairway Court
- 7) **MISCELLANEOUS BUSINESS**
  - a) Special events permits request (malt, vinous and spirituous) by Trinidad Roundup Association at 206 N. Animas Street (Sebastiani Gym) for September 3, 2011
  - b) Hotel and restaurant liquor license renewal request by Rino's Restaurant, LLC d/b/a Rino's Restaurant at 400 E. Main Street
  - c) Consideration of request from New Elk Coal Company, LLC for additional water
  - d) Consideration of request for an extraterritorial water tap by New Elk Coal Company, LLC
  - e) Consideration of bid results for Gas shop parking lot concrete and asphalt paving project
  - f) Consideration of Amended Water Agreement with Dochter Water Association
- 8) **BILLS**
- 9) **PAYROLL**, August 6, 2011 through August 19, 2011
- 10) **ADJOURNMENT**

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

The regular meeting of the City Council of the City of Trinidad, Colorado, was held on Tuesday, August 2, 2011 at 7:00 p.m. in City Council Chambers at City Hall.

There were present:	Mayor	Garduno, presiding
	Councilmembers	Aragon, Pando, Rino, Shew, Toupal, Velasquez
Also present:	City Manager	Gil de Rubio
	City Attorney	Beatty
	City Clerk	Garrett

The pledge of allegiance was recited.

**READING OF THE MINUTES.** Regular Meeting of July 19, 2011. Mayor Garduno asked if there were any corrections or additions to the minutes. There being none, a motion to approve the minutes as submitted was made by Councilmember Pando and seconded by Councilmember Shew. The motion carried unanimously, excepting those Councilmembers who were absent from that meeting, Councilmembers Aragon, Toupal and Velasquez.

**PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN.** Bernadette Baca-Gonzalez signed up to speak on one of the agenda items and was recognized during that item.

**REPORT BY CITY MANAGER.** Ordinances. City Manager Gil de Rubio reminded Council that he had mentioned at their last meeting that staff is working on an ordinance regarding marketing and the tourism committee and it may be ready for their next work session. Additionally, the City Attorney, City Planner, Code Enforcement Officer and he have been looking at ordinances regarding junk vehicles and other issues, as he has been getting a fair amount of complaints. They are looking at the existing code to see if it needs to be revamped.

ARPA. City Manager Gil de Rubio reported that the monthly ARPA meeting took place last Thursday. He said it was an interesting meeting. Within ARPA's financials they have budgeted a \$1.2 million dollar net loss, but it looks like it will actually be \$1.4 to \$1.6 million. Rick Rigel, the new General Manager, did a cash flow projection for January, 2011 through December, 2011, and ARPA is looking at a loss of between \$1.4 and \$1.5 million, mostly attributable to the Lamar Repowering Project. ARPA is looking at meeting with several providers for an outside power purchase contract. He promised to keep Council apprised. Councilmember Rino asked if the power plant is operating or if it is still being tested. City Manager Gil de Rubio answered that it is still being tested. They are operating it on gas at 30% and will gradually ramp it up. He said he thought that they would go to coal use once it is operating at 80%. He reiterated that the plant is generating at 30% and said that power is going into the grid.

Financial Report. City Manager Gil de Rubio called to Council's attention at their seating places the financial reports for the City's funds through June 30, 2011. He reported good news for the General Fund, with it having finished the first half of the year \$6,000 in the black, reminding Council that there had been a million dollar shortfall budgeted. Revenues are coming in a little over the 50% mark, however sales tax is a little under the 50%. He added that the sales tax report will come in on the 10<sup>th</sup> of the month and he'll report on it at that ensuing work session. The expenses in the General Fund are under budget by about 5%. The Power & Light Fund is starting to re-cooperate some money lost over the winter. Revenue over expenses is approximately \$43,000 and the fund has a net cash balance of about \$1.1 million. It is starting to climb out of the hole. City Manager Gil de Rubio told Council that the Water Fund is always the most healthy, yielding a net increase of \$205,000 for the first half of 2011. Revenues collected over expenses are at \$217,000. The fund has a cash balance of \$1.4 million and an unrestricted cash reserve of \$4.7 million for a total of \$6.1 million in the fund. He continued that the Gas Fund is also starting to turn. It had almost \$700,000 in revenue over expense but when you factor in payroll and deferred gas cost that results in a net revenue of \$267,000. He said the fund is starting to climb out with the new gas rates. He concluded that the Gas Fund has a net cash balance of \$1.8 million. City Manager Gil de Rubio pointed to the Sewer Fund and said it continues to lose money. The Lottery Fund has an estimated undesignated balance of \$52,000, taking into consideration \$173,000 in committed projects. The Tourism Fund was reported to also be a healthy fund, with a \$216,000 actual fund balance less funding for committed projects, which brings it down to an undesignated balance of \$197,000. Finally he reported that the CIP Fund has an actual fund balance of \$1.8 million, \$707,000 in estimated uncollected revenue, less committed funds for projects leaves \$320,000 in undesignated money in the fund.

ISO Rating. City Manager Gil de Rubio pointed out the letter from ISO advising of the good news that the City's ISO rating has been returned to 4. He extended his appreciation to City Attorney Beatty and Building Inspector Chris Kelley for submitting a comprehensive letter to ISO officials that resulted in the continuing rate.

Annual Leave. City Manager Gil de Rubio informed Council of his upcoming vacation from August 10<sup>th</sup> through August 22<sup>nd</sup>.

Gas Contract. Councilmember Rino asked if the City is tied into a three year contract to MEAN for gas. City Manager Gil de Rubio answered affirmatively, and said he thought there was two years left in the contract. Councilmember Rino asked City Attorney Beatty if the City were to find gas elsewhere could we get out of the contract. City Attorney Beatty answered that the contract can be terminated at any time, however there's a three-year notice requirement under the terms of the contract. City Manager Gil de Rubio interjected that after having been to the MEAN meeting he feels the City has a very good deal with MEAN. They've tied in some winter rates at a low rate and he feels they are doing an excellent job. We'd be hard pressed to find cheaper rates. Mayor Garduno said she thought the contract extended until 2015. City Manager Gil de Rubio said he thought it was until 2013, but would research it. Councilmember Rino suggested the City open dialogue with the local gas companies. City Manager Gil de Rubio agreed, but reminded that MEAN buys a lot of gas

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from big providers. He said staff will prepare a presentation for Council.

Junk vehicles. Councilmember Rino inquired about a bus parked in the back of Lucky Monkey that he thought to have been hauled from Elm Street. He described it as dysfunctional altogether and asked that Code Enforcement look at it. City Manager Gil de Rubio said he would and pointed out that if the tires have air in them there's not much that can be done and code enforcement has to be able to see the bus from the property line to not get a warrant, but assured that it will be looked at. Councilmember Rino said the bus is not licensed. City Manager Gil de Rubio said that's something that they are looking at with the ordinance and will present the game plans to Council. Councilmember Pando said he'd like to move ahead quickly on the ordinances and see tougher enforcement. City Manager Gil de Rubio said that he's noticed more people coming forward with complaints, especially since the City crews have gotten out to clean up the alleyways. He added that Sergeant Haddow and Building Inspector Chris Kelley do a great job with the ordinances we have, but technicalities tie their hands with those ordinances. They had a meeting last week and the Planner will present draft issues to staff and they hope to get something to Council very quickly.

**REPORT BY CITY ATTORNEY.** None. City Attorney Beatty advised that he had nothing to report this evening and offered to answer any questions Council had. There were none.

**COMMITTEE REPORTS.** None.

**UNFINISHED BUSINESS.** None.

**MISCELLANEOUS BUSINESS.** Consideration of extension of Water Works Plus, LLC extraterritorial water tap authorization. Councilmember Rino moved to extend the authorization for an additional nine months, as a result of their conversation at work session. Fred Baros addressed Council and said that he checked with City staff and in no instance was Water Works Plus culpable in locking up the Valdez water system. He said that as City Manager Gil de Rubio suggested, they are building their relations with the other Valdez customers by his instructing his staff that as those other customers drive up they are allowing them to fill up. He said he feels like that has already gone a long ways. He said another thought he had in easing the pressure at the Valdez station is if the City would be willing to issue a meter to him, such as what is done with contractors for use at a fire hydrant, instead of Water Works Plus using the Valdez station. He said it would totally alleviate that pressure. City Manager Gil de Rubio commented that the initial item causing frustration is the Gas Boy mechanism used at the station. He said the City will be purchasing a new metering system. This new system is fairly reasonable and will have a code system. He added that once installed he thought it will eliminate that frustration with it locking up during the weekend when the City doesn't have staff on duty to re-set it. Mr. Baros asked to leave the possibility open of his contractor meter suggestion should the new system not be done soon. City Attorney Beatty commented that the water re-sale permit issued to Mr. Baros contemplated the construction of his own water station, not to fill at the Valdez station. Mr. Baros agreed but said it was for a commercial water tap. He said that if after his station is built it is closer for him to fill at the Valdez station to service a customer rather than his own, he'd like to think he can do so, although it is his intent to use their own station. He concluded that his written request for an extension of the water tap for six months at the request of Supt. Fernandez, however because of the financial situation a year would be more appropriate, but left it to Council's discretion. Councilmember Rino advised that his motion to approve the extension for nine months stands. The motion was seconded by Councilmember Toupal and carried by a unanimous roll call vote of Council.

Consideration of an Assignment and Amendment of Agreement to Provide Untreated Water for Cougar Canyon. City Attorney Beatty pointed out that he has provided a cover memorandum for this item. He also pointed out the presence of Mr. Colarelli in the audience with counsel and suggested he might provide an update regarding this proposed transaction and potentially the status of the bankruptcy action for Trinidad Golf, LLC. If City Council finds the terms of the Assignment and Amendment of the Agreement acceptable, he said he recommends a motion to authorize Mayor Garduno to execute the agreement in accordance with the terms of the Escrow Document Transmittal Letter. That Escrow Document Transmittal Letter provides that executed Assignment and Amendment would have no effect unless the U. S. Bankruptcy court issues an Order Granting Debtor's Motion to Approve Compromise of the Controversy between Debtor and Colarelli Construction and Dismiss Adversary Proceeding. Lee Jolivet addressed Council. She identified herself as being with the firm hired by Colarelli Construction to help with the transaction documents which led to the settlement. She explained that their actions have allowed the golf course to open this weekend. The documents for this from all sides are in escrow, including the water agreement they are asking the City to sign. All that they are talking about here is the assignment of that water agreement. The bankruptcy date for objections has passed and there were no objections filed. They are just waiting for the judge to finalize the order that's been submitted for approval. All other sides have signed the water agreement and they are looking just for the transfer so the rest of the settlement can be implemented. She offered to run through the benefits to the City with this Assignment and Amendment of Agreement. She noted that City Attorney Beatty and the City's water counsel suggested the Amendment as part of the transfer. She said the benefits include that Agreement will clarify who the parties are to the transfer because there have been several previous transfers to this point; it acknowledges the adequacy of the City's notice of default that had been given previously; and, the Agreement provides for one consolidated notice in anticipation of payment being made one time, rather than the current agreement which provided for two 90-day periods, one for turn off if payment is not made and an additional 90 days to terminate. The agreement would be established directly with the new owner of the course and the City and additionally Colarelli will pay the legal fees to the City up to \$2,500. Councilmember Rino asked if the payment due on August 15<sup>th</sup> will be made or if they are asking for a 90-day extension. Ms. Jolivet answered that the payment has to be made by August 15<sup>th</sup>, the approximate \$116,000 payment. If it is not paid this deal ends there. She reiterated that under the current agreement there would be an additional 90 days before it would terminate. She further clarified that this amendment waives that additional 90 day out. Councilmember Rino moved to approve the Assignment and Amendment of Agreement to Provide Untreated Water for Cougar Canyon as submitted. City Attorney Beatty asked Mr. Colarelli for an update on the golf course operation. Vince Colarelli, Colarelli Construction, addressed Council and informed them that they executed a settlement agreement on Thursday of this past week. He said he executed an agreement with an outside firm to begin operating the golf course and as of this past Friday, four days ago, the course has been open. Councilmember Pando seconded the motion, which carried unanimously upon roll call vote.

Consideration of an Estoppel Certificate regarding the Annexation and Development Agreement dated April 18, 2001, for Stone Ridge (a/k/a "Cougar Canyon"). City Attorney Beatty told Council that this pertains to the Annexation and

Development Agreement established between the City and the original developers of Stone Ridge/Cougar Canyon Subdivision. It provides that to the best of the City's knowledge, the Annexation and Development Agreement remain in full force and effect and it pertains to the property in the attached legal description marked Exhibit A, encompassing the hotel and golf course tract and the easement between them for public access. Staff recommends approval. A motion to approve the Estoppel Certificate was made by Councilmember Rino and seconded by Councilmember Shew. Councilmember Rino asked if it also includes the existing temporary clubhouse building in addition to the golf course and hotel. City Attorney Beatty said the Annexation and Development Agreement applies to all three of those parcels. The legal description set forth within the attachment actually only pertain to the golf course and hotel property. The motion carried unanimously by roll call vote.

First reading of an ordinance submitting proposed Home Rule Charter amendments regarding elections, elected officials, City Council procedure, and definitions to the registered electors of the City at the Regular Municipal Election to be held on November 1, 2011, and setting a hearing date for consideration of said ordinance. Mayor Garduno announced a hearing date of August 16<sup>th</sup> for the ordinance. City Attorney Beatty pointed out that Bernadette Gonzalez signed up to speak on this item. He noted that in the Council packets he provided the long version ordinance that City Council has been contemplating for the past several weeks, which set forth four ballot questions. In speaking to City Council members and members of the public, staff was left with the impression that it may be too much at once for the voters' consideration. In furtherance of a reduction in the number of ballot questions for the November ballot, City Attorney Beatty said he prepared a short-version ordinance which only addresses questions 3 and 4 of the original long-version ordinance. He said he wants to follow Council's direction on what they want to present to the voters in November and said he thought the original ordinance presented may have been more than what City Council initially desired. He reiterated that he wanted to make it address Council's desires. Bernadette Baca-Gonzalez addressed Council. She expressed her appreciation to the City Manager, City Attorney, City Council and Ms. Tami Tanoue from CIRSA for their hard work in reviewing the ordinances and taking feedback from the public and seriously analyzing that feedback. She added that she's pleased to hear that consideration is being given to shortening the issues placed before citizens. The modified ordinance she said she felt cut to the chase and would be minimize confusion to voters. Ms. Gonzalez said she believes the voters would likely vote no otherwise, which would be a serious waste of resources and time. She concluded by thanking Council for their serious consideration and for respecting that the voters might need to take smaller bites on changes. Mayor Garduno commented that she read both versions several times to make sure what they were going to vote on and she found that she like the short version most. It is very easy to understand. Councilmember Rino suggested that if it is the consensus of Council they should read the short version and submit it if approved, noting they may hear additional input at the public hearing on second reading. City Attorney Beatty provided that procedurally a Councilmember should introduce the short version if they'd like to proceed with that ordinance. He noted for the record two errors in that short version, whereby in Section 2 it provides "That the following question is hereby adopted for submitting the changes set forth in Section 6 above..." and it should read "in Section 1 above." Also, Section 4 provides "That the following question is hereby adopted for submitting the changes set forth in Section 8 above..." and it should read "in Section 3 above..." He thanked Bernadette Gonzalez, noting that she is an attorney, for providing her input and attending meetings about the Charter. The short version ordinance was introduced by Councilmember Toupal and then read aloud in its entirety with the corrections by City Attorney Beatty read into the text correctly. Councilmember Shew moved to approve the ordinance on first reading and consider it further at a public hearing on August 16<sup>th</sup> at 7:00 p.m. City Attorney Beatty pointed to two additional small necessary revisions. He identified that in Section 2 the ballot question should be "Proposed Charter Amendment No. 1" rather than 3, and in Section 4 the ballot question should be "Proposed Charter Amendment No. 2" rather than 4. Also within that question it should read in the last clause "All as set forth in Trinidad City Ordinance No..." inserting the word 'City.' Councilmember Shew amended his motion to approve to also include those revisions. The motion was seconded by Councilmember Velasquez and carried by a unanimous roll call vote.

