

The City Council of the City of Trinidad, Colorado met in Special Session on Thursday, June 26, 2014, at 5:30 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 Thursday, June 26, 2014, at 5:30 p.m. in the Council Chambers at City Hall

The following items are on file for consideration of City Council:

- 1) Consideration of finance software acquisition
- 2) Consideration of 2014-2015 Colorado Welcome Center Statement of Work

The meeting was called to order at 5:30 p.m.

Roll call was taken.

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

Consideration of finance software acquisition. Finance Director Lonny Medina addressed Council. He explained that he was before them to see if they would approve the purchase of financial software to replace that which hasn't been upgraded in some time. He said he was hoping to saving \$5,000 (by acquiring the software prior to July 1st), but noticed in the contract that it was missing two modules, the board packets, agendas and meetings module and the human resources module. He said he looked back at the proposal and confirmed those were not included. Thereafter he contacted Tyler and they were willing to negotiate. The two modules missed would cost the City about \$25,000 more over five years. They agreed to \$5,000 more over the five years instead. They agreed to charge for training costs only instead. Finance Director Medina said he told Tyler he needed to bring this back to Council. Councilmember Bolton said that those two modules both sound important. Finance Director Medina said that he wanted to get this done by June 30th because on July 1st it will cost the City \$25,000 more. Councilmember Bolton questioned if that might be because it is the end of Tyler's fiscal year. Finance Director Medina said he thought it might be the end of their quarter. Councilmember Miles said she understood him to say at the last meeting that it will cost \$52,000 per year, and asked if it will now be \$53,000. Finance Director Medina said it will still cost \$52,000 per year. The additional \$5,000 is in training costs due next year and not part of the subscription agreement. When the work is done the City will pay at that time. Instead of training costing \$109,000 as discussed at the last meeting, it will be closer to \$114,000. Councilmember Mattie confirmed that the \$5,000 additional is not a software cost, just training. He said regarding the June 30th deadline he doesn't like being put on a short deadline, but recognizes there's a time limit to certain things. Had the City had a better system in place before we estimated utility bills, we might have alleviated some problems. The most glaring thing is the benefit to staff in efficiency and now is as good of time as any to do it with regard to the budget. Councilmember Torres told Council that she went through the contract and not knowing a lot about this subject she asked Jay Martinez and Era McCarthy to speak this evening. She stated that this company (Tyler) doesn't have a good track record and asked if he was aware of that. Finance Director Medina said that Tyler has over 2,000 customers. He said he is aware of one problem they had with a utility company that ended up political, from what he was told. They were apparently doing everything they needed to but were not being given enough time. Councilmember Bolton asked if he had spoken with other city administrators using Tyler and whether they were satisfied. Finance Director Medina answered that he went to the Government Finance Officers Association meeting last week and talked to a couple of people while he was there who were using Tyler's product and they were extremely happy with it and the fact that they have no wait time when they have problems and have to call in for help. He was also told that they wouldn't have any problem recommending the product to the City. Councilmember Bolton recalled that Raton, Las Animas County and Pueblo use Tyler. She asked if he had any discussions with anyone from those entities. Finance Director Medina said he talked to Kristy at Las Animas County today. She told him that the program does what it needs, they just need to watch for a couple of things. It was a matter of when dates are put into the system. He said he also spoke to the Finance Director in Raton who told him it works really well and they don't have any problems with it. Raton has their utilities on their system. He concluded that he feels Tyler is a reputable company and will handle anything the City needs to have done. Councilmember Torres asked Council to allow Jay Martinez and Era McCarthy to speak. She said the reason she asked them questions is because they do this type of work and had proposed some things to the City. Mayor Reorda agreed. Era McCarthy addressed Council. She said they actually found several court cases. Tyler does different types of modules and different types of software. Some of them seem to be more successful than others and some of their clients seem to do better than others. She said what she found to be scary was when one looks at the way they handle issues. They had written in one of the statements to the newspaper that any time you build something new there's going to be glitches and bugs. By using a company that's outside of the state, when there's an issue the City will have to pay to bring them here, and

