



If you would like to address City Council, please place your name on the sign-up sheet located at the back of the council room. You will be recognized to speak during the "audience participation" portion of the agenda.

AGENDA

Regular Meeting

August 16, 2016 - 7:30 p.m.

City Council meeting packets are prepared several days prior to the meetings. This information is reviewed and studied by the Councilmembers, eliminating lengthy discussions to gain basic understanding. Timely action and short discussion on agenda items does not reflect lack of thought or analysis. An informational packet is available for public inspection on our website at www.cityofevans.org and posted immediately on the bulletin board adjacent to the Council Chambers.

1. CALL TO ORDER

2. PLEDGE

3. ROLL CALL

Mayor:	John Morris
Mayor Pro-Tem:	Brian Rudy
Council:	Mark Clark
	Sherri Finn
	Lance Homann
	Jay Schaffer
	Laura Speer

4. RECOGNITIONS

A. City Manager Recognizing the A.C.E. Program Interns

5. AUDIENCE PARTICIPATION

The City Council welcomes you here and thanks you for your time and concerns. If you wish to address the City Council, this is the time set on the agenda for you to do so. When you are recognized, please step to the podium, state your name and address then address City Council. Your comments will be limited to two (2) minutes. The City Council may not respond to your comments this evening, rather they may take your comments and suggestions under advisement and your questions may be directed to the appropriate staff person for follow-up. Thank you!

6. APPROVAL OF AGENDA

7. CONSENT AGENDA

A. Approval of Minutes of the Regular Meeting of August 1, 2016

8. NEW BUSINESS

- A. Public Hearing – New Retail Liquor License for Rico Industries Inc., dba “85 Liquor” – 3705 West Service Road
- B. Resolution No. 32-2016 Approving a Memorandum of Understand Between the Colorado Department of Transportation (CDOT) and the City of Evans, Colorado, Transferring Real Property from CDOT to Evans, and Waiving Certain Landscaping Requirements at the CDOT Park & Ride
- C. Approval of Grant Contract and Preliminary Budget Revision for Lower Latham Feasibility Study

9. REPORTS

- A. City Manager
- B. City Attorney

10. AUDIENCE PARTICIPATION (general comments)

Please review the Audience Participation section listed at the beginning of the agenda for procedures on addressing City Council.

11. EXECUTIVE SESSION

- A. To Determine Positions Relative to Matters that May Be Subject to Negotiations, Developing Strategy for Negotiations, and Instructing Negotiators, Pursuant to C.R.S. 24-6-402(4)(e)

12. ADJOURNMENT

CITY OF EVANS – MISSION STATEMENT

“To deliver sustainable, citizen-driven services for the health, safety, and welfare of the community.”

It is the policy of the City of Evans that all programs and activities shall be accessible to, and usable by, persons with disabilities. Persons needing assistance shall contact the Safety & Risk Management Specialist at the City of Evans. Please provide three to five business day’s advance notice so we can adequately meet your needs.

COUNCIL COMMUNICATION

DATE: August 16, 2016
AGENDA ITEM: 7.A
SUBJECT: Approval of the Minutes August 2nd City Council Meeting
PRESENTED BY: City Clerk

AGENDA ITEM DESCRIPTION:

Approval of minutes.

FINANCIAL SUMMARY:

N/A

RECOMMENDATION:

N/A

SUGGESTED MOTIONS:

"I move to approve the minutes as presented."

**EVANS CITY COUNCIL
MINUTES
August 1, 2016**

CALL TO ORDER

Mayor Morris called the meeting to order at 7:30 p.m.

PLEDGE

ROLL CALL

Present: Mayor Morris, Mayor Pro-Tem Brian Rudy, Council Members Clark, Finn, and Speer

Absent: Council Members Homann and Schaffer

RECOGNITIONS

A. ~~City Manager Recognizing the A.C.E. Program Interns~~

AUDIENCE PARTICIPATION

Collin Dost, from 3306 15th Avenue, in Evans, complained about feral cats in his neighborhood and residents being prevented from trapping feral cats according to the Evans Municipal Code.

APPROVAL OF AGENDA

Raegan Robb, Evans City Clerk, revised the agenda striking item 8.C, under New Business, concerning the Lower Latham Diversion.

Council Member Clark made the motion, seconded by Mayor Pro-Tem Rudy, to approve the Agenda, as amended.

The motion passed with all voting in favor thereof.

CONSENT AGENDA

A. Approval of Minutes of the Regular Meeting of July 19, 2016

Council Member Clark made the motion, seconded by Mayor Pro-Tem Rudy, to approve the Consent Agenda. The motion passed with all voting in favor thereof.

NEW BUSINESS

B. **Resolution No. 30-2016 – Approving the Grant of a Non-exclusive Easement by**

DCP Midstream, LP to the City of Evans for Construction, Installation, and Maintenance of Two Sanitary Sewer Pipelines Across and Beneath Certain Real Property Belonging to DCP Midstream, LP

Dan Krob, assistant City Attorney, presented Resolution No. 30-2016 – approving a grant of non-exclusive easement by DCP Midstream, LP to the City of Evans for construction, installation, and maintenance of two sanitary sewer pipelines across and beneath certain real property belonging to DCP Midstream.

Mayor Morris asked about the easement for the Wastewater Treatment Plant.

According to Mr. Krob, City staff has successfully negotiated an easement land exchange with DCP Midstream for easements associated with the Consolidated Wastewater Treatment Plant Force Main and DCP's new gas line across the south limits of the existing Hill-n-Park Wastewater Treatment Plant site.

Mayor Morris voiced his support for the easements.

Mayor Pro-Tem Rudy made the motion, seconded by Council Member Clark, to adopt Resolution No. 30-2016 approving the grant of a non-exclusive easement by DCP Midstream, LP to the City of Evans for construction, installation, and maintenance of two sanitary sewer pipelines across and beneath certain real property belonging to DCP Midstream, LP.

The motion passed with all voting in favor thereof.

C. Resolution No. 31-2016 – Approving the Grant of a Non-exclusive Easement by the City of Evans to DCP Midstream, LP for Construction, Installation, and Maintenance of a Pipeline to Transmit Oil, Gas, and Water Across and Beneath Certain Real Property Belonging to the City of Evans

Dan Krob, assistant City Attorney, presented Resolution No. 31-2016 – approving the grant of a non-exclusive easement by the City of Evans to DCP Midstream, LP for construction, installation, and maintenance of a pipeline to transmit oil, gas, and water across and beneath certain real property belonging to the City of Evans.

Mayor Morris voiced his support for the easements.

Council Member Clark made the motion, seconded by Council Member Finn, to adopt Resolution No. 31-2016 approving the grant of a non-exclusive easement by the City of Evans to DCP Midstream, LP for construction, installation, and maintenance of a pipeline to transmit oil, gas, and water across and beneath certain real property belonging to the City of Evans.

The motion passed with all voting in favor thereof.

D. Award of Bid for Highway 85 Access Control at 37th Street

Dawn Anderson, City Engineer, provided some background history about the project for Highway 85 Access Control at 37th Street. According to Ms. Anderson, the City Council approved an IGA with Colorado Department of Transportation (CDOT) on July 3, 2012, for improvements to the intersection of Hwy 85 and 37th Street-as outlined in the Hwy 85 Access Plan. She displayed a diagram of the proposed project for cul-de-sacs to prohibit traffic from the service road onto Highway 85. Ms. Anderson talked about how the project will be communicated to businesses and residents that may be impacted.

Ms. Anderson talked about the City's purchasing policies and the three bids that were opened on July 19, 2016, with the following results.

<u>Contractor</u>	<u>Bid</u>
Mountain Constructors	\$1,065,858.50
Naranjo Civil Constructors	\$1,163,490.35
Duran Excavating, Inc.	\$1,239,588.15

She explained the current 2016 CIP budget for the project \$820,538 with a project deficit of \$ 245,320.50. According to Ms. Anderson, staff was requesting a preliminary budget revision in the amount of \$ 250,000 from the general fund to CIP streets to fund the entire project.

Council Member Clark asked when construction would begin and how long it would take.

Ms. Anderson, stated that the project would begin around the end of September and conclude February, 2017.

Council Member Speer clarified that the bid was being awarded to Mountain Constructors.

Mayor Morris asked about specific details related to the project and closure of the Service Road.

Ms. Anderson discussed the details of the project.

Mayor Morris asked about methods to notify the public about the project.

Ms. Anderson discussed several methods that will be used to communicate the project plan to the public.

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Council Member Clark made the motion, seconded by Council Member Finn, to approve the preliminary budget revision, and award, and authorize the Mayor's signature on an agreement for the Hwy 85 Access Control Project at 37th Street in the amount of \$1,065,858.50. The motion passed with all voting in favor thereof.

E. Award of Bid for the 2016 Asphalt Overlay Project

Ms. Anderson, discussed 2016 Asphalt Overlay Project and the only bid received by the City was from Martin Marietta for \$412,412.

Ms. Anderson explained that staff was recommending that City Council award the 2016 Asphalt Overlay Project to Martin Marietta Materials, Inc. for an amount not to exceed \$585,000.

Discussion ensued between Ms. Anderson and the Council Members concerning the difference between the bid amount and the recommendation.

Ms. Anderson explained that this year's funding is proposed to be utilized on 34th Street between 11th Avenue and 17th Avenue, but other parts of the City could be bid separately based on need and funding.

Mayor Morris voiced his support for the project.

Council Member Speer made the motion, seconded by Mayor Pro-Tem Rudy, to award the 2016 Asphalt Overlay Project to Martin Marietta Materials, Inc. and to authorize the Mayor's signature on an agreement in the amount not to exceed \$585,000. The motion passed with all voting in favor thereof.

REPORTS

A. City Manager

Jessica Gonifas, Interim City Manager, provided updates on the following matters to the Council:

- Aden Hogan's farewell reception on September 6th;
- the Weld County voter center being setup at the Evans Community Complex for the November 8th General Election;
- the process for utility billing being sent to customers;
- improvements at Riverside Library;
- open positions with the Evans Police Department;
- the events taking place for National Night Out on August 2nd; and

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August 1, 2016

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- close-out documents for temporary repairs to the current WWTP and initial mobilization for the new plant.

B. City Attorney

Mr. Krob reserved his comments for executive session.

AUDIENCE PARTICIPATION

There was no audience participation.

EXECUTIVE SESSION

A. To Determine Positions Relative to Matters that May Be Subject to Negotiations, Developing Strategy for Negotiations, and Instructing Negotiators, Pursuant to C.R.S. 24-6-402(4)(e)

Council Member Clark made the motion, seconded by Mayor Pro-Tem, to adjourn into executive session to determine positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators, pursuant to C.R.S. 24-6-402(4)(e).

The motion passed with all voting in favor thereof.

The council adjourned into exec session at 7:58 p.m.

The executive session concluded at 8:23 p.m.

Mr. Krob entered into the record that the matters discussed in executive session were subject to attorney-client privilege and within the scope of the referenced state statutes.

ADJOURNMENT

The regular meeting adjourned at 8:23 p.m.


Raegan Robb, City Clerk

COUNCIL COMMUNICATION

DATE: August 16, 2016

AGENDA ITEM: 8.A

SUBJECT: Public Hearing – New Retail Liquor License for Rico Industries Inc., dba “85 Liquor” – 3705 West Service Road

PRESENTED BY: Raegan Robb, Evans City Clerk

AGENDA ITEM DESCRIPTION:

The City received an application for a new retail liquor license for Rico Industries Inc., doing business as “85 Liquor” located at 3705 West Service Road, Evans, CO 80620. The applicants for this license are: Maricela Ruiz, from 637 Torrey Pines Lane, Johnstown; Luis Carlos Rico, from 4672 West 20th Street Road #1412, Greeley; and Karen Rico, from 3107 Horseshoe Court, Evans.

This liquor license was submitted for concurrent review with the City which allows the State Liquor Enforcement Division to process the application while the City is also considering the application for adoption.

The City Council will be acting in a quasi-judicial role as the Local Licensing Authority to consider the approval of this Retail Liquor License. If the license is approved by City Council, the liquor license will be processed and finalized with the State Liquor Enforcement Division. In your role as the Local Liquor Licensing Authority, the approval of a new liquor license must be based on findings regarding:

- The reasonable requirements of the neighborhood;
- The desires of the adult inhabitants of the neighborhood; and
- The moral character of the applicants.

For the record, the following findings from the report submitted by staff for this liquor license have been determined:

- 1) ***Notice of Public Hearing.*** That the Notice of Public Hearing on this matter was posted on the property and published in the Greeley Tribune on or before August 6, 2016.
- 2) ***Possession of the Premises.*** That the applicant is entitled to possession of the premises as evidenced by the attached lease of the property.
- 3) ***Local and State Licenses.*** That the applicants have a State Sales Tax License and City Business and Sales Tax License.
- 4) ***Local and State Zoning Codes.*** That selling liquor in the manner proposed in the application is not in violation of the zoning, fire, and other applicable laws of the City of Evans or the State of Colorado.

- 5) ***Proximity to Schools.*** That the building premises where selling or serving alcohol will be conducted does not appear to be within 500 feet of any public or parochial school or principal campus of any college, university or seminary school.
- 6) ***Previous Denial.*** That there has not, within two years preceding the date of the application, been a denial of an application by either the State Licensing Authority or the Local Licensing Authority for a Retail Liquor License application at the location for the reason that the reasonable requirements of the neighborhood and the desires of the inhabitants were satisfactory by the existing outlets.
- 7) ***Needs and Desires.*** Before granting any license, the Local Licensing Authority shall consider the reasonable requirements of the neighborhood and the desires of the adult inhabitants. The applicants, conducted a survey within a one-mile radius of the premises to convey the needs and desires of the neighborhood. The petitions returned 95 residences in favor of the proposed liquor license, with 17 residences opposed to the proposed liquor license. The petition conveying the needs and desires is attached.

Additionally, the City identified the following liquor licenses within a one-mile radius of 3705 West Service Road:

Hotel-Restaurant:	3
Beer and Wine:	0
Club:	2
Retail Liquor Store:	1
Drugstore:	0
Tavern:	1
3.2 Beer:	2

Due to the polling conducted and the recent loss of retail liquor licenses in this area, staff feels that the applicant has demonstrated by a preponderance of the evidence that the reasonable requirements of the neighborhood and the desires of the adult inhabitants of the neighborhood are not currently being met by existing outlets.

- 8) ***Moral character.*** The Local Liquor Licensing Authority can consider moral character of the applicant and any other pertinent matters affecting the qualifications of the applicant. Attached is a memorandum from the Evans Police Department, which shows the information that was found when they conducted their background checks. The applicants are available for questions related to this background check.
- 9) ***Site Improvement Agreement.*** The City requires a site plan to be submitted by businesses in the Highway 85 Corridor for business to be compliant with the Highway 85 Overlay design requirements. Staff is asking that the applicant must work with City Staff to develop a Site Improvement Agreement which identifies the timing of the improvements to satisfy the Highway 85 Overlay design requirements. This will allow the improvements to be implemented over the first few years of operation, but allow the City to review the agreement annually when the license is up for renewal. Staff is asking that a Site Improvement Agreement be entered into between the City and the applicant within 60 days of their hearing for liquor license.

FINANCIAL SUMMARY:

The applicant has paid all State and City fees required for the application.

RECOMMENDATION:

Staff finds that the applicant has submitted all the necessary information for a new liquor license application. The State has also reviewed the application under the option for concurrent review.

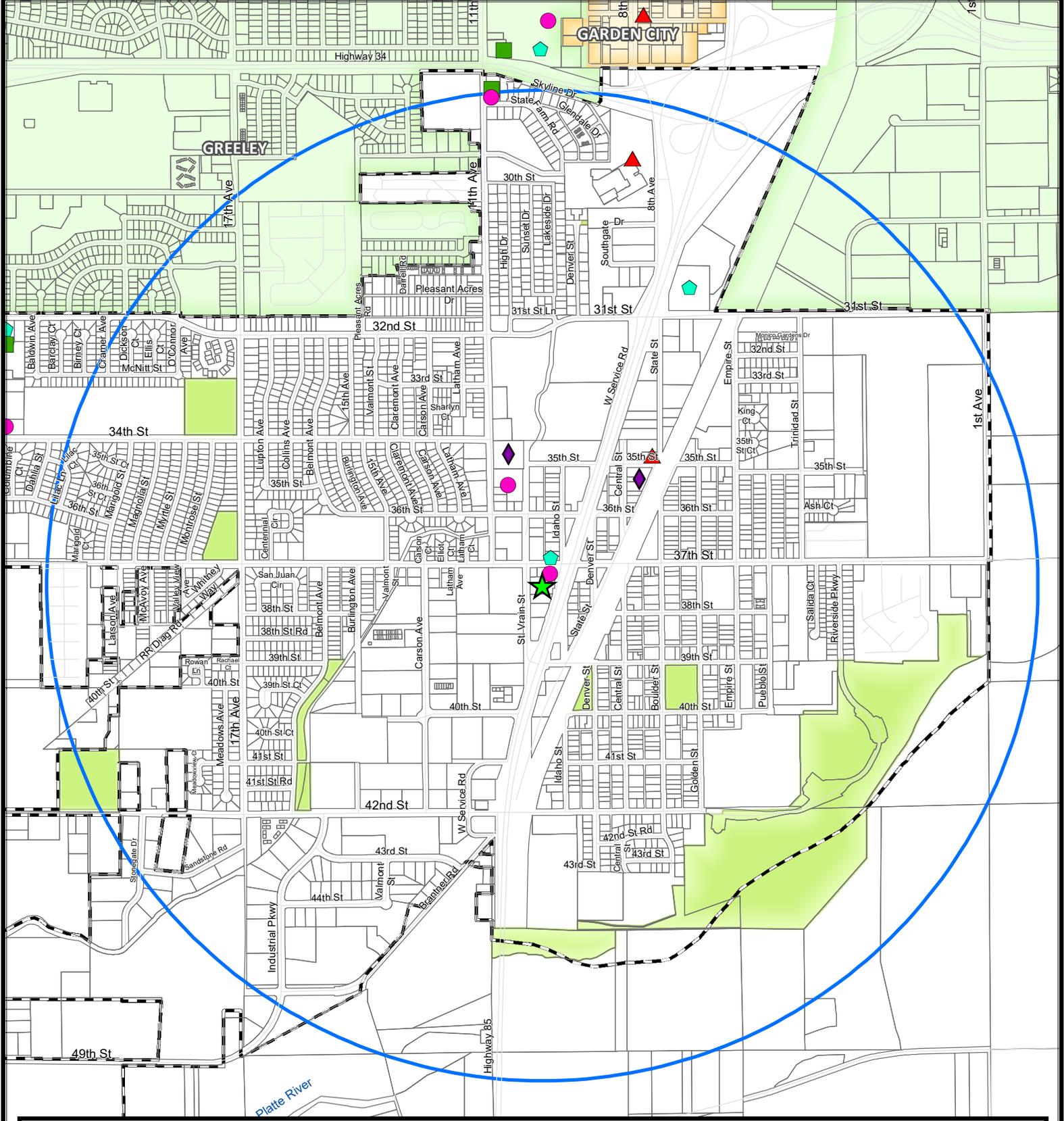
Council's decision is based on information obtained at the Public Hearing and approval or denial from a Local Liquor Licensing Authority must be based on findings regarding:

- The reasonable requirements of the neighborhood;
- The desires of the adult inhabitants of the neighborhood; and
- The moral character of the applicant.

SUGGESTED MOTIONS:

"I move for the approval of the Retail Liquor License for Rico Industries Inc., dba 85 Liquor, located at 3705 West Service Road, pending a Site Improvement Agreement be entered into between the City and the applicant within 60 days of their hearing for liquor license."

"I move to deny the approval of the Retail Liquor License for Rico Industries Inc., dba 85 Liquor, located at 3705 West Service Road, for the following reasons . . ."



Vicinity Map: Rico Industries INC. / 85 Liquor (Doing Business As) 3705 W. Service Road

Legend

- 85 Liquor
- 3.2 Beer
- H&R
- Tavern
- 1 Mile Buffer
- Beer/Wine
- Retail
- Club



PUBLIC HEARING PROCEDURE

Liquor Hearings

- A. Mayor opens Public Hearing.
- B. City Staff gives report.
- C. Applicant presents his/her position.
- D. Mayor asks to hear from anyone in the audience who wishes to speak in support of the issue.**
- E. Mayor asks to hear from anyone in the audience who wishes to speak in opposition of the issue.**
- F. Applicant rebuttal
- G. Mayor asks Council if there are any questions that need clarified that were brought up during the Public Hearing.
- H. Mayor closes the Public Hearing.
- I. Mayor asks for Council discussion.
- J. Council will then take action on the issue.

Per Section 12-47-311 of the Liquor Code:

At the public hearing held pursuant to this section, any party in interest shall be allowed to present evidence and to cross-examine witnesses. As used in this subsection, "party in interest" means any of the following:

- (I) The applicant;
- (II) An adult resident of the neighborhood under consideration;
- (III) The owner or manager of a business located in the neighborhood under consideration;
- (IV) The principal or representative of any school located within five hundred feet of the premises for which a malt, vinous, or spirituous liquor license is under consideration.

The local licensing authority, in its discretion, may limit the presentation of evidence and cross-examination so as to prevent repetitive and cumulative evidence or examination.

Nothing in this subsection shall be construed to prevent a representative of an organized neighborhood group that encompasses part or all of the neighborhood under consideration from presenting evidence subject to this section. Such representative shall reside within the neighborhood group's geographic boundaries and shall be a member of the neighborhood group. Such representative shall not be entitled to cross-examine witnesses or seek judicial review of the licensing authority's decision.

State of Colorado

Liquor Application Documents

Colorado Liquor Retail License Application

New License **New-Concurrent** **Transfer of Ownership**

- All answers must be printed in black ink or typewritten
- Applicant must check the appropriate box(es)
- Applicant should obtain a copy of the Colorado Liquor and Beer Code: www.colorado.gov/enforcement/liquor
- Local License Fee \$ 113⁰⁰

1. Applicant is applying as a/an				<input type="checkbox"/> Individual
<input checked="" type="checkbox"/> Corporation				<input type="checkbox"/> Limited Liability Company
<input type="checkbox"/> Partnership (includes Limited Liability and Husband and Wife Partnerships)				<input type="checkbox"/> Association or Other
2. Applicant If an LLC, name of LLC; if partnership, at least 2 partner's names; if corporation, name of corporation			FEIN Number	
<u>Rico Industries INC</u>			<u>47-4917639</u>	
2a. Trade Name of Establishment (DBA)		State Sales Tax Number	Business Telephone	
<u>DBA 85 Liquor</u>				
3. Address of Premises (specify exact location of premises, include suite/unit numbers)				
<u>3705 W Service Rd</u>				
City	County	State	ZIP Code	
<u>Evans</u>	<u>weld</u>	<u>CO</u>	<u>80620</u>	
4. Mailing Address (Number and Street)		City or Town	State	ZIP Code
<u>637 Torrey Pines LN</u>		<u>Johnstown</u>	<u>CO</u>	<u>80534</u>
5. Email Address				
<u>effectivecleaners1@gmail.com</u>				
6. If the premises currently has a liquor or beer license, you must answer the following questions				
Present Trade Name of Establishment (DBA)	Present State License Number	Present Class of License	Present Expiration Date	

Section A Nonrefundable Application Fees	Section B (Cont.) Liquor License Fees
<input type="checkbox"/> Application Fee for New License \$ 600.00	<input type="checkbox"/> Liquor Licensed Drugstore (City)..... \$227.50
<input checked="" type="checkbox"/> Application Fee for New License w/Concurrent Review \$ 700.00	<input type="checkbox"/> Liquor Licensed Drugstore (County) \$312.50
<input type="checkbox"/> Application Fee for Transfer \$ 600.00	<input type="checkbox"/> Manager Registration - H & R \$ 75.00
	<input type="checkbox"/> Manager Registration - Tavern \$ 75.00
	<input type="checkbox"/> Master File Location Fee \$ 25.00 X _____ Total _____
	<input type="checkbox"/> Master File Background \$250.00 X _____ Total _____
	<input type="checkbox"/> Optional Premises License (City)..... \$500.00
	<input type="checkbox"/> Optional Premises License (County) \$500.00
	<input type="checkbox"/> Racetrack License (City)..... \$500.00
	<input type="checkbox"/> Racetrack License (County) \$500.00
	<input type="checkbox"/> Resort Complex License (City)..... \$500.00
	<input type="checkbox"/> Resort Complex License (County)..... \$500.00
	<input type="checkbox"/> Retail Gaming Tavern License (City) \$500.00
	<input type="checkbox"/> Retail Gaming Tavern License (County)..... \$500.00
	<input checked="" type="checkbox"/> Retail Liquor Store License (City)..... \$227.50
	<input type="checkbox"/> Retail Liquor Store License (County)..... \$312.50
	<input type="checkbox"/> Tavern License (City) \$500.00
	<input type="checkbox"/> Tavern License (County)..... \$500.00
	<input type="checkbox"/> Vintners Restaurant License (City) \$750.00
	<input type="checkbox"/> Vintners Restaurant License (County)..... \$750.00

Questions? Visit: www.colorado.gov/enforcement/liquor for more information

Do not write in this space - For Department of Revenue use only

Liability Information

License Account Number	Liability Date	License Issued Through (Expiration Date)	Total
			\$

Application Documents Checklist and Worksheet

Instructions: This checklist should be utilized to assist applicants with filing all required documents for licensure. **All** documents must be properly signed and correspond with the name of the applicant exactly. **All** documents must be typed or legibly printed. Upon final State approval the license will be mailed to the local licensing authority. Application fees are nonrefundable.