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF TRINIDAD, COLORADO, SUBMITTING PROPOSED HOME RULE CHARTER AMENDMENTS REGARDING ELECTED OFFICIALS' CANDIDACY AND TERM LIMITATIONS TO THE REGISTERED ELECTORS OF THE CITY AT THE REGULAR MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 1, 2011

Consideration of bid results for Chestnut Street repairs. Public Works Director Mike Valentine addressed Council and stated that he solicited bids for work to repair Chestnut Street between Main and Elm Streets. Five contractors obtained bid specifications and a mandatory pre-bid meeting was held on July 18, at which only two contractors attended. On July 21<sup>st</sup> the bid opening was held and only one bid was received and it was included in the Council packet as well as the engineer's estimate. The funding for this project comes from the Street & Bridge department line items for construction materials and storm drainage, he said. PWD Valentine concluded that the low and lone bid was received in the amount of \$33,763 from Purgatoire Valley Construction and being very close to the engineer's estimate, he recommended approval. Councilmember Rino asked PWD Valentine if he included the section going east on Elm Street that he inquired about at work session. PWD Valentine said he looked at it turning that corner a point, but there's a bigger issue with the arroyo and structure that may mean it would have to be torn out later. He said having line item and cost per unit prices, he'll take the work as far as he can. Mayor Garduno asked if he had any idea why there was only one bidder and not more. PWD Valentine said he does not, adding that not only was it in the paper but he also sent it out to all contractors licensed to do this kind of work. He said he sees no reason whatsoever. In fact, with this project because it was so small he didn't require a bid or performance and payment bonds. Councilmember Rino suggested that it may be because Purgatoire Valley Construction has their crew here. Mostly like someone else would have to come in. Either it's too large or too small. City Manager Gil de Rubio said that overall the City's been getting good bid results, good response. Mayor Garduno asked the start date and completion date. PWD Valentine said if the bid is approved the initial part of the work will be done by City crews, the brick removal. The contractor will be contacted tomorrow. Councilmember Pando moved to accept the low bid submitted by Purgatoire Valley Construction in the amount of \$33,763. The motion was seconded by Councilmember Shew and carried unanimously upon roll call vote.

**BILLS.** Councilmember Rino questioned on page 4 payments to certain schools, such as Hoehne and HTA, for

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concessions. City Manager Gil de Rubio said that represents the revenue earned from concessions over the summer donated to the schools through Chief Glorioso. Police Chief Glorioso clarified that effort is done through the Youth Council. The City provides the product and the students provide the labor and get the profit. The arrangement is first come, first serve with respect to the scheduling. Councilmember Rino asked about a bicycle purchase for \$1,200 for the bike patrol and another \$150 to service the bikes. Chief Glorioso confirmed that it's for the other bikes used for the bike patrol to re-gear them and for tires, etc. Councilmember Rino asked about a payment from the Electric Department for jackets and shirts in the amount of \$4,500 and questioned how many employees that was for. City Manager Gil de Rubio said that was for the purchase of flame-retardant shirts and jackets for all of the department and it should have been done 10 to 15 years ago. It's being done now as part of the City's safety program. A motion to approve the bills was made by Councilmember Rino. The motion was seconded by Councilmember Shew. Roll call was taken on the motion. The motion carried unanimously.

**PAYROLL**, July 23, 2011 through August 5, 2011. A motion to approve the payroll was made by Councilmember Toupal and seconded by Councilmember Shew. The motion carried unanimously.

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

ATTEST:

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JENNIE GARDUNO, Mayor

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AUDRA GARRETT, City Clerk

DRAFT

The City Council of the City of Trinidad, Colorado met in Special Session on Tuesday, August 9, 2011 at 3:00 p.m. in City Council Chambers at City Hall pursuant to the following call:

CITY OF TRINIDAD  
TRINIDAD, COLORADO

SPECIAL MEETING

There will be a Special Meeting of the City Council of the City of Trinidad, Colorado, on Tuesday, August 9, 2011 at 3:00 p.m. in the Council Chambers at City Hall

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

- 1) Executive Session – for a conference with legal counsel for the purpose of receiving legal advice on specific legal questions under C. R. S. Section 24-6-402(4)(b), regarding Civil Action No. 1:10-cv-02529-WJM-KMT in the United States District Court for the District of Colorado

The meeting was called to order at 3:00 p.m.

There were present:	Mayor	Garduno, presiding
	Councilmembers	Aragon, Pando, Rino, Shew
Also present:	City Manager	Gil de Rubio
	City Attorney	Beatty
	City Clerk	Garrett
Absent:	Councilmember	Toupal, Velasquez

Executive Session – for a conference with legal counsel for the purpose of receiving legal advice on specific legal questions under C. R. S. Section 24-6-402(4)(b), regarding Civil Action No. 1:10-cv-02529-WJM-KMT in the United States District Court for the District of Colorado. A motion to enter into executive session for the stated purpose was made by Councilmember Rino and seconded by Councilmember Shew. The motion carried unanimously by a roll call vote of Council and the executive session ensued at 3:03 p.m.

*I, Jerod A. Beatty, City Attorney for the City of Trinidad, do hereby attest that the executive session held on this 9<sup>th</sup> day of August, 2011, was permissible under CRS Section 24-6-402 (4)(b).*

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

  
\_\_\_\_\_  
Jerod A. Beatty  
City Attorney

Upon conclusion of executive session, Councilmember Pando moved to resume the meeting and the motion was seconded by Councilmember Rino. The motion carried unanimously and the meeting was resumed at 4:40 p.m.

City Manager Gil de Rubio asked Councilmembers Rino and Shew if they'd be available at 5:00 p.m. to speak with Attorney Nan Winter by phone regarding other litigation. Both agreed.

There being no further business, Councilmember Rino moved to adjourn and the motion was seconded by Councilmember Shew. Upon roll call vote on the motion, the meeting was adjourned.

ATTEST:

\_\_\_\_\_  
JENNIE GARDUNO, Mayor

\_\_\_\_\_  
AUDRA GARRETT, City Clerk

ITEM NO. 6a

ITEM TO BE PLACED ON THE AGENDA FOR THE  
REGULAR MEETING OF THE CITY COUNCIL TO  
BE HELD ON August 16, 2011

**ITEM:** Public hearing for consideration of an ordinance of the City of Trinidad, Colorado, submitting proposed Home Rule Charter amendments regarding elected officials' candidacy and term limitation to the registered electors of the City at the Regular Municipal Election to be held on November 1, 2011

1) Second reading of an ordinance of the City of Trinidad, Colorado, submitting proposed Home Rule Charter amendments regarding elected officials' candidacy and term limitation to the registered electors of the City at the Regular Municipal Election to be held on November 1, 2011

**REQUEST  
MADE BY:**

**CONTENTS/  
COMMENTS:**

Ordinance

ITEM NO. 6a

CITY OF TRINIDAD, COLORADO

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF TRINIDAD, COLORADO, SUBMITTING PROPOSED HOME RULE CHARTER AMENDMENTS REGARDING ELECTED OFFICIALS' CANDIDACY AND TERM LIMITATIONS TO THE REGISTERED ELECTORS OF THE CITY AT THE REGULAR MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 1, 2011**

WHEREAS, in accordance with Article XX of the Constitution of the State of Colorado, the registered electors of the City of Trinidad adopted a Home Rule Charter on November 2, 1993, to reserve unto the citizens of Trinidad the right and power of self-government; and

WHEREAS, the City Council of the City of Trinidad has conducted a review of the City's Home Rule Charter; and

WHEREAS, the City Council has determined that revisions to the Home Rule Charter regarding Elected Officials' candidacy and term limitations should be submitted for consideration by the registered electors of the City.

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

**Section 1.** That the following proposed amendments to Section 4.2, Paragraph 3, of Chapter IV ("Elected Officials") of the Home Rule Charter for the City of Trinidad, Colorado, be submitted to the registered electors of the City at the regular municipal election to be held on Tuesday, November 1, 2011: \*

**4.2. Qualifications of Elected Officers (Mayor and City Council Persons).**

\* \* \*

~~No candidate for City Council or Mayor shall hold any other elective City office unless the term of such other elective office shall expire on or before the date on which such candidate would take office if elected. However, a person may simultaneously serve as a member of the City Council or Mayor, and as a member of a Home Rule Charter Commission of the City. NO PERSON SHALL BE A CANDIDATE FOR MAYOR AND COUNCIL PERSON AT THE SAME ELECTION, OR HOLD BOTH POSITIONS SIMULTANEOUSLY.~~

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\* Capital letters indicate new material added to existing Charter language; dashes through words indicate deletions from existing Charter language.

**Section 2.** That the following question is hereby adopted for submitting the changes set forth in Section 1 above to the registered electors at said election:

Proposed Charter Amendment No. 1: **SHALL SECTION 4.2, PARAGRAPH 3, OF CHAPTER IV (“ELECTED OFFICIALS”) OF THE HOME RULE CHARTER FOR THE CITY OF TRINIDAD, COLORADO, BE AMENDED TO CLARIFY THAT A PERSON MAY NOT RUN FOR MAYOR AND COUNCIL PERSON AT THE SAME ELECTION, OR HOLD BOTH POSITIONS SIMULTANEOUSLY; AND TO ESTABLISH THAT A COUNCIL PERSON RUNNING FOR MAYOR, OR A MAYOR RUNNING FOR COUNCIL PERSON, SHALL NOT BE REQUIRED TO RELINQUISH THE POSITION THAT THE PERSON CURRENTLY HOLDS, UNTIL AND UNLESS ACTUALLY ELECTED TO THE NEW POSITION; ALL AS SET FORTH IN TRINIDAD CITY ORDINANCE NO. \_\_\_\_\_, SECTION 1?**

**Section 3.** That the following proposed amendments to Section 4.2, Paragraph 5, of Chapter IV (“Elected Officials”) of the Home Rule Charter for the City of Trinidad, Colorado, be submitted to the registered electors of the City at said election: \*

**4.2 Qualifications of Elected Officers (Mayor and City Council Persons).**

\* \* \*

SUBJECT TO THE PROVISIONS OF THIS PARAGRAPH, NO ~~ne~~ person may serve as an elected official of the City for a continuous period of more than eight (8) years. Any person who has held ~~any elective office or offices for a continuous period of eight (8) years~~ SO SERVED shall thereafter become ineligible to serve ~~on City Council or as Mayor~~ AS AN ELECTED OFFICIAL for a period of four (4) years. A PERIOD IN WHICH A PERSON WAS APPOINTED TO THE OFFICE FOR LESS THAN A FULL TERM OF OFFICE, OR WAS ELECTED TO A PERIOD THAT WAS LESS THAN A FULL TERM OF OFFICE, SHALL NOT BE INCLUDED IN THE LIMITATIONS OF THIS SUBSECTION. NO PERSON MAY BE APPOINTED MAYOR OR COUNCIL PERSON AFTER HE OR SHE HAS BEEN TERM LIMITED, UNLESS AT LEAST FOUR (4) YEARS HAVE PASSED SINCE LEAVING THE TERM LIMITED OFFICE.

**Section 4.** That the following question is hereby adopted for submitting the changes set forth in Section 3 above to the registered electors at said election:

Proposed Charter Amendment No. 2: **SHALL SECTION 4.2, PARAGRAPH 5, OF CHAPTER IV (“ELECTED OFFICIALS”) OF THE HOME RULE CHARTER FOR THE CITY OF TRINIDAD, COLORADO, BE AMENDED TO CLARIFY THAT THE PERIOD OF APPOINTMENT TO A PARTIAL TERM OF OFFICE, OR THE PERIOD OF ELECTION TO A PARTIAL TERM OF OFFICE, SHALL NOT BE INCLUDED IN THE TERM LIMITATIONS APPLICABLE TO THE MAYOR AND COUNCIL PERSONS; ALL AS SET FORTH IN TRINIDAD CITY ORDINANCE NO. \_\_\_\_\_, SECTION 3?**

\* Capital letters indicate new material added to existing Charter language; dashes through words indicate deletions from existing Charter language.

**Section 5. Severability.** If any section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

**Section 6. Effective Date.** This ordinance shall be published and become effective ten (10) days after final passage, as provided in § 5.5 of the Home Rule Charter for the City of Trinidad, Colorado.

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_; READ AND ORDERED  
PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

THE EFFECTIVE DATE OF THIS ORDINANCE SHALL BE the \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_.

CITY OF TRINIDAD, COLORADO

\_\_\_\_\_  
JENNIE GARDUNO, Mayor

ATTEST:

By: \_\_\_\_\_  
AUDRA GARRETT, City Clerk

ITEM NO. **6b**

ITEM TO BE PLACED ON THE AGENDA FOR THE  
REGULAR MEETING OF THE CITY COUNCIL TO  
BE HELD ON August 16, 2011

**ITEM:** Hotel and Restaurant with Optional Premises liquor license renewal request by  
Trinidad Golf, LLC d/b/a Cougar Canyon Golf Links at 306 Fairway Court

**REQUEST  
MADE BY:** Trinidad Golf, LLC

**CONTENTS/  
COMMENTS:** Renewal application  
Departmental reports  
Lease agreement for Optional Premises  
Fees have been paid

ITEM NO. **6b**

**LIQUOR OR 3.2 BEER LICENSE  
 RENEWAL APPLICATION**



TRINIDAD GOLF LLC  
 COUGAR CANYON GOLF LINKS  
 3700 E. MAIN ST.  
 TRINIDAD CO 81082-9779

License Number 42-51006-0000	License Type 1980
Liability Information 05 102 722110 B 082807	
Business Location 306 FAIRWAY CT TRINIDAD CO	
Current License Expires AUG 27, 2011	
<b>DEPARTMENTAL USE ONLY</b>	
Total Amount Due	
Total Paid \$	Date

- This renewal reflects no changes from the last application. Complete page 2 and file now!
- Yes there are changes from the last application.** If applicant is a Corporation or Limited Liability company, use DR 8177 and send in with this renewal. Any other changes of ownership require a transfer of ownership. See your Local Licensing Authority immediately.

Wholesaler, manufacturer, importer, and public transportation system license renewals do not need Local Licensing Authority approval and must be returned directly to the Colorado Department of Revenue at least 30 days prior to the current license expiration date.

