



360 Main St. • Delta, Colorado 81416 • Phone (970) 874-7566 • Fax (970) 874-8776

Council may take formal action on any item appearing on this Agenda. However, formal action WILL NOT be taken at this meeting on any item of business first identified during the course of the meeting as a change to the Agenda, other business, or Citizen, Councilmember and Staff Comments.

A G E N D A

**Delta City Council
Regular Meeting**

**December 16, 2014
7:00 p.m.**

- A. Pledge of Allegiance**
- B. Changes to the Agenda**
- C. Minutes**
- D. Citizen Comments**
- E. Public Hearing: 2014 Supplemental Appropriations**
- F. Council Bill #7, 2014; First Reading
2014 Supplemental Appropriations**
- G. Lease Renewal for Property Adjacent to the Wastewater Treatment Plant**
- H. Draft Agreement with Interpretive Association of Western Colorado**
- I. Hotel/Restaurant Liquor License Renewal; Ocean Pearl**
- J. City Attorney Comments**
- K. City Manager Comments**
- L. Councilmember Comments**
- M. Executive Session**
For a conference with the City Attorney for the purpose of receiving legal advice on specific legal questions under CRS Section 24-6-402(4)(b) and for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under CRS Section 24-6-402(4)(e).

Item A:

Pledge of Allegiance



Item B:

Changes to the Agenda

Mayor Ed Sisson called the meeting to order at 7:00 p.m. Also present were Councilmembers Bill Raley, Robert Jurca, Mary Cooper, and Ray Penick along with City Manager Justin Clifton. A meeting notice was posted in the south window at City Hall at least twenty-four hours prior to the meeting.

Pledge of Allegiance

The Mayor led everyone present in the Pledge of Allegiance.

Changes to the Agenda

City Manager Justin Clifton requested to add discussion regarding possible truck route ribbon cutting before City Manager Comments.

Minutes

It was moved by Councilmember Cooper and seconded by Councilmember Raley to approve the minutes of the November 18, 2014 regular meeting as submitted by the Clerk. All in favor, motion carried.

Citizen Comments

There were none.

**Ordinance #6, 2014; Second and Final Reading
2015 Appropriations**

Ordinance #6, 2014

AN ORDINANCE APPROPRIATING SUMS OF MONEY TO THE VARIOUS FUNDS AND SPENDING AGENCIES IN THE AMOUNTS AND FOR THE PURPOSES SET FORTH BELOW FOR THE CITY OF DELTA, COLORADO, FOR THE 2015 BUDGET YEAR

was introduced as Council Bill #6, 2014 and read by the Clerk.

It was moved by Councilmember Raley and seconded by Councilmember Penick to adopt Council Bill #6, 2014 on second and final reading. Roll call vote: Councilmembers Cooper, aye; Raley, aye; Jurca, aye; Penick, aye and Sisson, aye. Motion carried. Council Bill #6, 2014 was adopted on second and final reading as Ordinance #6, 2014.

Public Hearing: Special Events Permit; Delta County Memorial Hospital Foundation

The Mayor recessed the regular meeting and convened a public hearing.

The Clerk reported that the Delta County Memorial Hospital Foundation has submitted a special event permit application for their annual fund raising event to be held on February 7, 2015. The

Regular Meeting, Delta City Council, December 2, 2014 (cont.)

Public Hearing: Special Events Permit; Delta County Memorial Hospital Foundation (cont.)

application states they plan to sell malt, vinous and spirituous liquor from 5:00pm to 11:00pm at 1501 E. 3rd Street at the Oncology Building. The application is complete and all fees have been paid. A sign notifying the public of this hearing was posted at the site as required by law and no comments have been received.

The Mayor called for public comment and when there was none he closed the public hearing and reconvened the regular meeting.

It was moved by Councilmember Penick and seconded by Councilmember Jurca to approve the special events permit for the Delta County Memorial Foundation for February 7, 2015. All in favor, motion carried.

Truck Route Ribbon Cutting

Manager Clifton updated Council on the completion of Confluence Drive. He stated that the truck route is near completion with the possibility of opening up the road by the end of the week or the first of next week.

Mr. Clifton questioned how Council would like to handle the celebration of this significant milestone. He stated that the dilemma of having a large participation with all of the stakeholders is that the celebration would need to be scheduled after the holidays to fit on everyone's calendar. The other consideration in light of the nice weather would be to hold a celebration on a smaller level.

Councilmember Cooper suggested opening Confluence Drive and then having a bigger celebration after the first of year.

There was discussion regarding opening Confluence Drive for the parade on Friday night. There were safety concerns opening the road just for the parade.

There was consensus amongst Council to open Confluence Drive when it is ready and have the celebration at a later date.

Councilmember Cooper congratulated staff on their hard work with this large project.

Mr. Clifton stated that it has been a long marathon. He recognized Community Development Director Glen Black for taking the reins when he did and finishing the project.

Councilmember Penick questioned if there will be signs directing trucks to Confluence Drive.

Mr. Clifton reported that there will be signs put up that will advise trucks that Confluence Drive is hazmat approved; however, they are smaller signs and may not stand out. Staff will possibly be working on additional signs for historic downtown. Staff will also be working with CDOT to possibly help get the trucks to use Confluence Drive.

Regular Meeting, Delta City Council, December 2, 2014 (cont.)

City Attorney Comments

There were none.