Questions? Visit: www.colorado.gov/enforcement/liquor for more information

Items submitted, please check all appropriate boxes completed or documents submitted	
I.	Applicant information <input checked="" type="checkbox"/> A. Applicant/Licensee identified <input checked="" type="checkbox"/> B. State sales tax license number listed or applied for at time of application <input checked="" type="checkbox"/> C. License type or other transaction identified <input checked="" type="checkbox"/> D. Return originals to local authority <input checked="" type="checkbox"/> E. Additional information may be required by the local licensing authority
II.	Diagram of the premises <input checked="" type="checkbox"/> A. No larger than 8 1/2" X 11" <input checked="" type="checkbox"/> B. Dimensions included (does not have to be to scale). Exterior areas should show type of control (fences, walls, entry/exit points, etc.) <input type="checkbox"/> C. Separate diagram for each floor (if multiple levels) <input type="checkbox"/> D. Kitchen - identified if Hotel and Restaurant <input type="checkbox"/> E. Bold/Outlined Licensed Premises
III.	Proof of property possession (One Year Needed) <input checked="" type="checkbox"/> A. Deed in name of the Applicant (or) (matching question #2) date stamped / filed with County Clerk <input type="checkbox"/> B. Lease in the name of the Applicant (or) (matching question #2) <input type="checkbox"/> C. Lease Assignment in the name of the Applicant with proper consent from the Landlord and acceptance by the Applicant <input type="checkbox"/> D. Other Agreement if not deed or lease. (matching question #2) (Attach prior lease to show right to assumption)
IV.	Background information and financial documents <input checked="" type="checkbox"/> A. Individual History Records(s) (Form DR 8404-I) <input checked="" type="checkbox"/> B. Fingerprints taken and submitted to local authority (State Authority for Master File applicants) <input type="checkbox"/> C. Purchase agreement, stock transfer agreement, and or authorization to transfer license <input type="checkbox"/> D. List of all notes and loans (Copies to also be attached)
V.	Sole proprietor / husband and wife partnership <input type="checkbox"/> A. Form DR4679 <input type="checkbox"/> B. Copy of State issued Driver's License or Colorado Identification Card for each applicant
VI.	Corporate applicant information (if applicable) <input checked="" type="checkbox"/> A. Certificate of Incorporation dated stamped by the Secretary of State <input checked="" type="checkbox"/> B. Certificate of Good Standing <input type="checkbox"/> C. Certificate of Authorization if foreign corporation <input checked="" type="checkbox"/> D. List of officers, directors and stockholders of Applying Corporation (If wholly owned, designate a minimum of one person as Principal Officer of Parent)
VII.	Partnership applicant information (if applicable) <input type="checkbox"/> A. Partnership Agreement (general or limited). Not needed if husband and wife <input type="checkbox"/> B. Certificate of Good Standing (If formed after 2009)
VIII.	Limited Liability Company applicant information (if applicable) <input type="checkbox"/> A. Copy of articles of organization (date stamped by Colorado Secretary of State's Office) <input type="checkbox"/> B. Certificate of Good Standing <input type="checkbox"/> C. Copy of operating agreement <input type="checkbox"/> D. Certificate of Authority if foreign company
IX.	Manager registration for hotel and restaurant, tavern licenses when included with this application <input type="checkbox"/> A. \$75.00 fee <input type="checkbox"/> B. Individual History Record (DR 8404-I) <input type="checkbox"/> C. If owner is managing, no fee required

7. Is the applicant (including any of the partners, if a partnership; members or manager if a limited liability company; or officers, stockholders or directors if a corporation) or manager under the age of twenty-one years? Yes No

8. Has the applicant (including any of the partners, if a partnership; members or manager if a limited liability company; or officers, stockholders or directors if a corporation) or manager ever (in Colorado or any other state):

(a) Been denied an alcohol beverage license?

(b) Had an alcohol beverage license suspended or revoked?

(c) Had interest in another entity that had an alcohol beverage license suspended or revoked?

If you answered yes to 8a, b or c, explain in detail on a separate sheet.

9. Has a liquor license application (same license class), that was located within 500 feet of the proposed premises, been denied within the preceding two years? If "yes", explain in detail.

10. Are the premises to be licensed within 500 feet of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary?

Waiver by local ordinance? or
Other: _____

11. Has a liquor or beer license ever been issued to the applicant (including any of the partners, if a partnership; members or manager if a Limited Liability Company; or officers, stockholders or directors if a corporation)? If yes, identify the name of the business and list any current financial interest in said business including any loans to or from a licensee.

12. Does the Applicant, as listed on line 2 of this application, **have legal possession of the premises by virtue of ownership**, lease or other arrangement?

Ownership Lease Other (Explain in Detail) _____

a. If leased, list name of landlord and tenant, and date of expiration, **exactly** as they appear on the lease:

Landlord	Tenant	Expires

b. Is a percentage of alcohol sales included as compensation to the landlord? If yes complete question 13.

c. Attach a diagram and outline or designate the area to be licensed (including dimensions) which shows the bars, brewery, walls, partitions, entrances, exits and what each room shall be utilized for in this business. This diagram should be no larger than 8 1/2" X 11".

13. Who, besides the owners listed in this application (including persons, firms, partnerships, corporations, limited liability companies), will loan or give money, inventory, furniture or equipment to or for use in this business; or who will receive money from this business. Attach a separate sheet if necessary.

Last Name	First Name	Date of Birth	FEIN or SSN	Interest/Percentage
N/A				

Attach copies of all notes and security instruments, and any written agreement, or details of any oral agreement, by which any person (including partnerships, corporations, limited liability companies, etc.) will share in the profit or gross proceeds of this establishment, and any agreement relating to the business which is contingent or conditional in any way by volume, profit, sales, giving of advice or consultation.

14. Optional Premises or Hotel and Restaurant Licenses with Optional Premises:
Has a local ordinance or resolution authorizing optional premises been adopted? N/A

Number of additional Optional Premise areas requested. (See license fee chart)

15. Liquor Licensed Drug Store applicants, answer the following:

(a) Does the applicant for a Liquor Licensed Drug Store have a license issued by the Colorado Board of Pharmacy? N/A

If "yes" a copy of license must be attached.

16. Club Liquor License applicants answer the following: **Attach a copy of applicable documentation**

(a) Is the applicant organization operated solely for a national, social, fraternal, patriotic, political or athletic purpose and not for pecuniary gain?

(b) Is the applicant organization a regularly chartered branch, lodge or chapter of a national organization which is operated solely for the object of a patriotic or fraternal organization or society, but not for pecuniary gain?

(c) How long has the club been incorporated? N/A

(d) Has applicant occupied an establishment for three years (three years required) that was operated solely for the reasons stated above?

17. Brew-Pub License or Vintner Restaurant Applicants answer the following:

(a) Has the applicant received or applied for a Federal Permit? (Copy of permit or application must be attached) N/A

18a. For all on-premises applicants.
(If this is an application for a Hotel, Restaurant or Tavern License, the manager must also submit an individual History Record - DR 8404-1)

Last Name of Manager	First Name of Manager	Date of Birth
Rico	Karen	8-31-89

18b. Does this manager act as the manager of, or have a financial interest in, any other liquor licensed establishment in the State of Colorado? If yes, provide name, type of license and account number.

Name	Type of License	Account Number

19. Tax Distraint Information. Does the applicant or any other person listed on this application and including its partners, officers, directors, stockholders, members (LLC) or managing members (LLC) and any other persons with a 10% or greater financial interest in the applicant currently have an outstanding tax distraint issued to them by the Colorado Department of Revenue?

If yes, provide an explanation and include copies of any payment agreements.

20. If applicant is a corporation, partnership, association or limited liability company, applicant must list all **Officers, Directors, General Partners, and Managing Members**. In addition, applicant must list any stockholders, partners, or members with **ownership of 10% or more in the Applicant**. All persons listed below must also attach form DR 8404-I (Individual History Record), and submit fingerprint cards to the local licensing authority.

Name	Home Address, City & State	DOB	Position	% Owned
Karen Rico	3107 Horse shoe ct evans co 80620	8-31-87	manager	33.3
Lois Rico	4672 W 20th St Rd #14 12 Greeley CO 80639	9-12-51	Secretary	33.3
Maricela Ruiz	637 Torrey Pines LN Johnston CO 80534	12/30/65	President	33.3
Name	Home Address, City & State	DOB	Position	% Owned
Name	Home Address, City & State	DOB	Position	% Owned

** If Applicant is owned 100% by a parent company, please list the designated principal officer on question #20
 ** Corporations - The President, Vice-President, Secretary and Treasurer must be accounted for on question #20 (Include ownership percentage if applicable)
 ** If total ownership percentage disclosed here does not total 100%, applicant must check this box:
 Applicant affirms that no individual other than these disclosed herein, owns 10% or more of the applicant, and does not have ownership in a prohibited liquor license pursuant to Title 47 or 48, C.R.S.

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. I also acknowledge that it is my responsibility and the responsibility of my agents and employees to comply with the provisions of the Colorado Liquor or Beer Code which affect my license.

Authorized Signature <i>Maricela Ruiz</i>	Printed Name and Title President	Date 4-7-16
--	-------------------------------------	----------------

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

Date application filed with local authority	Date of local authority hearing (for new license applicants; cannot be less than 30 days from date of application 12-47-311 (1) C.R.S.)
---	---

The Local Licensing Authority Hereby Affirms that each person required to file DR 8404-I (Individual History Record) has:

Been fingerprinted

Been subject to background investigation, including NCIC/CCIC check for outstanding warrants

That the local authority has conducted, or intends to conduct, an inspection of the proposed premises to ensure that the applicant is in compliance with, and aware of, liquor code provisions affecting their class of license

(Check One)

Date of inspection or anticipated date _____

Will conduct inspection upon approval of state licensing authority

The foregoing application has been examined; and the premises, business to be conducted, and character of the applicant are satisfactory. We do report that such license, if granted, will meet the reasonable requirements of the neighborhood and the desires of the adult inhabitants, and will comply with the provisions of Title 12, Article 46 or 47, C.R.S.
Therefore, this application is approved.

Local Licensing Authority for	Telephone Number	<input type="checkbox"/> Town, City	
		<input type="checkbox"/> County	
Signature	Print	Title	Date
Signature (attest)	Print	Title	Date

INDIVIDUAL HISTORY RECORD

To be completed by the following persons, as applicable: sole proprietors; general partners regardless of percentage ownership, and limited partners owning 10% or more of the partnership; all principal officers of a corporation, all directors of a corporation, and any stockholder of a corporation owning 10% or more of the outstanding stock; managing members or officers of a limited liability company, and members owning 10% or more of the company; and any intended registered manager of Hotel and Restaurant or Tavern class of retail license.

NOTICE: This individual history record requires information that is necessary for the licensing investigation or inquiry. All questions must be answered in their entirety or the license application may be delayed or denied. If a question is not applicable, please indicate so by "N/A". Any deliberate misrepresentation or material omission may jeopardize the license application.

1. Name of Business
 85 Liquor

2. Your Full Name (last, first, middle)
 Maricela Ruiz

3. List any other names you have used.

4. Mailing address (if different from residence)

5. List current residence address. Include any previous addresses within the last five years (attach separate sheet if necessary).

STREET AND NUMBER	CITY, STATE, ZIP	FROM	TO
Current 637 Torrey Pines LN	Johnstown CO 80534	4/20/2002	Present
Previous			

6. List all employment within the last five years. Include any self employment. (Attach separate sheet if necessary)

NAME OF EMPLOYER OR BUSINESS	ADDRESS (STREET, NUMBER, CITY, STATE, ZIP)	POSITION HELD	FROM	TO
Imagen Latina Beauty Salon	3006 23 ave Greeley CO 80631	OWNER	9/4/2004	Present

7. List the name(s) of relatives working in or holding a financial interest in the Colorado alcohol beverage industry.

NAME OF RELATIVE	RELATIONSHIP TO YOU	POSITION HELD	NAME OF LICENSEE
N/A			

8. Have you ever applied for, held, or had an interest in a Colorado Liquor or Beer License, or loaned money, furniture, fixtures, equipment or inventory to any licensee? If yes, answer in detail. Yes No

9. Have you ever received a violation notice, suspension, or revocation for a liquor law violation, or have you applied for or been denied a liquor or beer license anywhere in the United States? If yes, explain in detail. Yes No

10. Have you ever been convicted of a crime or received a suspended sentence, deferred sentence, or forfeited bail for any offense in criminal or military court or do you have any charges pending? (If yes, explain in detail.)

Yes No

11. Are you currently under probation (supervised or unsupervised), parole, or completing the requirements of a deferred sentence? (if yes, explain in detail.)

Yes No

12. Have you ever had any professional license suspended, revoked, or denied? (If yes, explain in detail.)

Yes No

PERSONAL AND FINANCIAL INFORMATION

Unless otherwise provided by law, the personal information required in question #13 will be treated as confidential.
The personal information required in question #13 is solely for identification purposes.

	c. Place of Birth <i>Chihuahua Mexico</i>	d. U.S. Citizen? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
e. If Naturalized, State where <i>Las Cruces, New Mexico</i>	f. When <i>February 16 1995</i>	g. Name of District Court

Oath of Applicant

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

Authorized Signature - <i>Marcos Ruiz</i>	Title <i>President</i>	Date <i>4/7/16</i>
--	---------------------------	-----------------------

INDIVIDUAL HISTORY RECORD

To be completed by the following persons, as applicable: sole proprietors; general partners regardless of percentage ownership, and limited partners owning 10% or more of the partnership; all principal officers of a corporation, all directors of a corporation, and any stockholder of a corporation owning 10% or more of the outstanding stock; managing members or officers of a limited liability company, and members owning 10% or more of the company; and any intended registered manager of Hotel and Restaurant or Tavern class of retail license.

NOTICE: This individual history record requires information that is necessary for the licensing investigation or inquiry. All questions must be answered in their entirety or the license application may be delayed or denied. If a question is not applicable, please indicate so by "N/A". Any deliberate misrepresentation or material omission may jeopardize the license application.

1. Name of Business 85 liquor				
2. Your Full Name (last, first, middle) RICO, Karen			3. List any other names you have used.	
4. Mailing address (if different from residence) 3107 horseshoe Ct Evans, CO 80620				
5. List current residence address. Include any previous addresses within the last five years (attach separate sheet if necessary).				
STREET AND NUMBER		CITY, STATE, ZIP	FROM	TO
Current 3107 horseshoe Ct		Evans CO 80620	2010	2016
Previous 2218 waylon Dr		Johnstown CO 80534	2007	2010
6. List all employment within the last five years. Include any self employment. (Attach separate sheet if necessary)				
NAME OF EMPLOYER OR BUSINESS	ADDRESS (STREET, NUMBER, CITY, STATE, ZIP)	POSITION HELD	FROM	TO
Lorenzos Painting	3107 horseshoe Ct Evans CO 80620	Owner	2007	2016
7. List the name(s) of relatives working in or holding a financial interest in the Colorado alcohol beverage industry.				
NAME OF RELATIVE	RELATIONSHIP TO YOU	POSITION HELD	NAME OF LICENSEE	
N/A				
8. Have you ever applied for, held, or had an interest in a Colorado Liquor or Beer License, or loaned money, furniture, fixtures, equipment or inventory to any licensee? If yes, answer in detail.				
		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
9. Have you ever received a violation notice, suspension, or revocation for a liquor law violation, or have you applied for or been denied a liquor or beer license anywhere in the United States? If yes, explain in detail.				
		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

10. Have you ever been convicted of a crime or received a suspended sentence, deferred sentence, or forfeited bail for any offense in criminal or military court or do you have any charges pending? (If yes, explain in detail.)

Yes No

11. Are you currently under probation (supervised or unsupervised), parole, or completing the requirements of a deferred sentence? (if yes, explain in detail.)

Yes No

12. Have you ever had any professional license suspended, revoked, or denied? (If yes, explain in detail.)

Yes No

PERSONAL AND FINANCIAL INFORMATION

Unless otherwise provided by law, the personal information required in question #13 will be treated as confidential.
The personal information required in question #13 is solely for identification purposes.

e. If Naturalized, State where	c. Place of Birth Chihuahua Mexico	d. U.S. Citizen? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
COLORADO	f. When 2008	g. Name of District Court

Oath of Applicant

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

Authorized Signature 	Title Owner	Date 4-7-16
---	----------------	----------------

INDIVIDUAL HISTORY RECORD

To be completed by the following persons, as applicable: sole proprietors; general partners regardless of percentage ownership, and limited partners owning 10% or more of the partnership; all principal officers of a corporation, all directors of a corporation, and any stockholder of a corporation owning 10% or more of the outstanding stock; managing members or officers of a limited liability company, and members owning 10% or more of the company; and any intended registered manager of Hotel and Restaurant or Tavern class of retail license.

NOTICE: This individual history record requires information that is necessary for the licensing investigation or inquiry. **All** questions must be answered in their entirety or the license application may be delayed or denied. If a question is not applicable, please indicate so by "N/A". **Any deliberate misrepresentation or material omission may jeopardize the license application.**

1. Name of Business 85 liquor				
2. Your Full Name (last, first, middle) Rico Luis Carlos			3. List any other names you have used.	
4. Mailing address (if different from residence)				
5. List current residence address. Include any previous addresses within the last five years (attach separate sheet if necessary).				
STREET AND NUMBER		CITY, STATE, ZIP	FROM	TO
Current 4677 W. 20 St Rd. #1412		Greeley CO. 80634	6/15/15	4/7/16
Previous 2218 Weylen Dr. Johnstown Co.		Johnstown Co. 80534	3/15/04	6/15/15
6. List all employment within the last five years. Include any self employment. (Attach separate sheet if necessary)				
NAME OF EMPLOYER OR BUSINESS	ADDRESS (STREET, NUMBER, CITY, STATE, ZIP)	POSITION HELD	FROM	TO
Imaginafine	1439 5th. St.	owner	9/4/04	4/15/16
Beaty Solen	Greeley CO.			
7. List the name(s) of relatives working in or holding a financial interest in the Colorado alcohol beverage industry.				
NAME OF RELATIVE	RELATIONSHIP TO YOU	POSITION HELD	NAME OF LICENSEE	
NA	NA	NA	NA	
8. Have you ever applied for, held, or had an interest in a Colorado Liquor or Beer License, or loaned money, furniture, fixtures, equipment or inventory to any licensee? If yes, answer in detail.				
		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
9. Have you ever received a violation notice, suspension, or revocation for a liquor law violation, or have you applied for or been denied a liquor or beer license anywhere in the United States? If yes, explain in detail.				
		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

10. Have you ever been convicted of a crime or received a suspended sentence, deferred sentence, or forfeited bail for any offense in criminal or military court or do you have any charges pending? (If yes, explain in detail.)

Yes No

11. Are you currently under probation (supervised or unsupervised), parole, or completing the requirements of a deferred sentence? (if yes, explain in detail.)

Yes No

12. Have you ever had any professional license suspended, revoked, or denied? (If yes, explain in detail.)

Yes No

PERSONAL AND FINANCIAL INFORMATION

Unless otherwise provided by law, the personal information required in question #13 will be treated as confidential.
The personal information required in question #13 is solely for identification purposes.

e. If Naturalized, State where	c. Place of Birth	d. U.S. Citizen?
	f. When	g. Name of District Court
Colorado Denver	Chihuahua Mexico 2003	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Oath of Applicant

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

Authorized Signature <i>[Signature]</i>	Title owner	Date 4/2/16
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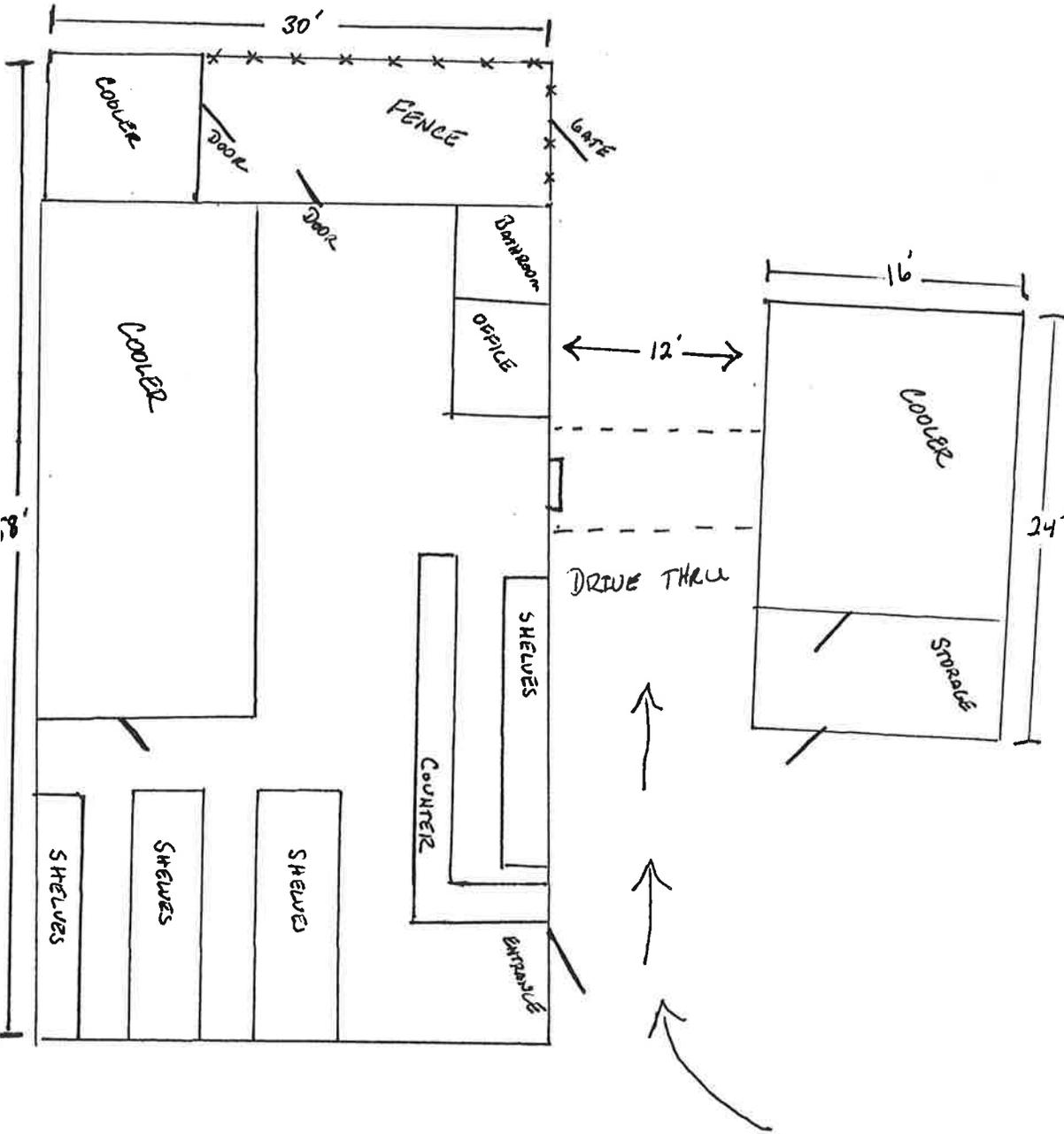


DIAGRAM OF PREMISES
85 LIQUOR
3705 W. SERVICE RD
EVANS CO 80620

NOTE: NOT TO SCALE

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

I, Wayne W. Williams, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

Rico Industries Inc.

is a
Corporation

formed or registered on 07/20/2015 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 20151460847 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 04/06/2016 that have been posted, and by documents delivered to this office electronically through 04/07/2016 @ 11:52:17 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 04/07/2016 @ 11:52:17 in accordance with applicable law. This certificate is assigned Confirmation Number 9590049 .



A handwritten signature in blue ink that reads "Wayne W. Williams".

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 Validate a Certificate 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 "Businesses, trademarks, trade names" and select "Frequently Asked Questions."

Election by a Small Business Corporation
 (Under section 1362 of the Internal Revenue Code)

OMB No. 1545-0123

▶ See Parts II and III on page 3.
 ▶ You can fax this form to the IRS (see separate instructions).
 ▶ Information about Form 2553 and its separate instructions is at www.irs.gov/form2553.

Note. This election to be an S corporation can be accepted only if all the tests are met under *Who May Elect* in the instructions, all shareholders have signed the consent statement, an officer has signed below, and the exact name and address of the corporation (entity) and other required form information have been provided.

Part I Election Information

Type or Print	Name (see instructions) Rico Industries Inc.	A Employer identification number
	Number, street, and room or suite no. (If a P.O. box, see instructions.) 637 Torrey Pines Ln	B Date incorporated 2015-07-20
	City or town, state, and ZIP code Johnstown, CO 80534	C State of incorporation CO

D Check the applicable box(es) if the corporation (entity), after applying for the EIN shown in **A** above, changed its name or address

E Election is to be effective for tax year beginning (month, day, year) (see instructions) ▶ 2015-07-20

Caution. A corporation (entity) making the election for its first tax year in existence will usually enter the beginning date of a short tax year that begins on a date other than January 1.

F Selected tax year:

- (1) Calendar year
- (2) Fiscal year ending (month and day) ▶ _____
- (3) 52-53-week year ending with reference to the month of December
- (4) 52-53-week year ending with reference to the month of ▶ _____

If box (2) or (4) is checked, complete Part II.

G If more than 100 shareholders are listed for item J (see page 2), check this box if treating members of a family as one shareholder results in no more than 100 shareholders (see test 2 under *Who May Elect* in the instructions) ▶

H Name and title of officer or legal representative who the IRS may call for more information	I Telephone number of officer or legal representative
--	--

If this S corporation election is being filed late, I declare that I had reasonable cause for not filing Form 2553 timely, and if this late election is being made by an entity eligible to elect to be treated as a corporation, I declare that I also had reasonable cause for not filing an entity classification election timely and that the representations listed in Part IV are true. See below for my explanation of the reasons the election or elections were not made on time and a description of my diligent actions to correct the mistake upon its discovery (see instructions).