**This application for renewal must be returned to your CITY OR COUNTY Licensing Authority at least 45 days prior to the expiration date of your current license. Failure to do so may result in your license not being renewed. Include both pages of this renewal and payment.**

OATH OF APPLICANT		
I declare under penalty of perjury in the second degree that this application and all attachments are true, correct, and complete to the best of my knowledge.		
Authorized Signature 	Date 6-1-2011	Business Phone 719-846-0538
Title Operating Manager	Sales Tax Number 04251006-0000	
REPORT AND APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY		
The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 12, Articles 46 and 47, C.R.S. <b>THEREFORE THIS APPLICATION IS APPROVED.</b>		
Local Licensing Authority for Trinidad		Date
Signature	Title Mayor	Attest

DO NOT DETACH

DO NOT DETACH

DO NOT DETACH

**LIQUOR OR 3.2 BEER LICENSE  
 RENEWAL APPLICATION**

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

Business Name COUGAR CANYON GOLF	LICENSE NUMBER (Use for all reference) 42-51006-0000		PERIOD 08-12
TYPE OF LICENSE ISSUED HOTEL AND RESTAURANT LIQUOR LICENSE WITH OPTIONAL PREMISES - MALT, VINOUS, AND SPIRITUOUS	CASH FUND 2320-100(999) \$ 50.00	STATE FEE 1980-750(999) \$ 25.00	CITY 85% OAP 2180-100(999) \$ 425.00

SUB-TOTAL \$ 500.00

ADD \$100.00 TO RENEW RETAIL WAREHOUSE STORAGE PERMIT 2210-100(999) \$ ~~100.00~~

OPTIONAL PREMISES \$100 X      (NO. OF OPT. PREMISES) 2320-100(999) \$ ~~100.00~~

TOTAL AMOUNT DUE \$ ~~600.00~~

## ATTACHMENT TO LIQUOR OR 3.2 BEER LICENSE RENEWAL APPLICATION

**This page must be completed and attached to your signed renewal application form.  
 Failure to include this page with the application may result in your license not being renewed.**

Trade Name of Establishment <i>Trinidad Golf, LLC dba Copper Canyon Golf Links</i>		State License Number <i>47-510060000</i>					
1. Operating Manager <i>M. Peter Schrepfer</i>		Home Address <i>[REDACTED] Trinidad Co 81082</i>	Date of Birth <i>[REDACTED]</i>				
2. Do you have legal possession of the premises for which this application for license is made? Are the premises owned or rented: <del>Owned</del> <i>RENT</i> If rented, expiration date of lease: <i>RENEW'S ANNUALLY</i>			<table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Yes</td> <td style="text-align: center;">No</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	Yes	No	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Yes	No						
<input checked="" type="checkbox"/>	<input type="checkbox"/>						
3. Has there been any change in financial interest (new notes, loans, owners, etc.) since the last annual application? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders or owners, (other than licensed financial institutions) are materially interested.			<table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Yes</td> <td style="text-align: center;">No</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </table>	Yes	No	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Yes	No						
<input type="checkbox"/>	<input checked="" type="checkbox"/>						
4. Since the date of filing of the last annual application, has the applicant, or any of its agents, owners, managers, principals, or lenders (other than licensed financial institutions), been convicted of a crime? If yes, attach a detailed explanation.			<table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Yes</td> <td style="text-align: center;">No</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </table>	Yes	No	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Yes	No						
<input type="checkbox"/>	<input checked="" type="checkbox"/>						
5. Since the date of filing of the last annual application, has the applicant, or any of its agents, owners, managers, principals, or lenders (other than licensed financial institutions), been denied an alcoholic beverage license, had an alcoholic beverage license suspended or revoked, or had interest in any entity that had an alcoholic beverage license denied, suspended or revoked? If yes, attach a detailed explanation.			<table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Yes</td> <td style="text-align: center;">No</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </table>	Yes	No	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Yes	No						
<input type="checkbox"/>	<input checked="" type="checkbox"/>						
6. Does the applicant, or any of its agents, owners, managers, principals, or lenders (other than licensed financial institutions), have a direct or indirect interest in any other Colorado liquor license (include loans to or from any licensee, or interest in a loan to any licensee)? If yes, attach a detailed explanation.			<table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Yes</td> <td style="text-align: center;">No</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </table>	Yes	No	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Yes	No						
<input type="checkbox"/>	<input checked="" type="checkbox"/>						
<b>7. Corporation or Limited Liability Company (LLC) or Partnership applicants must answer these questions. Since the date of filing of the last annual license application:</b>							
(a) Are there, or have there been: any officers or directors; or managing members; or general partners added to or deleted from applicant for renewal of a 3.2 beer or liquor license?			<table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Yes</td> <td style="text-align: center;">No</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </table>	Yes	No	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Yes	No						
<input type="checkbox"/>	<input checked="" type="checkbox"/>						
(b) Are there or have there been: any stockholders with 10% or more of the issued stock of the Corporation; or any members with 10% or more membership interest in the LLC; or any partners with 10% or more interest in the partnership added to or deleted from the applicant for renewal of a 3.2 beer or liquor license?			<table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Yes</td> <td style="text-align: center;">No</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </table>	Yes	No	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Yes	No						
<input type="checkbox"/>	<input checked="" type="checkbox"/>						
(c) If Yes to (a) or (b), complete and attach Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, and all supporting documentation, and fees your Local Licensing Authority immediately.							
<b>8. Sole proprietorships, Husband-Wife Partnerships or Partners in General Partnerships:</b>  <b style="text-align: center;">EVIDENCE OF LAWFUL PRESENCE</b>  <b>Each person identified above must complete and sign the following affidavit. Please make additional copies if necessary. Each person must also provide a copy of their driver's license or state issued identification card.</b>  <b>In lieu of form DR 4679, the undersigned swears or affirms under penalty of perjury under the laws of the State of Colorado that (check one):</b>							
<input checked="" type="checkbox"/> I am a United States Citizen  <input type="checkbox"/> I am not a United States Citizen but I am a Permanent Resident of the United States  <input type="checkbox"/> I am not a United States Citizen but I am lawfully present in the United States pursuant to Federal Law  <input type="checkbox"/> I am a foreign national not physically present in the United States							
I understand that this sworn statement is required by law because I have applied for a public benefit. I understand that state law requires me to provide proof that I am lawfully present in the United States prior to receipt of this public benefit. I further acknowledge that making a false, or fraudulent statement or misrepresentation in this sworn affidavit is punishable under the criminal laws of Colorado Revised Statute 18-8-503 and it shall constitute a separate criminal offense each time a public benefit is fraudulently received.							
Signature <i>[Signature]</i>		Printed name <i>M. Peter Schrepfer</i>	Date <i>6-1-2011</i>				

6/7/11

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

Applicant: Trinidad Golf, LLC

dba: Cougar Canyon Golf Links

Address: 306 Fairway Court

Type of License: Hotel and Restaurant w/Optional Premises

Renewal  Transfer  Change of Location  New  Special Event

FOR CONSIDERATION AT  
COUNCIL MEETING DATE: June 21, 2011, 7:00 p.m.

\*\*\*\*\*

DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

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

Fire Suppression System over stove needs  
checking - smoke detectors need checking  
Junction box cover missing -

Will reinspect in a few days -  
Violations cleared 8-12-11  
JP

6-14-11  
Date

Leroy Perea  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: June 15, 2011

6/7/11

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

Applicant: Trinidad Golf, LLC

dba: Cougar Canyon Golf Links

Address: 306 Fairway Court

Type of License: Hotel and Restaurant w/Optional Premises

Renewal  Transfer  Change of Location  New  Special Event

FOR CONSIDERATION AT  
COUNCIL MEETING DATE: June 21, 2011, 7:00 p.m.

\*\*\*\*\*

DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS: suppression hood inspection out of date  
smoke detectors / plug junction in kitchen  
Karl will repair smokes and  
junction box will reinspect to confirm  
compliance.

6-13-11  
Date

*Trini Kelley*  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: June 15, 2011

6/7/2011

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

Applicant's Name: Trinidad Golf, LLC

DBA: Cougar Canyon Golf Links

Business Address: 306 Fairway Court

Type of License: Hotel & Restaurant w/optional premises

X  Renewal        Transfer        Change of Location        New        Special Event

FOR CONSIDERATION AT

COUNCIL MEETING DATE:  June 21, 2011, 7:00 p.m.

\*\*\*\*\*

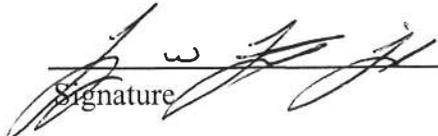
DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS:

No reports found

6-15-11  
Date

  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE:  June 15, 2011

## Audra Garrett

---

**From:** John Martinez [jmartinez@la-h-health.org]  
**Sent:** Tuesday, June 07, 2011 3:49 PM  
**To:** Audra Garrett  
**Subject:** RE: liquor license

Audra;

Trinidad Golf, LLC d/b/a Cougar Canyon Golf Links was inspected last month and they do have a 2011 Food License, This place is approved by the Las Animas/ Huerfano County Health Department

John Martinez  
Environmental Health Specialist III  
[jmartinez@la-h-health.org](mailto:jmartinez@la-h-health.org)

### Las Animas-Huerfano Counties District Health Department

#### Trinidad Office

412 Benedicta Ave  
Trinidad, CO 81082  
(Ph) 719-846-2213  
(Fax) 719-846-4472

#### Walsenburg Office

119 E. Fifth Street  
Walsenburg, CO 81089  
(Ph) 719-738-2650  
(Fax) 719-738-2653

**From:** Audra Garrett [<mailto:audra.garrett@trinidad.co.gov>]  
**Sent:** Tuesday, June 07, 2011 3:35 PM  
**To:** John Martinez  
**Subject:** liquor license

Hi John,

Please verify compliance with your department with respect to the liquor license issued to Trinidad Golf, LLC d/b/a Cougar Canyon Golf Links at 306 Fairway Court.

Thanks,

Audra Garrett, City Clerk

City of Trinidad  
135 N. Animas Street  
Trinidad, CO 81082  
(719) 846-9843 ext. 135  
(719) 846-4140 fax

ITEM NO. 7a

ITEM TO BE PLACED ON THE AGENDA FOR THE  
REGULAR MEETING OF THE CITY COUNCIL TO  
BE HELD ON August 16, 2011

**ITEM:** Special events permits request (malt, vinous and spirituous) by Trinidad Roundup Association at 206 N. Animas Street (Sebastiani Gym) for September 3, 2011

**REQUEST  
MADE BY:** Trinidad Roundup Association

**CONTENTS/  
COMMENTS:** SEP Application  
Departmental reports  
Fees have been paid

ITEM NO. 7a

# APPLICATION FOR A SPECIAL EVENTS PERMIT

Department Use Only

IN ORDER TO QUALIFY FOR A SPECIAL EVENTS PERMIT, YOU MUST BE NONPROFIT AND ONE OF THE FOLLOWING (See back for details.)

- SOCIAL     ATHLETIC     PHILANTHROPIC INSTITUTION  
 FRATERNAL     CHARTERED BRANCH, LODGE OR CHAPTER     POLITICAL CANDIDATE  
 PATRIOTIC     OF A NATIONAL ORGANIZATION OR SOCIETY     MUNICIPALITY OWNING ARTS FACILITIES  
 POLITICAL     RELIGIOUS INSTITUTION

LIAB	TYPE OF SPECIAL EVENT APPLICANT IS APPLYING FOR:	
2110	<input checked="" type="checkbox"/> MALT, VINOUS AND SPIRITUOUS LIQUOR	\$25.00 PER DAY
2170	<input type="checkbox"/> FERMENTED MALT BEVERAGE (3.2 Beer)	\$10.00 PER DAY

**DO NOT WRITE IN THIS SPACE**  
 LIQUOR PERMIT NUMBER

1. NAME OF APPLICANT ORGANIZATION OR POLITICAL CANDIDATE: Trinidad Roadup Association    State Sales Tax Number (Required): 40-12862-0000

2. MAILING ADDRESS OF ORGANIZATION OR POLITICAL CANDIDATE (include street, city/town and ZIP)  
PO Box 469  
Trinidad, Co 81082

3. ADDRESS OF PLACE TO HAVE SPECIAL EVENT (include street, city/town and ZIP)  
@ Sebastiani Gym  
206 North Animas St.  
Trinidad, Co 81082

NAME	DATE OF BIRTH	HOME ADDRESS (Street, City, State, ZIP)	PHONE NUMBER
4. PRES./SECY OF ORG. or POLITICAL CANDIDATE <u>MARVIN PRICE</u>	<u>[REDACTED]</u>	<u>Trinidad, Co 81082</u>	<u>(719) 846-2616</u>
5. EVENT MANAGER <u>Same</u>	<u>Same</u>	<u>Same</u>	<u>Same</u>

6. HAS APPLICANT ORGANIZATION OR POLITICAL CANDIDATE BEEN ISSUED A SPECIAL EVENT PERMIT THIS CALENDAR YEAR?  
 NO     YES    HOW MANY DAYS? \_\_\_\_\_

7. IS PREMISES NOW LICENSED UNDER STATE LIQUOR OR BEER CODE?  
 NO     YES    TO WHOM? \_\_\_\_\_

8. DOES THE APPLICANT HAVE POSSESSION OR WRITTEN PERMISSION FOR THE USE OF THE PREMISES TO BE LICENSED?  Yes     No

LIST BELOW THE EXACT DATE(S) FOR WHICH APPLICATION IS BEING MADE FOR PERMIT

Date	Date	Date	Date	Date
Hours From	Hours From	Hours From	Hours From	Hours From
To	To	To	To	To
<u>09/03/2011</u>				
From <u>8:00 p.m.</u>				
To <u>2:00 a.m.</u>				

**OATH OF APPLICANT**

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

SIGNATURE: Randy Miller    TITLE: Secretary    DATE: 07/25/2011

**REPORT AND APPROVAL OF LOCAL LICENSING AUTHORITY (CITY OR COUNTY)**

The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the provisions of Title 12, Article 48, C.R.S., as amended.

**THEREFORE, THIS APPLICATION IS APPROVED.**

LOCAL LICENSING AUTHORITY (CITY OR COUNTY): Trinidad     CITY     COUNTY    TELEPHONE NUMBER OF CITY/COUNTY CLERK: (719) 846-9843

SIGNATURE: \_\_\_\_\_    TITLE: Mayor    DATE: \_\_\_\_\_

**DO NOT WRITE IN THIS SPACE - FOR DEPARTMENT OF REVENUE USE ONLY**

**LIABILITY INFORMATION**

License Account Number	Liability Date	State	TOTAL
		<u>-750 (999)</u>	<u>\$</u>

(Instructions on Reverse Side)

OFFICE OF THE SECRETARY OF STATE  
OF THE STATE OF COLORADO

**CERTIFICATE**

I, Scott Gessler, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

**THE TRINIDAD ROUNDUP ASSOCIATION**

is a **Nonprofit Corporation** formed or registered on 11/16/2000 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 20001223521.

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 07/22/2011 that have been posted, and by documents delivered to this office electronically through 07/26/2011 @ 07:44:32.

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, authenticated, issued, delivered and communicated this official certificate at Denver, Colorado on 07/26/2011 @ 07:44:32 pursuant to and in accordance with applicable law. This certificate is assigned Confirmation Number 8002838.



A handwritten signature in black ink, appearing to read "Scott Gessler".

Secretary of State of the State of Colorado

\*\*\*\*\*End of Certificate\*\*\*\*\*

*Notice: A certificate issued electronically from the Colorado Secretary of State's Web site is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Certificate Confirmation Page of the Secretary of State's Web site, <http://www.sos.state.co.us/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our Web site, <http://www.sos.state.co.us/> click Business Center and select "Frequently Asked Questions."*

HOLY TRINITY PARISH  
SEBASTIANI GYM RENTAL AGREEMENT  
206 NORTH ANIMAS ST.  
TRINIDAD, CO 81082

RENTER: Trinidad Round-up Assoc.