it's not going to be cheap. As for training, she asked how many of the people Council thought on staff could handle two days of training. She asked if anyone looked at how Tyler is expecting the City to enter the data or convert it over. Ms. McCarthy asked who here is capable of doing that. Tyler is relying so much on the City and the way they have things set up if you look through their website, if anything goes wrong it's going to be the City's fault. She said it was kind of scary for her. They do work like this and in fact if they took on a contract like this they would work with MPI, a big company that they work with out of Florida, and an accounting firm. She said they wouldn't have done anything like this on their own. Ms. McCarthy said they did put in a proposal to do the very same thing probably nine months ago to Mr. Acre, and she wasn't sure if Council ever saw it. Almost everything they put, she said their company put also. Her company didn't go into detail because they didn't know what the City needed. She said they've been waiting for this RFP for quite a while. They thought they would be contacted at least to put in a bid. Whether they get it or not is neither here nor there, she said, but they would have liked the opportunity. She said it scares her how much responsibility is on Trinidad. Ms. McCarthy said she is here every day, helping people every day with their software, with their website and with their Facebook, and so she knows how much training it takes and doesn't think that somebody who isn't local would be willing to help someone here. The City is not just getting a payment system, there's a lot of bells and whistles on it and people need to be able to use it. Ms. McCarthy said that all they found when looking them up. There are a lot of people who are very unhappy but she thought it was because they couldn't handle the system, the training didn't work out for them, or it was a particular new module, especially schools. They had a school that had records disappearing and re-appearing, the grades. They are also having problems with their server information being backed up. She said she wouldn't even use servers. Servers are the past. She said they should be using an Amazon cloud-based storage. Finance Director Medina advised that it is cloud-based. Councilmember Miles said that is the hosted versus server they looked at, and are going with the hosted. Ms. McCarthy also opined that the price is a little high and that it seems like it doesn't fit Trinidad. She added that she didn't feel that it would have the small-town care. She didn't feel they would come in and personally train people, and if they do it will be very expensive. Mayor Reorda asked Finance Director Medina if he considered their proposal. Finance Director Medina said that he didn't know Ms. McCarthy's company could do this type of work. Mayor Reorda said he asked the Finance Director this morning if he went out to bid and he said he did not. Finance Director Medina said he contacted several companies that staff thought would work with the City best, Casselle, Tyler, BDG, and they gave the City proposals. BDG was more of a lateral movement than an upgrade. The City wanted someone to do everything. Mayor Reorda asked how he knows Jay and Era can't. Councilmember Bonato said he wasn't putting a plug in for Jay and Era, but he's been going to the I-25 corridor meetings and has seen the work they have done and thinks it is great work. He added that he didn't know whether City Attorney Downs had the opportunity to really read the contract with Tyler in the short time they had to do this. It is kind of a hard pill to swallow with the time period. He said his gut feeling is to not rush into things. He said he knows we need the update but feels if it takes a no vote for him to save the City \$250,000 and be wrong or give a yes vote and save \$5,000, he'd feel better about that. He said he thinks this is the shot in the arm we are looking for. Not a shot in the arm for Jay and Era, just a point that they are local people and do a fantastic job. We should give them a chance and see what they can do. Maybe they could add another 40 or 50 jobs. Councilmember Mattie asked Ms. McCarthy what other entities they serve with like software. He stated with all due respect to the presentation they made, they are doing a disservice to Tyler allowing Ms. McCarthy to shoot their bid without Tyler present. Ms. McCarthy told Council that she put in a proposal one year before they were ever contacted. Councilmember