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Sign Here Under penalties of perjury, I declare that I have examined this election, including accompanying documents, and, to the best of my knowledge and belief, the election contains all the relevant facts relating to the election, and such facts are true, correct, and complete.

▶ maricela Ruiz Signature of officer President Title 8-10-15 Date



Colorado Secretary of State
 Date and Time: 07/20/2015 10:14 AM
 ID Number: 20151460847
 Document number: 20151460847
 Amount Paid: \$50.00

Document must be filed electronically.
 Paper documents are not accepted.
 Fees & forms are subject to change.
 For more information or to print copies
 of filed documents, visit www.sos.state.co.us.

ABOVE SPACE FOR OFFICE USE ONLY

Articles of Incorporation for a Profit Corporation
 filed pursuant to § 7-102-101 and § 7-102-102 of the Colorado Revised Statutes (C.R.S.)

1. The domestic entity name for the corporation is

Rico Industries Inc.

(Caution: The use of certain terms or abbreviations are restricted by law. Read instructions for more information.)

2. The principal office address of the corporation's initial principal office is

Street address 637 Torrey Pines Ln
(Street number and name)

Johnstown CO 80534
(City) (State) (ZIP/Postal Code)
United States
(Province - if applicable) (Country)

Mailing address
 (leave blank if same as street address)
(Street number and name or Post Office Box information)

(City) (State) (ZIP/Postal Code)

(Province - if applicable) (Country)

3. The registered agent name and registered agent address of the corporation's initial registered agent are

Name
 (if an individual) Ruiz Maricela
(Last) (First) (Middle) (Suffix)

or

(if an entity)
(Caution: Do not provide both an individual and an entity name.)

Street address 637 Torrey Pines Ln
(Street number and name)

Johnstown CO 80534
(City) (State) (ZIP/Postal Code)

Mailing address
 (leave blank if same as street address)
(Street number and name or Post Office Box information)

CO
(City) (State) (ZIP/Postal Code)

1) Incorporator Name:

First: Karen

Middle int: J.

Last: Rico

Address:

Street: 637 Torrey Pines Ln

City: Johnstown

State: CO

Zip: 80534

2) Incorporator Name:

First: Luis

Middle: Carlos

Last: Rico

Address:

Street: 637 Torrey Pines Ln

City: Johnstown

State: CO

Zip: 80534

City of Evans

Liquor Application Documents



CITY OF EVANS, COLORADO
BUSINESS AND SALES TAX LICENSE APPLICATION

2603680

3/28/16
cash
\$25.-

BUSINESS AND SALES TAX LICENSE FEE: \$25.00 Annual Renewal Due NOT LATER THAN December 31st
AFTER EXPIRATION DATE, RENEWAL FEES INCREASE TO \$50.00

Important: Please keep a copy of this application for your records.

Mail to:	For City Use Only	
City of Evans BUSINESS AND SALES TAX OFFICE 1100 37th Street EVANS, CO 80620 (970) 475-1109 (970) 330-3472 Fax salestax@evanscolorado.gov www.cityofevans.gov	Monthly <input type="checkbox"/>	Sales Tax License <input type="checkbox"/>
	Quarterly <input type="checkbox"/>	General Registration <input type="checkbox"/>
	Annual <input type="checkbox"/>	NAICS Code <input type="checkbox"/>
		GEO Code <input type="checkbox"/>
	Amount Paid: <input type="text"/>	
Check No. <input type="text"/>		
Property Zoning: <input type="text"/>		
Zoning Approval: <input type="text"/>		
PLEASE TYPE OR COMPLETE IN BLACK INK.		PLEASE COMPLETE APPLICATION IN FULL (Illegible and/or incomplete forms may be rejected)

SECTION ONE - All information provided in this section of the application is considered public information and is required to be released upon public request.

- Type of Ownership: Sole Proprietor Partnership Corporation Limited Liability Corp. Other _____
- Taxpayer Name (Owner, Partners or Corporate Name): Rico Industries
- Trade Name ("Doing Business As"): DBA 25 liquor
- Business Address: 3705 W Service Rd Evans CO 80620
Street City State Zip
- Mailing Address: 637 Torrey Pines Ln Johnston CO 80534
Street/ Post Office Box (If Different than Business Address) City State Zip
- Business Phone No: _____ First Day of Business in Evans: 6/20/2016
- Web Site Address: _____ E-mail Address:(required) maricela@apoco.ws
- Nature of Business (Check all that apply): Wholesale Manufacturing Construction Service Retail
Office Only Mail Order Communications/Telecom Finance/Insurance/Real Estate
- What is your main product/service? _____
- Do you sell, distribute, deliver, or grow Medical Marijuana? Yes No
- Is this business in a: Commercial Building Private Residence (if private residence, fill out Home Occupation Certificate form)
- If a private residence, do your customer come to your home? Yes No
- If located in Evans, what are your hours of operation? 9:00 am 10:00 Pm
- If located in Evans, approximate sq. ft. of business: 1200 sq ft
- If located in Evans, no. of employees (include self): Full Time 1 Part-time 1
- Do you have other locations in Evans? Yes No
If "YES", a separate application must be completed per business location.
- Contact Person: maricela Ruiz
637 Torrey Pines Ln Johnston CO 80534
Address City State Zip Phone Email (required)

maricela@apoco.ws
970-405-4945?
cell.

Business and Sales Tax License Application (con't)

SECTION TWO - All information provided in this section of the application is considered confidential.

changed to monthly

- 18. Filing Frequency: \$300 tax/month or more, file monthly
- Under \$300 tax/month, file quarterly
- \$300 tax/year or less, file annually

19. List Owner(s) or Corporate Officers: (attach supplemental sheet if necessary)

Name: Maricela Ruiz Position: President Home Phone: 970 578-9000
 Home Address: 637 Torrey Pines Ln City: Johnstown State: CO Zip code: 80534
 Name: Luis Carlos Rico Position: _____ Home Phone: 970-405-4945
 Home Address: 4672 W 20th st Rd #142 City: Greeley State: CO Zip code: 80634

20. Accountant or CPA or Local Manager: Anita Mais
 (person who can provide sales tax information if needed)
 Address: 1750 25 ave Surt 204 City: Greeley State: CO Zip: 80634 Daytime Phone: 352-0661

21. Former Owner's Name: David Bradley Former Owner's License No. 24-99951-0000

22. Former Name of Business: 85 liquor Date of Purchase: 5 '28' 2015

23. Did the purchase price include fixed assets, machinery, or equipment? YES NO Value \$ _____

24. State of Colorado Sales Tax License No.: _____ Federal Employer I.D. (FEIN) _____

I declare, under penalty of perjury in the second degree, that this application has been examined by me, that the statements made herein are made in good faith pursuant to Colorado and the City of Evans tax laws and regulations, and to the best of my knowledge and belief, are true, correct, and complete.

Signed: Maricela Ruiz Dated: 3-28-2016
 Name of Person Completing this Document

Printed Name: Maricela Ruiz Title: President

WHERE DO I GO TO GET INFORMATION ON LICENSING FOR THE STATE OF COLORADO?

When opening a new business in the State of Colorado call the Colorado Business Assistance Center, (303) 592-5920 in Denver, or (800) 333-7798 toll-free in Colorado for information. Taxpayers are still required to remit State and County taxes directly to the State of Colorado.

To obtain a sales tax, wage withholding tax, or other business tax account number, visit the Denver Service Center at 1375 Sherman St., Denver, or at the Fort Collins Service Center 1121 W Prospect Rd, Bldg D, Fort Collins or any Taxpayer Service Center in Colorado. You may also get the "Colorado Business Registration" Form (CR 0100) through the Colorado Department of Revenue web site at www.taxcolorado.com, or call the Forms Hotline at (303) 238-FAST (3278).

Please be sure to check with other departments of the City to ensure compliance with all other applicable laws and regulations. Issuance of the Business and Sales Tax License does not mean conformance with Zoning provisions, and/or other requirements.

Pursuant to Section 3.04.500 (l) of the City of Evans Tax Code "failure to obtain a renewal license by the December 31st expiration date shall result in payment of an increased renewal fee...".

Thank You.

Attachment to Liquor/3.2% Beer Retail License Application
(Please type or print legibly.)

1. Describe the nature of the proposed establishment and the target market. (restaurant, tavern, sports bar, families, college students, etc.)

Liquor Store

2. What are the proposed hours and days of operation for this establishment?

To be determined but C.R.S 12-47-90 allows 8:00am - midnight

3. How many individuals will be employed at this proposed establishment and how many will be full time versus part time? (please provide responsibilities, for example, manager, assistant manager, bartender, wait staff, etc.)

1 full time (manager)
2 Part-time (Cashier, clean, stock)

4. Describe your past training and experience in the sale/service of alcohol beverages. (include any special or certified training received)

We will receive training before opening

5. Describe your proposed operating manager's past training and experience in the sale/service of alcohol beverages. (include any special or certified training received)

manager will be train before opening

6. What type of training is proposed for employees at this establishment in the safe and legal sale/service of alcohol beverages?

Always ID on any intent to purchase Alcohol or Tobacco
Be aware of fake ID's and be aware of individual intending to buy Alcohol & Tobacco for minors. (all cops)

7. Describe any other types of training or operating procedures that employees will be following in the day-to-day operation of this proposed establishment.

Shelving, Check Inventory, merchandise Stock,
turn on/off alarms, Sales, take care of
Customers / ~~XXXX~~ ~~XXXX~~

NAME OF APPLICANT:

maricela Ruiz

TYPE OF LICENSE:

Liquor

PUBLIC HEARING DATE:

THE UNDERSIGNED HAVE HAD THE OPPORTUNITY TO READ THE INSTRUCTIONS, QUALIFICATIONS AND PETITION AND ARE IN FAVOR/AGAINST THE ISSUANCE OF A LIQUOR LICENSE.

Signature	Address	City	Age	Date	Yes	No	Comments
Rafael Young	1615 38 th St	Evans	62	5/6/16	✓		
John	1604 38 th St	Evans	55	5/6/16	X		
John	1602 38 th St	Evans	66	5-6-16		X	
Maryline Davis	1520 San Juan Cir	Evans	74	5-6-16		X	
Maria Garcia	1528 San Juan Cir	Evans	48	5-6-16		X	
Maria Yaya	1609 San Juan Cir	Evans	44	5-6-16	✓		
Judice Naylor	1113 Santofelice	Evans	74	5-6-16	X		
Osami Duran	2421 Pleasant	Evans	35	5-4-16	X		
Claudia Gomez	3605 11 Ave	Evans	41	5-5-16	X		
KOSA Berto	3601 11 Ave	Evans	58	5-6-16		NO	
Teresa Muro	915 36 th St	Evans	29	5-6-16	X		
John	915 36 th St	Evans	31	5-6-16	✓		
Jose Trato Gutierrez	2132 30 th St	Evans	21	5-6-16	✓		
David Torres Torres		Evans	21	5-4-16	X		
Jim Armstrong	3633 Elliott	Evans	71	5-9-16		X	

Signature	Address	City	Age	Date	Yes	No	Comments
Ray Mar	3707 BURKIN AVE	EVANS	58	5-9-16	✓		
Gabino Villegas	3711 BURLIN AVE	EVANS	50	5-9-16	X		
Santiago Urizar	3711 BURLIN AVE	EVANS	22	5-9-16	X		
Gabriela Dela Cruz	3721 Burlington Ave	EVANS	32	5/9/16	✓		
Norica Martinez	3804 Burlington Ave	EVANS	30	5/9/16	✓		
C. Santos	3810 Belmont	EVANS	59	5/9/16		✓	
Joan E. ...	3811 Belmont	EVANS	66	5/9/16		✓	
Christine ...	3827 Belmont A	EVANS	22	5/9/16	✓		
Ruth ...	3834 Belmont A	EVANS	59	5/9/16	✓		
Manuel Gonzalez		EVANS	24	5/9/16	✓		
JOAN AYALA	1205 32 nd ST	EVANS	37	5/9/16		X	
KAROL ...	1223 32 nd ST	EVANS	57	5-9-16	✓		
Thuy N. Thuy	3207 Carson Ave	EVANS	17	5/9/16		X	
Los ...	1218 32 nd ST	EVANS	67	5/9/16	X		
...	3209 Carson Ave	EVANS	39	5/9-16	A		
Magdalena E	1012 37th ST	EVANS	42	5-9-16	✓		
Mateo Enriquez	1012 37th ST	EVANS	47	5-9-16	✓		
Mai ...	3721 W Service Rd	EVANS	71	5-10-16	✓		
Isabel ...	3721 W Service Rd	EVANS	24	5-10-16	✓		
JOSE ...	3721 W Service Rd	EVANS	35	5-10-16	✓		
Roberto ...	3721 W Service Rd	EVANS	42	5-10-16	✓		
Los ...	3721 W Service Rd	EVANS	48	5-10-16	✓		
...	3721 W Service Rd	EVANS	75	5-10-16	✓		

Signature	Address	City	Age	Date	Yes	No	Comments
V. V. V.	1607 38th St	Evans	23	5-6-16	✓		
Pablo Velazquez	1605 38th St	Evans	50	5-6-16	✓		
Wagner	1520 San Juan Cir	Evans	19	5-6-16		✓	
Maria Saldivar	1524 San Juan Cir	Evans	30	5-6-16	✓		
Bobbie Bobbie Hurt	1537 San Juan Cir	Evans	42	5/6/16	✓		
Shirley Hill	1100 San Juan	Evans	62	5-6-16		✓	
Pat	1816 San Juan	Evans	26	5-6-16	✓		
Martha Gollardo	1434 San Juan Cir	Evans	109	5/6/16		✓	
Haydee B. Gonzalez	3605 11th Ave	Evans	39	5-6-16	✓		
Armando	3028 113	Evans	41	5-6-16	✓		
Homidruz Gonzalez	4213 Wapiti Way	Evans	65	5-6-16	✓		
Cla Keza	3100 11th Ave	Evans	25	5/6/16		✓	
Martha	3520 CENTRAL	EVANS	52	5-6-16	✓		
David Torres & reio	3132 30th St	Evans	21	5/6/16	✓	✓	
Angelica Rodriguez	2132 20th St	Evans	21	5-6-16	✓		
David	3703 Latham	Evans	35	5-9-16	✓		
David	3627 LATHAM	EVANS	21	5-9-16	✓		
Shelly		EVANS	20	5-9-16	✓		
Ronald	3622 ELLIOT CT	EVANS	50	10-20-63	✓		
Rosario Daniel	3618 ELLIOT CT	Evans	50	05-30-63	✓		
Harun beam	3638 Carson Ct	Evans	73	5-9-16		✓	
Ery	3620 Carson	Evans	60	5-9-16	✓		
Cindy Howlett	3606 15th Ave	Evans	58	5-9-16	✓		



City of
Evans
Police

1100 37th Street
Evans, Colorado 80620-2036
Phone: (970) 339-2441
Fax: (970) 339-5177

TO: Raegan Robb, City Clerk
FROM: Rick Brandt, Chief of Police
DATE: April 21, 2016
SUBJ: 85 Liquor License Application

RB 4/21/16

A standard background investigation was conducted for a liquor license application for 85 Liquor and the below listed corporate officers:

Maricela Ruiz
Karen Rico
Luis Carlos Rico

09/29/2012 Karen Rico was arrested by Customs and Border Patrol and charged with Bringing Aliens to the Unites States. No final disposition found on record.

No other information was found relating to the applicant of a criminal history nature.

No other information was found which would reflect on the moral character of the applicant.

8 – 15 – 2016

To who may Concern :

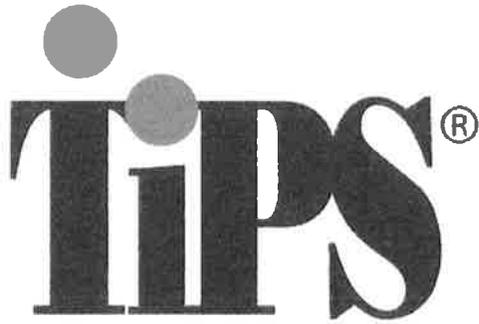
I Karen Rico form part of Rico Industries , as you know we have a hearing to get approved for a liquor license this 16th of the month , the reason I write this letter is to explain the Situation of my Background check ;

On 09/29/2012 I was involved on a Terrible Situation , I as a United States Citizen feel ashamed of what happened that day , I and some friends where in Mexico for a business matter and one of my friends told us that her cousin wanted to come and visit her mother in Denver , but she did not have a ride and Money to pay for it so , we were 3 ladies on a car and we all said Ok why not (Your cousin can come and we will give her a ride to Denver because she sumptuously did not had money for the trip , then next morning we were ready to go , we got in to the car and drove to the bridge , when we got to the inspection point we all had our Colorado Driver License , we gave to the agent and all 3 of us were fine but it was a problem with her , so official said all ladies get out , and we did , then we got in to separate rooms and they started asking us that why was she in the car that she had fake documents , we told them we did not have an idea , they did not believed us and arrested us , so when we all got to court the Judge dismiss the charges and just gave us 1 year of Privation , I Completed Mine on 2013 , since then I had no trouble with the law , I am a Mother of 2 kids , run my Husbands Painting Business and enjoy helping on my extra time on my kids school .

We all make mistakes , we might be in the wrong place with the wrong people , I feel it was a experience that happened for a reason to learn from that , I Hope this situation won't affect your decision , I would love to keep going with this project , make the business succeed just like the other ones we have , be part of the community of Evans .

Thank You for your time to read this letter.

Karen Rico .



May 2, 2016

To whom it may concern,

The following people have successfully completed the TIPS (Training Intervention Procedures for Sellers/Servers of Alcohol) training session on May 2, 2016:

Karen Rico
Luis Rico
Maricela Ruiz

They will receive a three year certification card and a certificate of completion from TIPS.

If you have any questions, please contact me at debbien42@outlook.com, or 970-576-2044.

Thank You,

Deb Nelson

Deb Nelson
Certified TIPS Trainer #50520
970-576-2044

GREELEY POLICE DEPARTMENT

This Certificate is issued to

MARICELA RUIZ

For the completion of

RESPONSIBLE VENDOR TRAINING

This 6th day of June, 2016

You have completed the Responsible Vendor Training Program. The Responsible Vendor Training Program conducted by the Greeley Police Department complies with the standards for a Seller and Server Training Program pursuant to the Colorado Responsible Vendor Act. The Responsible Vendor Training Program provided by the Greeley Police Department has met the requirements for a Responsible Vendor as authorized by the Colorado Liquor Enforcement Acting Division Director. This certificate expires two years from the training date.



A handwritten signature in blue ink, appearing to read 'Andy Gilmore'.

Detective Andy Gilmore #309, Instructor

COUNCIL COMMUNICATION

DATE: August 16, 2016

AGENDA ITEM: 8.B

SUBJECT: Resolution No. 32-2016 - Approving Memorandum of Understanding between the Colorado Department of Transportation and City of Evans Transferring Real Property from CDOT to Evans and Waiving Certain Landscaping Requirements at the CDOT Park and Ride

PRESENTED BY: Dawn Anderson, City Engineer

AGENDA ITEM DESCRIPTION:

The attached Memorandum of Understanding (MOU) formalizes an agreement between CDOT and the City in which CDOT will transfer title of real property located at 3939 Riverside Parkway to the City in exchange for the City waiving landscaping requirements at the CDOT owned park and ride located at 1004 42nd Street. By entering into the MOU we can complete the land exchange.

Scope of Work:

CDOT constructed a new park and ride facility, at 1004 42nd Street, Evans, CO 80620. The City of Evans has landscaping requirements in Section 19.47.190 of the Evans Municipal Code that apply to the park and ride facility.

CDOT has a property in the floodplain adjacent to the City's Riverside Park, at 3939 Riverside Parkway, Evans, CO 80620 ("Riverside Property"). Evans is interested in incorporating the Riverside Property into the new Riverside Park re-design plans.

By approving the resolution and signing the MOU, the City of Evans agrees to waiving the landscaping requirements at the CDOT park and ride facility in exchange for the Riverside Property.

FINANCIAL SUMMARY:

N/A

RECOMMENDATION:

Staff recommends approval of the resolution.

SUGGESTED MOTIONS:

I move to adopt Resolution No. 32-2016 and authorize the Mayor's signature on the MOU.

I move to deny adoption of Resolution No. 32-2016.

CITY OF EVANS, COLORADO

RESOLUTION NO. 32-2016

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF TRANSPORTATION, STATE OF COLORADO, AND THE CITY OF EVANS, COLORADO TRANSFERRING REAL PROPERTY FROM CDOT TO EVANS AND WAIVING CERTAIN LANDSCAPING REQUIREMENTS AT THE CDOT PARK AND RIDE

WHEREAS, the Colorado Department of Transportation (“CDOT”) owns certain real property located at 3939 Riverside Parkway, Evans, Colorado 80206 (Riverside Lot); and

WHEREAS, CDOT operates a park and ride station located at 1004 42nd street, Evans Colorado 80206 (the “Park and Ride”); and

WHEREAS, CDOT desires to have certain landscaping requirements affecting the Park and Ride found in Section 19.47.190 of the Evans’ City Code waived; and

WHEREAS, Evans desires to acquire title to the Riverside Lot in exchange for Evans waiving landscaping requirements affecting the Park and Ride; and

WHEREAS, CDOT desires to transfer title to the Riverside Lot in exchange for Evans waiving landscaping requirements affecting the Park and Ride; and

WHEREAS, acquiring the Riverside Lot is in the best interest of the health, wellness, and safety of the citizens of Evans; and

WHEREAS, CDOT and Evans have negotiated a Memorandum of Understanding (MOU) for the transfer of the Riverside Lot to Evans in exchange for Evans waiving certain landscaping requirements affecting the Park and Ride, attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO, the attached Memorandum of Understanding between CDOT and the City of Evans is hereby approved and the Mayor is authorized and directed to execute said MOU on behalf of the City.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Evans on this 16th day of August, 2016.

ATTEST:

CITY OF EVANS, COLORADO

City Clerk

By: _____
Mayor

Memorandum of Understanding (MOU)

THIS CONTRACT is made this ___ day of _____ 20___ by and between the State of Colorado for the use and benefit of the COLORADO DEPARTMENT OF TRANSPORTATION (“State” or “CDOT”), and the City of Evans (“Local Agency”) 1100 37th Street Evans, CO, 80620, CDOT Vendor #: 2000022, which may also be referred to herein individually, as a "Party" and collectively as the "Parties."

RECITALS

The Parties desire to enter into this Contract to exchange property rights, specifically the CDOT property at 3939 Riverside Parkway, Evans, CO 80620 for the Local Agency’s landscaping requirements at CDOT’s park and ride facility, 1004 42nd St., Evans, CO 80620 as detailed in Exhibit A. This exchange shall release CDOT from any requirement to install, improve or otherwise maintain landscaping at the park and ride facility.

THE PARTIES NOW AGREE THAT:

Section 1. Scope of Work

The Parties listed in this Agreement are in partnership to exchange a CDOT property for the Local Agency waiving their landscaping requirement at the park and ride in Evans, detailed in Exhibit A.

Section 2. Order of Precedence

In the event of conflicts or inconsistencies between this Contract and its exhibits, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

1. Special Provisions contained in Section 21 of this Contract
2. This Contract
3. Exhibit A

Section 3. Term

This Contract shall be effective upon approval of the Chief Engineer. The term of this Contract shall run in perpetuity or until it is modified or terminated in writing by both parties.

Section 4. State and Local Agency Commitments

A. The Local Agency shall waive the landscaping requirement found in Section 19.47.190 of the Evans City Code at CDOT’s for the newly constructed park and ride located at 1004 42nd St., Evans, CO 80620.

B. CDOT will transfer ownership of property located at 3939 Riverside Parkway, Evans, CO 80206 to the Local Agency.

Section 5. Acceptance of the Real Property

As attested to by the Local Agency on the Signature Page, the City of Evans, Colorado hereby accepts this conveyance of Real Property rights.

Section 6. Legal Authority

Both Parties hereto warrant that they possess the legal authority to enter into this Contract and that they have taken all actions required by their respective procedures, by-laws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatories to execute this Contract and to bind their respective entities to its terms. The person(s) executing this Contract on behalf of each Party warrants that such person(s) has full authorization to execute this Contract.

Section 7. Representatives and Notice

All communication, notices, and correspondence shall be addressed to the individuals identified below. Either party may from time to time designate in writing new or substitute representatives.

If to State:

Bob Grube
Right of Way Manager
10601 W. 10th St.
Greeley, CO 80634
970-350-2152
Bob.grube@state.co.us

If to the Local Agency:

Dawn Anderson
City Engineer
1100 37th St, Evans, CO 80620
970-475-1160
danderson@evanscolorado.gov

Section 8. Successors

Except as herein otherwise provided, this Contract shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

Section 9. Third Party Beneficiaries

The waiver of any breach of a term, provision, or requirement of this Contract shall not be construed or deemed as a waiver of any subsequent breach of such term, provision, or requirement, or of any other term, provision or requirement.

Section 10. Governmental Immunity

Notwithstanding any other provision of this Contract to the contrary, no term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, CRS, as now or hereafter amended. The Parties understand and agree that liability for claims for injuries to persons or property arising out of negligence of the State of Colorado, the Local Agency and their respective departments, institutions, agencies, boards, officials and employees is controlled and limited by the provisions of §24-10-101, *et seq.*, CRS, as now or hereafter amended and the risk management statutes, §§24-30-1501, *et seq.*, CRS, as now or hereafter amended.

Section 11. Severability

To the extent that this Contract may be executed and performance of the obligations of the Parties may be accomplished within the intent of the Contract, the terms of this Contract are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof.