DATE OF EVENT: Sept. 3, 2011

GYM RENT: \$ 1000.00 /PER DAY      DAMAGE DEPOSIT: \$ 1000.00

KITCHEN IS INCLUDED IN GYM RENTAL ALONG WITH TABLES & CHAIRS

---

1. Lease:            The renter agrees to abide by the agreed upon guidelines.
2. Use:             The Gym will be used solely by the renter for the purpose of Western Dance
3. Term:            The term of the rental shall be for 1
4. Rent:            Renter agrees to pay the rent for the lease specified above when the renter receives access to the gym.
5. Damage Deposit: Renter shall pay a damage deposit in the above amount to be held by the church. Upon termination of the lease and following the date of the event, the parish shall return to the renter the damage deposit provided the renter has fulfilled all the terms and conditions of this lease. The renter and the maintenance supervisor will do a walkthrough after said event. If damage exceeds \$1,000, the renter is liable for the difference. The gym is to be cleaned to the specifications of the supervisor.
6. Use & Repair:   Renter shall use the property in a careful and safe manner; shall allow only qualified persons to enter and use the property; shall comply with all applicable laws and regulations, and shall maintain the property in good condition. The Maintenance Supervisor shall hold renter responsible for gym property and premises until inspection and release.
7. Surrender:      Upon termination of this lease, renter, at renter's expense, shall return the property in same condition, ordinary wear and tear expected.
8. Loss or Damage: Renter shall bear the entire risk of loss, theft, damage or other destruction to the property and any of its' equipment. If any item of property in the gym is lost, stolen or destroyed, renter shall pay to the church of replace such equipment with like equipment in good repair or new equipment.
9. Indemnity:      Neither the parish nor any of the parish's employees, agents, or guests shall be liable to the renter for an injury or damage to any person or

property in or about the gym by or from any cause. Renter waives any such claims against the parish. Renter shall indemnify the parish against and hold the parish harmless from all claims, actions, proceedings, expenses, and liabilities arising from renter's use or lease of the gym. Holy Trinity Parish is not liable for lost or stolen articles or damage or theft of vehicles.

10. **Assignment:** The renter shall neither sign or otherwise transfer this lease or any of the renter's interests in the lease, nor sublease the property or any part of the property without the prior written consent of the parish. Any assignment, transfer or sublease made without the prior consent of the parish shall be void and shall constitute grounds to terminate this lease.
11. **Insurance:** Proof of insurance must be on filed with the parish prior to the rental date. If alcohol is served, it must be noted on the Certificate of Insurance.
12. **Rules & Conditions:** Renter agrees to observe and comply with all of the parish's rules and conditions.
13. **Attorney's Fees:** The prevailing party shall pay all costs, including reasonable attorney fees and interest rate of 10% from any actions brought concerning the provisions of this lease.
14. **In the event that the terms of this contract are unable to be fulfilled through no fault of either party, this contract shall be declared null and void and both parties shall indemnify each other against any loss.**
15. **Miscellaneous:**
- (a) This lease shall be binding and inure to the benefit of the successors and approved assignees of the Parish and the Renter.
  - (b) This lease shall be governed by and interpreted in accordance with the laws of the State of Colorado.
  - (c) This lease shall not be amended except by a written instrument signed by the parties.

This lease is signed on the date of:

At Holy Trinity Parish

235 N. Convent St.

Trinidad, Colorado 81082

July 22, 2011

**HOLY TRINITY PARISH**

**Name:** Louise Stone

**Title:** Business Manager

**RENTER**

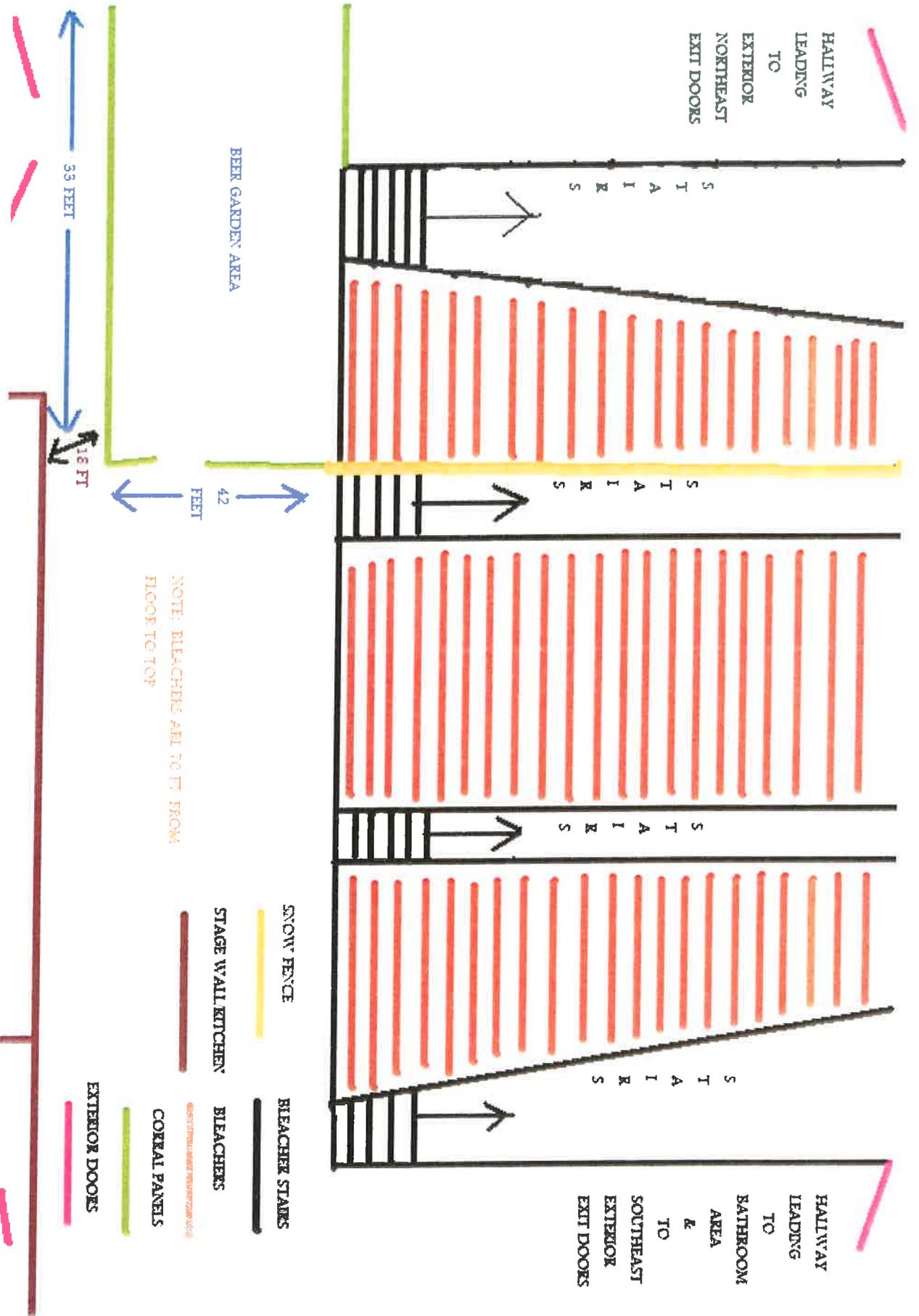
**Organization:** Trinidad Round-up Assoc.

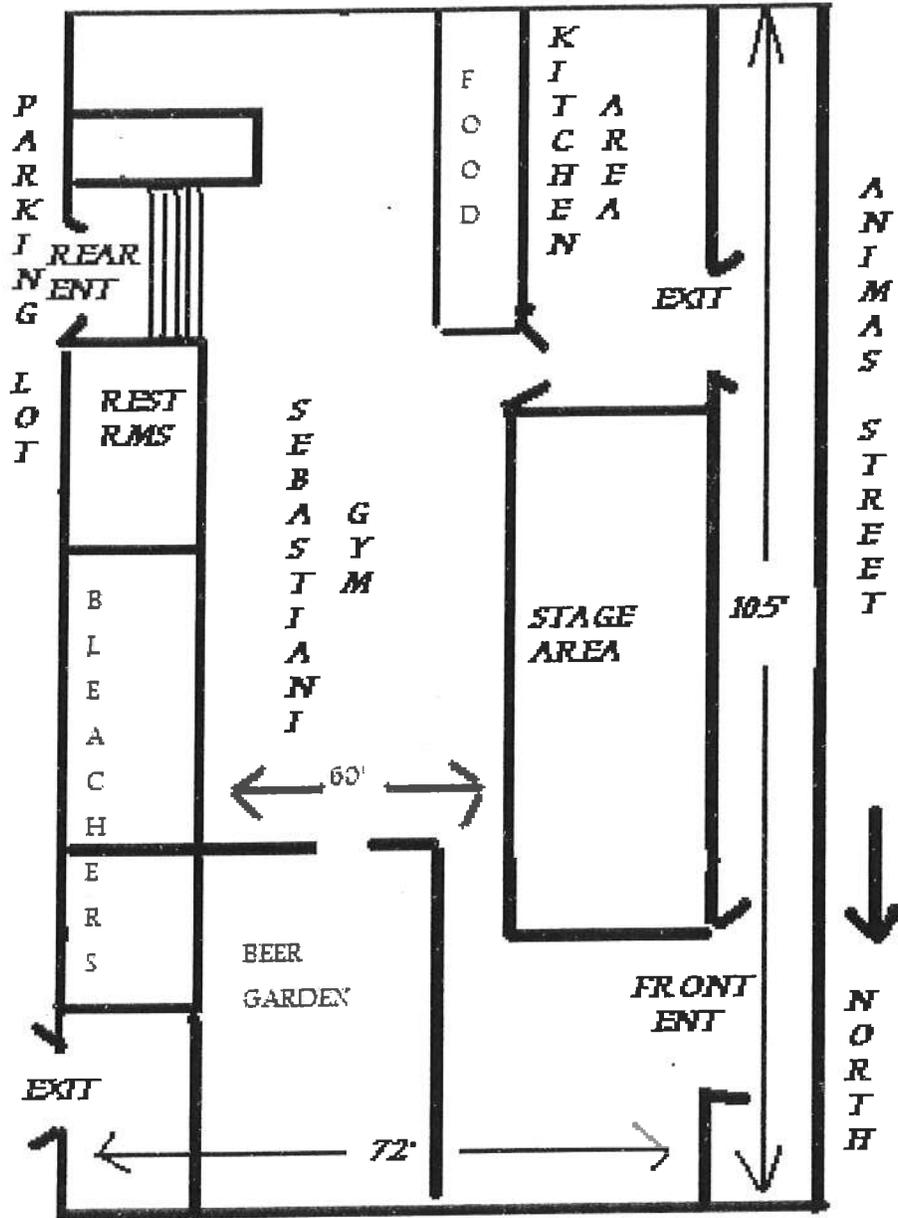
**Name:** Mam & Sue

**Title:** PRESIDENT ROUND UP ASSOCIATION

**Address:** \_\_\_\_\_

**City, State, Zip:** \_\_\_\_\_





OVER ALL VIEW OF GYM

STATE OF COLORADO     )  
COUNTY OF LAS ANIMAS ) SS  
CITY OF TRINIDAD        )

CERTIFICATE OF POSTING

I, Audra Garrett, City Clerk of the City of Trinidad, Colorado, do hereby certify that pursuant to the laws of the State of Colorado, and the ordinances of the City of Trinidad, Trinidad Roundup Association, P. O. Box 469, Trinidad, Colorado, which business has applied for a Special Events Permit, to sell and dispense Malt, Vinous and Spirituous Liquors at 206 N. Animas Street, Trinidad, Colorado, on September 3, 2011, was duly posted for no less than ten continuous days, with the first day of posting occurring on the 2nd day August, 2011.

WITNESS, my hand and the official seal of the City of Trinidad, Colorado, this 2nd day of August, 2011.

CITY OF TRINIDAD, COLORADO

Audra Garrett  
Audra Garrett, City Clerk

(SEAL)

8/1/11

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

Applicant: Trinidad Roundup Association

10:00

dba:

Address: 206 N. Animas Street

Type of License: SEP- Malt, Vinous and Spirituous

Renewal  Transfer  Change of Location  New  Special Event

FOR CONSIDERATION AT  
COUNCIL MEETING DATE: August 16, 2011, 7:00 p.m.

\*\*\*\*\*

DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS: Approved

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

8-3-11  
Date

Ch. S. Kelley  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: August 11, 2011

8/1/11

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

Applicant: Trinidad Roundup Association

dba:

Address: 206 N. Animas Street

Type of License: SEP- Malt, Vinous and Spirituous

Renewal  Transfer  Change of Location  New  Special Event

FOR CONSIDERATION AT  
COUNCIL MEETING DATE:

August 16, 2011, 7:00 p.m.

\*\*\*\*\*

DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS: Approved.

\_\_\_\_\_

\_\_\_\_\_

Occupancy Load Approx: 1300

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

8-3-11  
Date

*Jeroy Perio*  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: August 11, 2011



**TRINIDAD ROUNDUP ASSOCIATION**

**PO BOX 469**

**TRINIDAD, COLO 81082**



To: Mayor Jenny Garduno  
Trinidad City Council Members

August 10, 2011

From: Ron T. Galasso, Secretary  
Trinidad Roundup Association

Dear Ladies & Gentlemen,

After submitting our security plan to both the Trinidad Police Chief, Charles Glorioso and Trinidad Fire Chief, Leroy Perea, the following changes will be made per recommendations from Trinidad Police Detective Sergeant, Phil Martin:

1) All persons who enter the beer garden shall be 21 years of age or older. Prior to entering the beer garden, ALL ID's will be checked. Only persons of legal age to consume alcohol will be permitted into the beer garden. All Persons of legal drinking age will have a color band placed on them "NO ID, NO BAND, NO ALCOHOL".

2) Security Officers and Beer Garden Staff will pay special attention to ensure that underage person ARE NOT served Alcohol or in the Beer Garden area. Staff will ensure that overly intoxicated persons are not being served (as per CRS and Municipal Code). Any violations of the Colorado Beer and Alcohol Code and Trinidad Municipal Alcohol Code shall be reported to Trinidad Police Department.

3) NO PERSON WHO IS DESIGNATED BY THE TRINIDAD ROUNDUP ASSOCIATION, AS A BAR EMPLOYEE WILL BE ALLOWED BEHIND THE BAR. Any unauthorized person found behind the bar will be removed from the EVENT area.

4) The BAR will have in place an accounting system for tracking all bar receipts and tip receipts. A "TIP" Jar will not be left where it can be assessed by unauthorized persons. TIP Jars will be emptied and accounted for during normal cash drops

5) No person is allowed to bring alcoholic beverages into the BEER GARDEN area. No person is allowed to take alcoholic beverages out of the BEER GARDEN area. Appropriate action will be taken for said violations.

6) Person(s) assigned to the BAR shall wear a distinctive colored shirt that is NOT the same color as other event staff. This is so that they can be easily identified as being authorized to work in the BAR area. We thank you for your assistance in this matter.