Mattie reiterated that it does a disservice to Tyler to have a competitor come up and assassinate their proposal. He added that from his own experience from where his wife works they use software from FPS Gold out of Utah. They have trainings and webinars. His wife and two employees just got back from training. They can do things out of state. He added that it is a disservice to City staff to think that they can't grasp the training in two days. It is an assault on their character and their mentalities. They are intelligent people. He said he believes they are qualified to make them good students to acquire the information in the training. The part he said he takes affront to is that a competitor is allowed to assassinate Tyler. If that's the case, we should have a representative of Tyler to refute her presentation and to express concerns about their work. Ms. McCarthy said the software was not put out to bid. Mayor Reorda said he's offended because they were not contacted to put a bid in. Ms. McCarthy said they have been putting in a bid for two years for this. Mayor Reorda comments that Council needs to see what they have done, having been to the I-25 meetings. They can connect with anybody in the state. Ms. McCarthy continued that they have been working with the cities and counties and organizations outside of here. Councilmember Mattie asked her to tell Council about their financial planning software that they have available. Ms. McCarthy stated that they just built one for Florida. Councilmember Mattie asked what they have to offer the City of Trinidad in financial software such as that being proposed. Ms. McCarthy said the City needs a processor first of all; you don't want to lose a lot of your money, secondly. You have to keep track of your records, you have to be able to do your data in your spreadsheets. She told him that he doesn't know anything about them and if they could put in the RFP they would have a lot more hold on it. The person that they build of it versus their partners is different. If they want to talk to her financial partner who builds that part with his team, he's a hold of it. It doesn't take one person; it is not her that would be building this software. It would be her and a whole team of people. She said they work with MPI and Itranware, which is local, in Hoehne, and his other partners are in Florida. There are a lot of local companies here that do work all over that she said she's sure the City doesn't know about. She continued that what really upsets her is that she's put this in over and over for two years. She said she is the one who turned in a whole paper to the City saying she found over twenty different federal violations on the City's website. They've been doing research for two years. They submitted a proposal that was very similar almost one year ago and they never even got a phone call to put in an RFP. There should have been an RFP. She clarified that she's not saying Tyler is bad or calling people stupid. She said what she is saying is that they only know what their experience is. She said when she first went to college she didn't even know how to load a disk in a computer. It took her longer to catch up than somebody else. Ms. McCarthy said this is a waste of their time and she and Jay Martinez and David Santistevan left Chambers. Mayor Reorda said he was told that Jay and Era approached the City in 2011 and he opined that City Manager Acre was not really fair to them. He said he recalled City Manager Acre saying the last time that he didn't get their e-mail and so Jay Martinez took it to City Manager Acre, but he didn't talk to Jay and Era. He asked why he is so adamant about not giving local people stuff. City Manager Acre said he left this software acquisition to Finance Director Medina. Mayor Reorda urged the inclusion of local people. Councilmember Bolton said they shouldn't consider locals when they make a presentation like they just did. What they submitted was garbage. Mayor Reorda acknowledged her point but noted that they weren't even contacted to make a presentation. Councilmember Mattie said they weren't here to make a presentation; they were here make an assassination of Tyler, who wasn't here to defend themselves or explain it. Finance Director Medina reiterated that Tyler has over 2,000 cities using their software on a daily basis. It is not a system put together at one time or another. It is a well tested and used program that we are trying to get into our system. Mayor Reorda asked him if he knows Jay and Era can't do