Section 12. Waiver

The waiver of any breach of a term, provision, or requirement of this Contract shall not be construed or deemed as a waiver of any subsequent breach of such term, provision, or requirement, or of any other term, provision or requirement.

Section 13. Entire Understanding

This Contract is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein by writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a writing executed and approved by both parties.

Section 14. Survival of Contract Terms

Notwithstanding anything herein to the contrary, the parties understand and agree that all terms and conditions of this Contract and the exhibits and attachments hereto which may require continued performance, compliance or effect beyond the termination date of the Contract shall survive such termination date and shall be enforceable by the State as provided herein in the event of such failure to comply by the Local Agency.

Section 15. Modification and Amendment

A. This Contract is subject to such modifications as may be required by changes in federal or State law, or their implementing regulations. Any such required modification shall automatically be incorporated into and be part of this Contract on the effective date of such change as if fully set forth herein. Except as provided above, no modification of this Contract shall be effective unless agreed to in writing by both Parties in an amendment to this Contract that is properly executed and approved in accordance with applicable law.

B. Either party may suggest renegotiation of the terms of this Contract, provided that the Contract shall not be subject to renegotiation more often than annually, and that neither Party shall be required to renegotiate. If the Parties agree to change the provisions of this Contract, the renegotiated terms shall not be effective until this Contract is amended/modified accordingly in writing.

Section 16. Disputes

Except as otherwise provided in this Contract, any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement will be decided by the Chief Engineer of the Department of Transportation. The decision of the Chief Engineer will be final and conclusive unless, within 30 calendar days after the date of receipt of a copy of such written decision, the Local Agency mails or otherwise furnishes to the State a written appeal addressed to the Executive Director of the Department of Transportation. In connection with any appeal proceeding under this clause, the Local Agency shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Local Agency shall proceed diligently with the performance of the Contract in accordance with the Chief Engineer’s decision. The decision of the Executive Director or his duly authorized representative for the determination of such appeals will be final and conclusive and serve as final agency action. This dispute clause does not preclude consideration of questions of law in connection with decisions provided for herein. Nothing in this Contract, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

Section 18. Does not supersede other agreements

This Contract is not intended to supersede or affect in any way any other contract (if any) that is currently in effect between the State and the Local Agency for other “maintenance and operations services” on State Highway rights-of-way within the jurisdiction of the Local Agency.

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Section 21. Colorado Special Provisions apply to all Contracts except where noted in *italics*

1. **CONTROLLER'S APPROVAL. CRS §24-30-202(1).** This Contract shall not be valid until it has been approved by the Colorado State Controller or designee.
2. **FUND AVAILABILITY. CRS §24-30-202(5.5).** Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.
3. **GOVERNMENTAL IMMUNITY.** No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.
4. **INDEPENDENT LOCAL AGENCY.** Local Agency shall perform its duties hereunder as an independent Local Agency and not as an employee. Neither Local Agency nor any agent or employee of Local Agency shall be deemed to be an agent or employee of the State. Local Agency and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Local Agency or any of its agents or employees. Unemployment insurance benefits will be available to Local Agency and its employees and agents only if such coverage is made available by Local Agency or a third party. Local Agency shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Local Agency shall not have authorization, express or implied, to bind the State to any contract, liability or understanding, except as expressly set forth herein. Local Agency shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.
5. **COMPLIANCE WITH LAW.** Local Agency shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.
6. **CHOICE OF LAW.** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Contract, to the extent capable of execution.
7. **BINDING ARBITRATION PROHIBITED.** The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.
8. **SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.** State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Local Agency hereby certifies and warrants that, during the term of this Contract and any extensions, Local Agency has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Local Agency is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.
9. **EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. CRS §§24-18-201 and 24-50-507.** The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest

whatsoever in the service or property described in this Contract. Local Agency has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Local Agency's services and Local Agency shall not employ any person having such known interests.

10. **VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4.***[Not Applicable to intergovernmental contracts]* Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

11. **PUBLIC CONTRACTS FOR SERVICES. CRS §8-17.5-101.***[Not Applicable to contracts relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental contracts, or information technology services or products and services]* Local Agency certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Contract, through participation in the E-Verify Program or the Department program established pursuant to CRS §8-17.5-102(5)(c), Local Agency shall not knowingly employ or contract with an illegal alien to perform work under this Contract or enter into a Contract with a sub-Local Agency that fails to certify to Local Agency that the sub-Local Agency shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Local Agency (a) shall not use E-Verify Program or Department program procedures to undertake preemployment screening of job applicants while this Contract is being performed, (b) shall notify the sub-Local Agency and the contracting State agency within three days if Local Agency has actual knowledge that a sub-Local Agency is employing or contracting with an illegal alien for work under this Contract, (c) shall terminate the subcontract if a sub-Local Agency does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Local Agency participates in the Department program, Local Agency shall deliver to the contracting State agency, Institution of Higher Education or political subdivision a written, notarized affirmation, affirming that Local Agency has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Local Agency fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this Contract for breach and, if so terminated, Local Agency shall be liable for damages.

12. **PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS §24-76.5-101.** Local Agency, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this Contract.

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SIGNATURE PAGE - THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

*** Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor's behalf and acknowledge that the State is relying on their representations to that effect.**

<p align="center">LOCAL AGENCY:</p> <p>City of Evans Vendor #2000022</p> <hr/> <p>Signature of Authorized Officer</p> <hr/> <p>Print Name of Authorized Officer</p> <hr/> <p>Title of Authorized Officer</p> <p>Date: _____</p>	<p align="center">STATE OF COLORADO JOHN W. HICKENLOOPER, GOVERNOR</p> <hr/> <p>By: Joshua Laipply, PE, Chief Engineer for Shailen P. Bhatt, Executive Director</p> <p>Date: _____</p>
--	--

LOCAL AGENCY: (A Local Agency attestation is required.) Attest (Seal) By
(Town/City/County Clerk)

(Place Local Agency seal here, if available)

EXHIBIT A – SCOPE OF WORK

**Scope of Work
CDOT Region 4
3939 Riverside Parkway, Evans, CO 80620
And
1004 42nd St, Evans, CO 80620**

CDOT constructed a new park and ride facility, at 1004 42nd St., Evans, CO 80620. The Local Agency has landscaping requirements in Section 19.47.190 of their City Code that apply to the park and ride facility.

CDOT has a property in the floodplain adjacent to the Local Agency’s Riverside Park, at 3939 Riverside Parkway, Evans, CO 80620 (“Riverside Property”). The Local Agency is interested in incorporating the Riverside Property into the park facility.

CDOT and the Local Agency agree through this document to the exchange of the Riverside Property for the Local Agency waiving their landscaping requirement at the above-identified park and ride in Evans.

CITY COUNCIL COMMUNICATION

DATE: August 16, 2016

AGENDA ITEM: 8.C

SUBJECT: Approval of Contract with Anderson Consulting Engineers and preliminary budget approval for Lower Latham Diversion Feasibility Study

PRESENTED BY: Chad Reischl, City Planner

PROJECT DESCRIPTION:

As the fiscal sponsor of the Middle South Platte River Alliance (MSPRA), the City of Evans Council approved the application for a CDBG-DR grant in the amount of \$125,000 for a feasibility study for the Lower Latham Diversion structure on November 17th 2015. The Grant was awarded to MSPRA earlier this year and the contract between the state and MSPRA/City of Evans has been executed. After a full RFP process conducted with the support of the Lower Latham Board of Directors and members of MSPRA, the team has selected Anderson Consulting Engineers (ACE) out of Fort Collins to prepare the study. At this time, we are asking to approve the contract with ACE and a preliminary budget amendment in the amount of \$125,000 for the study, which will be fully reimbursed by the CDBG-DR program.

This study will analyze the existing structures that make up the diversion and how they relate to the natural hydraulics of the river. It will then go on to develop a handful of alternatives for redesign of the structure so as to mitigate flooding, improve stream flows, provide for fish passage, if possible, and provide a safer structure for recreational users of the river. The Engineer will then perform a cost/benefit analysis of all options to determine the most effective solution for the future reconstruction of the diversion.

BACKGROUND:

This is the State of Colorado's third round of CDBG-DR funding for planning projects related to the 2013 flood. The state has specifically allocated some of the funding to support watershed coalitions and watershed resiliency planning and implementation. Last year the City of Evans, with the support of the Colorado Water Conservation Board and the Department of Local Affairs, worked to form a river stakeholder group now known as the Middle South Platte River Alliance. The Alliance, with the City of Evans as its fiscal sponsor has guided the drafting of the South Platte River Restoration Master Plan which was approved by Council in January 2016.

The Restoration Master Plan identified modifications to the Latham Diversion Structure as one of its top priorities. After a site visit by a team of engineers from the Colorado Water

Conservation Board and the Natural Resources Conservation Service the team identified the Latham as a high concern and suggested that the Alliance apply for funds from the CDBG-DR program to perform a feasibility study on the diversion. The Alliance agreed and with the permission of the Lower Latham Irrigation Company proceeded with the grant application. The \$125,000 grant for the study was granted in March of 2016.

An RFP for consultants was issued in mid-May, a pre-bid conference and site tour were held in early June and proposals were due June 13. We received three proposals for the project all of which were within budget. A five-person team evaluated each of the proposals. That team consisted of two members of the Lower Latham Board of Directors, one member of MSPRA's Steering Committee, a Member of DOLA's watershed program Technical Assistance Team and Chad Reischl from the City of Evans. Each team member scored each of the proposals in five separate categories, these were totaled and tabulated as a group. Anderson Consulting Engineers got the highest score and we decided at that time to award them the contract.

ACE's proposal came in at \$123,000. While, we will write the contract in that amount, we are requesting a budget amendment in the amount of the full \$125,000, holding the remaining \$2000 in case there are any cost overruns for any reason.

FINANCIAL:

While the cost of this project will be fully reimbursed by the CDBG-DR grant it is expected that the city will incur some minor in-kind expense as a small portion of staff time may be needed to coordinate financial and grant management of the project with the Alliance.

STAFF RECOMMENDATION:

The City of Evans staff recommends that the City Council approve the contract with ACE and the preliminary budget amendment for the Feasibility Study of the Latham Diversion Structure.

SUGGESTED MOTIONS:

“I move to approve the contract with Anderson Consulting Engineers and preliminary budget amendment for the Lower Latham Diversion Feasibility Study”

“I move to deny contract and preliminary budget amendment for the following reasons...”

**COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER
RECOVERY (CDBG-DR)
RESILIENCY PLANNING GRANT AGREEMENT**

Between

**STATE OF COLORADO
DEPARTMENT OF LOCAL AFFAIRS**

And

CITY OF EVANS

Summary

Award Amount: \$125,000.00

Agreement Identification:

Contract Encumbrance #: F7DR2P16034 (*DOLA's primary contract identification #*)
Contract Management System #: 91779 (*State of Colorado's contract tracking #*)

Project Information:

Project/Award Number: CDBG-DR P16-034
Project Name: MSPRA Latham Ditch Diversion Feasibility Study
Performance Period: Start Date: _____ End Date: 12/31/2017
Brief Description of Project / Assistance: This Project will fund a preliminary conceptual design analyzing the existing Lower Latham Ditch Diversion Structure including its physical impact on flooding, river ecology and sediment transfer as well as the fiscal ramifications of continuing to operate such a complex structure.

Program & Funding Information:

Program Name: Community Development Block Grant Disaster Recovery (CDBG-DR)
Funding source: Federal Funds
Catalog of Federal Domestic Assistance (CFDA) Number (if federal funds): 14.269

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EXHIBIT A – APPLICABLE LAWS

EXHIBIT B – STATEMENT OF PROJECT/BUDGET

EXHIBIT C-FORM OF OPTION LETTER

EXHIBIT D – SUPPLEMENTAL PROVISIONS FOR FEDERAL FUNDING ACCOUNTABILITY AND
TRANSPARENCY ACT OF 2006 (FFATA)

EXHIBIT E – FFATA DATA REPORT FORM

EXHIBIT F – PROCEDURE TO PREVENT DUPLICATION OF BENEFITS

EXHIBIT G – PROJECT PERFORMANCE PLAN

1. PARTIES

This Agreement (hereinafter called “Grant”) is entered into by and between the **City of Evans** (hereinafter called “Grantee”), and the STATE OF COLORADO acting by and through the Department of Local Affairs for the benefit of the Division of Local Government (hereinafter called the “State” or “DOLA”).

2. EFFECTIVE DATE AND NOTICE OF NONLIABILITY.

This Grant shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or designee (hereinafter called the “Effective Date”). The State shall not be liable to pay or reimburse Grantee for any performance hereunder, including, but not limited to costs or expenses incurred, or be bound by any provision hereof prior to *(see checked option(s) below)*:

- A. The Effective Date.
- B. The Effective Date; provided, however, that all Project costs, if specifically authorized by the federal funding authority, incurred on or after March 1, 20XX, may be submitted for reimbursement as if incurred after the Effective Date.
- C. insert date for authorized Pre-agreement Costs (as such term is defined in §4), if specifically authorized by the funding authority. Such costs may be submitted for reimbursement as if incurred after the Effective Date.

3. RECITALS

A. Authority, Appropriation, and Approval

Authority to enter into this Grant exists in CRS §24-32-106 and funds have been budgeted, appropriated and otherwise made available pursuant to the Disaster Relief Appropriations Act of 2013 (Pub. L. 113-2) and a sufficient unencumbered balance thereof remains available for payment. Required approvals, clearance and coordination have been accomplished from and with appropriate agencies.

B. Consideration

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Grant.

C. Purpose

The purpose of this Grant is described in **Exhibit B**.

D. References

All references in this Grant to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

4. DEFINITIONS

The following terms as used herein shall be construed and interpreted as follows:

A. Beneficiary

“Beneficiary” shall have the meaning given in **Exhibit B**.

B. Budget

“Budget” means the budget for the Project and/or Work described in **Exhibit B**.

C. Closeout Certification

“Closeout Certification” means the Grantee’s certification of completion of Work submitted on a form provided by the State.

D. Evaluation

“Evaluation” means the process of examining Grantee’s Work and rating it based on criteria established in §6, **Exhibit B** and Project Performance Plan.

E. Exhibits and other Attachments

The following are attached hereto and incorporated by reference herein:

- i. Exhibit A (Applicable Laws)
- ii. Exhibit B (Statement of Project/Budget)
- iii. Exhibit C (Option Letter)
- iv. Exhibit D (Supplemental Provisions for Federal Funding Accountability and Transparency Act of 2006 (FFATA))
- v. Exhibit E (FFATA Data Report Form)
- vi. Exhibit F (Procedure to Prevent Duplication of Benefits)
- vii. Exhibit G (Project Performance Plan)

F. Goods

“Goods” means tangible material acquired, produced, or delivered by Grantee either separately or in conjunction with the Services Grantee renders hereunder.

G. Grant

“Grant” means this agreement, its terms and conditions, attached exhibits, documents incorporated by reference pursuant to the terms of this grant, and any future modifying agreements, exhibits, attachments or references incorporated herein pursuant to Colorado State law, Fiscal Rules, and State Controller Policies.

H. Grant Funds

“Grant Funds” means available funds payable by the State to Grantee pursuant to this Grant.

I. Party or Parties

“Party” means the State or Grantee and “Parties” means both the State and Grantee.

J. Pay Request(s)

“Pay Request(s)” means the Grantee’s payment request(s) for Work submitted on form(s) provided by the State and including all supporting documentation (including invoices) and as specified in **Exhibit B**.

K. Pre-agreement costs

“Pre-agreement costs,” when applicable, means the costs incurred on or after the date as specified in §2 above, and prior to the Effective Date of this Grant. Such costs shall have been detailed in Grantee’s grant application and specifically authorized by the State and incorporated herein pursuant to **Exhibit B**.

L. Project

“Project” means the project described in **Exhibit B**, which includes the Work.

M. Project Closeout

“Project Closeout” means the submission by the Grantee to the State of an actual final Pay Request, a final Status Report and a Closeout Certification.

N. Project Performance Plan

“Project Performance Plan” means the milestones, performance goals and timelines for the Project identified in the project performance plan which is attached to this Grant.

O. Program

“Program” means the grant program specified on the first page of this Grant that provides the funding for this Grant.

P. Review

“Review” means examining Grantee’s Work to ensure that it is adequate, accurate, correct and in accordance with the criteria established in §6, **Exhibit B** and Project Performance Plan.

Q. Services

“Services” means the required services to be performed by Grantee pursuant to this Grant.

R. Status Report(s)

“Status Report(s)” means the Grantee’s status report(s) on the Work submitted on form(s) provided by the State.

S. Subcontractor

“Subcontractor” means third-parties, if any, engaged by Grantee to carry out specific vendor related Services and Goods.

T. Subgrantee

“Subgrantee” means third-parties, if any, engaged by Grantee to aid in performance of its obligations. Subgrantee is bound by the same overall programmatic and grant requirements as Grantee.

U. Subject Property

“Subject Property” means the real property, if any, for which Grant Funds are used to construct, or rehabilitate.

V. Work

“Work” means the tasks and activities Grantee is required to perform to fulfill its obligations under this Grant and **Exhibit B**, including the performance of the Services and delivery of the Goods.

W. Work Product

“Work Product” means the tangible or intangible results of Grantee’s Work, including, but not limited to, software, research, reports, studies, data, photographs, negatives or other finished or unfinished documents, drawings, models, surveys, maps, materials, or work product of any type, including drafts.

5. TERM**A. Initial Term-Work Commencement**

The Parties’ respective performances under this Grant shall commence on the Effective Date. This Grant shall terminate on **December 31, 2017** unless sooner terminated or further extended as specified elsewhere herein.

B. Two Month Extension

The State, at its sole discretion upon written notice to Grantee as provided in §16, may unilaterally extend the term of this Grant for a period not to exceed two months if the Parties are negotiating a replacement

Grant (and not merely seeking a term extension) at or near the end of any initial term or any extension thereof. The provisions of this Grant in effect when such notice is given, including, but not limited to prices, rates, and delivery requirements, shall remain in effect during the two month extension. The two-month extension shall immediately terminate when and if a replacement Grant is approved and signed by the Colorado State Controller.

6. STATEMENT OF PROJECT

A. Completion

Grantee shall complete the Work and its other obligations as described herein and in **Exhibit B**. Except as specified in §2 above, the State shall not be liable to compensate Grantee for any Work performed prior to the Effective Date or after the termination of this Grant.

B. Goods and Services

Grantee shall procure Goods and Services necessary to complete the Work. Such procurement shall be accomplished using the Grant Funds and shall not increase the maximum amount payable hereunder by the State.

C. Employees

All persons employed by Grantee or Subgrantees shall be considered Grantee's or Subgrantees' employee(s) for all purposes hereunder and shall not be employees of the State for any purpose as a result of this Grant.

7. PAYMENTS TO GRANTEE

The State shall, in accordance with the provisions of this §7, pay Grantee in the following amounts and using the methods set forth below:

A. Maximum Amount

The maximum amount payable under this Grant to Grantee by the State is **\$125,000.00 (ONE HUNDRED TWENTY-FIVE THOUSAND and XX/100 DOLLARS)**, as determined by the State from available funds. Grantee agrees to provide any additional funds required for the successful completion of the Work. Payments to Grantee are limited to the unpaid obligated balance of the Grant as set forth in Statement of Project/Budget.

B. Payment

i. Payments

Any payment allowed under this Grant shall comply with State Fiscal Rules and be made in accordance with the provisions of this Grant or such Exhibit. Grantee shall initiate any payment requests by submitting invoices to the State in the form and manner set forth and approved by the State.

ii. Interest

The State shall not pay interest on Grantee invoices. The State shall fully pay each invoice within 45 days of receipt thereof if the amount invoiced represents performance by Grantee previously accepted by the State.

iii. Available Funds-Contingency-Termination

The State is prohibited by law from making fiscal commitments beyond the term of the State's current fiscal year. Therefore, Grantee's compensation is contingent upon the continuing availability of State appropriations as provided in the Colorado Special Provisions, set forth below. If federal funds are used with this Grant in whole or in part, the State's performance hereunder is contingent upon the continuing availability of such funds. Payments pursuant to this Grant shall be made only from available funds encumbered for this Grant and the State's liability for such payments shall be limited to the amount remaining of such encumbered funds. If State or federal funds are not fully appropriated, or otherwise become unavailable for this Grant, the State may immediately terminate this Grant in whole or in part to the extent of funding reduction without further liability in accordance with the provisions herein.

iv. Erroneous Payments

At the State's sole discretion, payments made to Grantee in error for any reason, including, but not limited to overpayments or improper payments, and unexpended or excess funds received by Grantee,

may be recovered from Grantee by deduction from subsequent payments under this Grant or other grants or agreements between the State and Grantee or by other appropriate methods and collected as a debt due to the State. Such funds shall not be paid to any person or entity other than the State.

v. Retroactive Payments

If specified in §2, the State shall pay Grantee for costs or expenses incurred or performance by the Grantee prior to the Effective Date, only if (1) the Grant Funds involve federal funding and (2) federal laws, rules and regulations applicable to the Work provide for such retroactive payments to the Grantee. Any such retroactive payments shall comply with State Fiscal Rules and be made in accordance with the provisions of this Grant or such Exhibit. Grantee shall initiate any payment request by submitting invoices to the State in the form and manner set forth and approved by the State.

C. Use of Funds

Grant Funds shall be used only for eligible costs identified herein and/or in **Exhibit B**. Modifications to uses of such Grant Funds shall be made in accordance with **Exhibit B**. If an option letter is required for a Project Budget Line Item adjustment, Minor Budget Adjustment or True-Up Budget Proposal (as such terms are defined in **Exhibit B**), the State shall provide written notice to Grantee in a form substantially equivalent to **Exhibit C** (each an “**Option Letter**”). If exercised, the provisions of the Option Letter shall become part of and be incorporated into this Grant.

D. Other Funds

Grantee shall provide other funds in accordance with **Exhibit B**.

8. REPORTING - NOTIFICATION

Reports, Evaluations, and Reviews required under this §8 shall be in accordance with the procedures of and in such form as prescribed by the State and in accordance with §19, if applicable.

A. Performance, Progress, Personnel, and Funds

State shall submit a report to the Grantee upon expiration or sooner termination of this Grant, containing an Evaluation and Review of Grantee’s performance and the final status of Grantee’s obligations hereunder. In addition, Grantee shall comply with all reporting requirements, if any, set forth in **Exhibit B** and the Project Performance Plan.

B. Litigation Reporting

Within 10 days after being served with any pleading in a legal action filed with a court or administrative agency, related to this Grant or which may affect Grantee’s ability to perform its obligations hereunder, Grantee shall notify the State of such action and deliver copies of such pleadings to the State’s principal representative as identified herein. If the State’s principal representative is not then serving, such notice and copies shall be delivered to the Executive Director of DOLA.

C. Noncompliance

Grantee’s failure to provide reports and notify the State in a timely manner in accordance with this §8 may result in the delay of payment of funds and/or termination as provided under this Grant.

D. Subgrants/Subcontracts

Copies of any and all subgrants and subcontracts entered into by Grantee to perform its obligations hereunder shall be submitted to the State or its principal representative. Any and all subgrants and subcontracts entered into by Grantee related to its performance hereunder shall comply with all applicable federal and state laws and shall provide that such subgrants and subcontracts be governed by the laws of the State of Colorado.

9. GRANTEE RECORDS

Grantee shall make, keep, maintain and allow inspection and monitoring of the following records:

A. Maintenance

Grantee shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Grantee shall maintain such records (the “**Record Retention Period**”) until the last to occur of the following:

- (i) a period of five years after the State's CDBG –DR grant is completed or terminated and closed out with HUD,
- (ii) for such further period as may be necessary to resolve any pending matters, or
- (iii) if an audit is occurring, or Grantee has received notice that an audit is pending, then until such audit has been completed and its findings have been resolved.

B. Inspection

Grantee shall permit the State, the federal government (if Grant Funds include federal funds) and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and/or transcribe Grantee's records related to this Grant during the Record Retention Period for a period of five years following termination of this Grant or final payment hereunder, whichever is later, to assure compliance with the terms hereof or to evaluate Grantee's performance hereunder. The State reserves the right to inspect the Work at all reasonable times and places during the term of this Grant, including any extension. If the Work fails to conform to the requirements of this Grant, the State may require Grantee promptly to bring the Work into conformity with Grant requirements, at Grantee's sole expense. If the Work cannot be brought into conformance by re-performance or other corrective measures, the State may require Grantee to take necessary action to ensure that future performance conforms to Grant requirements and exercise the remedies available under this Grant, at law or in equity in lieu of or in conjunction with such corrective measures.

C. Monitoring

- i. **Grantee.** Grantee shall permit the State, the federal government (if Grant Funds include federal funds), and other governmental agencies having jurisdiction, in their sole discretion, to monitor all activities conducted by Grantee pursuant to the terms of this Grant using any reasonable procedure, including, but not limited to: internal evaluation procedures, examination of program data, special analyses, on-site checking, formal audit examinations, or any other procedures. All monitoring controlled by the State shall be performed in a manner that shall not unduly interfere with Grantee's performance hereunder.
- ii. **Subgrantee/Subcontractor.** Grantee shall monitor its Subgrantees and/or Subcontractors, if any, during the term of this Grant. Results of such monitoring shall be documented by Grantee and maintained on file.

D. Final Audit Report

Grantee shall provide a copy of its audit report(s) to DOLA as specified in **Exhibit B**.

10. CONFIDENTIAL INFORMATION-STATE RECORDS

Grantee shall comply with the provisions of this §10 if it becomes privy to confidential information in connection with its performance hereunder. Confidential information, includes, but is not necessarily limited to, state records, personnel records, and information concerning individuals.