Respectfully Submitted,

Ron T. Galasso, Secretary  
Trinidad Roundup Association



# CITY OF TRINIDAD

P. O. Box 880  
TRINIDAD, COLORADO 81082  
TELEPHONE (719) 846-9843  
FAX NO. (719) 846-4140

To: Audra Garrett, City Clerk  
From: Leroy Perea, Fire Chief  
August 3, 2011  
RE: Fire Safety Plan,  
Trinidad Round Up Association

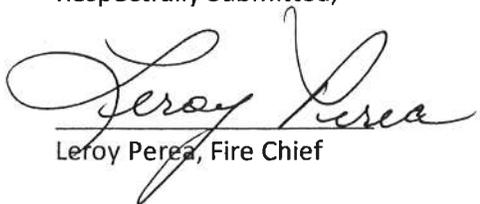
Audra;

The attached Fire Safety Plan was submitted to me by the Trinidad Roundup Association for the 2011 Labor Day Queen's Dance. I have reviewed the plan and inspected the premises. I recommend approval of this plan.

The Occupancy Load for this event was determined to be the following:

Beer Garden Standing Area:	189
Bleachers in Beer Garden Area:	214
Dance floor:	331
Bleachers in Dance Floor Area:	564
TOTAL:	1298

Respectfully Submitted,

  
Leroy Perea, Fire Chief



**TRINIDAD ROUNDUP ASSOCIATION**  
**PO BOX 469**  
**TRINIDAD, COLO 81082**



To: Mr. Charles Glorioso  
Trinidad Police Chief  
Mr. Leroy Perea  
Trinidad Fire Chief

July 7, 2011

From: Ron T. Galasso, Secretary  
Trinidad Roundup Association

Gentlemen,

Attached you will find a copy of the Trinidad Roundup Association Security Plan for the upcoming 2011 Labor Day Queen's Dance to be held at Sebastiani Gym on Saturday, Sept. 3<sup>rd</sup>, 2011. If you have any questions, concerns, or anything else that is needed, please contact me as soon as possible. Enclosed also is a copy of my business card. Your assistance in this matter is greatly appreciated. Thank You.

Respectfully Submitted,

Ron T. Galasso, Secretary  
Trinidad Roundup Association

**Trinidad Roundup Association  
Security Plan  
Queen's Dance 2011**

Date of Event: September 3<sup>rd</sup>, 2011

Place of Event: Sebastiani Gym  
206 North Animas Street  
Trinidad, Colorado 81082

Times of Event: 9:00 pm- 1:30 a.m.

Security Provided by: Rocky Mtn. Security (Marty Coca)

Estimated Crowd Size: 500

Number of Security for Event: 6

Beer Garden Size: (Please See Diagram)

**Description:**

Entry into the event will be from two entrances/exits. One being located in the rear of the building from the parking lot, near the southeast corner and the other from the front entrance to the building off Animas Street near the northwest corner of the building. To prevent problems arising such as a possible attempted robbery, 2-3 Trinidad Roundup Assoc. members will be at each door collecting money, giving change, and stamping hands along with one security officer. Money is picked up by members of the association at random and transferred to another location within the building to prevent buildup of money at each door. Around 11:00 p.m. or so, then the money from each door is pulled and transferred to a location away from the dance. Money from the beer garden is pulled at random to prevent a large buildup and also transported away from the dance by Trinidad Roundup Association members.

Two more security officers are placed on the beer garden within the building and the two remaining officers utilized in walking around the

interior of the building and immediate outside of the building to prevent problems from arising. Any sign of trouble such as a fight, disturbance, or any other illegal act, the security officers are to contact Trinidad Police Department for their assistance on the matter. Security will be provided with radio communications to ensure complete contact with each other at all times. Contact to Trinidad Police Dept. will be done by use of cellular phones being carried by security officers.

In the event of a situation arising where the gym has to be evacuated, a total of 4 doors are available for use. Two of them being the two already mentioned located at the front and rear of the building (northwest and southeast corners). The other two doors being one located in the southwest corner of the building through the kitchen leading to Animas Street and the other being located on the northeast corner of the building leading into the rear parking lot area of the building. Both the southwest and northeast exit doors will be closed at the time of the dance and only used in the case of an evacuation. People within the beer garden of the dance will be evacuated through the rear northeast doors. All others through the three remaining doors/exits. To prevent entry/exit from the dance through the two doors that are to be closed during the event, personnel from Holy Trinity Academy will be monitoring the door leading to the kitchen due to them handling our concessions for the dance. The hallway leading to the northeast corner will be blocked by a corral panel and monitored by our security manning the beer garden and members of the Las Animas County Chamber of Commerce that will be handling our liquor sales. The corral panel will not be anchored and can be easily moved if the need of an evacuation arises.

### **Beer Garden**

The beer garden will be located on the north end of the building. Corral Panels will be placed extending from the north wall of the building 33' south, then running 42' east to the stairs leading up into the bleachers. A 18' walkway between the corral panels and the stage wall will allow people attending the dance easy access and egress into the dance or out of without going into the beer garden. From the bottom of the first section of bleachers to the top will be snow fence against the end of the bleachers to enclose that section of bleachers within the beer garden but still allow people wanting to sit in the middle section of bleachers (outside the beer garden). Patrons of

the beer garden will be able to walk up the stairway located on the north end of the bleachers to be able to sit and drink without exiting the confines of the beer garden. Of the two security officers assigned to the beer garden, one of them will be at the entrance leading into the beer garden and the other at the bottom of the enclosed bleachers to be able to monitor no one exiting or entering the beer garden through the snow fence. The bleachers in the beer garden section consist of the following:

First 12 bleachers being 16' in length  
The next 5 bleachers being 15' in length  
The last 4 bleachers being 14' in length

Total length from bottom of the floor to the top being 70' added with the 42' of panels on the gym floor giving a diameter of 112' x 33' for the entire beer garden. People within the beer garden being able to stand on the floor or sit in the first section of bleachers. (Please see diagram for details).

All servers of the beer garden will have had TIPS training and be associated with the Las Animas County Chamber of Commerce or will not be allowed to serve.

### **Restrooms**

Patrons of the dance will be allowed to use the two bathrooms one being for men and the other being for women located on the south end of the building in the hallway leading to the southeast back door of the gym. No other restroom facilities to be provided.

### **Food Concessions**

No actual food will be prepared on site other than hotdogs and nachos. The food served at the dance will consist of previously prepared burritos, nachos, chips, pop, candy, etc. An extension cord or two may be utilized to keep the nacho cheese warm and the burritos. The hotdogs will be kept warm in the kitchen area by use of a crock pot. At no time should there be a large number of extension cords used for food service. No extension cords will be needed for the beer garden due to beer being served in cans. Any hard liquor served will be served in plastic cups with bottled

pop utilized for the mixture. The food concession area will be located on the southwest corner area of the building just outside the kitchen. (Please see diagram)

### **Fire/Medical**

In the event of a fire/medical situation arising, security officers will contact the emergency 911 dispatch for Fire, Ambulance and/or Police.

8/1/2011

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

Applicant's Name: Trinidad Roundup Association

DBA:

Business Address: 206 N. Animas Street

Type of License: SEP - Malt, Vinous and Spirituous

Renewal     Transfer     Change of Location     New     Special Event

FOR CONSIDERATION AT

COUNCIL MEETING DATE: August 16, 2011, 7:00 p.m.

\*\*\*\*\*

DEPARTMENT REVIEW    /

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS:

**Follow approved security plan. In addition, no one showing signs of intoxication may serve alcohol and servers must not consume alcohol.**

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: August 11, 2011



## Trinidad Police Department

2309 E Main St.  
Trinidad, Co 81082  
(719) 846-4441  
(719) 846-3728 (fax)

To Chief Glorioso  
From Det Sgt Martin  
August 3, 2011

RE: Trinidad round Up Association Security Plan

Sir:

I have looked over the submitted plan and am making the following recommendations:

ALL persons who enter the beer garden shall be 21 years of age. Prior to entering the beer garden, ALL ID's will be checked. Only persons of legal age to consume alcohol will be permitted in the beer garden. ALL persons of legal drinking age will have a color band placed on them. "NO ID NO BAND NO ALCOHOL".

**Security Officers AND BEER GARDEN STAFF should pay special attention to ensure that underage persons ARE NOT being served alcohol. Staff should ensure that overly intoxicated persons are not being served (As per CRS and Municipal Code). Any violations of the Colorado Beer and Alcohol Code and Trinidad Municipal Alcohol Code shall be reported to TPD.**

**NO PERSON WHO IS NOT DESIGNATED BY THE TRINIDAD ROUND UP ASSOCIATION, AS A BAR EMPLOYEE WILL BE ALLOWED BEHIND THE BAR.**  
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Person(s) assigned to the BAR shall wear a distinctive colored shirt that is NOT the same color as other event staff. This is so they can be easily identified as being authorized to work in the BAR area.

If there are any further questions regarding this please advise.

**Trinidad Roundup Association  
Security Plan  
Queen's Dance 2011**

Date of Event: September 3<sup>rd</sup>, 2011

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206 North Animas Street  
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interior of the building and immediate outside of the building to prevent problems from arising. Any sign of trouble such as a fight, disturbance, or any other illegal act, the security officers are to contact Trinidad Police Department for their assistance on the matter. Security will be provided with radio communications to ensure complete contact with each other at all times. Contact to Trinidad Police Dept. will be done by use of cellular phones being carried by security officers.

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pop utilized for the mixture. The food concession area will be located on the southwest corner area of the building just outside the kitchen. (Please see diagram)

### **Fire/Medical**

In the event of a fire/medical situation arising, security officers will contact the emergency 911 dispatch for Fire, Ambulance and/or Police.

ITEM NO. 7b

ITEM TO BE PLACED ON THE AGENDA FOR THE  
REGULAR MEETING OF THE CITY COUNCIL TO  
BE HELD ON August 16, 2011

**ITEM:** Hotel and restaurant liquor license renewal request by Rino's Restaurant, LLC  
d/b/a Rino's Restaurant at 400 E. Main Street

**REQUEST  
MADE BY:** Rino's Restaurant, LLC

**CONTENTS/  
COMMENTS:** Renewal Application  
Departmental reports  
Fees have been paid

ITEM NO. 7b

**LIQUOR OR 3.2 BEER LICENSE  
 RENEWAL APPLICATION**



RINOS RESTAURANT LLC  
 RINOS RESTAURANT  
 400 E MAIN ST  
 TRINIDAD CO 81082-2715

License Number 28-49390-0000	License Type 1970
Liability Information 05 102 722110 B 101207	
Business Location 400 E MAIN ST TRINIDAD CO	
Current License Expires OCT 11, 2011	
<b>DEPARTMENTAL USE ONLY</b>	
Total Amount Due	
Total Paid \$ 500.00	Date 8-3-11

- This renewal reflects no changes from the last application. Complete page 2 and file now!
- Yes there are changes from the last application.** If applicant is a Corporation or Limited Liability company, use DR 8177 and send in with this renewal. Any other changes of ownership require a transfer of ownership. See your Local Licensing Authority immediately.

Wholesaler, manufacturer, importer, and public transportation system license renewals do not need Local Licensing Authority approval and must be returned directly to the Colorado Department of Revenue at least 30 days prior to the current license expiration date.

**This application for renewal must be returned to your CITY OR COUNTY Licensing Authority at least 45 days prior to the expiration date of your current license. Failure to do so may result in your license not being renewed. Include both pages of this renewal and payment.**

**OATH OF APPLICANT**

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

Authorized Signature <i>Frank Caldera</i>	Date	Business Phone 719-845-0949
Title Owner - Rinos Italian Rest LLC	Sales Tax Number 28-49390-0000	

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

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

Local Licensing Authority for Trinidad	Date
Signature	Title Mayor
Attest	

DO NOT DETACH

DO NOT DETACH

DO NOT DETACH

**LIQUOR OR 3.2 BEER LICENSE  
 RENEWAL APPLICATION**

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

Business Name RINOS RESTAURANT	LICENSE NUMBER (Use for all reference) 28-49390-0000		PERIOD 10-12
TYPE OF LICENSE ISSUED HOTEL AND RESTAURANT LIQUOR LICENSE - MALT, VINOUS, AND SPIRITUOUS	CASH FUND	STATE FEE	CITY 85% OAP 2180-100(999)
	2320-100(999) \$ 50.00	1970-750(999) \$ 25.00	\$ 425.00

SUB-TOTAL \$ 500.00  
 ADD \$100.00 TO RENEW RETAIL WAREHOUSE STORAGE PERMIT 2210-100(999) \$ \_\_\_\_\_  
 TOTAL AMOUNT DUE \$ \_\_\_\_\_

## ATTACHMENT TO LIQUOR OR 3.2 BEER LICENSE RENEWAL APPLICATION

**This page must be completed and attached to your signed renewal application form.  
 Failure to include this page with the application may result in your license not being renewed.**

Trade Name of Establishment <i>Rino's Italian Restaurant LLC</i>		State License Number <i>28-49390-0000</i>	
1. Operating Manager <i>Frank Cordova</i>	Home Address [REDACTED]	<i>J. Trinidad</i> <i>00 81082</i>	Date of Birth [REDACTED]
2. Do you have legal possession of the premises for which this application for license is made? Are the premises owned or rented: <u>OWN</u> If rented, expiration date of lease: _____			Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
3. Has there been any change in financial interest (new notes, loans, owners, etc.) since the last annual application? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders or owners, (other than licensed financial institutions) are materially interested.			Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
4. Since the date of filing of the last annual application, has the applicant, or any of its agents, owners, managers, principals, or lenders (other than licensed financial institutions), been convicted of a crime? If yes, attach a detailed explanation.			Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
5. Since the date of filing of the last annual application, has the applicant, or any of its agents, owners, managers, principals, or lenders (other than licensed financial institutions), been denied an alcoholic beverage license, had an alcoholic beverage license suspended or revoked, or had interest in any entity that had an alcoholic beverage license denied, suspended or revoked? If yes, attach a detailed explanation.			Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
6. Does the applicant, or any of its agents, owners, managers, principals, or lenders (other than licensed financial institutions), have a direct or indirect interest in any other Colorado liquor license (include loans to or from any licensee, or interest in a loan to any licensee)? If yes, attach a detailed explanation.			Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
7. <b>Corporation or Limited Liability Company (LLC) or Partnership applicants must answer these questions.</b> <b>Since the date of filing of the last annual license application:</b>			Yes No
(a) Are there, or have there been: any officers or directors; or managing members; or general partners added to or deleted from applicant for renewal of a 3.2 beer or liquor license?			<input type="checkbox"/> <input checked="" type="checkbox"/>
(b) Are there or have there been: any stockholders with 10% or more of the issued stock of the Corporation; or any members with 10% or more membership interest in the LLC; or any partners with 10% or more interest in the partnership added to or deleted from the applicant for renewal of a 3.2 beer or liquor license?			Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>
(c) If Yes to (a) or (b), complete and attach Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, and all supporting documentation, and fees your Local Licensing Authority immediately.			
8. <b>Sole proprietorships, Husband-Wife Partnerships or Partners in General Partnerships:</b>			
<b>EVIDENCE OF LAWFUL PRESENCE</b>			
Each person identified above must complete and sign the following affidavit. Please make additional copies if necessary. Each person must also provide a copy of their driver's license or state issued identification card.			
In lieu of form DR 4679, the undersigned swears or affirms under penalty of perjury under the laws of the State of Colorado that (check one):			
<input checked="" type="checkbox"/> I am a United States Citizen			
<input type="checkbox"/> I am not a United States Citizen but I am a Permanent Resident of the United States			
<input type="checkbox"/> I am not a United States Citizen but I am lawfully present in the United States pursuant to Federal Law			
<input type="checkbox"/> I am a foreign national not physically present in the United States			
I understand that this sworn statement is required by law because I have applied for a public benefit. I understand that state law requires me to provide proof that I am lawfully present in the United States prior to receipt of this public benefit. I further acknowledge that making a false, or fraudulent statement or misrepresentation in this sworn affidavit is punishable under the criminal laws of Colorado Revised Statute 18-8-503 and it shall constitute a separate criminal offense each time a public benefit is fraudulently received.			
Signature <i>Frank Cordova</i>		Printed name <i>FRANK CORDOVA</i>	Date <i>8-3-11</i>

8/4/11

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

Applicant: Rino's Restaurant, LLC

dba: Rino's Restaurant

Address: 400 E. Main Street

Type of License: Hotel and Restaurant

Renewal  Transfer  Change of Location  New  Special Event

FOR CONSIDERATION AT  
COUNCIL MEETING DATE: August 16, 2011, 7:00 p.m.