this. Finance Director Medina answered that he doesn't know of them having cities or schools as customers. The programs that were looked at a highly specific, have a track record and have proven what they can do. The second program the city was looking at was the Casselle software. It was going to cost about \$100,000 more over five years. The software Tyler offers is high priced, however it is still \$100,000 less than the next company that would supply the City. Councilmember Miles said that in reading through the contract and knowing a little about software having dealt with some vendors herself, their management is located on the east coast. She said in reading what Jay Martinez distributed during the meeting it says "We first approached the City in 2011 about the serious issues with the City of Trinidad's website, payment and data systems." She said she remembers hearing about the website, recalling they had done some work for Economic Development. She stated that it seems to her that a website is different than what we are talking about here. Finance Director Medina said it is totally different. A website has information that people are able to look at. This software has a number of different processes and modules that are all in one house. Upon inquiry from Councilmember Miles, Finance Director Medina confirmed it is not an Excel spreadsheet. Staff is trying to get away from Excel spreadsheets as much as possible. City Attorney Downs told Council when Jay and Era and David Santistevan, who is in their employ, were departing Council Chambers their last words to you were "You will be hearing from our lawyer" and then from Jay to Era "I know, they suck." Whatever issues you may have notwithstanding, if they were otherwise up for consideration on this project, their behavior should probably eliminate them. He said he is about comportment and civility when people address Council. If they were in the mix their behavior upon departing Chambers should cause them to not be considered at least for this project. Councilmember Bonato asked if City Attorney Downs read the contract. City Attorney Downs said he did. Finance Director Medina had it for him to read right away. Subparagraph 1.4, Limitation of Liability, concerned him some, he said. Not being a software person, he said the contract seemed fine and provides for a lot of services and support. Finance Director Medina added that they are not just providing a couple of days worth of training. The City will have over 500 hours of training. Councilmember Bonato asked if the City will have to pay for lodging and meals. Finance Director Medina said we will have to pay for their lodging. However, he said Tyler will be able to log into the City's computers remotely. Councilmember Miles said that is the same as with her system. This history about their submittal to City Manager Acre she thought was two different things – a website versus a payment system. She said she wouldn't tell website designer to build a payment system and conversely wouldn't tell a payment system vendor to build a website. She opined that the history seems a little disjointed. She asked if there are any legal issues with the bid process. What were the requirements? Finance Director Medina said \$50,000 plus would have to go to a formal bid process unless there is an exception for standardization and compatibility. He said he believes we would probably fall under the standardization and compatibility because every software company is different. For someone to build a software program for the City could be less but they may not have the experience or know how to actually come in and put a system together like this. He reiterated his opinion that he feels this would fall under the exception of compatibility or standardization. Mayor Reorda re-asked if we know Jay and Era can't do it. Finance Director Medina said if they don't have a proven track record working with municipalities, he said there would be no way he would recommend them. Mayor Reorda said he sees a lot of animosity with this whole thing and commented that he has worked with thousands of people, some he didn't like, but if they could do the job he didn't have to like them. Finance Director Medina agreed but said he is looking at the track records of the companies and not one that will build a program from the bottom up. Tyler's program is already in place, proven to work and people are using it on a daily basis. It is not one that will be put together as we go along. Councilmember Miles said she's been using her software program for only three years and has had nine updates. Prior to her use there were probably 70 updates based on people calling in glitches or requests for improvements. There's a big difference between building one system and running 2,000 systems. Councilmember Torres said that the point to be made is just because someone is local doesn't mean they should be discounted. She clarified that she's not lobbying for Jay and Era, she just knows they are not stupid. She added that she didn't think they came here to attack Tyler. They came to make a point because the same thing Council is looking at they put a proposal in to do for the City. Finance Director Medina said he didn't know anything about a proposal. She said Jay showed her a copy of the e-mail. City Manager Acre said he recalled the proposal to say "We'll develop whatever you want." He echoed what Finance Director Medina said in that Jay and Era don't have a proven track record with this type of work. Councilmember Mattie opined that we have to go with someone with 2,000 municipal customers and has a program and system in place. Era began her presentation with listing all of the bad things about Tyler. Then she handed Council a paper that doesn't say anything about their ability. We have a lot at risk here and we are spending a lot of money and we need to go with someone we know can do the job, has 2,000 customers, has the experience and is willing to do it. He said his wife has worked almost 40 years with FPS Gold software at her job. They do webinar trainings, they sometime travel, just as his wife and two of her co-workers did having just returned from a three-day training in California. Then other times they have to come here and their expenses have to be paid. Mayor Reorda commented that to be true of any company. Councilmember Mattie said Era stated Tyler's bid is \$200,000 above their bid. Their proposal would then be \$40,000 to \$50,000. What are we going to get? He said he didn't think it would be the product the City needs, wants or expects. That's not what the City needs. Councilmember Bolton opined that the City needs to stay with a professional group that has a good, long track record. City Manager Acre said when the City decides to update its website we will ask them to be involved in the RFP process. He added that he has nothing against them, despite what is stated on the piece of paper they handed out and he disputed having said. He said he has no issue working with them like the are trying to claim. However, we are looking for specific software and they don't have that track record. Mayor Reorda opined that when Jay and Era come here he feels like they are not really accepted or welcome in this arena, based on how they are treated. Councilmember Mattie said a large part of that is the way they handle themselves. Do we want two kids who walk out of a meeting in a frustrated manner telling us that 'you will hear from our lawyer and I suck?' Or do we want a professional company who has a proven track record, 2,000 customers, and they know what they are doing? He said he is all about helping local people when they have the ability and capability to do what we need, but sometimes you just can get it done. He compared it to going for open-heart surgery and going to an expert as opposed to a local doctor. Tara Marshall told Council that in 2011 the Tourism Board put out an RFP for a marketing company. They received seven submissions and Jay and Era was one of them submitted under Merged Media. The submissions were rated by a panel of five. Merged Media was ranked third, probably because of their lack of experience. The contract was awarded to Hess Arts, which is also a local company. The Tourism Board has not put out another RFP since, but when they do, Jay and Era will have the experience at that time. Obviously that would still be up to the Tourism Board to rank and decide. The things they presented were great but not of a financial software matter. They were virtual kiosks, informational signs, QR codes, etc. Councilmember Bonato said he was not satisfied with the hurry-up decision. He added that he likes to make sure they are doing the right thing. This is a forced deal to push things through. Mayor Reorda said that is why we have staff and Council needs to have confidence in them. Councilmember Mattie said he hates to rush too, but when opportunity presents itself you have to seize the moment.