A. Confidentiality

Grantee shall keep all State records and information confidential at all times and comply with all laws and regulations concerning confidentiality of information. Any request or demand by a third party for State records and information in the possession of Grantee shall be immediately forwarded to the State's principal representative. Except as otherwise provided in this Grant, Grantee shall keep all tenant, patient and offender information confidential.

B. Notification

Grantee shall notify its agent, employees, Subgrantees, and assigns who may come into contact with State records and confidential information that each is subject to the confidentiality requirements set forth herein, and shall provide each with a written explanation of such requirements before they are permitted to access such records and information.

C. Use, Security, and Retention

Confidential information of any kind shall not be distributed or sold to any third party or used by Grantee or its agents in any way, except as authorized by this Grant or approved in writing by the State. Grantee shall provide and maintain a secure environment that ensures confidentiality of all State records and other

confidential information wherever located. Confidential information shall not be retained in any files or otherwise by Grantee or its agents, except as permitted in this Grant or approved in writing by the State.

D. Disclosure-Liability

Disclosure of State records or other confidential information by Grantee for any reason may be cause for legal action by third parties against Grantee, the State or their respective agents. Grantee shall, to the extent permitted by law, indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Grantee, or its employees, agents, Subgrantees, or assignees pursuant to this §10.

E. Health Insurance Portability and Accountability Act of 1996 (HIPAA)

DOLA is not a covered entity under HIPAA for purposes of this Grant. If the Grantee is a covered entity under HIPAA, it shall comply with the requirements of HIPAA, and in all instances shall comply with all other federal and state laws protecting the confidentiality of patient information.

11. CONFLICTS OF INTEREST

Grantee shall not engage in any business or personal activities or practices or maintain any relationships which conflict in any way with the full performance of Grantee's obligations hereunder. Grantee acknowledges that with respect to this Grant, even the appearance of a conflict of interest is harmful to the State's interests. Absent the State's prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee's obligations to the State hereunder. If a conflict or appearance exists, or if Grantee is uncertain whether a conflict or the appearance of a conflict of interest exists, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the apparent conflict constitutes a breach of this Grant.

12. REPRESENTATIONS AND WARRANTIES

Grantee makes the following specific representations and warranties, each of which was relied on by the State in entering into this Grant.

A. Standard and Manner of Performance

Grantee shall perform its obligations hereunder in accordance with the highest standards of care, skill and diligence in the industry, trades or profession and in the sequence and manner set forth in this Grant.

B. Legal Authority – Grantee and Grantee's Signatory

Grantee warrants that it possesses the legal authority to enter into this Grant and that it has taken all actions required by its procedures, by-laws, and/or applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Grant, or any part thereof, and to bind Grantee to its terms. If requested by the State, Grantee shall provide the State with proof of Grantee's authority to enter into this Grant within 15 days of receiving such request.

C. Licenses, Permits, etc.

Grantee represents and warrants that as of the Effective Date it has, and that at all times during the term hereof it shall have, at its sole expense, all licenses, certifications, approvals, insurance, permits, and other authorization required by law to perform its obligations hereunder. Grantee warrants that it shall maintain all necessary licenses, certifications, approvals, insurance, permits, and other authorizations required to properly perform this Grant, without reimbursement by the State or other adjustment in Grant Funds. Additionally, all employees and agents of Grantee performing Services under this Grant shall hold all required licenses or certifications, if any, to perform their responsibilities. Grantee, if a foreign corporation or other foreign entity transacting business in the State of Colorado, further warrants that it currently has obtained and shall maintain any applicable certificate of authority to transact business in the State of Colorado and has designated a registered agent in Colorado to accept service of process. Any revocation, withdrawal or non-renewal of licenses, certifications, approvals, insurance, permits or any such similar requirements necessary for Grantee to properly perform the terms of this Grant shall be deemed to be a material breach by Grantee and constitute grounds for termination of this Grant.

D. Exclusion, Debarment and/or Suspension

Grantee represents and warrants that Grantee, or its employees, Subgrantees or authorized Subcontractors, are not presently excluded from participation, debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded, or otherwise ineligible to participate in a federal payment program by any federal or State of Colorado department or agency. If Grantee, Subgrantee, or any of their respective subcontractors, employees or authorized agents, is excluded from participation, or becomes otherwise ineligible to participate in any such program during the term of this Grant, Grantee will notify the State in writing within three (3) days after such event. Upon the occurrence of such event, whether or not such notice is given to Grantee, the State, in its sole discretion, reserves the right to immediately cease contracting with Grantee and terminate this Grant without penalty.

13. INSURANCE

Grantee and its Subgrantees shall obtain and maintain insurance as specified in this section at all times during the term of this Grant: All policies evidencing the insurance coverage required hereunder shall be issued by insurance companies satisfactory to Grantee and the State.

A. Grantee**i. Public Entities**

If Grantee is a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS §24-10-101, et seq., as amended (the "GIA"), then Grantee shall maintain at all times during the term of this Grant such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. Grantee shall show proof of such insurance satisfactory to the State, if requested by the State. Grantee shall require each subgrant with Subgrantees that are public entities, providing Goods or Services hereunder, to include the insurance requirements necessary to meet Subgrantee's liabilities under the GIA.

ii. Non-Public Entities

If Grantee is not a "public entity" within the meaning of the GIA, Grantee shall obtain and maintain during the term of this Grant insurance coverage and policies meeting the same requirements set forth in §13(B) with respect to Subgrantees that are not "public entities".

B. Grantees, Subgrantees and Subcontractors

Grantee shall require each subgrant with a Subgrantee and each contract with a Subcontractor, other than those that are public entities, providing Goods or Services in connection with this Grant, to include insurance requirements substantially similar to the following:

i. Workers' Compensation

Workers' Compensation Insurance as required by State statute, and Employer's Liability Insurance covering all of Grantee, Subgrantee and Subcontractor employees acting within the course and scope of their employment.

ii. General Liability

Commercial General Liability Insurance written on ISO occurrence form CG 00 01 10/93 or equivalent, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows: (a) \$1,000,000 each occurrence; (b) \$1,000,000 general aggregate; (c) \$1,000,000 products and completed operations aggregate; and (d) \$50,000 any one fire.

iii. Automobile Liability

Automobile Liability Insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

iv. Malpractice/Professional Liability Insurance

This section shall shall not apply to this Grant.

Grantee, Subgrantees and Subcontractors shall maintain in full force and effect a Professional Liability Insurance Policy in the minimum amount of \$1,000,000 per occurrence and \$3,000,000 in the aggregate, written on an occurrence form, that provides coverage for its work undertaken pursuant to this Grant. If a policy written on an occurrence form is not commercially available, the claims-made policy shall remain in effect for the duration of this Grant and for at least two years beyond the completion and acceptance of the work under this Grant, or, alternatively, a two year extended

reporting period must be purchased. The Grantee, Subgrantee or Subcontractor shall be responsible for all claims, damages, losses or expenses, including attorney's fees, arising out of or resulting from such party's performance of professional services under this Grant, a subcontract or subgrant.

v. Umbrella Liability Insurance

For construction projects exceeding \$10,000,000, Grantee, Subgrantees and Subcontractors shall maintain umbrella/excess liability insurance on an occurrence basis in excess of the underlying insurance described in §13(B)(i)-(iv) above. Coverage shall follow the terms of the underlying insurance, included the additional insured and waiver of subrogation provisions. The amounts of insurance required in subsections above may be satisfied by the Grantee, Subgrantee and Subcontractor purchasing coverage for the limits specified or by any combination of underlying and umbrella limits, so long as the total amount of insurance is not less than the limits specified in each section previously mentioned. The insurance shall have a minimum amount of \$5,000,000 per occurrence and \$5,000,000 in the aggregate.

vi. Property Insurance

This subsection shall apply if Grant Funds are provided for the acquisition, construction, or rehabilitation of real property.

Insurance on the buildings and other improvements now existing or hereafter erected on the premises and on the fixtures and personal property included in the Subject Property against loss by fire, other hazards covered by the so called "all risk" form of policy and such other perils as State shall from time to time require with respect to properties of the nature and in the geographical area of the Subject Properties, and to be in an amount at least equal to the replacement cost value of the Subject Property. Grantor will at its sole cost and expense, from time to time and at any time, at the request of State provide State with evidence satisfactory to State of the replacement cost of the Subject Property.

vii. Flood Insurance

If the Subject Property or any part thereof is at any time located in a designated official flood hazard area, flood insurance insuring the buildings and improvements now existing or hereafter erected on the Subject Property and the personal property used in the operation thereof in an amount equal to the lesser of the amount required for property insurance identified in §vi above or the maximum limit of coverage made available with respect to such buildings and improvements and personal property under applicable federal laws and the regulations issued thereunder.

viii. Builder's Risk Insurance

This subsection shall apply if Grant Funds are provided for construction or rehabilitation of real property.

Grantee, Subgrantee and/or Subcontractor shall purchase and maintain property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial construction/rehabilitation costs, plus value of subsequent modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other than the property owner has an insurable interest in the property.

- a) The insurance shall include interests of the property owner, Grantee, Subgrantee, Subcontractors in the Project as named insureds.
- b) All associated deductibles shall be the responsibility of the Grantee, Subcontractor and Subgrantee. Such policy may have a deductible clause but not to exceed \$10,000.
- c) Property insurance shall be on an "all risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Grantee's, Subgrantee's and Subcontractor's services and expenses required as a result of such insured loss.

- d) Builders Risk coverage shall include partial use by Grantee and/or property owner.
- e) The amount of such insurance shall be increased to include the cost of any additional work to be done on the Project, or materials or equipment to be incorporated in the Project, under other independent contracts let or to be let. In such event, Subgrantee and Subcontractor shall be reimbursed for this cost as his or her share of the insurance in the same ratio as the ratio of the insurance represented by such independent contracts let or to be let to the total insurance carried.

ix. Pollution Liability Insurance

If Grantee and/or its Subgrantee or Subcontractor is providing directly or indirectly work with pollution/environmental hazards, they must provide or cause those conducting the work to provide Pollution Liability Insurance coverage. Pollution Liability policy must include contractual liability coverage. The policy limits shall be in the amount of \$1,000,000 with maximum deductible of \$25,000 to be paid by the Grantee's Subcontractor and/or Subgrantee.

C. Miscellaneous Insurance Provisions

Certificates of Insurance and/or insurance policies required under this Grant shall be subject to the following stipulations and additional requirements:

- i. **Deductible.** Any and all deductibles or self-insured retentions contained in any Insurance policy shall be assumed by and at the sole risk of the Grantee, its Subgrantees or Subcontractors,
- ii. **In Force.** If any of the said policies shall fail at any time to meet the requirements of the Grant as to form or substance, or if a company issuing any such policy shall be or at any time cease to be approved by the Division of Insurance of the State of Colorado, or be or cease to be in compliance with any stricter requirements of the Grant, the Grantee, its Subgrantee and its Subcontractor shall promptly obtain a new policy.
- iii. **Insurer.** All requisite insurance shall be obtained from financially responsible insurance companies, authorized to do business in the State of Colorado and acceptable to Grantee,
- iv. **Additional Insured**
Grantee and the State shall be named as additional insureds on the Commercial General Liability and Automobile Liability Insurance policies (leases and construction Grants require additional insured coverage for completed operations on endorsements CG 2010 11/85, CG 2037, or equivalent).
- v. **Primacy of Coverage**
Coverage required of Grantee, Subgrantees and Subcontractors shall be primary over any insurance or self-insurance program carried by Grantee or the State.
- vi. **Cancellation**
The above insurance policies shall include provisions preventing cancellation or non-renewal without at least 45 days prior notice to the Grantee and Grantee shall forward such notice to the State in accordance with §16 (Notices and Representatives) within seven days of Grantee's receipt of such notice.
- vii. **Subrogation Waiver**
All insurance policies in any way related to this Grant and secured and maintained by Grantee or its Subgrantees and Subcontractors as required herein shall include clauses stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against Grantee or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

D. Certificates

Grantee, Subgrantee and Subcontractor shall provide certificates showing insurance coverage required hereunder to the State within seven business days of the Effective Date of this Grant or of their respective subcontract or subgrant. No later than 15 days prior to the expiration date of any such coverage, Grantee, Subgrantee and Subcontractor shall deliver to the State or Grantee certificates of insurance evidencing renewals thereof. In addition, upon request by the State at any other time during the term of this Grant, subgrant or subcontract, Grantee, Subgrantee and Subcontractor shall, within 10 days of such request, supply to the State evidence satisfactory to the State of compliance with the provisions of this §13.

14. BREACH

A. Defined

In addition to any breaches specified in other sections of this Grant, the failure of either Party to perform any of its material obligations hereunder in whole or in part or in a timely or satisfactory manner, constitutes a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Grantee, or the appointment of a receiver or similar officer for Grantee or any of its property, which is not vacated or fully stayed within 20 days after the institution or occurrence thereof, shall also constitute a breach.

B. Notice and Cure Period

In the event of a breach, notice of such shall be given in writing by the aggrieved Party to the other Party in the manner provided in §16. If such breach is not cured within 30 days of receipt of written notice, or if a cure cannot be completed within 30 days, or if cure of the breach has not begun within 30 days and pursued with due diligence, the State may exercise any of the remedies set forth in §15. Notwithstanding anything to the contrary herein, the State, in its sole discretion, need not provide advance notice or a cure period and may immediately terminate this Grant in whole or in part if reasonably necessary to preserve public safety or to prevent immediate public crisis.

15. REMEDIES

Except for the remedies listed in §15(C) which do not require a notice and cure period for Grantee's breach and may be immediately exercised by the State, if Grantee is in breach under any provision of this Grant or if the State terminates this Grant pursuant to §15(B), the State shall have the remedies listed in this §15 in addition to all other remedies set forth in other sections of this Grant following the notice and cure period set forth in §14(B), if applicable. The State may exercise any or all of the remedies available to it, in its sole discretion, concurrently or consecutively.

A. Termination for Cause and/or Breach

If Grantee fails to perform any of its obligations hereunder with such diligence as is required to ensure its completion in accordance with the provisions of this Grant and in a timely manner, the State may notify Grantee of such non-performance in accordance with the provisions herein. If Grantee thereafter fails to promptly cure such non-performance within the cure period, the State, at its option, may terminate this entire Grant or such part of this Grant as to which there has been delay or a failure to properly perform. Exercise by the State of this right shall not be deemed a breach of its obligations hereunder. Grantee shall continue performance of this Grant to the extent not terminated, if any.

i. Obligations and Rights

To the extent specified in any termination notice, Grantee shall not incur further obligations or render further performance hereunder past the effective date of such notice, and shall terminate outstanding orders and subgrants/subcontracts with third parties. However, Grantee shall complete and deliver to the State all Work, Services and Goods not cancelled by the termination notice and may incur obligations as are necessary to do so within this Grant's terms. At the sole discretion of the State, Grantee shall assign to the State all of Grantee's right, title, and interest under such terminated orders or subgrants/subcontracts. Upon termination, Grantee shall take timely, reasonable and necessary action to protect and preserve property in the possession of Grantee in which the State has an interest. All materials owned by the State in the possession of Grantee shall be immediately returned to the State. All Work Product, at the option of the State, shall be delivered by Grantee to the State and shall become the State's property.

ii. Payments

The State shall reimburse Grantee only for accepted performance up to the date of termination. If, after termination by the State, it is determined that Grantee was not in breach or that Grantee's action or inaction was excusable, such termination shall be treated as a termination in the public interest and the rights and obligations of the Parties shall be the same as if this Grant had been terminated in the public interest, as described herein.

iii. Damages and Withholding

Notwithstanding any other remedial action by the State, Grantee also shall remain liable to the State for any damages sustained by the State by virtue of any breach under this Grant by Grantee and the

State may withhold any payment to Grantee for the purpose of mitigating the State's damages, until such time as the exact amount of damages due to the State from Grantee is determined. The State may withhold any amount that may be due to Grantee as the State deems necessary to protect the State, including loss as a result of outstanding liens or claims of former lien holders, or to reimburse the State for the excess costs incurred in procuring similar goods or services. Grantee shall be liable for excess costs incurred by the State in procuring from third parties replacement Work, Services or substitute Goods as cover.

B. Early Termination in the Public Interest

The State is entering into this Grant for the purpose of carrying out the public policy of the State of Colorado, as determined by its Governor, General Assembly, and/or Courts. If this Grant ceases to further the public policy of the State, the State, in its sole discretion, may terminate this Grant in whole or in part. Exercise by the State of this right shall not constitute a breach of the State's obligations hereunder. This subsection shall not apply to a termination of this Grant by the State for cause or breach by Grantee, which shall be governed by §15(A) or as otherwise specifically provided for herein.

i. Method and Content

The State shall notify Grantee of such termination in accordance with §16. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Grant.

ii. Obligations and Rights

Upon receipt of a termination notice, Grantee shall be subject to and comply with the same obligations and rights set forth in §15(A)(i).

iii. Payments

If this Grant is terminated by the State pursuant to this §15(B), Grantee shall be paid an amount which bears the same ratio to the total reimbursement under this Grant as the Services satisfactorily performed bear to the total Services covered by this Grant, less payments previously made.

Additionally, if this Grant is less than 60% completed, the State may reimburse Grantee for a portion of actual out-of-pocket expenses (not otherwise reimbursed under this Grant) incurred by Grantee which are directly attributable to the uncompleted portion of Grantee's obligations hereunder; provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Grantee hereunder.

C. Untimely Expenditure of Funds

The CDBG-DR appropriation (the Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2)) requires that all funds must be fully expended within 24 months of the date HUD (as defined in Exhibit B) obligates the State's allocation. HUD requires that the State implement procedures to determine timely expenditures of Grantees. To fulfill this requirement, the State will track performance measures and expenditures as described in the Statement of Project/Budget, Exhibit B, and in the Project Performance Plan (collectively, the "Milestones"). If, at any time during the term of this Grant, State determines the Project is not proceeding timely in accordance with its Milestones, State may elect to take one or more of the following actions, which shall not be deemed a breach of its obligations hereunder:

i. Technical Assistance. State may elect to conduct on-site monitoring and work closely with Grantee to until the Project is back on schedule. State shall provide prior written notice to Grantee if its elects to conduct on-site monitoring, which shall be conducted during normal business hours and shall not unduly disrupt Grantee's business operations.

ii. Terminate Grant. The State, at its option, may terminate this entire Grant if Grantee has failed to properly meet the Project's Milestones. Grantee shall continue performance of this Grant to the extent not terminated, if any.

a) Method and Content.

The State shall notify Grantee of such termination in accordance with §16. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Grant.

b) Obligations and Rights.

Upon receipt of a termination notice and to the extent specified in such termination notice, Grantee shall be subject to and comply with the same obligations and rights set forth in §15(A)(i).

c) **Deobligation of Grant Funds; Repayment by Grantee of Received Funds.**

If this Grant is terminated by the State pursuant to this §15(C)(ii), State shall de-obligate any remaining unexpended Grant Funds for the Project, and shall provide notice to Grantee that such Project has failed to meet its Milestones and the corresponding HUD timeliness requirements and that as a result, Grantee is required to immediately return to the State any previously received Grant Funds for the Project.

D. Remedies Not Involving Termination

The State, at its sole discretion, may exercise one or more of the following remedies in addition to other remedies available to it:

i. Suspend Performance

Suspend Grantee's performance with respect to all or any portion of this Grant pending necessary corrective action as specified by the State without entitling Grantee to an adjustment in price/cost or performance schedule. Grantee shall promptly cease performance and incurring costs in accordance with the State's directive and the State shall not be liable for costs incurred by Grantee after the suspension of performance under this provision.

ii. Withhold Payment

Withhold payment to Grantee until corrections in Grantee's performance are satisfactorily made and completed.

iii. Deny Payment

Deny payment for those obligations not performed, that due to Grantee's actions or inactions, cannot be performed or, if performed, would be of no value to the State; provided, that any denial of payment shall be reasonably related to the value to the State of the obligations not performed.

iv. Removal

Demand removal of any of Grantee's employees, agents, or Subgrantees whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued relation to this Grant is deemed to be contrary to the public interest or not in the State's best interest.

v. Intellectual Property

If Grantee infringes on a patent, copyright, trademark, trade secret or other intellectual property right while performing its obligations under this Grant, Grantee shall, at the State's option (a) obtain for the State or Grantee the right to use such products and services; (b) replace any Goods, Services, or other product involved with non-infringing products or modify them so that they become non-infringing; or, (c) if neither of the foregoing alternatives are reasonably available, remove any infringing Goods, Services, or products and refund the price paid therefore to the State.

16. NOTICES and REPRESENTATIVES

Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such Party's principal representative at the address set forth below. In addition to, but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

A. State:

<p>Chantal Unfug, Division Director Division of Local Government Colorado Department of Local Affairs 1313 Sherman Street, Room 521 Denver, Colorado 80203 Email: chantal.unfug@state.co.us</p>
--

B. Grantee:

John Morris, Mayor
City of Evans
1100 37th Street
Evans, CO 80645
Email: jmorris@evanscolorado.gov

17. RIGHTS IN DATA, DOCUMENTS, AND COMPUTER SOFTWARE

This section shall shall not apply to this Grant.

Any software, research, reports, studies, data, photographs, negatives or other documents, drawings, models, materials, or Work Product of any type, including drafts, prepared by Grantee in the performance of its obligations under this Grant shall be the non-exclusive property of the State and, all Work Product shall be delivered to the State by Grantee upon completion or termination hereof. The State's non-exclusive rights in such Work Product shall include, but not be limited to, the right to copy, publish, display, transfer, and prepare derivative works.

18. GOVERNMENTAL IMMUNITY

Notwithstanding any other provision to the contrary, nothing herein shall constitute a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the GIA. Liability for claims for injuries to persons or property arising from the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of the GIA and the risk management statutes, CRS §24-30-1501, et seq., as amended.

19. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Grantee under this Grant is greater than \$100,000 either on the Effective Date or at anytime thereafter, this §19 applies.

Grantee agrees to be governed, and to abide, by the provisions of CRS §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 concerning the monitoring of vendor performance on state Grants and inclusion of Grant performance information in a statewide Contract Management System.

Grantee's performance shall be subject to Evaluation and Review in accordance with the terms and conditions of this Grant, State law, including CRS §24-103.5-101, and State Fiscal Rules, Policies and Guidance. Evaluation and Review of Grantee's performance shall be part of the normal Grant administration process and Grantee's performance will be systematically recorded in the statewide Contract Management System. Areas of Evaluation and Review shall include, but shall not be limited to quality, cost and timeliness. Collection of information relevant to the performance of Grantee's obligations under this Grant shall be determined by the specific requirements of such obligations and shall include factors tailored to match the requirements of Grantee's obligations. Such performance information shall be entered into the statewide Contract Management System at intervals established herein and a final Evaluation, Review and Rating shall be rendered within 30 days of the end of the Grant term. Grantee shall be notified following each performance Evaluation and Review, and shall address or correct any identified problem in a timely manner and maintain work progress.

Should the final performance Evaluation and Review determine that Grantee demonstrated a gross failure to meet the performance measures established hereunder, the Executive Director of the Colorado Department of Personnel and Administration (Executive Director), upon request by the Department of Local Affairs, and showing of good cause, may debar Grantee and prohibit Grantee from receiving future grants and bidding on future contracts. Grantee may contest the final Evaluation, Review and Rating by: (a) filing rebuttal statements, which may result in either removal or correction of the evaluation (CRS §24-105-102(6)), or (b) under CRS §24-105-102(6), exercising the debarment protest and appeal rights provided in CRS §§24-109-106, 107, 201 or 202, which may result in the reversal of the debarment and reinstatement of Grantee, by the Executive Director, upon a showing of good cause.

20. RESTRICTION ON PUBLIC BENEFITS

This section shall | shall not apply to this Grant.

Grantee must confirm that any individual natural person is lawfully present in the United States pursuant to CRS §24-76.5-101 et seq. when such individual applies for public benefits provided under this Grant by requiring the applicant to:

- A. Produce an identification document in accordance with §2.1.1 through §2.1.3 of Colorado Department of Revenue's Rule #1 CCR 201-17, Rule for Evidence of Lawful Presence, as amended.
- B. Execute an affidavit, Residency Declaration, stating
 - i. That he or she is a United States citizen or legal permanent resident; or
 - ii. That he or she is otherwise lawfully present in the United States pursuant to federal law.

Notwithstanding the foregoing, to the extent that there is any conflict with the provisions above or those set forth in the Residency Declaration and any provision of federal law, the provisions of federal law shall prevail.

21. GENERAL PROVISIONS**A. Assignment and Subgrants**

Grantee's rights and obligations hereunder are personal and may not be transferred, assigned or subgranted without the prior, written consent of the State. Any attempt at assignment, transfer, or subgranting without such consent shall be void. All assignments, subgrants, or subcontracts approved by Grantee or the State are subject to all of the provisions hereof. Grantee shall be solely responsible for all aspects of subgranting and subcontracting arrangements and performance.

B. Binding Effect

Except as otherwise provided in §21(A), all provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representatives, successors, and assigns.

C. Captions

The captions and headings in this Grant are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions.

D. Counterparts

This Grant may be executed in multiple identical original counterparts, all of which shall constitute one agreement.

E. Entire Understanding

This Grant represents the complete integration of all understandings between the Parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or effect whatsoever, unless embodied herein.

F. Indemnification-General

Grantee shall, to the extent permitted by law, indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Grantee, or its employees, agents, Subgrantees, or assignees pursuant to the terms of this Grant; however, the provisions hereof shall not be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions, of the GIA, or the Federal Tort Claims Act, 28 U.S.C. 2671 et seq., as applicable, as now or hereafter amended.