\*\*\*\*\*

DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS: Fire, Extinguishers need inspecting  
Emergency lights downstairs need fixed -  
Vertical opening in hall downstairs -  
Vent needs work -

Will return in two weeks -

8-9-11  
Date

*Jeremy Perera*  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: August 11, 2011

8/4/11

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

845-0365  
9:00am 12:00  
Thursday

Applicant: Rino's Restaurant, LLC

dba: Rino's Restaurant

Address: 400 E. Main Street

Type of License: Hotel and Restaurant

Renewal  Transfer  Change of Location  New  Special Event

FOR CONSIDERATION AT  
COUNCIL MEETING DATE: August 16, 2011, 7:00 p.m.

\*\*\*\*\*

DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS: Basement stair way / 5/8 rock under<sup>ok</sup>  
stairs and walls Finish substandard (ok) repairs  
ceiling in bath hallway / repairs duct work  
in kitchen / Fire extinguisher out of date / smoke  
detector C.O. detector For hot water heater /  
Fire extinguisher All out of date / Radio light  
wiring loose / back up lighting not working  
Main kitchen exhaust venting repairs

Frank will call  
when done

8-11-11  
Date

Chris Kelly  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: August 11, 2011

8/4/2011

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

Applicant's Name: Rino's Restaurant, LLC

DBA: Rino's Restaurant

Business Address: 400 E. Main

Type of License: Hotel & Restaurant

Renewal     Transfer     Change of Location     New     Special Event

FOR CONSIDERATION AT

COUNCIL MEETING DATE: August 16, 2011, 7:00 p.m.

\*\*\*\*\*

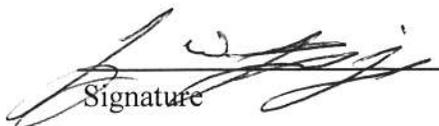
**DEPARTMENT REVIEW**

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS:

<u>Date</u>	<u>Sequence Number</u>	<u>Call Type</u>	<u>Case Number</u>
No record found			

8-8-11  
Date

  
Signature

**RETURN TO THE CITY CLERK'S OFFICE BEFORE: August 11, 2011**

## Audra Garrett

---

**From:** John Martinez [jmartinez@la-h-health.org]  
**Sent:** Friday, August 05, 2011 3:33 PM  
**To:** Audra Garrett  
**Subject:** RE: Liquor license renewal

Audra, Rino's Restaurant is in compliance with the Las Animas/Huerfano County Health Department as of this date.

John Martinez  
Environmental Health Specialist Iii  
[jmartinez@la-h-health.org](mailto:jmartinez@la-h-health.org)

### Las Animas-Huerfano Counties District Health Department

#### Trinidad Office

412 Benedicta Ave  
Trinidad, CO 81082  
(Ph) 719-846-2213  
(Fax) 719-846-4472

#### Walsenburg Office

119 E. Fifth Street  
Walsenburg, CO 81089  
(Ph) 719-738-2650  
(Fax) 719-738-2653

**From:** Audra Garrett [<mailto:audra.garrett@trinidad.co.gov>]  
**Sent:** Thursday, August 04, 2011 1:23 PM  
**To:** John Martinez  
**Subject:** Liquor license renewal

Hi John,

Please confirm compliance with your office with regard to the liquor license issued to Rino's Restaurant @ 400 E. Main Street.

Thanks,

Audra Garrett, City Clerk

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

ITEM NO. 7c

ITEM TO BE PLACED ON THE AGENDA FOR THE  
REGULAR MEETING OF THE CITY COUNCIL TO  
BE HELD ON August 16, 2011

**ITEM:** Consideration of request for additional water from New Elk Coal Company, LLC

**REQUEST  
MADE BY:** New Elk Coal Company, LLC

**CONTENTS/  
COMMENTS:** Memo from City Attorney Beatty dated 8/12/11 w/attachments as indicated

ITEM NO. 7c



## City of Trinidad, Colorado

Office of the City Attorney

135 North Animas Street

Trinidad, CO 81082

P: (719) 846-9843

F: (719) 846-4140

jerod.beatty@historict Trinidad.com

### MEMORANDUM

To: Mayor Garduno and Members of City Council

From: Jerod Beatty 

Re: Request for Additional Water from New Elk Coal Company, LLC

Date: August 12, 2011

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Dear Mayor Garduno and Members of City Council:

Following this cover memorandum, please find the following documentation:

- (1) New Elk Coal Company, LLC's "Notice of Request for Additional Water" dated July 11, 2011;
- (2) A letter dated August 9, 2011, advising New Elk Coal Company, LLC, that its request for additional water will be formally considered by the Trinidad City Council at its regularly-scheduled meeting on August 16, 2011;
- (3) A memorandum from Jeff Kahn dated July 26, 2011, evaluating New Elk Coal Company, LLC's request;
- (4) A memorandum from Gary Thompson dated July 19, 2011, evaluating the potential impact of the Army Corps of Engineers' silt adjustment for the Trinidad Reservoir; and
- (5) A copy of the Water Lease Agreement between the City and New Elk Coal Company, LLC, dated March 4, 2011.

In accordance with Jeff Kahn's memorandum, any motion/response to approve New Elk's request for additional water—in whole or in part—should specify that the water will only be made available from Trinidad Reservoir and not from any other source and is contingent, as is stated in the lease, on the availability of water in Trinidad Reservoir.

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# NEW ELK COAL COMPANY



July 11, 2011

Mr. Ed Gil De Rubio  
City Manager, City of Trinidad, Colorado  
135 North Animas Street  
P.O. Box 880  
Trinidad, CO 81082

RE: Notice of Request for Additional Water

Dear Mr. Gil De Rubio

This letter serves as notice to the City of Trinidad ("City") for New Elk Coal Company's ("Company") request for additional water pursuant to the parties' water lease agreement ("Agreement"), specifically, as it pertains to paragraphs 4b and 4c (Tier 2 & 3 Water). The request is made for an amount up to 200 acre-feet, to be leased to the Company, in addition to the 50 acre-feet (Tier 1) already leased under the Agreement.

In the Agreement, New Elk Coal Company is allowed to request up to 100 acre-feet of Tier 2 and Tier 3 water, respectively. The Company recognizes that notice terms for leasing Tier 2 are different than those outlined for Tier 3 (namely, the timing of the notice), but given that the Tier 2 terms do not apply during the first year of the Agreement, the Company is making a request to incorporate the totals allowed under paragraph 4b and 4c of the Agreement – for an amount of 200 acre-feet.

The Company fully recognizes that these requests are subject to the City's water availability, and this request is for delivery only through March 31, 2012. All other terms of this notice are in compliance with the Agreement, and the Company understands that the payment and carry-over considerations remain the same.

122 W. First Street  
Trinidad, CO 81082

PHONE	(719) 845-0090
FAX	((719) 845-0077
E-MAIL	ronthompson@newelkcoal.com

Page 2. – Mr. Ed Gil De Rubio – 7-11-11

Pursuant to the Agreement, within the 30 days of the receipt of this request, the City shall provide notice to the Company regarding the amount of water to be leased. However, it is the Company's desire to meet with the City during this 30-day period to review this request, and discuss the 2012-2013 Company water requirements.

Please feel free to contact me - or the Company's consultant, Paul Flack - for any further information.

Sincerely,

A handwritten signature in cursive script that reads "Ron Thompson". The signature is written in black ink and is positioned above the printed name.

Ron Thompson, Manager  
New Elk Coal Company



## CITY of TRINIDAD

P. O. Box 880  
TRINIDAD, COLORADO 81082  
TELEPHONE (719) 846-9843  
FAX NO. (719) 846-4140

*Via U.S. Mail  
and E-mail to [ronthompson@newelkcoal.com](mailto:ronthompson@newelkcoal.com)*

August 9, 2011

Mr. Ron Thompson  
Mine Manager  
New Elk Coal Company, LLC  
112 West First Street  
Trinidad, CO 81082

**RE: REQUEST FOR ADDITIONAL WATER**

Dear Mr. Thompson:

The City of Trinidad, Colorado, is in receipt of your "Notice of Request for Additional Water" dated July 11, 2011, that you have submitted in accordance with the Water Lease Agreement between the City and New Elk Coal Company, LLC, dated March 4, 2011.

As we have discussed *via* telephone, the Trinidad City Council will formally consider your request during the City Council's regularly-scheduled meeting on Tuesday, August 16, 2011. Therefore, please regard this letter as extending the thirty (30) day timeframe specified in the Water Lease Agreement for the City's response to a request for additional water until August 16, 2011.

Should you have any questions or concerns regarding this letter, please do not hesitate to contact me at (719) 846-9843, extension 131.

Best Regards,

Jerod Beatty, City Attorney  
City of Trinidad, Colorado

cc: Mr. Ed Gil de Rubio, City Manager  
Mr. Jim Fernandez, Utility Superintendent

Richard N. Lyons, II  
Jeffrey J. Kahn  
John W. Gaddis  
Bradley A. Hall  
Steven P. Jeffers  
Anton V. Dworak  
Adele L. Reester  
Catherine A. Tallerico

**Lyons Gaddis Kahn & Hall**  
A Professional Corporation  Attorneys and Counselors

Eve I. Canfield  
Scott E. Holwick  
Matthew Machado  
Madoline Wallace-Gross  
Chad A. Kupper

Daniel F. Bernard  
Senior Counsel

**Memorandum**

To: Jerod Beatty

From: Jeffrey J. Kahn

Re: Request for Additional Water from the City of Trinidad Pursuant to Lease with  
New Elk Coal Company

Date: July 26, 2011

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By letter dated July 11, 2011 addressed to Ed Gil de Rubio, City Manager, New Elk Coal Company has requested the lease of an additional 200 acre feet of water from the City of Trinidad. This request is pursuant to a lease between New Elk Coal Company and the City of Trinidad finalized on March 4, 2011. The lease provides for a lease of "Tier 1 Water" in the amount of 50 acre feet per year which has already been leased. An additional 100 acre feet can be requested as "Tier 2 Water," and likewise, an additional 100 acre feet of "Tier 3 Water." New Elk, in the July 11, 2011 letter, recognizes that a request for Tier 2 Water is not timely. However, in any event, New Elk requests an additional 200 acre feet. The price would be \$500 per acre foot pursuant to the lease. In the lease, the City has agreed to respond to requests for Tier 2 and Tier 3 Water with 30 days. Assuming the letter was received on July 11, 2011, the thirtieth day is Wednesday, August 10, 2011.

This has been discussed with City staff and City staff believes that a lease of a lesser amount of water at this time is appropriate. The City's response should state that the water will only be made available from Trinidad Reservoir and not from any other source and is contingent, as is stated in the lease, on the availability of water in Trinidad Reservoir.

It appears that because of the upcoming sediment accumulation adjustment, the amount of water in the City account in Trinidad Reservoir will be reduced. That will occur on or about November 1.

I discussed with a representative of New Elk, Paul Flack, the lease, at this time, of 100 acre feet. Mr. Flack responded that that should meet the needs of New Elk hopefully through the end of this year. New Elk can make an additional request later for another 100 acre feet if desired.

Gary Thompson, consulting water engineer, and I believe the City should, at this time, go ahead and respond that it will make another 100 acre feet available for lease to New Elk but decline to lease the full 200 at this time. The response should make it clear the water made available is limited to that water available in the City account in Trinidad Reservoir.

cc: Jim Fernandez, Ed Gil de Rubio, Gary Thompson, Madoline Wallace-Gross

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**W. W. Wheeler and Associates, Inc.**  
**Water Resources Engineers**

3700 South Inca Street, Englewood, CO 80110  
Phone (303) 761-4130 Fax (303) 761-2802

## MEMORANDUM

July 19, 2011

RE: #673 – City of Trinidad  
Potential Impact of Silt Adjustment on the City's Municipal Account at  
Trinidad Reservoir

TO: Jim Fernandez, Jerod Beatty, and Jeff Kahn

BY: Gary B. Thompson, P.E.

As you know, the Corps of Engineers has recently released its draft calculations for the silt adjustment at Trinidad Reservoir. The purpose of this memo is to provide an updated summary of my analysis, based on those draft calculation.

For this analysis, I assumed that drought conditions will continue in the Trinidad area. I assumed that the City would make the following water deliveries from the Municipal Account during the period between now and May 31, 2012:

City well augmentation plan	40 ac-ft
Cougar Canyon	150 (some released in 2011, some in early 2012)
O'Neill	15
Wall of Legends	1
Bar Ni	9
Pioneer & XTO	50
New Elk Mine	<u>50</u>
Total	315

I assume that approximately 165 acre-feet of these releases will occur prior to November 1, 2011. This analysis does not include the potential new lease of 200 acre-feet to the New Elk Mine. I assumed 10 percent evaporation loss in the reservoir accounts between now and May 31, 2012. I estimated that the Trinidad Project's Irrigation Account would contain about 500 acre-feet of newly-stored water by November 1.

Taking into account these factors, I estimate that the total volume in the reservoir on November 1, 2011 will be 12,275 acre-feet. Based on the Corps of Engineer's draft table, the silt adjustment for that amount of storage will be about 1,775 acre-feet.

As of July 17, 2011, the City had 1,383 acre-feet in its Municipal Account, consisting of the following:

Johns Flood and Model	1,184 ac-ft
Lopez	155
Madrid	44

I assumed that the City will continue to accrue water into its Municipal Account, based on dry-year conditions, during the remainder of 2011 and again in 2012. The following are estimates of the amount of storage in the Municipal Account on various dates, before and after the 1,775 acre-feet of silt adjustment occurs:

**Projected Contents of Municipal Account before and after the Silt Adjustment  
Assuming water for the silt adjustment is taken proportionately from the specified  
accounts**

Date	From Municipal Account Only	From Municipal and Parks Accounts	<b>From Municipal, Parks &amp; Permanent Pool</b>	From Municipal, Parks, Permanent Pool & Irrigation
Oct 31 (before silt adjustment occurs)	1,660	1,660	<b>1,660</b>	1,660
Nov 1 (after silt adjustment occurs)	0	1,250	<b>1,390</b>	1,400
May 31 (before any transfer to refill the City's Permanent Pool account)	0	1,310	<b>1,430</b>	1,440
May 31 (after transfer to refill the Permanent Pool account)	0	730	<b>240</b>	280
Mid-summer 2012 (after transfer to refill the Permanent Pool account)	400	1,130	<b>640</b>	680

It is my understanding that the most likely scenario is that the water for the silt adjustment will be taken from the City's Municipal Account, the City's Permanent Pool Account, and Park's Permanent Pool Account, as shown in the highlighted column above.

If the transfer of water from the City's Municipal Account to the City's Permanent Pool Account can be delayed until at least mid-summer in 2012, I anticipate that the City's Municipal Account will continue to have a strong positive balance at all times.