Councilmember Bolton asked Finance Director Medina if he's ever worked with this system, to which he answered he has not. She asked if in his opinion the contract is sufficient to cover the City's assistance needs without numerous additional changes. Finance Director Medina said this is Tyler's business and they know approximately how much time it takes to train the people involved. He said he believes we will fall within range of what they say it will cost to get the training done. Councilmember Bolton said Council knows where the \$50,000 is coming from this and next year. She asked where the \$118,000 will come from next year. Finance Director Medina said all five funds will pay their share, at about \$25,000 each. Each would pay about \$35,000 next year (with the subscription cost). Mayor Reorda suggested he not commit to the cost until it is known what they find. Finance Director Medina said that Tyler would be hosting the system on their end all on their computer system. City staff will be getting training and learning to do the work on our computers. We won't have to deal with hardware or network issues. Councilmember Bolton surmised that Tyler would be putting in the equipment and training staff on the data input. City Manager Acre said he's talked to the County Administrator and she said the county is very happy with the program. When their Finance Director left and they had to bring in someone new Tyler was very good about getting them up to speed. They have a good track record. He added that he has heard of them before and supports the recommendation. Finance Director Medina told Council that Tyler has a training platform called Tyler University on their website. They offer continuing professional education and training courses if we are having trouble learning the modules. They will provide the City with modules to look at before they start training. Councilmember Mattie moved to accept the contract from Tyler as reviewed by City Attorney Downs and proceed with the purchase. The motion was seconded by Councilmember Bolton. Councilmember Miles asked if the City is on firm ground with respect to the exception to the bidding process. City Attorney Downs answered that he has no opinion as to whether the City is or not. He said he didn't know about the deviation from the normal bidding process. Mayor Reorda suggested the item be put on hold. City Manager Acre said the City had three firms provide quotes. Mayor Reorda pointed out that it wasn't advertised and said he wanted to hold off until legal counsel provides an opinion. Councilmember Miles asked if Tyler might be available by phone since Council heard negative things about them. Councilmember Torres said Council should get the copy (of the information about Tyler) Jay and Era had. Finance Director Medina said every company will have that sort of thing when people are unhappy. Councilmember Mattie added that it is like EBay sellers. Very few have all positive comments. They have a reason to be negative. Jay and Era were not scheduled to be here and showed up at Councilmember Torres' behest and Council extended the courtesy of listening to them. Then it explodes and as they are leaving he is told by them that he sucks. City Manager Acre asked Finance Director Medina to see if Tyler could participate by phone on Monday. Councilmembers Mattie and Bolton withdrew their motion and second, respectively. A motion to table the item to Monday, June 30, 2014, at 5:30 p.m. to get legal clearance was made by Councilmember Bolton. Councilmember Bonato seconded the motion which carried unanimously upon roll call vote.

Consideration of 2014-2015 Colorado Welcome Center Statement of Work. Colorado Welcome Center Director Tara Marshall addressed Council. She said this contract changed slightly from that approved last year. It was changed to require six meetings rather than eight for volunteer traveler counselors. Currently they have 12 meetings. They have added an additional informational study tour to require two per year for travel counselors and she said they are already doing that. The financial information is the same, whereby the State is committing \$64,278 and the City is matching \$17,500 from the General Fund. That also provides the documentation for the match for the Best and Brightest internship. This year the Welcome Center will come in under budget by about \$5,000 resulting in the City contributing about \$12,500 rather than the budgeted \$17,500. However the City needs to budget \$17,500 for the match for the Best and Brightest internship. A motion to approve the 2014-2015 Colorado Welcome Center Statement of Work between the City and the Colorado Tourism Office was made by Councilmember Bolton. The motion was seconded by Councilmember Bonato and carried by a unanimous roll call vote.

There being no further business, Councilmember Bonato moved to adjourn the meeting and Councilmember Miles seconded the motion. Upon a unanimous roll call vote, the meeting was adjourned.

ATTEST:

JOSEPH A. REORDA, Mayor

AUDRA GARRETT, City Clerk