G. Jurisdiction and Venue

All suits, actions, or proceedings related to this Grant shall be held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

H. List of Selected Applicable Laws

At all times during the performance of this Grant, Grantee shall comply with all applicable Federal and State laws and their implementing regulations, currently in existence and as hereafter amended, including without limitation those set forth on **Exhibit A, Applicable Laws**. Grantee also shall require compliance with such laws and regulations by subgrantees under subgrants permitted by this Grant.

I. Use Covenants, Deed Restrictions and Conservation Easements

This section shall | shall not apply to this Grant.

For Subject Property that is owned by Grantee upon execution of this Grant, Grantee shall record a Use Covenant, in the form provided by the State, with the county in which the property resides as soon as reasonably practicable after execution of this Grant. For Subject Property acquired by Grantee using Grant Funds, Grantee shall record a Use Covenant, in the form provided by the State, with the county in which the property resides as soon as reasonably practicable after acquisition of such property. For Subject Property acquired by Grantee using Grant Funds for flood mitigation, Grantee shall record a Deed Restriction and/or Conservation Easement, in the forms provided by the State, with the county in which the property resides as soon as reasonably practicable after acquisition of such property.

J. Modification**i. By the Parties**

Except as specifically provided in this Grant, modifications of this Grant shall not be effective unless agreed to in writing by the Parties in an amendment hereto, properly executed and approved in accordance with applicable Colorado State law, State Fiscal Rules, and Office of the State Controller Policies, including, but not limited to, the policy entitled MODIFICATION OF CONTRACTS - TOOLS AND FORMS. Changes to the Grant shall be authorized to be approved by the following State or DOLA parties:

a) Approval by Division Director

The Division Director of DOLA or his delegate shall have authority to approve changes to the Responsible Administrator and Key Personnel specified in §6.1 of Exhibit B and the Principal Representative in §16.

b) Approval by DOLA Controller

The DOLA Controller shall have authority to approve all changes to the Grant which are not reserved to the Division Director above.

ii. By Operation of Law

This Grant is subject to such modifications as may be required by changes in Federal or Colorado State law, or their implementing regulations. Any such required modification automatically shall be incorporated into and be part of this Grant on the effective date of such change, as if fully set forth herein.

K. Order of Precedence

The provisions of this Grant shall govern the relationship of the Parties. In the event of conflicts or inconsistencies between this Grant and its exhibits and attachments including, but not limited to, those provided by Grantee, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

- i. Exhibit D (Supplemental Provisions for Federal Funding Accountability and Transparency Act of 2006)
- ii. Colorado Special Provisions (§22 of the main body of this Grant)
- iii. Exhibit B (Statement of Project/Budget)
- iv. The provisions of the main body of this Grant (excluding §22, Colorado Special Provisions and the cover page of this Grant)
- v. Exhibit F (Procedure to Prevent Duplication of Benefits)
- vi. Exhibit G (Project Performance Plan)
- vii. Exhibit A (Applicable Laws)
- viii. Any executed Option Letter
- ix. The cover page of this Grant
- x. Any document incorporated by reference which is not included in any item listed in (i) through (ix) above

L. Severability

Provided this Grant can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof.

M. Survival of Certain Grant Terms

Notwithstanding anything herein to the contrary, provisions of this Grant requiring continued performance, compliance, or effect after termination hereof, shall survive such termination and shall be enforceable by the State if Grantee fails to perform or comply as required.

N. Taxes

The State is exempt from all federal excise taxes under IRC Chapter 32 (No. 84-730123K) and from all State and local government sales and use taxes under CRS §§39-26-101 and 201 et seq. Such exemptions apply when materials are purchased or services rendered to benefit the State; provided however, that certain political subdivisions (e.g., City of Denver) may require payment of sales or use taxes even though the product or service is provided to the State. Grantee shall be solely liable for paying such taxes as the State is prohibited from paying for or reimbursing Grantee for them.

O. Third Party Beneficiaries

Enforcement of this Grant and all rights and obligations hereunder are reserved solely to the Parties, and not to any third party. Any services or benefits which third parties receive as a result of this Grant are incidental to the Grant, and do not create any rights for such third parties.

P. Waiver

Waiver of any breach of a term, provision, or requirement of this Grant, or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.

Q. CORA Disclosure

To the extent not prohibited by federal law, this Grant and the performance measures and standards under CRS §24-103.5-101, if any, are subject to public release through the Colorado Open Records Act, CRS §24-72-101, et seq.

22. COLORADO SPECIAL PROVISIONS

A. The Special Provisions apply to all Grants except where noted in *italics*.

i. CONTROLLER'S APPROVAL. CRS §24-30-202 (1).

This Grant shall not be deemed valid until it has been approved by the Colorado State Controller or designee.

ii. FUND AVAILABILITY. CRS §24-30-202(5.5).

Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

iii. GOVERNMENTAL IMMUNITY.

No term or condition of this Grant shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.

iv. INDEPENDENT CONTRACTOR

Grantee shall perform its duties hereunder as an independent Grantee and not as an employee. Neither Grantee nor any agent or employee of Grantee shall be deemed to be an agent or employee of the State. Grantee and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Grantee or any of its agents or employees. Unemployment insurance benefits shall be available to Grantee and its employees and agents only if such coverage is made available by Grantee or a third party. Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Grant. Grantee shall not have authorization, express or implied, to bind the State to any Grant, liability or understanding, except as expressly set forth herein. Grantee shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.

v. COMPLIANCE WITH LAW.

Grantee shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

vi. CHOICE OF LAW.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this grant. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Grant, to the extent capable of execution.

vii. BINDING ARBITRATION PROHIBITED.

The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this Grant or incorporated herein by reference shall be null and void.

viii. SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.

State or other public funds payable under this Grant shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Grantee hereby certifies and warrants that, during the term of this Grant and any extensions, Grantee has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Grantee is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Grant, including, without limitation, immediate termination of this Grant and any remedy consistent with federal copyright laws or applicable licensing restrictions.

ix. EMPLOYEE FINANCIAL INTEREST. CRS §§24-18-201 and 24-50-507.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Grant. Grantee has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Grantee's services and Grantee shall not employ any person having such known interests.

x. VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4.

[Not applicable to intergovernmental agreements] Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

xi. PUBLIC GRANTS FOR SERVICES. CRS §8-17.5-101.

[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental Agreements, or information technology services or products and services] Grantee certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who shall perform work under this Grant and shall confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Grant, through participation in the E-Verify Program or the State program established pursuant to CRS §8-17.5-102(5)(c), Grantee shall not knowingly employ or contract with an illegal alien to perform work under this Grant or enter into a grant with a Subgrantee that fails to certify to Grantee that the Subgrantee shall not knowingly employ or contract with an illegal alien to perform work under this Grant. Grantee (a) shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this Grant is being performed, (b) shall notify the Subgrantee and the granting State agency within three days if Grantee has actual knowledge that a Subgrantee is employing or contracting with an illegal alien for work under this Grant, (c) shall terminate the Subgrant if a Subgrantee does not

stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Grantee participates in the State program, Grantee shall deliver to the granting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Grantee has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Grantee fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the granting State agency, institution of higher education or political subdivision may terminate this Grant for breach and, if so terminated, Grantee shall be liable for damages.

xii. PUBLIC GRANTS WITH NATURAL PERSONS. CRS §24-76.5-101.

Grantee, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the Effective Date of this Grant.

(Colorado Special Provisions - effective 1/1/09)

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SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS GRANT

*** Persons signing for Grantee hereby swear and affirm that they are authorized to act on Grantee's behalf and acknowledge that the State is relying on their representations to that effect.**

<p style="text-align: center;">GRANTEE CITY OF EVANS</p> <p>By: <u>John Morris</u> Name of Authorized Individual</p> <p>Title: <u>Mayor</u> Official Title of Authorized Individual</p> <p><u>[Signature]</u> *Signature</p> <p>Date: <u>7-23-16</u></p>	<p style="text-align: center;">STATE OF COLORADO John W. Hickenlooper, GOVERNOR DEPARTMENT OF LOCAL AFFAIRS</p> <p>By: <u>[Signature]</u> Irv Halter, Executive Director</p> <p>Date: <u>8/2/16</u></p>
	<p style="text-align: center;">PRE-APPROVED FORM CONTRACT REVIEWER</p> <p>By: <u>[Signature]</u> Andy Hill, CDO Program Manager</p> <p>Date: <u>7/25/2016</u></p>

ALL GRANTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State grants. This Grant is not valid until signed and dated below by the State Controller or delegate. Grantee is not authorized to begin performance until such time. If Grantee begins performing prior thereto, the State of Colorado is not obligated to pay Grantee for such performance or for any goods and/or services provided hereunder.

**STATE CONTROLLER
Robert Jaros, CPA, MBA, JD**

By: [Signature]
Janet Miks, CPA, Controller Delegate

Date: 8/7/16

EXHIBIT A – APPLICABLE LAWS

Laws, regulations, and authoritative guidance incorporated into this Grant include, without limitation:

1. Housing and Community Development Act of 1974, Pub L, No. 93-383, as amended.
2. 24 CFR Part 570, Community Development Block Grants.
3. State of Colorado Community Development Block Grant (CDBG) Guidebook, available on DOLA's website.
4. Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub L, No 93-288, as amended.
5. 24 CFR Parts 0-91 Housing and Urban Development.
6. 24 CFR Subtitle B, Chapter I – XXV, HUD.
7. 24 CFR Part 58, Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities.
8. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
9. CRS §29-1-601 et seq., Local Government Audit Law.
10. CRS §24-32-106 – Powers of the director provision.
11. CRS §24-32-705(1)(i) – DOH ability to accept and receive grants
12. 16 USC §469 et seq., Historic Preservation
13. 2 USC Chapter 26, Disclosure of Lobbying Activities.
14. 5 USC §552a, Public Information; agency rules, opinions, order, records and proceedings (Privacy Act 1974).
15. 8 USC §1101-1646, Immigration and Nationality.
16. 12 USC §§1701- 1701z-15, National Housing Act.
17. 15 USC Chapter 49, Fire Prevention and Control.
18. 16 USC Chapters 1-92, Conservation.
19. 16 USC §469 et seq., Historic Preservation
20. 16 USC §1531 et seq., Endangered Species
21. 16 USC §1271 et seq., Wild and Scenic Rivers
22. 20 USC Chapter 38, Discrimination Based on Sex or Blindness (Title IX, as amended, Education Amendment of 1972).
23. 29 USC Chapter 8, §§201, 206, et seq., as amended, Labor.
24. 29 USC Chapter 14 Age Discrimination in Employment.
25. 29 USC Chapter 16, §§793-794, et seq., as amended, Vocational Rehabilitation and Other Rehabilitation Services.
26. 31 USC Subtitles I – VI, Money and Finance.
27. 40 USC Subtitle I, Federal Property and Administrative Services.
28. 40 USC Subtitle II, Public Buildings and Works.
29. 40 USC §§ 3141 – 3148, Wage Rate Requirements (Davis Bacon).
30. 40 USC §§ 3701 – 3708, Contract Work Hours and Safety Standards Act.
31. 40 CFR Parts 1500-1508, Council on Environmental Quality (Regulations Implementing NEPA).
32. 41 CFR Chapter 60, Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.
33. 41 USC § 6502, et seq., Walsh-Healey Public Contracts Act.
34. 41 USC Chapter 81, Drug Free Workplace.
35. 42 USC Chapter 6A, Public Health Service.
36. 42 USC Chapter 21, Civil Rights.
37. 42 USC Chapter 45 Fair Housing.
38. 42 USC Chapter 50, National Flood Insurance.
39. 42 USC Chapter 55, National Environmental Policy.
40. 42 USC Chapter 63, Lead-Based Paint Poisoning Prevention.

41. 42 USC Chapter 69, Community Development.
42. 42 USC Chapter 76, Age Discrimination in Federally Assisted Programs.
43. 42 USC Chapter 85, Air Pollution Prevention and Control.
44. 42 USC Chapter 89, Congregate Housing Services.
45. 42 USC Chapter 126, Equal Opportunity for Individuals with Disabilities.
46. 42 USC Chapter 130, National Affordable Housing.
47. 42 USC §§300f – 300j-26, Safe Drinking Water
48. 49 CFR Part 24, as amended, Uniform Relocation Assistance and Real Property for Federal and Federally Assisted Programs.
49. CRS §24-34-301, et seq., Colorado Civil Rights Division.
50. CRS §24-34-501, et seq. Housing Practices.
51. CRS §24-75-601 et seq., Legal Investment of Public Funds.
52. Executive Order 11063, HUD Equal Opportunity in Housing, as amended by Executive Order 12259, Leadership and Coordination of Fair Housing in Federal Programs.
53. Executive Order 11593, Protection and Enhancement of the Cultural Environment.
54. Executive Order 11988, Floodplain Management.
55. Executive Order 11990, Protection of Wetlands
56. Public Law 110-289, Housing and Economic Recovery Act of 2008.
57. Public Law 111-203, Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.
58. Compliance with all applicable standards, orders, or requirements issued pursuant to section 508 of the Clean Water Act (33 USC §1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15). (Applicable to contracts, subcontracts, and subgrants of amounts in excess of \$100,000).
59. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871). [53 FR 8068, March 11, 1988, as amended at 60 FR 19639, Apr. 19, 1995].

EXHIBIT B – STATEMENT OF PROJECT/BUDGET (SOP)**1. GENERAL DESCRIPTION OF THE PROJECT.**

1.1 Purpose. The Colorado Department of Local Affairs (“DOLA”) is leading Colorado’s housing and economic recovery effort in response to severe flooding that occurred September 9 through September 15, 2013. On September 14, 2013, President Barack Obama signed FEMA-DR-4145-CO; subsequent amendments to date have declared 18 counties as a Presidential Disaster Area: Adams, Arapahoe, Boulder, Clear Creek, Crowley, Denver, El Paso, Fremont, Gilpin, Jefferson, Lake, Larimer, Lincoln, Logan, Morgan, Sedgwick, Washington, and Weld. On December 16, 2013, the U.S. Department of Housing and Urban Development (“HUD”) published a notice in the Federal Register at Fed. Reg. 76,154 – 76,160 (December 16, 2013), which allocates Community Development Block Grant-Disaster Recovery (“CDBG-DR”) funds to the State of Colorado (the “Colorado Notice”). Boulder, Larimer, and Weld counties have been designated as the “most impacted and distressed” counties in the Colorado Notice, and 80% of the CDBG-DR allocation provided under the Colorado Notice must address unmet needs within these three counties. As a requirement of funding, in cooperation with impacted communities, DOLA developed and HUD approved an action plan (the “Initial Action Plan”), which assessed the short term and long term housing, infrastructure, and economic needs in the flood-impacted areas, and developed a strategy for addressing the needs. The Initial Action Plan shall be amended as necessary and available on DOLA’s website (collectively, the “Action Plan”). This Project implements an element of the resiliency planning component of the Action Plan for authorized disaster recovery activities (collectively, “Authorized Activities”). Additional requirements for Authorized Activities are published in notices in the Federal Register at Fed. Reg 14,329-14,349 (March 5, 2013) (the “March Notice”) and Fed. Reg. 23,578-23,581 (April 19, 2013) (the “April Notice”). The Colorado Notice, March Notice and April Notice are collectively, the “Notices”.

1.2 Action Plan Amendment #1 Substantial Amendment for the Second Allocation. For performance of projects funded by federal funds committed as a result of the Action Plan Amendment #1 Substantial Amendment for the Second Allocation of CDBG-Disaster Recovery, approved November 10, 2014, this provision also applies in addition to the above: a notice in the Federal Register at Fed. Reg. 31,964 – 31,973 (June 3, 2014). Action Plan Amendment #1 added Teller County to the list of declared counties and Federally declared wildland fire events to eligible events.

1.3 Project Description. This Project will fund a preliminary conceptual design analyzing the existing Lower Latham Ditch Diversion Structure (“the Structure”) including its physical impact on flooding, river ecology and sediment transfer as well as the fiscal ramifications of continuing to operate such a complex structure. Eventual implementation of the Plan will aim to reduce upstream and downstream flooding and help reduce impacts to Colorado Highway 85 and Union Pacific Railroad bridges downstream. Proposed modifications will also look to reduce sedimentation upstream of the structure and in the main irrigation channel and thereby reduce maintenance of the Structure.

1.3.1 The goal of this Project study is to design a diversion that will:

- Satisfy the water requirements of the ditch company and water commissioner.
- Reduce flooding upstream and downstream from the structure.
- Decrease maintenance and sedimentation into the ditch.
- Improve safety for river recreation.

- Encourage sediment transport through this reach of river.
- Eliminate an impediment to fish passage in the river.

1.3.2 Proposed solutions that improve the river ecology in the area and allow for safer passage of future recreational users of the river will be highly considered. The intention is for the design to be approved by the Lower Latham Ditch Company and implemented and serve as a demonstration for others.

1.3.3 Final deliverables will include:

1. Preliminary basis for the design report
2. Assessment of existing conditions
3. Compilation and review of existing information
4. Alternatives development
5. Cost-benefit analysis for preferred alternative
6. Conceptual project design for preferred alternative
7. A draft monitoring strategy
8. Preliminary permit development
9. A proposed timeline for implementation

1.3.4 Planning and design work must be compatible with the Middle South Platte River Master Plan and must incorporate information including, but not limited to, channel design for low flows, average flows, average high water flows or bankfull, and flood flows wherever possible to promote a resilient and naturally stable river. Grantee will coordinate with DOLA and the Colorado Water Conservation Board Watershed Technical Assistance team on this watershed planning and design effort.

1.3.5 Submittal of Final Deliverables:

Final project deliverable will be sent to the State electronically and will include a final report of the Plan and documenting the process to complete it. The report may include photographs, summaries of meetings, and engineering reports or designs.

- 1.4 Responsibilities.** Grantee shall be responsible for the completion of the Project, administration of this Grant, and to provide required documentation to the State as specified herein.
- 1.5 Service Area.** The performance of the Services for this Grant shall be located in The South Platte River south of the City of Evans in Weld County (“**Service Area**”).

2. DEFINITIONS

- 2.1 Advance Payment.** “Advance Payment” means the use of Grant Funds to pay for Work that has been completed and invoiced to DOLA, but for which the Grantee has not paid such consultant invoices.
- 2.2 Beneficiary.** "Beneficiary" for this Project is (check one):
- the persons and/or households who are the end users that benefit from this Project which is funded with Grant Funds.
- the area that benefits from this Project which is funded with Grant Funds.
- 2.3 Business Day.** “Business Day” means a day during which the State is open for business, excluding weekends and legal public holidays.

- 2.4 CDBG Guidebook.** “CDBG Guidebook” means the DOLA CDBG Guidebook. It is updated periodically and available on DOLA’s website.
- 2.5 Conservation Easement.** “Conservation Easement” means the conservation easement that limits uses of, and lists requirements for, the real property which is part of the Project and which may be attached. Conservation Easements only apply if they are attached to this Grant.
- 2.6 Cost Savings.** “Cost Savings” means the Project budget amount less the amount expended to complete the Project Work. Cost Savings are determined at the time the Project Work is completed and the final payment request is submitted by the Grantee to the State. Cost Savings do not result in payment by the State to Grantee above actual expenditures beyond the required ratio, but de-obligates unexpended Grant Funds. The State shall provide written notice to Grantee verifying any Cost Savings.
- 2.7 Cumulative Basis.** “Cumulative Basis” means a cumulative or increasing accumulation of additional expenses within a specific Project Budget Line Item starting with the initial amount approved in §4.2, Project Budget as of the Effective Date. Such starting point will reset with an amendment to this Grant approved by the DOLA Controller changing the Project Budget Line Item amount or the Project Budget Line Item has been amended through an approved True-up Budget Proposal.
- 2.8 Deed Restriction.** “Deed Restriction” means the deed restriction that may be attached and which limits uses of Subproject real property. Deed Restrictions only apply if they are attached to this Grant.
- 2.9 Eligible Expenses.** "Eligible Expenses" are the costs of performing approved and eligible Subproject activities pursuant to this Exhibit. Such Eligible Expenses are specified in the Action Plan and must comply with all CDBG-DR requirements, State Fiscal Rules, this Exhibit and the Grant Agreement.
- 2.10 HUD.** “HUD” is the Department of Housing and Urban Development.
- 2.11 Low- and Moderate-Income Persons.** This subsection is, or is not applicable.
- “Low- and Moderate-Income Persons” for this Project are (check one):
- Those persons who are members of families whose incomes are at or below 80% of area median income, determined by HUD and which shall be posted by HUD on its website, or
- Those persons who reside in areas that have been determined by HUD, based upon the 2000 Census data, to be at or below 80% of area median income areas, as further specified in the National Objective in §3.2 below, or
- Those persons belonging to clientele groups (as such term is defined by HUD) who are presumed by HUD to be at or below 80% of area median income, as further specified in the National Objective in §3.2 below, or
- Those persons who are members of families whose incomes are at or below 80% of area median income as determined by utilizing an income survey methodology approved by HUD.
- 2.12 Lump Sum Budgeting.** "Lump Sum Budgeting" means a very general, non specific budget for a multi-component project that leaves all discretion with the recipient of the grant for use of grant funds. For purposes of this definition, "component" means a distinct period or stage in a sequence of events to complete a project. For example, a multi-component construction project not using Lump Sum Budgeting may include separate line items for Real Property Acquisition, Design, Utilities, and Construction. A multi-component construction project

using Lump Sum Budgeting may only include a line item for Construction. Lump Sum Budgeting is not permitted under this Grant.

- 2.13 National Objective.** “National Objective” means those objectives approved by HUD and listed in §3.2 of this **Exhibit B**.
- 2.14 Other Funds.** “Other Funds” means funding provided by other federal, state, local or private sources for the Project. Other Funds are good faith estimates and do not include Grant Funds.
- 2.15 Pre-agreement Costs.** “Pre-agreement Costs” are those costs specifically authorized as pre-agreement costs by DOLA and which are specifically authorized by the federal funding source.
- 2.16 Project Budget Line Item.** “Project Budget Line Item” means each line for Project activities specified and approved in the Project Budget in §4.2.
- 2.17 Project Performance Plan.** “Project Performance Plan” means the milestones, performance goals and timelines for the Project identified in **Exhibit G**.
- 2.18 Program Income.** “Program Income” shall have the meaning given at §VI.17.a. of the “March Notice” and 24 CFR §570.500(a).
- 2.19 Substantial Completion.** “Substantial Completion” for the Project shall have the meaning given in §5.7 of this Exhibit and the Project Performance Plan.
- 2.20 Use Covenant.** “Use Covenant” means the use covenant that limits uses of Project real property, and which may be attached. Use Covenants only apply if they are attached to this Grant.

3. DELIVERABLES

- 3.1 Outcome.** The final outcome of this Project is a complete conceptual design, associated cost estimate, and preliminary permit development for the Lower Latham Ditch Diversion Structure in accordance with this Grant and Grantee's CDBG-DR grant application.
- 3.2 National Objective.** Pursuant to 24 CFR §570.208 (Criteria for national objectives), CDBG funds expended for planning and administrative costs under 24 CFR §570.205 and §570.206 are considered to address the national objectives. This Project is considered to address national objectives because all Grant Funds are expended for planning and/or capacity building costs under 24 CFR §570.205.
- 3.3 Project Performance Plan.** The Parties shall comply with the milestones, performance goals and timelines in the Project Performance Plan.

4. FUNDING

The State provided funds shall be limited to the amount specified under the “Grant Funds” column of §4.2, Project Budget, below.

- 4.1 Other Funds.** Grantee shall provide the required Other Funds as listed in the “Other Funds” column of §4.2 below during the term of this Project.

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4.2 Project Budget.

Budget Line	Total Cost	Grant Funds	Other Funds	Other Fund Source
Consultant Services and Project Delivery Expenses	\$125,000.00	\$125,000.00	\$0	None
Total	\$125,000.00	\$125,000.00	\$0	None

If administrative expenses are included as Eligible Expenses, there must be a separate Project Budget Line Item for such expenses. Project Delivery Expenses must comply with Cost Principles 2 CFR 200.

4.3 Project Budget Line Item Adjustments. Project Budget Line Item adjustments pursuant to this Section shall not change the total awarded or contracted amount of the Grant Funds for the Project. Increases to Grant Funds for a Project require an amendment. Calculations in §§4.3.1 and 4.3.2 must be made on a Cumulative Basis.

4.3.1 Grantee shall have authority to adjust individual Project Budget Line Items without approval of the State up to an aggregate of 10% of such Project Budget Line Item from which the funds are moved. Such authority shall not allow Grantee to transfer to or between administration budget lines (E.g. development fees, overhead and project delivery). Grantee shall send written notification of allowed adjustments to the State within 30 days of such adjustment.

4.3.2 All changes to individual Project Budget Line Items which are in excess of 10% but less than 24.99% of such Project Budget Line Item from which the funds are moved shall require prior written approval of the DOLA Controller. Grantee shall submit a written request for changes pursuant to this Section to DOLA. Such request shall include the amount of such request, the reason for the request and any necessary documentation. If DOLA approves such request, DOLA shall unilaterally execute an Option Letter accepting such request pursuant to §7(C) of the Grant Agreement. Grantee is not authorized to perform until Grantee receives an executed Option Letter accepting such change.

4.3.3 All changes to individual Project Budget Line Items which are in excess of 24.99% of such Project Budget Line Item from which the funds are moved shall require a prior written amendment executed by the Grantee and DOLA pursuant to §21(J) of the Grant Agreement. Grantee shall submit a written request for changes pursuant to this Section to DOLA. Such request shall include the amount of such request, the reason for the request and any necessary documentation. Grantee is not authorized to perform until a bi-lateral amendment is fully executed by the DOLA Controller accepting such change.