## WATER LEASE AGREEMENT

**1. PARTIES.** The parties to this Water Lease Agreement ("Agreement") are the **CITY OF TRINIDAD**, a Colorado municipal corporation ("City"), and **NEW ELK COAL COMPANY, LLC**, a Kansas limited liability company ("Lessee").

**2. RECITALS.** Lessee is planning to operate the New Elk Metallurgical Coking Coal Mine ("Mine") located near Weston, Colorado. The Mine needs water for its operations. The City has certain water in storage in Trinidad Reservoir ("City's Water") that may be utilized by exchange at the Mine. Thus, Lessee would like to lease a certain amount of the City's Water and have the ability to request the lease of additional amounts of the City's Water on an annual basis. The City is willing to enter into such a lease with the Lessee.

**NOW, THEREFORE,** the parties agree:

**3. TERM.** The term of this Agreement shall begin upon the mutual execution of the Agreement by the parties and shall automatically expire on December 31, 2014, unless renewed pursuant to paragraph 10 below.

**4. WATER LEASE.** The City will lease and consider leasing the following amounts of the City's Water to Lessee:

**A. TIER 1 WATER.** The City will lease fifty (50) acre-feet of the City's Water to Lessee on an annual basis ("Tier 1 Water"). Lessee shall make payments for Tier 1 Water leased in 2011 upon its execution of this Agreement. On or before January 31 of 2012, 2013 and 2014, Lessee shall pay to the City Twenty Five Thousand Dollars (\$25,000) per year for the lease of the Tier 1 Water. No invoice or statement shall be provided by the City for this payment.

**B. TIER 2 WATER.** In addition to the Tier 1 Water specified in paragraph 4.A., Lessee may request to lease on an annual basis an additional amount of the City's Water up to one hundred (100) acre-feet ("Tier 2 Water"). On or before the date for payment of the Tier 1 Water in 2011, if applicable, and for 2012, 2013 and 2014 on or before November 1 of the previous year, Lessee shall give notice to the City of its desire to lease up to one hundred (100) acre-feet of Tier 2 Water. For 2011, the City shall confirm it can deliver Tier 2 Water within 30 days of notice of the request. For delivery of Tier 2 Water in 2012, 2013 and 2014, the City shall confirm the availability of Tier 2 Water by November 30 of the previous year, provided the Lessee has provided notice of its request by November 1. The price for Tier 2 Water shall be Five Hundred Dollars (\$500) per acre-foot. If Lessee requests Tier 2 Water in 2011, payment shall be due within 30 days of the City's confirmation of availability. For Tier 2 water to be delivered in 2012, 2013 and 2014, payment shall be made on or before January 31 of that year. The City is not guaranteeing or providing any priority for any Tier 2 Water and

may decline Lessee's request for Tier 2 Water within the time periods outlined above. A failure by the City to respond within the time period shall be assumed to be a declination by the City to lease Tier 2 Water.

**C. TIER 3 WATER.** In addition to the Tier 1 and Tier 2 Water specified in paragraphs 4.A. and 4.B., at any time during the term of this Agreement, Lessee may request to lease up to an additional one hundred (100) acre-feet of water (Tier 3 Water) by delivering notice of such request to the City. The notice shall specify the number of acre-feet of Tier 3 Water that Lessee desires to lease. Within thirty (30) days of the City's receipt of Lessee's notice, the City shall provide notice to the Lessee of the amount, if any, of Tier 3 Water that the City will lease to Lessee. Within thirty (30) days of the Lessee's receipt of the City's notice that the City will lease Tier 3 Water, Lessee shall pay to the City an additional lease fee equal to Five Hundred Dollars (\$500) per acre-foot. The City is not guaranteeing or providing any priority for any Tier 3 Water and may decline Lessee's request for Tier 3 Water within the time periods outlined above. A failure by the City to respond within the time period shall be assumed to be a declination by the City to lease Tier 3 Water.

**5. LESSEE'S RESPONSIBILITY.** The City shall make the City's Water available each year from the City's storage account in Trinidad Reservoir on an "as is" basis. The City's Water will be made available each year between April 1<sup>st</sup> and March 31<sup>st</sup>, which is the City's water year. The water to be released was the subject of a change of water rights in Case No. 88CW61, District Court, Water Division No. 2, State of Colorado. It shall be the responsibility of the Lessee to obtain any additional approvals necessary to use the leased water for Lessee's intended purposes, including but not limited to approvals by the Colorado Division of Water Resources. The City shall cooperate with Lessee in obtaining any required additional approvals from any entity. The City makes no warranties or guarantees that such approvals can be obtained.

**6. RELEASE OF WATER.** The City's Water will be made available for release from Trinidad Reservoir upon the request of the Water Commissioner or Division Engineer. It is the responsibility of Lessee to coordinate and contact the Water Commissioner and/or the Division Engineer to arrange the release of water for Lessee's benefit.

**7. NO GUARANTEE.** Because of the possibility of drought, mechanical failures at Trinidad Reservoir or other extraordinary circumstances beyond the parties' control, the City cannot guarantee delivery of the City's Water. In any year the City cannot deliver the leased water to Lessee, the City shall refund to Lessee the fee for any water requested and paid for but not delivered as requested by Lessee. Such a refund shall be Lessee's sole and exclusive remedy against the City for any breach or non-performance of any obligation under this Agreement.

**A. DROUGHT.** If the City determines that it will not be able to deliver water in any year because of drought, then the City shall provide the Lessee with written notice at the address listed in paragraph 12 as soon as practicable after making such determination.

**B. EXTRAORDINARY CIRCUMSTANCES.** For the purposes of paragraph 7, the term "extraordinary circumstances" includes, but is not limited to, a conflict or dispute by any entity, other than the Colorado Division of Water Resources or the Mined Land Reclamation Board, that results in the City's inability to release water for Lessee's use at the Mine. In such extraordinary circumstances, neither Lessee nor the City shall be considered to have breached this Agreement.

**8. NO CARRYOVER.** Any amount of water not called for release in any year shall not carry over for the benefit of Lessee into the next year.

**9. TERMINATION.** This Agreement shall terminate automatically on December 31, 2014, unless specifically renewed in writing by both parties pursuant to the terms and conditions contained in such renewal.

**10. REMEDIES.** Except as set forth in paragraph 7, in case of any default under this Agreement, a non-defaulting party shall be entitled to terminate this Agreement by giving written notice specifying such default. Upon the giving of such notice and if such default is not cured within thirty (30) days, this Agreement shall terminate and all right, title and interest of the defaulting party hereunder shall wholly cease and expire in the same manner and with the same force and effect as if the date of such notice was the expiration of the term herein originally granted. Termination of this Agreement pursuant to this paragraph will not limit or impair any remedies that the Parties may have at law or in equity with respect to any breach or default of any of the provisions of this Agreement. Neither Party shall be liable to the other in any case for any incidental, consequential, exemplary, special or punitive damages in connection with any claim for breach of this Agreement.

**11. REIMBURSEMENT OF EXPENSES.** Within ten (10) days of the mutual execution of this Agreement, Lessee shall reimburse the City for its reasonable, out-of-pocket legal and engineering expenses in this matter, up to Four Thousand Dollars (\$4,000). The City shall provide a statement for the expenses to Lessee prior to its execution of this Agreement.

**12. NOTICES.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if hand delivered or sent by overnight delivery service or certified or registered mail, postage and fees prepaid, addressed to the party to whom such notice is intended to be given at the addresses set forth below or hand delivered at such addresses, or at such other address as has been previously furnished in writing to the other party or

parties. Such notice shall be deemed to have been given when deposited in the U.S. Mail or hand delivered to the other party or parties.

**CITY:**

City of Trinidad  
Attn: Utility Superintendent  
135 North Animas Street  
P.O. Box 880  
Trinidad, CO 81082  
Fax: 719-846-4140

**LESSEE:**

New Elk Coal Company, LLC  
Attn: Mr. Ron Thompson, Mine Manager  
122 W. First Street  
Trinidad, CO 81082  
Fax: 719-845-0077

**COPY TO:**

Jeffrey J. Kahn, Esq.  
Madoline Wallace-Gross, Esq.  
Lyons Gaddis Kahn & Hall  
P.O. Box 978  
Longmont, CO 80502-0978  
Fax: 303-776-9100

**COPY TO:**

Robert Botts  
AAR & Botts LLC  
8301 East Prentice, Suite 300  
Greenwood Village CO 80111  
rbotts@AbgLegal.com

**13. CITY COUNCIL APPROVAL.** The City shall not be bound by the terms of this Agreement unless or until the Agreement has been approved by the City Council of the City of Trinidad at a regular or special meeting.

**14. COUNTERPARTS.** This Agreement may be simultaneously executed in any number of counterparts, each of which shall be deemed original but all of which constitute one and the same Agreement. A facsimile or e-mailed signature of this Agreement shall be deemed an original and binding upon the parties to this Agreement.

**CITY:**

**CITY OF TRINIDAD,**  
a Colorado municipal corporation

By: Jennie Harduno

Its: Mayor

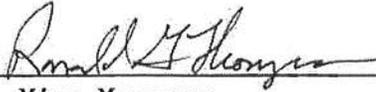
Dated: 03/01/2011

**ATTEST:**

Ulraa Harrett  
City Clerk

**LESSEE:**

**NEW ELK COAL COMPANY, LLC, a Kansas  
limited liability company**

By:   
Its: Mine Manager

Dated: 03/04/2011.

ITEM NO. 7d

ITEM TO BE PLACED ON THE AGENDA FOR THE  
REGULAR MEETING OF THE CITY COUNCIL TO  
BE HELD ON August 16, 2011

**ITEM:** Consideration of request for an extraterritorial water tap by New Elk Coal Company, LLC

**REQUEST  
MADE BY:** New Elk Coal Company, LLC

**CONTENTS/  
COMMENTS:** Memo from Supt. Fernandez dated 8/5/11  
Copy of letter submitted to River City Consultants dated 10/12/10  
Code of Ordinances, Section 12-67, Plant Investment Fees

ITEM NO. 7d



City of Trinidad  
Office of Utilities Superintendent  
P.O. Box 880  
Trinidad, Colorado 81082  
Telephone (719) 846-9843  
Fax (719) 846-4140  
[www.historictrinidad.com](http://www.historictrinidad.com)

From: James Fernandez   
To: Mayor, Members of Council, City Manager  
Date: August 5, 2011

Subject: New Elk Coal Company Water Tap & Pipeline

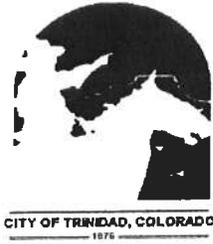
The New Elk Coal Company (N.E.C.C.) represented by Ron Thompson has requested a water tap on the City main water line on the North Fork Road approximately thirty miles west of Trinidad. The request includes a 6" water tap, and approximately 8,400 feet of six inch (6") water line. The water line will be placed in State Highway 12 Right of Way, thus requiring a permit from CDOT. An easement thru private property will also be required. Plans for the pipeline have been submitted by the engineering firm for N.E.C.C., River City Consultants, Grand Junction, Colorado. The plans have been reviewed and changes that we requested have been accomplished.

According to information provided by River City Consultants, water demand is anticipated to be 25,200 gallons per day at full production. The majority of this demand will be for showers during shift changes. A 25,000 gallon storage tank and a pump system at the mine site will be required.

It is my understanding that PVC, the local construction company will install the pipeline. Upon completion of the project and at the end of the warranty period (one year), the pipeline will become the property of the City up to the N.E.C.C. property line and the City will assume operation and maintenance responsibilities for the pipeline.

According to Article 5 Water Ordinance, Section 12-67, the Plant Investment Tap Fee for the 6" tap is to be negotiated. (The P.I.F. for a four inch tap is \$36,000). The Ordinance states: "*Plant Investment Fee for 6" or larger tap subject to negotiation to be based on projected revenue from the project*".

It is my recommendation that we approve the water tap subject to agreement on the Plant Investment Fee and in accordance with the conditions I have described in the attached memo to River City Consultants.



## City of Trinidad

Office of Utilities Superintendent

P.O. Box 880

Trinidad, Colorado 81082

Telephone (719) 846-9843

Fax (719) 846-4140

October 12, 2010

Doug Thies, P.E.  
River City Consultants  
744 Horizon Court  
Suite 110  
Grand Junction, CO. 81506

Re: Proposed Water Main Extension to New Elk Coal Company

Doug,

Following are preliminary comments after reviewing the drawing and information you provided concerning the proposed New Elk Coal Company (NECC) water line.

- The proposed tie-in point must be made above the existing regulating station on the North Fork Road to achieve the 90 p.s.i. you mentioned in your previous e-mail. This will add an additional 400 feet to the length of the pipeline. End station (80+00 on the drawing) will become station 84+00.
- The minimum size of the new main extension will be six inch (6") diameter. This is for the reason that if a fire hydrant is ever installed on this pipeline, this diameter is required to provide minimum water volume.
- The pipeline from Highway 12 into the NECC property will be tapped onto the new 6" pipeline and will be classified as the "NECC service line". The Plant Investment Fee and related tapping charges will be based on the size and diameter of this tap, and may be of any size or diameter requested by NECC.
- A profile drawing of the proposed pipe line must be submitted indicating the location of air release valves at the high points of the pipe line and necessary line valves, blow-off valves, etc. There will be a control valve at the beginning of the pipeline (station 0+00), one at the end of the pipe line and most likely at least one near the middle of the pipe line extension.
- NECC will be responsible for all costs involved in constructing the water main extension from point of beginning to the end point, including all established City fees and charges.
- NECC will be responsible for constructing the water main extension in accordance with all existing City specifications and guidelines.

**Section 12-67. Plant Investment Fee.<sup>1</sup>**

Before a City water service shall be allowed or approved for any premises in any territory, area or subdivision, developed or undeveloped, there shall be an initial water service charge to compensate the City partially for the base water supply, treatment facilities and mains required to provide service. Such a charge, generally referred to as the Plant Investment Fee, shall be as follows:

**(1) Water Plant Investment Fee - Inside City<sup>2</sup> (Ord. 1579, eff. 3-14-98)**

3/4"	tap	\$ 1,200.00
1"	tap	\$ 2,000.00
1-1/2"	tap	\$ 3,000.00
2"	tap	\$ 3,500.00
3"	tap	\$ 6,000.00
4"	tap	\$ 10,664.00

Plant investment fee for 6" or larger tap subject to negotiation to be based on projected revenue from the project.

(a) Where a tap is made on the main to serve a nonmetered private fire hydrant, fire sprinkler system, or standpipe, and a smaller tap is made for metered domestic, commercial or industrial use, the Plant Investment Fee shall be based on the size of the metered tap.

(b) These charges are in addition to the actual costs in physically tapping the main by City forces. (Ord. 1169, 5/20/80.)