4.3.4 Signature Authority. All Grantee notices and requests submitted to DOLA pursuant to this §4.3 (each a “**Line Item Proposal**”), must be signed and dated by a person authorized to bind the Grantee to such Line Item Proposal.

4.4 Overall Budget Adjustments.

4.4.1 All changes to the overall Project Budget which are less than 24.99% (each a “**Minor Budget Adjustment**”) shall require prior written approval of the DOLA Controller. Grantee’s Responsible Administrator shall submit a written request for changes pursuant to this Section to DOLA. Such request shall include the amount of such request, the reason for the request and any necessary documentation. If DOLA approves such request, DOLA shall unilaterally execute an Option Letter accepting

such request pursuant to §7(C) of the Grant Agreement. Grantee is not authorized to perform until Grantee receives an executed Option Letter accepting such change. Minor Budget Adjustments shall not increase the Grant Funds.

4.4.2 Exception for Setting Final Initial Budget. Within 30 days of bid opening for its selection of its prime Subcontractor, Grantee shall submit a written request for changes to the overall Project Budget to revise the initial overall Budget estimate to align it with current market conditions (a “**True-up Budget Proposal**”). Grantee’s Responsible Administrator shall submit a written request for changes pursuant to this Section to DOLA. Such request shall include the amount of such request, the reason for the request and any necessary documentation. If DOLA approves such request, DOLA shall unilaterally execute an Option Letter accepting such request pursuant to §7(C) of the Grant Agreement. Grantee is not authorized to perform until Grantee receives an executed Option Letter accepting such change. True-up Budget Proposals shall not increase the Grant Funds. The overall Budget adjustment permitted by this §4.4.2 is only permitted once under this Grant.

4.4.3 Other Budget Changes. All changes to the overall Project Budget which are in excess of 24.99% shall require a prior written amendment executed by the Grantee and DOLA pursuant to §21(J) of the Grant Agreement. Grantee shall submit a written request for changes pursuant to this Section to DOLA. Such request shall include the amount of such request, the reason for the request and any necessary documentation. Grantee is not authorized to perform until a bi-lateral amendment is fully executed by the DOLA Controller accepting such change.

4.4.4 Signature Authority. All Grantee notices and requests submitted to DOLA pursuant to this §4.4 (each a “**Budget Proposal**”), must be signed and dated by a person authorized to bind the Grantee to such Budget Proposal.

5. PAYMENT

Payments shall be made in accordance with this section and the provisions set forth in §7 of the Grant Agreement. Grantee’s requests for funds from this Grant shall be for the reimbursement of actual Eligible Expenses.

5.1 Payment Schedule. The State shall make payment to Grantee pursuant to accepted Pay Requests until 95% of Grant Funds have been disbursed: the final 5% shall be disbursed in accordance with §5.5.

5.2 Advance Payments. This subsection is, or is not applicable.

DOLA Controller has previously approved in writing Advance Payments for this Project. If Work is subcontracted or subgranted, such Subcontractors and/or Subgrantees are not previously paid, Grantee shall disburse Grant Funds received from the State to such Subcontractor or Subgrantee within three Business Days of receipt. Grantee shall provide DOLA with proof of payment within three Business Days of such payment. Excess funds shall be returned to DOLA.

To maximize the use of Grant Funds, the State shall evaluate Grantee's expenditure of the Grant Funds for timeliness and compliance with the terms of this Grant and Exhibit. DOLA reserves the right to recapture advanced Grant Funds when Grantee has not or is not complying with the terms of this Grant and/or Exhibit.

5.3 Remittance Address. If mailed, payments shall be remitted to the following address unless changed in accordance with §16 of the Grant Agreement:

City of Evans
1100 37th St.
Evans, CO 80645

5.4 Interest. If Advance Payments are authorized, Grantee or Subgrantee may keep interest earned from all federal funds received by Grantee or Subgrantee up to \$100 per year (calculated on Grantee’s fiscal year) for administrative expenses. All interest earned in excess of \$100 shall be remitted to DOLA.

5.5 Milestones.

Project Activity	Milestone	Target Date*
Request for Proposals (RFP)	Release RFP	30 days after executed Grant Agreement
Consultant Selection	Hire Consultant	90 days after executed Grant Agreement
Study initiated	Consultant begins work on project	October 1, 2016
Conceptual project design	Completion of conceptual project design.	May 1, 2017
Completion of Project deliverables and final report.	Final deliverables and report.	October 1, 2017

*If Target Date for such Milestone(s) is/are not met, the State has the authority to use any remedies stated in the Grant, including, but not limited to, those specified in §15(C) of the Grant Agreement which allow the State, at its sole discretion, to provide technical assistance and/or termination of the Project..

5.6 Quarterly Pay Requests. Beginning the earlier to occur of January 10th, April 10th, July 10th, or October 10th after commencement of Work under this Project and for each quarter thereafter until termination of this Project, Grantee shall submit Pay Requests using a form provided by the State. The State shall pay the Grantee for actual expenditures made in the performance of this Project based on the submission of Pay Requests. The Grantee shall submit Pay Requests setting forth a detailed description and provide documentation (including invoices) of the amounts and types of reimbursable expenses. For months in which there are no expenditures to reimburse, Grantee shall indicate zero (0) in the request. The Pay Request shall contain actual expenditures of Grant Funds incurred in the period by Project Budget Line Item pursuant to §4.2 of this Statement of Project/Budget as well as a projection of all Project Work expected to be accomplished in the following month, including an estimate of Grant Funds to be expended. This report is due within 10 days of the end of the reporting quarter or more frequently at the discretion of the Grantee. See Project Performance Plan for specific submittal dates.

5.7 Final Payment/Substantial Completion. Final payment for this Project shall not be released by DOLA until Grantee has submitted a final Pay Request and achieved substantial completion, which includes completion of the Project Work; completion, submission, and DOLA’s acceptance of all interim reports; completion of on-site Project monitoring by DOLA, including approval of all corrective action taken on any identified findings or concerns; and submission by Grantee, and acceptance by DOLA, of the Project Completion Report (collectively, “**Substantial Completion**”). For the purposes of this Grant, “completion of the Project Work” means the following :

For planning programs: Completion and submission of the planning document and receipt of final invoicing for such Work completed and as defined in 24 CFR § 570.205.

5.8 Eligible Expenses. Pay Requests shall include only Eligible Expenses in accordance with §4.2. Eligible Expenses do not include administrative expenses.

5.9 Cost Savings. Cost Savings derived while completing the Project shall be (choose one):

split on a pro-rata basis between the State and Grantee

returned to the State

6. ADMINISTRATIVE REQUIREMENTS

These funds will be administered by Grantee, in accordance with the requirements of this Grant, the Action Plan, **Exhibit B** and Project Performance Plan. Grantee shall comply with the administration requirements set forth in the most recent State Community Development Block Grant Guidebook, or such requirements as may be subsequently amended by the State, which shall be available on DOLA's website.

6.1 Personnel.

6.1.1 Responsible Administrator. Grantee's performance hereunder shall be under the direct supervision of **Chad Reischl, Long Range Planner** (creischl@evanscolorado.gov), an employee or agent of Grantee, who is hereby designated as the Responsible Administrator of this Subproject.

6.1.2 Other Key Personnel: **Charles Sylvester, Chair, MSPRA** (Farm_cowboy@msn.com) Such Key Personnel shall be updated through the approval process in §6.1.3.

6.1.3 Replacement. Grantee shall immediately notify DOLA if any Key Personnel cease to serve. Provided there is a good-faith reason for the change, if Grantee wishes to replace its Key Personnel, it shall notify DOLA and seek its approval, which shall be at DOLA's sole discretion, as DOLA issued this Grant in part in reliance on Grantee's representations regarding Key Personnel. Such notice shall specify why the change is necessary, who the proposed replacement is, what his/her qualifications are, and when the change will take effect. Anytime Key Personnel cease to serve, DOLA, in its sole discretion, may direct Grantee to suspend work on the Subproject until such time as replacements are approved. All notices sent under this subsection shall be sent in accordance with §16 of the Grant Agreement.

6.2 Accounting. Grantee shall maintain properly segregated accounts of Grant Funds, and Other Funds associated with the Project, and make those records available to the State upon request. All receipts and expenditures associated with the Project shall be documented in a detailed and specific manner, in accordance with this Exhibit.

6.3 Audit Report. If an audit is performed on Grantee's records for any fiscal year covering a portion of the term of this Grant or any other grants/contracts with DOLA, Grantee shall promptly submit the final audit report, including a report in accordance with the Single Audit Act, to:

Department of Local Affairs
Accounting & Financial Services
1313 Sherman Street, Room 323
Denver, CO 80203

Or Email to: dola.audit@state.co.us

- 6.4 Prevention and Detection of Waste, Fraud, and Abuse.** Grantee shall certify that all reported information submitted to State is complete and accurate. Grantee shall work with State staff to review project budgets, financial projections and other supporting documents to ensure that Grant Funds are responsibly expended and are used on projects that are necessary and feasible. Grantee shall allow State, or State's authorized agent, full on-site monitoring including site visits and inspections (if applicable), file review and administrative review to ensure compliance with requirements, no duplication of benefits occurred, that any long-term affordability requirements are met and all payments disbursed are eligible and reasonable. Grantee warrants that it has adequate procedures to detect fraud, waste and/or abuse in its programs and/or expenditures. If Grantee suspects or has knowledge of any waste, fraud and/or abuse of Grant Funds, Grantee shall immediately provide written notice to State of such waste, fraud and/or abuse and Grantee shall be liable to the State to repay/reimburse State for any waste, fraud and/or abuse of Grant Funds.
- 6.5 Prevention of Duplication of Benefits.** The CDBG-DR appropriation (Pub. L. 113-2), and the Stafford Act, direct that Beneficiaries of federal disaster assistance not receive duplication of benefits from any resources available to them between federal, state, local, and certain private sources.
- 6.5.1 Determine Maximum Eligible Benefit.** Prior to awarding Grant Funds to Grantee, DOLA reviewed information submitted by the Grantee, pursuant to DOLA's Procedure to Prevent Duplication of Benefits (attached as **Exhibit F**). The Grant Funds awarded pursuant to this Grant do not exceed DOLA's determination of Grantee's unmet need for each Subproject.
- 6.5.2 Recapture and Reimbursement of Duplicative Benefits.** Grantee acknowledges that the source and amount of any and all additional funds received for costs associated with the disaster will be reported to DOLA within 15 calendar days of receipt. If DOLA determines the additional funds to be duplicative, the Grant Funds will be reduced by and/or the Grantee will be required to repay any disbursed duplicative amount.
- 6.5.3 Subrogation.** Grantee hereby assigns to the State all of Grantee's future rights to reimbursement and all payments received that are determined in the sole discretion of the State to be a duplication of benefits.
- 6.5.4 Completion Monitoring.** Upon Substantial Completion of the Project, Grantee will report and certify to DOLA whether additional funds were received for disaster related expenses, the source, the amount, and date of receipt. If additional funds were received and DOLA determines they are duplicative, the Grantee must repay the duplicative amount to DOLA.
- 6.5.5 On-going Monitoring.** One year after Substantial Completion of the Project, Grantee will report and certify whether additional funds were received for disaster related expenses, the source, the amount, and date of receipt. If additional funds were received that are determined to be duplicative, the Grantee must repay the duplicative amount to DOLA.

- 6.6 Reporting.** Grantee shall submit the following reports to DOLA using the state-provided forms. DOLA may withhold payment(s) or take additional action described in §15 of the Grant Agreement, if such reports are not submitted timely. When there is a conflict between the reporting requirement in this section and the CDBG Guidebook, the stricter requirement shall prevail.
- 6.6.1 Pay Requests.** Pay Requests are due in accordance with §5.6 of this Exhibit B.
- 6.6.2 Financial Status Report.** This Report is due within 10 calendar days of the end of each quarter until the Project has been closed out with the State.
- 6.6.3 Performance Reports.** The Project Performance Plan report for the Project shall be submitted within 10 calendar days of the end of each quarter until the Project has been closed out with the State.
- 6.6.4 Project Completion Report.** Within 30 days of the earlier of termination or completion of the Project, the Grantee shall submit one copy of the Project Completion Report, and two copies of the final Financial Status Report.
- 6.7 Monitoring/Inspections.** The State shall monitor this Grant in accordance with this Exhibit and §9 of the Grant Agreement.
- 6.7.1 Grantee.** Prior to submitting a request for payment, Grantee must inspect as described below in §§6.7.1.1 through 6.7.1.2 and certify that it meets the requirements and standards of the Notices and the Action Plan. Grantee's payment request to DOLA must include documentation of inspection and approval.
- 6.7.1.1 For Planning:** Grantee shall inspect planning documents for progress that is consistent with the Subcontractor invoice.
- 6.7.1.2 For hiring temporary Planning employees (supporting planning activities defined in 24 CFR §570.205):** Grantee shall inspect a schedule of hourly rates, timesheets of the individuals signed by the employee and supervisor, and bank records demonstrating payroll payments have been disbursed for the period of the Pay Request.
- 6.7.2 DOLA.**
- 6.7.2.1** At its sole discretion, DOLA, or its authorized agent, may perform an inspection of the Work and/or Subject Property, as applicable, prior to release of requested payment.
- 6.7.2.2** Prior to Substantial Completion of the Project, DOLA or its authorized agent shall perform an inspection of the Work and/or Subject Property, and shall have access to all Grantee financial, administrative, and Beneficiary records related to the Project. Release of final payment shall be subject to acceptable completion of this monitoring, per §5.2, above.
- 6.8 Procurement Standards.** Selection of subcontractors, and purchase of materials to accomplish a Project, shall follow appropriate procurement standards as outlined in DOLA's CDBG Guidebook, *Financial Management* Section. If the standards in the CDBG Guidebook conflict with this Grant, the provisions of this Grant shall prevail. Procurement documentation shall be submitted to DOLA at the time of occurrence.
- 6.9 Environmental Requirements.** Grantee shall comply with all HUD and other federal environmental requirements and shall not obligate Grant Funds prior to compliance with all

federal environmental requirements in 24 CFR Part 58 and receipt of the written release of funds from the State.

- 6.10 The Federal Funding Accountability and Transparency Act of 2006 as Amended 10/15/2010 (FFATA).** The Grantee and Subgrantee (if any) shall comply with all the requirements of the Federal Funding Accountability and Transparency Act in accordance with the provisions set forth in **Exhibit D**.
- 6.11 Program Income.** This Project shall or shall not generate Program Income.
- For the purpose of these Grant Funds, Program Income is defined at §VI.17.a. of the “March Notice” and 24 CFR §570.500(a). This Project is not anticipated to generate Program Income; however, if it does, Grantee shall return such Program Income to DOLA on a calendar quarterly basis within 20 days of the end of such quarter. Grantee shall track and account for all Program Income in accordance with the requirements in the CDBG-DR Program Income Guidelines (available on DOLA’s website) and 24 CFR 570.504.
- 6.12 Davis-Bacon Act.** This subsection is, or is not applicable.
- Grantee shall comply with all the requirements set forth in 24 CFR §570.603 (Davis-Bacon Act). If applicable, the responsible party for oversight of compliance shall be designated in the PPP.
- 6.13 Section 3 of the HUD Act of 1968 and 24 CFR Part 135.** To the greatest extent feasible, the Grantee and Subgrantee (if applicable) will provide opportunities for training and employment that arise from this HUD-financed project, will give preference in hiring to persons whose income is equal to or less than 80% of Area Median Income (AMI), and will give preference in contracting to businesses owned in substantial part by persons, or that substantially employ persons, whose income is equal to or less than 80% of AMI in the Subproject area.
- In addition, Grantee shall, to the maximum extent feasible, provide for the hiring of employees who reside in the vicinity, as such term is defined below herein, or contract with small businesses that are owned and operated by persons residing in the vicinity of such projects. Note: This local hiring requirement does not replace the responsibilities of Grantee under Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135, except to the extent the obligations may be in direct conflict. For the purposes of this Grant, "vicinity" is defined as each neighborhood identified by the Grantee and approved by the State as being the areas of greatest need. "Small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act.
- 6.14 Minority and Women Business Enterprises (24 CFR 570.506(g)(6)).** To the greatest extent feasible, the Grantee and Subgrantee (if applicable) will take affirmative steps to assure that minority business and women’s business enterprises have an equal opportunity to obtain or compete for subcontracts to be paid with CDBG-DR funds.
- 6.15 Uniform Relocation Act (URA).** Grantee and Subgrantee are required to follow a URA Residential Anti-displacement and Relocation Assistance Plan when designing their programs in that obligations related to voluntary and involuntary property acquisition activities for vacant and abandoned property apply. Grantee shall follow the alternative relocation requirements associated with these Grant Funds, which are specified in the March Notice.
- 6.16 System of Award Management (SAM) and Data Universal Numbering System (DUNS).** In accordance with Section 3 of **Exhibit D (FFATA)** Grantee is required to register with the System of Award Management (SAM) and have an active registration in SAM in accordance

with 2 CFR Part 25. Grantee shall provide its DUNS number to the State and shall update Grantee's information at least annually after the registration and more frequently if required by changes in Grantee's information.

6.17 Termination for Convenience. In addition to the Remedies listed in §15 of the main Grant Agreement, this Grant may be terminated in whole or part as follows:

6.17.1 By the State with consent of the Grantee in which case the Grantee and State shall agree upon the termination conditions including the effective date and in the case of partial termination, the portion to be terminated.

6.17.2 By the Grantee upon written notification to the State, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the States determines that the remaining portion of the Grant will not accomplish the purposes for which the Grant was made, the State may terminate the Grant in its entirety.

6.18 Reversion of Assets

6.18.1 Upon expiration of this Grant, Grantee shall transfer to the State any CDBG Funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG Funds. Any real property under the Grantee's control that was acquired or improved in whole or in part with CDBG funds (including CDBG Funds provided to the Grantee in the form of a loan) in excess of \$25,000 is either:

- A. Used to meet one of the national objectives in §570.208 (formerly §570.901) until five years after expiration of the Grant Agreement, or for such longer period of time as determined to be appropriate by the State; or
- B. Not used in accordance with paragraph 6.18.1 (A) of this section, in which event the Grantee shall pay the State an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. The payment is program income to the State. (No payment is required after the period of time specified in paragraph 6.18.1 (A) of this section.) [53 FR 8058, Mar. 11, 1988, as amended at 53 FR 41331, Oct. 21, 1988; 57 FR 27120, June 17, 1992; 60 FR 56915, Nov. 9, 1995; 68 FR 56405, Sept. 30, 2003]

6.19 Recapture and Repayment

6.19.1 Recapture Upon completion of the Project for which Funds were awarded, Grantee shall report and certify whether additional funds were received for disaster-related expenses, the amount, and when funds were received. If additional funds were received that are determined to be duplicative, the State shall recapture the total amount of additional funds received.

6.19.2 Repayment One year after completion of Project, for which Grant Funds were awarded, the Grantee must report and certify whether additional funds were received for disaster-related expenses, the amount, and when funds were received. If additional funds were received that are determined to be duplicative, the Grantee must repay the State the total amount of additional funds received.

6.20 Uniform Administrative Requirements.

Grantee agrees to comply with all applicable uniform administrative requirements as described in 24 CFR §570.502.

6.21 Other Program Requirements.

Grantee agrees to carry out each activity of this Project in compliance with all Federal laws and regulations described in 24 CFR §570, Subpart K except that:

- A. Grantee does not assume the State’s environmental responsibilities described at §570.604.
- B. Grantee does not assume the State’s responsibility for initiating the review process under the provisions of 24 CFR part 52.

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Exhibit C -Form of Option Letter

Date:	Original Grant CMS #:	Option Letter #	CMS Routing #
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1) OPTIONS:

- a. Option to issue a new Project Budget (§4.3 of the Project Scope of Work/Budget) for a Project Budget Line Item adjustment of §4.2.
- b. Option to issue a new Project Budget (§4.4.1 of the Project Scope of Work/Budget) for a Minor Budget Adjustment of §4.2.
- c. Option to issue a new Project Budget (§4.4.2 of the Project Scope of Work/Budget) for a True-up Budget Proposal of §4.2.

2) REQUIRED PROVISIONS. All Option Letters shall contain the appropriate provisions set forth below:

a. For use with Option 1(a): In accordance with §7(C) of the Original Grant referenced above between the State of Colorado, acting by and through the Colorado Department of Local Affairs, and Contractor's Name ("Grantee") and §4.3 of the Project Scope of Work for [redacted] (the "Project SOW"), the State hereby approves the Line Item Proposal on the attached revised Project Budget for §4.2 of the Project SOW. Section 4.2 of the Project SOW of the Original Grant is hereby deleted and replaced with the attached §4.2. All references to §4.2 of the Project SOW in the Original Grant shall refer to the attached Exhibit. Project Budget Line Item adjustments shall not increase the Grant Funds for a Project. The total value of the Grant is unchanged.

b. For use with Option 1(b): In accordance with §7(C) of the Original Grant referenced above between the State of Colorado, acting by and through the Colorado Department of Local Affairs, and Contractor's Name ("Grantee") and §4.4.1 of the Project Scope of Work for [redacted] (the "Project SOW"), the State hereby approves the Minor Budget Adjustment on the attached revised Project Budget for §4.2 of the Project SOW. Section 4.2 of the Project SOW of the Original Grant is hereby deleted and replaced with the attached §4.2. All references to §4.2 of the Project SOW in the Original Grant shall refer to the attached Exhibit. Minor Budget Adjustments shall not increase the Grant Funds for a Project. The total value of the Grant is unchanged.

For use with Option 1(c): In accordance with §7(C) of the Original Grant referenced above between the State of Colorado, acting by and through the Colorado Department of Local Affairs, and Contractor's Name ("Grantee") and §4.4.2 of the Project Scope of Work for [redacted] (the "Project SOW"), the State hereby approves the True-up Budget Proposal on the attached revised Project Budget for §4.2 of the Project SOW. Section 4.2 of the Project SOW of the Original Grant is hereby deleted and replaced with the attached §4.2. All references to §4.2 of the Project SOW in the Original Grant shall refer to the attached Exhibit. True-up Budget Proposal adjustments shall not increase the Grant Funds for a Project. The total value of the Grant is unchanged.

3) Effective Date. The effective date of this Option Letter is upon approval of the State Controller or Insert start date, whichever is later.

<p>STATE OF COLORADO John W. Hickenlooper GOVERNOR Colorado Department of Local Affairs</p> <hr/> <p>By: Irv Halter, Executive Director</p> <p>Date: _____</p>
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ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State contracts. This Option Letter is not valid until signed and dated below by the State Controller or delegate. Grantee is not authorized to begin performance until such time. If Grantee begins performing prior thereto, the State of Colorado is not obligated to pay Grantee for such performance or for any goods and/or services provided hereunder.

<p>STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p>By: _____ Janet Miks, CPA, Controller Delegate</p> <p>Date: _____</p>

EXHIBIT D – Supplemental Provisions for FFATA

State of Colorado
Supplemental Provisions for
Federally Funded Contracts, Grants, and Purchase Orders
Subject to
The Federal Funding Accountability and Transparency Act of 2006 (FFATA), As
Amended
Revised as of 3-20-13

The contract, grant, or purchase order to which these Supplemental Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the contract or any attachments or exhibits incorporated into and made a part of the contract, the provisions of these Supplemental Provisions shall control.

1. Definitions. For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.

1.1. “Award” means an award of Federal financial assistance that a non-Federal Entity receives or administers in the form of:

- 1.1.1.** Grants;
- 1.1.2.** Contracts;
- 1.1.3.** Cooperative agreements, which do not include cooperative research and development agreements (CRDA) pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710);
- 1.1.4.** Loans;
- 1.1.5.** Loan Guarantees;
- 1.1.6.** Subsidies;
- 1.1.7.** Insurance;
- 1.1.8.** Food commodities;
- 1.1.9.** Direct appropriations;
- 1.1.10.** Assessed and voluntary contributions; and
- 1.1.11.** Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.

Award **does not** include:

- 1.1.12.** Technical assistance, which provides services in lieu of money;
- 1.1.13.** A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;
- 1.1.14.** Any award classified for security purposes; or
- 1.1.15.** Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).

1.2. “Contract” means the contract to which these Supplemental Provisions are attached and includes all Award types in **§1.1.1** through **1.1.11** above.

1.3. “Contractor” means the party or parties to a Contract funded, in whole or in part, with Federal financial assistance, other than the Prime Recipient, and includes grantees, subgrantees, Subrecipients, and borrowers. For purposes of Transparency Act reporting, Contractor does not include Vendors.

1.4. “Data Universal Numbering System (DUNS) Number” means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet’s website may be found at: <http://fedgov.dnb.com/webform>.

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- 1.5. **“Entity”** means all of the following as defined at 2 CFR part 25, subpart C;
 - 1.5.1. A governmental organization, which is a State, local government, or Indian Tribe;
 - 1.5.2. A foreign public entity;
 - 1.5.3. A domestic or foreign non-profit organization;
 - 1.5.4. A domestic or foreign for-profit organization; and
 - 1.5.5. A Federal agency, but only a Subrecipient under an Award or Subaward to a non-Federal entity.
- 1.6. **“Executive”** means an officer, managing partner or any other employee in a management position.
- 1.7. **“Federal Award Identification Number (FAIN)”** means an Award number assigned by a Federal agency to a Prime Recipient.
- 1.8. **“FFATA”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. FFATA, as amended, also is referred to as the “Transparency Act.”
- 1.9. **“Prime Recipient”** means a Colorado State agency or institution of higher education that receives an Award.
- 1.10. **“Subaward”** means a legal instrument pursuant to which a Prime Recipient of Award funds awards all or a portion of such funds to a Subrecipient, in exchange for the Subrecipient’s support in the performance of all or any portion of the substantive project or program for which the Award was granted.
- 1.11. **“Subrecipient”** means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term “Subrecipient” includes and may be referred to as Subgrantee.
- 1.12. **“Subrecipient Parent DUNS Number”** means the subrecipient parent organization’s 9-digit Data Universal Numbering System (DUNS) number that appears in the subrecipient’s System for Award Management (SAM) profile, if applicable.
- 1.13. **“Supplemental Provisions”** means these Supplemental Provisions for Federally Funded Contracts, Grants, and Purchase Orders subject to the Federal Funding Accountability and Transparency Act of 2006, As Amended, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institution of higher education.
- 1.14. **“System for Award Management (SAM)”** means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>.
- 1.15. **“Total Compensation”** means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year and includes the following:
 - 1.15.1. Salary and bonus;
 - 1.15.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
 - 1.15.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 1.15.4. Change in present value of defined benefit and actuarial pension plans;
 - 1.15.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 1.15.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 1.16. **“Transparency Act”** means the Federal Funding Accountability and Transparency Act of 2006

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(Public Law 109-282), as amended by §6202 of Public Law 110-252. The Transparency Act also is referred to as FFATA.