**(2) Water Plant Investment Fee - Outside City (Ord. 1579, eff. 3-14-98)**

3/4"	tap	\$ 3,150.00
1"	tap	\$ 4,500.00
1-1/2"	tap	\$ 6,750.00
2"	tap	\$ 9,000.00
3"	tap	\$ 20,250.00
4"	tap	\$ 36,000.00

Plant investment fee for 6" or larger tap subject to negotiation to be based on

<sup>1</sup> Chapter 12, Section 67, Subsection 6 is repealed. (Ord. 1661, eff. 4/13/01)

<sup>2</sup> Chapter 12, Article 5, Section 12-67(1 & 2) is repealed and reenacted. (Ord. 1579, eff. 3-14-98, 12-4-98)

ITEM NO. 7e

ITEM TO BE PLACED ON THE AGENDA FOR THE  
REGULAR MEETING OF THE CITY COUNCIL TO  
BE HELD ON August 16, 2011

**ITEM:** Consideration of bid results for Gas shop parking lot concrete and asphalt paving project

**REQUEST  
MADE BY:** Supt. Fernandez

**CONTENTS/  
COMMENTS:** Memo from Supt. Fernandez dated 8/5/11  
Bid form

ITEM NO. 7e



City of Trinidad  
Office of Utilities Superintendent  
P.O. Box 880  
Trinidad, Colorado 81082  
Telephone (719) 846-9843  
Fax (719) 846-4140  
[www.historictrinidad.com](http://www.historictrinidad.com)

MEMO

From: James Fernandez

To: Mayor, Members of Council, City Manager

Date: August 5, 2011

Subject: Gas Shop Parking Lot Bid

Plans and specifications were drawn up for the Gas Shop parking lot which consists of new concrete paving and new asphalt paving. The primary purpose of the project is to keep surface run off from entering the shop buildings. The job was advertised in the local paper with one bid received. The bid was from Schultz Construction, 117 Pine Street, Trinidad, in the amount of \$61683.20. We were able to negotiate a lower bid price by having city crews do the demolition and excavation of the existing parking lot in preparation for the new work. This equates to a savings of \$6,500, reducing the bid down to \$55,183.20. The project is included in the 2011 budget. It is my recommendation that we accept the bid from Schultz Construction in the amount of \$55,183.20.

BID FORM  
CITY OF TRINIDAD, COLORADO  
GAS SHOP PARKING LOT  
WEDNESDAY, JULY 20, 2011

ATTN: UTILITY SUPERINTENDENT

THE UNDERSIGNED HEREBY PROPOSES TO PROVIDE A COMPLETE, FINISHED PARKING LOT FOR THE CITY GAS SHOP IN ACCORDANCE WITH ALL OF THE SPECIFICATIONS, DRAWINGS AND DOCUMENTS AS FOLLOWS:

<u>BID ITEM</u>	<u>QUANTITIES</u>	<u>UNIT PRICE</u>	<u>TOTAL</u>
1. Excavation and Regrading	382 cubic yards	\$ <u>28<sup>00</sup></u> /cu.yd	\$ <u>10,696.00</u> <i>- 6,500.00</i>
2. Six inch (6") thick Compacted Road Base	232 cubic yards	\$ <u>50<sup>00</sup></u> /cu.yd	\$ <u>11,600.00</u>
3. Six inch (6") thick Concrete w/WWR	68 cubic yard	\$ <u>250<sup>00</sup></u> /cu.yd	\$ <u>17,000.00</u>
4. Three inch (3") thick Asphalt Paving	70.4 cubic yards	\$ <u>318<sup>00</sup></u> /cu.yd	\$ <u>22,387.20</u>

TOTAL AMOUNT OF BID: \$ 61,683.20

*REVISED TOTAL: \$55,183.20*

BIDDER/CONTRACTOR Schultz Construction TELEPHONE 846-8449

STREET ADDRESS 117 Pine St. P.O. BOX NO. N/A

CITY Trinidad STATE Co ZIP CODE 81062

SUBMITTED BY:  TITLE Managing Member  
(Signature)

ADDENDUM ACKNOWLEDGMENT: N/A

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Advertisement for Bid

ITEM NO. 7f

ITEM TO BE PLACED ON THE AGENDA FOR THE  
REGULAR MEETING OF THE CITY COUNCIL TO  
BE HELD ON August 16, 2011

**ITEM:** Consideration of Amended Water Agreement with Tochter Water Association

**REQUEST  
MADE BY:** Tochter Water Association

**CONTENTS/  
COMMENTS:** Application and Agreement for Water Re-sale Permit  
First Amendment to Water Purchase Contract

ITEM NO. 7f

**APPLICATION AND AGREEMENT  
FOR WATER RE-SALE PERMIT**

I (We), the undersigned, hereby agree to abide by and adhere to the following conditions in return for the provision of water service by the City of Trinidad, Colorado:

1. Prior to the issuance of this water re-sale permit, the applicant must have a completed and approved City of Trinidad Water Tap Request form containing the following information:
  - (a) Proof of ownership (copy of deed or perpetual easement)
  - (b) Copy of Building Permit (City or County as applicable)
  - (c) Zoning Approval (Letter from County Planner, if in Las Animas County)
  - (d) Survey Plat/Drawing (showing site of dispensing facility)
  - (e) Individual Septic Disposal System Permit (if applicable)
  - (f) Signed and Notarized Water Tap Application
  - (g) Right of Way Easements (if within County)
  - (h) Proof of Payment of Applicable Fees
  - (i) Agreement not to oppose Annexation
2. The applicant agrees to comply with all applicable requirements of Chapter 12 of the City of Trinidad Code of Ordinances, and more specifically § 12-85 of the Code of Ordinances, as amended.
3. The applicant agrees to comply with Colorado Department of Public Health and Environment (CDPHE) rules and regulations for water haulers, more specifically, Drinking Water Technical-8 (DWT-8).
4. The City shall have sole authority to regulate the use of applicant's proposed water station (the "Facility") with respect to the number of customers, the volumes of water per customer that may be withdrawn, the total volume of water that may be withdrawn from the Facility, and the uses to which the water may be put from the Facility. The applicant shall submit an initial list of customers to the City for its approval. The City shall have final authority over location and number of customers. No additional customers shall be allowed without the express written authorization of the City. No unauthorized customers shall receive water service from applicant's Facility.
5. Water drawn from applicant's Facility shall be used for residential/domestic purposes only. No water drawn from the Facility shall or may be used for industrial, agricultural, or commercial purposes. The City shall have the right to discontinue service to any customer who fails to adhere to these limitations.
6. No other pipe connections, taps, storage tanks, or modifications to the approved Facility as identified herein, for any purpose whatsoever, shall be connected to the Facility unless expressly authorized by written approval from the City.
7. The applicant recognizes that the City shall make every effort to provide the Facility with, but does not guarantee the provision of, potable treated water meeting applicable purity standards of the State of Colorado during the term of this agreement.
8. The use of water outside the corporate limits of the City of Trinidad, Colorado, shall be subject to the paramount rights of users within the City's corporate limits. In the event that there is a

scarcity or shortage of water and the City has insufficient water to provide for users both within and without the corporate limits, the City may reduce, curtail, or shut off the supply of water to the Facility during such periods of scarcity or shortage in the same manner as the supply of water to users outside the City's corporate limits is reduced, curtailed, or shut off. The City may also impose reasonable regulations and restrictions for the use of water outside of its corporate limits which are different from those that are applicable to the use of water within its corporate limits.

- 9. The applicant recognizes that a water re-sale permit may be suspended or revoked if the above conditions are not satisfied.
- 10. The applicant agrees that a water re-sale permit may not be assigned, leased, or otherwise transferred without the express written consent of the City.

**WATER RE-SALE PERMIT INFORMATION:** Please complete the following:

(a) Owner of Facility:                     Dochter Water Association, c/o Mr. Ken Dochter, President                    

(b) Operator of the Facility:                     Dochter Water Association, c/o Mr. Ken Dochter, President                    

(c) Mailing Address:                     200 West Indiana Street, Trinidad, CO 81082                    

(d) Physical Address of Facility: Block 4, Lots 1 through 10, Collier's Subdivision, Las Animas County, Colorado.

(e) Telephone:           719-846-2110                     Fax:           719-846-8372                    

(f) Size of Tap:           2"                     Size of Water Meter:           2"                    

(g) Estimated Volume of water to be re-sold: 10,000 gallons/day

Monthly:           200,000                     gallons/eu.-ft.

Annually:           To Be Determined                     gallons/eu.-ft.

**AGREED** to this   5<sup>th</sup>   day of   August  , 20   11  , by the undersigned on behalf of the Dochter Water Association.

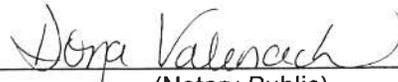


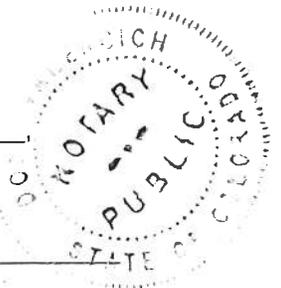
Mr. Ken Dochter, President  
Dochter Water Association

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

The foregoing instrument was acknowledged before me this   5   day of   August  , 20   11  , by Mr. Ken Dochter, President of Dochter Water Association.

Witness my hand and official seal.

  
\_\_\_\_\_  
(Notary Public)



My commission expires   3/17/2013  .

**FIRST AMENDMENT TO WATER PURCHASE CONTRACT**

This First Amendment to Water Purchase Contract (“**First Amendment**”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2011, between the CITY OF TRINIDAD, COLORADO, a home rule municipal corporation of the State of Colorado (hereinafter, “**Seller**” or the “**City**”), and the DOCHTER WATER ASSOCIATION (hereinafter, “**Buyer**”).

**RECITALS**

WHEREAS, the parties executed a “Water Purchase Contract” dated December 16, 1981 (“**Water Purchase Contract**”), pursuant to which Seller provides water service from its water distribution system to Buyer, and Buyer has installed its own water distribution system to provide water service to three (3) customers, two (2) of which are located generally on the following two (2) tracts of land in Las Animas County, Colorado, to the north of the City of Trinidad:

- (i) Lots 1 through 7 and 24 through 36 inclusive, Block 19, Media Addition, Las Animas County, Colorado. (Ken Dochter.)
- (ii) Lots 1 through 10 and 27 through 36 inclusive, Block 7, Media Addition, and Lots 1 through 10 and 27 through 36 inclusive, Block 18, Media Addition, Las Animas County, Colorado. (Dochter Lumber & Sawmill.)

WHEREAS, said Water Purchase Contract has not previously been renewed or amended, but Seller has continuously furnished water from its water supply distribution system to Buyer since an initial delivery of water in approximately March 1982; and

WHEREAS, subject to the mutual covenants contained herein, the parties desire to enter into this First Amendment to renew said Water Purchase Contract for an additional period of ten (10) years, and to revise the proposed use of the third water tap authorized within the Water Purchase Contract from residential and domestic use to a commercial use for a proposed bulk water station.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties agree as follows:

1. **Renewal of Water Purchase Contract.** The Water Purchase Contract is hereby renewed for a additional period of ten (10) years extending from the date first written above (the “**Renewal Term**”). Buyer and Seller acknowledge and agree that the Renewal Term established herein shall be deemed the Water Purchase Contract’s third (3<sup>rd</sup>) renewal term for the purposes of § C.1. of the Water Purchase Contract. Unless specifically modified in this First Amendment, all provisions of the Water Purchase Contract shall remain in full force and effect.
2. **Commercial Water Tap for Bulk Water Station.** For the third (3<sup>rd</sup>) and final water tap reserved within the Water Purchase Contract but not yet been placed into service (“**Water Tap No. 3**”), Seller hereby consents to a change in use from a household water tap for residential and domestic use to a commercial water tap for a proposed bulk water station. The proposed bulk water station shall be located on a tract of land in Las Animas County, Colorado, to the north of the City of Trinidad, described as follows:

Lots 1 through 10 inclusive, Block 4, Collier’s Subdivision, Las Animas County, Colorado.

Initials: \_\_\_\_\_ *K.D.*  
CITY BUYER

The location of Water Tap No. 3 is depicted in Exhibit "A" attached hereto and incorporated herein by this reference.

3. **Consent to Annexation.** For Water Tap No. 3, Buyer shall be required to submit a letter of request, accompanied by the applicant's water tap application and supporting documentation, to Seller prior to the water tap's placement into service. The letter of request shall be submitted to the City Council of the City of Trinidad, Colorado, for final approval. Buyer shall further be required to execute an agreement containing language of implied consent to annex the affected property into the City, in accordance with § 31-12-121, C.R.S. Said agreement shall stipulate that voluntary annexation will occur when the property becomes eligible, if so desired by the City.
4. **Installation of Water Tap.** If Water Tap No. 3 is approved by the City Council, Buyer must, within one (1) year of the date of approval by the City Council, place the approved water tap into service. If the approved water tap is not placed into service within one (1) year of approval by the City Council, such approval shall become null and void. A water tap so approved shall be installed and maintained by the Tochter Water Association.
5. **Water Plant Investment Fee.** Buyer acknowledges that it shall be subject to a Water Plant Investment Fee for Water Tap No. 3, if ultimately approved, in accordance with § 12-67 of the Trinidad City Code. As of the effective date of this First Amendment, the Water Plant Investment Fee for a two-inch (2") water tap located outside of the City of Trinidad is Nine Thousand Dollars (\$9,000.00). Buyer shall be entitled to a credit in the amount of Three Thousand One Hundred Fifty Dollars (\$3,150.00) for a previously paid Water Tap Investment Fee.
6. **Metering and Billing.** The meters for all water taps reserved within the Water Purchase Agreement and this First Amendment and placed into service shall be read and billed on a monthly basis. For metering and billing purposes, the term "monthly" shall mean the term between any two consecutive regular readings by the City of the meters at the premises, such readings to be taken as nearly as may be practicable every thirty (30) days. However, the City reserves the right to require the payment of bills for service at more frequent intervals. In such event, meters will be read at the intervals specified by the City. If the City is unable to read a meter after reasonable effort, Buyer will be billed on an estimated usage based on the best available information.
7. **Applicability of Trinidad City Code.** All water taps reserved within the Water Purchase Contract and this First Amendment are subject to the provisions, regulations, and restrictions set forth in Chapter 12, Article 5, of the Trinidad City Code. If Water Tap No. 3 is placed into service for the proposed bulk water station, Buyer shall specifically comply with § 12-85 of the Trinidad City Code regarding a required permit to re-sell water.
8. **Applicability of Water Tap Transfer Policy.** The sale or transfer of any water tap authorized within the Water Purchase Contract and this First Amendment shall be in accordance with the City's water tap transfer policy and shall be exclusively authorized by the City Council. Individuals, entities, heirs, and assigns are prohibited from transferring water taps authorized herein to other individuals, entities, heirs, or assigns without prior authorization from the City Council.

9. **Applicability of Resolution No. 1327.** All water taps reserved within the Water Purchase Contract and this First Amendment are also subject to the provisions, regulations, and restrictions of Resolution No. 1327 of the City Council of the City of Trinidad, Colorado.
  
10. **Severability.** If any section, subsection, paragraph, term, or provision of this First Amendment is determined to be illegal, invalid, or unconstitutional by any court or agency of competent jurisdiction, such determination shall have no effect on the validity of any other section, subsection, paragraph, term, or provision of this First Amendment, all of which will remain in full force and effect for the term of this First Amendment.
  
11. **Entire Agreement; Modification and Waiver.** This First Amendment constitutes the entire agreement between the parties pertaining to the subject matter contained herein and supersedes all prior and contemporaneous agreements, representations, and understandings. No supplement, modification, or amendment of this First Amendment shall be binding unless executed in writing by both parties. No waiver of this First Amendment shall be binding unless executed in writing by the party making the waiver.
  
12. **Effectiveness.** This First Amendment shall become effective immediately following its mutual execution.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the date first written above.

**SELLER: CITY OF TRINIDAD, COLORADO**

By: \_\_\_\_\_  
 JENNIE GARDUNO, Mayor

ATTEST:

\_\_\_\_\_  
 AUDRA GARRETT, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
 JEROD BEATTY, City Attorney