- 1.17 “Vendor”** means a dealer, distributor, merchant or other seller providing property or services required for a project or program funded by an Award. A Vendor is not a Prime Recipient or a Subrecipient and is not subject to the terms and conditions of the Federal award. Program compliance requirements do not pass through to a Vendor.
- 2. Compliance.** Contractor shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, including but not limited to these Supplemental Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
- 3. System for Award Management (SAM) and Data Universal Numbering System (DUNS) Requirements.**

 - 3.1. SAM.** Contractor shall maintain the currency of its information in SAM until the Contractor submits the final financial report required under the Award or receives final payment, whichever is later. Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
 - 3.2. DUNS.** Contractor shall provide its DUNS number to its Prime Recipient, and shall update Contractor’s information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Contractor’s information.
- 4. Total Compensation.** Contractor shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:

 - 4.1.** The total Federal funding authorized to date under the Award is \$25,000 or more; and
 - 4.2.** In the preceding fiscal year, Contractor received:

 - 4.2.1.** 80% or more of its annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 4.2.2.** \$25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 4.3.** The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.
- 5. Reporting.** Contractor shall report data elements to SAM and to the Prime Recipient as required in §7 below if Contractor is a Subrecipient for the Award pursuant to the Transparency Act. No direct payment shall be made to Contractor for providing any reports required under these Supplemental Provisions and the cost of producing such reports shall be included in the Contract price. The reporting requirements in §7 below are based on guidance from the US Office of Management and Budget (OMB), and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Contract and shall become part of Contractor’s obligations under this Contract, as provided in §2 above. The Colorado Office of the State Controller will provide summaries of revised OMB reporting requirements at <http://www.colorado.gov/dpa/dfp/sco/FFATA.htm>.
- 6. Effective Date and Dollar Threshold for Reporting.** The effective date of these Supplemental Provisions applies to new Awards as of October 1, 2010. Reporting requirements in §7 below apply to new Awards as of October 1, 2010, if the initial award is \$25,000 or more. If the initial Award is below \$25,000 but subsequent Award modifications result in a total Award of \$25,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$25,000. If the initial Award is \$25,000 or more, but funding is subsequently de-obligated such that the total award

amount falls below \$25,000, the Award shall continue to be subject to the reporting requirements.

7. Subrecipient Reporting Requirements. If Contractor is a Subrecipient, Contractor shall report as set forth below.

7.1 To SAM. A Subrecipient shall register in SAM and report the following data elements in SAM *for each* Federal Award Identification Number no later than the end of the month following the month in which the Subaward was made:

7.1.1 Subrecipient DUNS Number;

7.1.2 Subrecipient DUNS Number + 4 if more than one electronic funds transfer (EFT) account;

7.1.3 Subrecipient Parent DUNS Number;

7.1.4 Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;

7.1.5 Subrecipient's top 5 most highly compensated Executives if the criteria in **§4** above are met; and

7.1.6 Subrecipient's Total Compensation of top 5 most highly compensated Executives if criteria in **§4** above met.

7.2 To Prime Recipient. A Subrecipient shall report to its Prime Recipient, upon the effective date of the Contract, the following data elements:

7.2.1 Subrecipient's DUNS Number as registered in SAM.

7.2.2 Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

8. Exemptions.

8.1. These Supplemental Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.

8.2 A Contractor with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

8.3 Effective October 1, 2010, "Award" currently means a grant, cooperative agreement, or other arrangement as defined in Section 1.1 of these Special Provisions. On future dates "Award" may include other items to be specified by OMB in policy memoranda available at the OMB Web site; Award also will include other types of Awards subject to the Transparency Act.

8.4 There are no Transparency Act reporting requirements for Vendors.

9. Event of Default. Failure to comply with these Supplemental Provisions shall constitute an event of default under the Contract and the State of Colorado may terminate the Contract upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Contract, at law or in equity.

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**Exhibit E - Federal Funding Accountability and Transparency Act (FFATA)
 Data Report Form**

**Reporting is required for initial awards of \$25,000 or more
 or award modifications that result in a total award of \$25,000 or more.**

Information Field Definitions can be found in Exhibit D	Response
1. Grantee's DUNS Number:	
2. Grantee's Legal Name:	
3. Grantee's Parent DUNS Number: (Report ONLY if different from Grantee DUNS number)	
4. Location of Grantee Receiving Award: (Full street address, including City, State and Zip+4)	
5. Primary Location of Performance of the Award: (City, State and Zip+4)	
	Answer True or False
6. In the preceding fiscal year, Grantee received:	
a. \$25,000,000 or more in annual gross revenues from federal procurement contracts/subcontracts and/or federal financial assistance awards or sub-awards subject to the Transparency Act.	
b. 80% or more of its annual gross revenues from federal procurement contracts/subcontracts and/or federal financial assistance awards or sub-awards subject to the Transparency Act.	
c. The public does not have access to information about the compensation of its five most highly compensated Executives through periodic reports filed through the Securities Exchange Act of 1934 or the IRS.	

An answer to question 7 is required ONLY when all answers to questions 6 are true.

7. Names and total compensation of the five (5) most highly compensated Executives for the preceding fiscal year:

Print Name	Compensation Amount
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

By signing below, I certify the information contained in this report is complete and accurate to the best of my knowledge.

 Signature of Responsible Administrator

7-27-16

 Date

CDBG-DR P16-034 MSPRA Latham Ditch Diversion Feasibility Study
 Exhibit E - Federal Funding Accountability and Transparency Act (FFATA)
 Data Report Form

Reporting is required for initial awards of \$25,000 or more
 or award modifications that result in a total award of \$25,000 or more.

Information Field Definitions can be found in Exhibit D	Response
1. Grantee's DUNS Number:	182 800 714
2. Grantee's Legal Name:	City of Evans
3. Grantee's Parent DUNS Number: (Report ONLY if different from Grantee DUNS number)	
4. Location of Grantee Receiving Award: (Full street address, including City, State and Zip+4)	1100 37th St Evans, CO 80620
5. Primary Location of Performance of the Award: (City, State and Zip+4)	Evans, CO 80620
Answer True or False	
6. In the preceding fiscal year, Grantee received:	
a. \$25,000,000 or more in annual gross revenues from federal procurement contracts/subcontracts and/or federal financial assistance awards or sub-awards subject to the Transparency Act.	False
b. 80% or more of its annual gross revenues from federal procurement contracts/subcontracts and/or federal financial assistance awards or sub-awards subject to the Transparency Act.	False
c. The public does not have access to information about the compensation of its five most highly compensated Executives through periodic reports filed through the Securities Exchange Act of 1934 or the IRS.	False

An answer to question 7 is required ONLY when all answers to questions 6 are true.

7. Names and total compensation of the five (5) most highly compensated Executives for the preceding fiscal year:

Print Name	Compensation Amount
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

By signing below, I certify the information contained in this report is complete and accurate to the best of my knowledge.

 Signature of Responsible Administrator

 Date

EXHIBIT F PROCEDURE TO PREVENT DUPLICATION OF BENEFITS

For activities carried out by subrecipients, the designated administrator of the activity will be contractually required to complete this procedure and submit documentation for review before the responsible State agency will release payment.

PROCEDURE

- a. Prior to assistance
 - i. Identify total need
 1. Determine the specific purpose for the CDBG-DR request
 2. Total need will be determined by project type (e.g. homeowner rehabilitation cost estimate, infrastructure reconstruction cost estimate). The total need must be documented.
 3. All costs included in total need must be reasonable and necessary.
 - ii. Identify all other potentially duplicative sources of funding received and reasonably anticipated
 1. For individuals as well as entities, the application for assistance will require documentation for all sources of funding received or reasonably anticipated, and certification that all assistance is reported.
 2. 3rd party verify when possible (FEMA, SBA)
 - iii. Determine which funding sources to include in and exclude from unmet need calculation (based upon guidance in Fed. Reg. 71,060 – 71,066 (November 16, 2011)) and deduct assistance determined to be duplicative
 - iv. Apply program cap, if applicable
 - v. Arrive at maximum award
 - vi. Execute grant/loan agreement with recipient, including provision that all additional funds received will be reported to the State or subrecipient program administrator within 15 calendar days. If the additional funds are determined to be duplicative, the award will be reduced and/or the recipient will be required to repay any disbursed duplicative benefit.
- b. Upon completion of activity for which funds were awarded
 - i. Require recipient to report and certify whether additional funds were received for disaster-related expenses, the amount, and when funds were received. If additional funds were received that are determined to be duplicative, require repayment.
- c. One year after completion of activity for which funds were awarded
 - i. Require recipient to report and certify whether additional funds were received for disaster-related expenses, the amount, and when funds were received. If additional funds were received that are determined to be duplicative, require repayment.

RESPONSIBLE PERSONNEL

- a. The Department of Local Affairs, Executive Director's Office
 - i. CDBG DR Program Manager – overall program management
 - ii. Accounting and Financial Services – fiscal control

- iii. Communications

- b. Economic Development
 - i. Office of Economic Development and International Trade
 - 1. Economic development specialist – initial calculation and follow-up
 - ii. Colorado Department of Agriculture
 - 1. Program manager – initial calculation and follow-up

EXHIBIT G – PROJECT PERFORMANCE PLAN

Funding: CDBG-DR	Name of Grantee City of Evans		
Project Number: P16-034	Name of Project MSPRA Latham Ditch Diversion Feasibility Study		
DESCRIPTION OF PROJECT:	This Project will fund a preliminary conceptual design analyzing the existing Lower Latham Ditch Diversion Structure including its physical impact on flooding, river ecology and sediment transfer as well as the fiscal ramifications of continuing to operate such a complex structure.		
DOLA Staff: Tim Katers- CDBG-DR Resilience Planning Program Manager, (303) 864-7888, (tim.katers@state.co.us)			
MILESTONES – Grantee shall...	By:	STATE ROLE- DOLA shall...	
Release Request for Proposals (RFP)	30 Days after executed Grant Agreement.	Assist Grantee with RFP process as necessary. Provide feedback to Grantee identifying issues or concerns, if any.	ACHIEVED: <u>MM/DD/20YY</u>
Hire Consultant	90 Days after executed Grant Agreement.	Review selection and award documentation, and copy of subcontract(s) and/or sub-grant(s) for project file. Provide feedback to Grantee identifying issues or concerns, if any.	ACHIEVED: <u>MM/DD/20YY</u>
Consultant Begins work on Project	October 1, 2016	Monitor progress reports from the Grantee. Help Grantee identify if/when a Grant Agreement amendment is needed. Provide feedback to Grantee identifying issues or concerns, if any.	ACHIEVED: <u>MM/DD/20YY</u>
Complete conceptual Project design.	May 1, 2017	Review draft of conceptual Project design. Provide feedback to Grantee identifying issues or concerns, if any.	ACHIEVED: <u>MM/DD/20YY</u>
Complete final deliverables and report.	October 1, 2017	Review final report. Provide feedback to Grantee identifying issues or concerns, if any.	ACHIEVED: <u>MM/DD/20YY</u>

<p>Submit quarterly progress reports, which includes: Project Performance Plan accomplishments and a Financial Summary Report for:</p> <p>3rd Quarter 2016 4th Quarter 2016 1st Quarter 2017 2nd Quarter 2017 3rd Quarter 2017 4th Quarter 2017</p> <p>Progress shall be evaluated by the Grantee and documented and included at least upon submittal of Quarterly Progress Reports. Such evaluation shall consist of at least the following monitoring method:</p> <p>a) Question and answer sessions with the Consultant to confirm understanding by all parties as to the nature of the Work and how far along it should be dependent upon the Quarter under review. Specifically, such sessions will determine if:</p> <p>i) A percentage of the MSPRA Latham Ditch Diversion Feasibility Study have been developed as per agreed time-line as would be expected under this Grant and described in Exhibit B.</p>	<p>(10 calendar days after each quarter):</p> <p>October 10, 2016 January 10, 2017 April 10, 2017 July 10, 2017 October 10, 2017 January 10, 2018</p>	<p>Review documents and provide follow up technical assistance as necessary.</p> <p>If needed, respond to a request for training within 10 days.</p>	<p>ACHIEVED: <u>MM/DD/20YY</u></p> <p>ACHIEVED: <u>MM/DD/20YY</u></p> <p>ACHIEVED: <u>MM/DD/20YY</u></p> <p>ACHIEVED: <u>MM/DD/20YY</u></p>
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Submit Pay Requests including supporting documentation of expenses. Pay requests are recommended to be submitted on a monthly basis. Pay requests must be submitted at a minimum quarterly basis. Supporting documentation must be included in all pay requests.	Recommended monthly. Required 10 calendar days after each quarter.	Review backup documentation and proof of payment prior to approving pay request. Reimbursement should not exceed pro rata share.	ACHIEVED: <u>MM/DD/20YY</u>
Submit the Project Final Report to DOLA within 30 days after Project Completion. Project Final Report must be completed prior to the expiration of this Grant Agreement.	October 31,2017	Process the Final Report, final payment and de-obligate any remaining Grant Funds within 30 days of receiving a complete Project Final Report.	ACHIEVED: <u>MM/DD/20YY</u>

QUARTERLY QUESTIONS

List Reimbursement Requests for the three months being reported on:		
<u>Month</u>	January	<u>Amount</u>
<u>Month</u>	January	<u>Amount</u>
<u>Month</u>	January	<u>Amount</u>
Were any months "zero payment" (no costs incurred) during this quarter? If so, please provide an explanation.		
What are the forecasted costs for the next quarter?		
Are the budget lines still adequate? Is a contract amendment needed at this time? Are there any anticipated concerns or issues?		
Do you foresee any potential problems meeting the Grant Agreement completion deadline?		
Were previously identified problems (if any) corrected? Was a budget adjustment needed/done to address the problem(s)?		

COUNCIL COMMUNICATION

DATE: August 16, 2016
AGENDA ITEM: 11.A
SUBJECT: Adjournment to Executive Session

AGENDA ITEM DESCRIPTION:

The City Council will adjourn into an executive session to determine positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators, pursuant to C.R.S. 24-6-402(4)(e).

FINANCIAL SUMMARY:

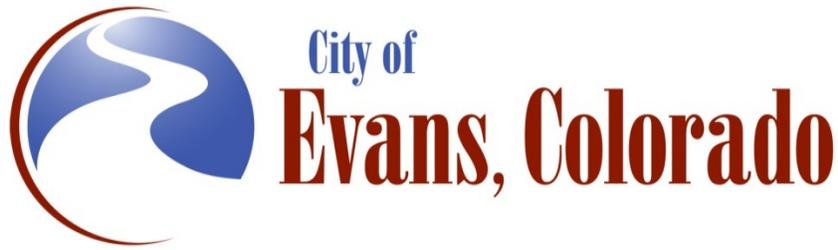
N/A

RECOMMENDATION:

N/A

SUGGESTED MOTIONS:

“I move to go into Executive Session for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators, pursuant to C.R.S. 24-6-402(4)(e).”



City Manager - Monitoring Report

August 16, 2016

Below is a compellation of updates and projects that are either new or have changed since the last City Council meeting.

City Managers Weekly City Council Update August 12, 2016

City Manager's Office	<ul style="list-style-type: none"> • Emergency Management staff is working with IT on ordering phones for the emergency ops center from the State Homeland Security Grant. This project is expected to be completed in the coming weeks. • Jessica gave an update to staff at the AIP breakfast regarding the direction of Strat Ops in the City. The City is phasing out of the outside facilitation of the strategic planning process in order to allow the new City Manager to decide how to accomplish this important function within the City. • Staff has scheduled time at the September 20th work session to report on the findings related to costs to poll residents about opinions on allowing marijuana sales in Evans.
Human Resources/Risk Management	<ul style="list-style-type: none"> • Staff received the City's medical insurance renewal from Colorado Employer Benefit Trust (CEBT). The City's 12-month loss ratio ending June 30, 2016 was 83.4% which resulted in receiving a 1.75% increase for the PPO and High Deductible Health Plan (HDHP) and a 0% increase for the Kaiser HMO plan if the City chooses to renew with CEBT. Staff is ecstatic about this fabulous news! As previously mentioned, the City will be transitioning to a 1/1 insurance renewal in order to align the plan year with the benefit year and to align with other benefits, such as, the City's Flexible Spending Account. • Staff met with the Employee Review Team (ERT) to discuss the City's medical insurance renewal and to obtain feedback on the City's current medical plan options. ERT also received a presentation from Cathy Dobratz from Colonial Insurance on the City's current voluntary supplemental insurance options along with new options available. The Team's next meeting is August 23rd to discuss and develop recommendations to the Management Team on the benefit plan and for wellness program planning for the 2016/2017 program year. • Staff worked on a draft Request of Proposal (RFP) and draft Scoring Matrix for an executive search firm to assist with the City Manager recruitment. A draft RFP was provided to the Selection Committee on Monday. The Selection Committee determined by City Council is comprised of Council Member Brian Rudy, Council Member, Sherri Finn, Deputy City Manager, Jessica Gonifas and Human Resources & Risk Management Director, Julie Roeder. The committee is targeting the RFP to be published Friday, August 12th with a response deadline of Monday, August 22nd.

Customer Service Unit	<ul style="list-style-type: none"> • Internal interviews were completed for the Administrative Specialist vacancy. • The court clerk prepared 87 total cases for August 4th court docket and 87 total cases for August 11th court docket. • Utility Billing due date will be August 15, 2016 and shut off day will be August 16, 2016. • The second incremental rate increase for Waste Water was included in the latest bill. • Resident feedback thus far related to the whether or not the City should allow marijuana sales includes: four comments in favor of allowing and one comment against.
Finance	<ul style="list-style-type: none"> • Budget process teams are on track according to the budget schedule. Achievements for this week include obtaining and updating projected contractual increases in supplies and services as well as validating payroll and benefit related figures in the budget. • Current CIP (capital improvement projects) will be reviewed by Management Team this week for recommendation of 2017 projects.
Flood & Recovery	<ul style="list-style-type: none"> • The flood staff held the 49th street pre-bid meeting. There were 13 interested contractors who attended the meeting. • Staff has posted the bid for the 49th Street Resurfacing Project with a deadline of August 24, 2016 2:00 pm.
Recreation	<ul style="list-style-type: none"> • Staff attended a Great Outdoors Colorado grant writing workshop in Windsor. The City will be submitting a Local Government Park and Outdoor Recreation grant in November for Riverside Park. • The Evans Senior Center will be teaming up with a group from Illinois to fill a bus for a trip to Boston in September.
Information Technology	<ul style="list-style-type: none"> • Staff continues migrating existing City geodata to an industry standard local government information model. • The City Cemetery data cleanup project has been completed.
Building Department	<ul style="list-style-type: none"> • The building department is processing building permit applications for single family homes in Tuscany. • Kum & Go submitted minor amendments to their building plans which are under review. This review will not slow down the Kum & Go project.
Neighborhood Services	<ul style="list-style-type: none"> • Code Enforcement responded to reported violations, and responded to requests from school district 6 to clear branches which obstruct school bus passage. • Enforcement notices have been issued for the remaining dead trees of the 2016 season. 
Planning	<ul style="list-style-type: none"> • Staff has received the first round of referral comments on the Synergy subdivision plat. • Staff has completed the proposed updates to the Zoning and Subdivision regulations and will be presenting recommendations to City Council at the 8/16 Work Session. • Staff has been in discussions with the property owner of 2800 11th Avenue regarding their plans for improvements to the site.

Engineering

- Staff met with Chad Reischl to transfer management of the Stormwater Master Plan grant project to Engineering.
- Staff attended a pre-bid meeting for the 49th Street / Industrial Parkway / Brantner Road flood recovery project.
- Staff met with Muller Engineering to review the draft Stormwater Master Plan Drainage Criteria Manual. Staff continues to review and redline the document.
- Staff is working with Kum & Go to address utility conflicts found in the field.
- Staff continues to work with subcontractors for the Synergy project on permitting for temporary piping to pull water out of the South Platte River on a temporary basis.

Police

- A few months ago Evans PD became the first police department in Weld County to train all patrol officers in the use of Nolaxone, in response to an ever-increasing epidemic of opioid use and overdose deaths. In short, Nolaxone (commonly referred to as Narcan) is administered via nasal inhaler to individuals overdosing on opioids. The medication interrupts the bonding of opioid chemicals to the specific receptors in the brain, virtually making the patient instantly “sober”. The PD recently had their first Narcan deployment and save! A 25-year-old woman who was overdosing on an opioid, had stopped breathing and had no pulse. As CPR was being administered the responding officer, Luis Garcia, administered Narcan. The woman regained consciousness and was transported to the hospital for treatment.
- Last week Officer McClatchey spent time with the residents of Community Advantage Inc. / Residential Care & Disability Services in Greeley. The adult residents of the facility all suffer from severe developmental disabilities. Officer McClatchey’s visit with them brought so much joy to the individuals! Many other officers have since taken photographs of themselves with police cars, in SWAT regalia, and other scenes to send to the residents. Great job, Teresa!
- Wednesday August 10th was Pops With Cops Day at the Riverside Library. Several officers spent an hour with neighborhood children enjoying popsicles, chatting, and exercising. It was a fantastic opportunity to make friends with our kids in the community!



Economic Development

- Staff met with a contractor onsite at the ERA properties in order to assess the demolition needs. An estimate will be forthcoming and presented to the Strike Team at their September 6th meeting.
- Esh market gave the ERA notice that they are closing their location in Evans and as of 8/31 will no longer be a tenant of the ERA.
- Staff is conducting an audit of the current business listed on the Shop Local webpage to ensure it is updated with those that are still in business.
- Staff attended the EEDAC monthly meeting and provided the group several updates including the status of the open Director position as well as the assistance the City can provide them during the vacancy.
- The EEDAC has requested that the City continue to provide the meeting space and assistance with sign code guidance for their annual Business Showcase scheduled for October 6th at the Riverside library.

Communications

- The groundbreaking for the new Waste Water Treatment Plant took place on August 9 with well over 50 in attendance, including all the Weld County Council Members. Don Sandoval from DOLA and Keith McLaughlin from Water & Power provided brief (and glowing) comments and Mayor Morris gave a spot on speech impressing the necessity of this project. Mr. McLaughlin contrasted the magnitude of this project with other municipalities and noted that a similar undertaking for Greeley would represent a \$200 million project, and an over \$2 billion project for Denver. All speakers commended Council for having the foresight and backbone to make such an important and wise decision in the face of opposition. An article was run in the Tribune on August 10.



Parks

- All mowing operations are on schedule.
- The non-potable pump that supplies water to the Evans Community Complex and Centennial School has failed. Staff is working with a pump contractor to determine the cause of the failure.
- Staff is preparing an update for the 2017 budget regarding operational changes which will be implemented for the 2017 parks season in an effort to increase the level of service of parks aesthetics.

PW Operations

- Staff has transitioned to spraying for mosquitos every other week. Staff was spraying once a month prior to this change.
- All major dirt roads are in the process of being re-graded.
- Staff will begin to look at alleys and determine which ones are in need of maintenance.
- Sweeping of all main streets is in progress.

Waste Water Operations

- Wastewater Collections; staff has resumed line jetting this week and are cleaning the lines in the Green Meadows Subdivision.
- The discharge to the Evans sanitary sewer system of groundwater dewatering at the Kum and Go construction site was completed on Thursday 8/4. The discharge consisted of 20,000 gallons. This is significantly less than the 60,000 gallons that was projected. The discharge had no negative impact on our operations.

**Waste Water
Treatment Plant**

- The significant event for the Waste Water Team was the ground breaking for the new Waste Water treatment plant was this week.
- Also on Tuesday afternoon 8/9 staff from Garney Construction, Ditesco Services and the City WW Division held the first construction weekly meeting.
- Staff assisted Garney in locating some underground lines that are conflicting with the chosen location of the UV Building.
- The six week look ahead schedule as provided by Garney is attached.



City Council Calendar August 2016

AUGUST 2016						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

AUGUST	Event	Location	Time
1	City Council Work Session & Regular City Council Meeting	Evans City Complex	Begins at 6:00PM
2	National Night Out	Renaissance Park (Tuscany)	6:00PM - 8:00PM
2	ACE Intern Celebration	Northridge High School	6:30PM - 8:30PM
4	Evans Hosting the NFRMPO Council Meeting	Riverside Library, Evans	4:30PM - 8:30PM
9	WWTP Ground Breaking	Hill-N-Park Site (49th Street and 35th Ave)	Begins at 9:00AM
16	City Council Work Session & Regular City Council Meeting	Evans City Complex	Begins at 6:00PM
18	DOLA Small Communities Workshop	Brighton	8:00AM-3:00PM
18	Evans Business After Hours	Happy Life Gardens, 2000 37th Street, Evans	5:00PM-7:00PM