City Manager Comments

Manager Clifton reminded everyone of the following upcoming events:

- Parade of lights on Friday. He invited Council to participate with the City's float.
- Paul Suppes' retirement celebration on December 12th from 4pm to 7pm.
- City's Christmas Party of December 13th at 6:30pm.

Councilmember Comments

Councilmember Cooper stated that she will be out of town until December 16th, 2014.

The meeting was adjourned at 7:16 p.m.

/s/ Jolene E. Nelson
Jolene E. Nelson, CMC, City Clerk

Item D:

Citizen Comments



Item E:

Public Hearing: 2014 Supplemental Appropriations



MEMO

To: City Council & City Manager
From: Tod DeZeeuw, Finance Director
Date: December 16, 2014
Subject: 2014 Supplemental Appropriations



Office of the Finance Director

Recommendation:

It is recommended that the City Council approve the 2014 supplemental appropriations.

Background:

It is required by Article 6 (82) of the City Charter and Colorado State Law.

Cost:

The following funds are estimated to be over the original 2014 approved budget:

- 1) Golf Course Fund \$20,000.00 – multiple accounts over budget, such as, salaries and benefits, supplies and utilities.
- 2) City Wide Capital Improvement Fund \$1,100,000.00 – due to increased costs on the truck route. This additional transfer to the Capital Project Fund will require a loan from the Sewer Fund to the City Wide Capital Improvement Fund in the amount of \$750,000.00 which will need to be paid back as soon as funds are available. This loan is needed because the City Wide Capital Improvement Fund has an estimated \$350,000.00 in unrestricted funds available to transfer.
- 3) Refuse Fund \$120,000.00 – multiple accounts over budget, such as, supplies (trash containers), landfill fees and \$70,000.00 additional transfer to the Golf Course Fund.

Alignment with Strategic Planning:

For the 2014 Budget to be in compliance with the City Charter and Colorado State Law.

Actions To Be Taken if Approved:

Update the 2014 Budget.

Council Bill #7, 2014

AN ORDINANCE APPROPRIATING SUMS OF MONEY TO THE VARIOUS FUNDS AND SPENDING AGENCIES IN THE AMOUNTS AND FOR THE PURPOSES SET FORTH BELOW FOR THE CITY OF DELTA, COLORADO, FOR THE 2014 BUDGET YEAR

WHEREAS, the City Council has adopted the annual budget on November 19, 2013; and

WHEREAS, the City has received additional and unanticipated revenues in the form of grants and other revenue sources and there exists unappropriated surplus in the various funds; and

WHEREAS, it is not only required by law, but also necessary to appropriate the additional revenues and surplus to and for the purposes described below, so as not to impair the operations of the City.

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

Section 1. That the following supplemental appropriations, in addition to those appropriated by Ordinance #8, Series of 2013, are hereby appropriated from the revenue and surplus of each fund, to each fund, as follows:

Golf Course Fund	\$ 20,000
City Wide Capital Improvement Fund	\$ 1,100,000
Refuse Fund	\$ 120,000

ADOPTED on first reading and ordered published this _____ day of _____, 2014.

Mayor

ATTEST:

City Clerk

ADOPTED on second and final reading and ordered published
this _____ day of _____, 2014.

Mayor

ATTEST:

City Clerk

MEMO

To: City Council
From: Steve Glammeyer, Public Works/Utilities Director
Date: December 16, 2014
Subject: Lease renewal – Wastewater Treatment Plant Property



Utilities/Public Works Department

Recommendation:

It is recommended that the Council approve the lease agreement with Mr. Scott Huffington for the use of City property adjacent to the wastewater treatment plant.

Background:

The attached lease is for Mr. Huffington to pasture his stock on the property adjacent to the wastewater treatment plant. Staff sought bids for the lease of this pasture over the next three years and received one bid from Mr. Huffington. We have historically had a lease agreement with Mr. Huffington for this purpose and he would like to lease this pasture again for the next 3 years. The current lease will expire on December 31, 2014. Staff has altered the dates of the lease agreement for a 3 year and 3 month period in order to allow a longer lease term and for Mr. Huffington to pasture his livestock over the winter months should he not be able to secure the lease again during the next bidding cycle. Staff feels this is in the best interest of both the City and any potential lessee in the future. Prior to termination of the lease in 2018, staff will re-bid the lease. Staff recommends renewal of the lease once payment has been made in full for the water allotment (\$3,300) and for the yearly lease amount (\$1,200).

Cost:

There is no cost to the City.

Alignment With Strategic Planning:

While we cannot find a clear statement covering City owned property and our strategic plan for it, we feel we should capture some revenue from the ownership of this resource and this lease allows us to do that.

Actions To Be Taken if Approved:

The City Manager and Mr. Huffington will need to sign the agreement for it to be in effect.

LEASE AGREEMENT

This lease agreement, executed this _____ day of January, 2015 by and between the City of Delta, Colorado, a Colorado municipal corporation of 360 Main Street, Delta, Colorado 81416 (hereinafter referred to as "Landlord"), and Mr. Scott Huffington (hereinafter referred to as "Tenant"), is to witness:

Recitals

Landlord owns title to the real property described on the attached Exhibit A (hereinafter referred to as "the premises"). The parties have negotiated an arrangement under which Landlord will lease the premises to Tenant on the terms and conditions set forth below.

Agreement

1. **General Provisions.** Landlord hereby leases to Tenant the aforementioned premises, and expressly consents to Tenant's use of the premises for the sole purposes of grazing livestock and raising hay.

2. **Term of Lease.** The term of this Lease shall commence on January 1, 2015 and, unless otherwise sooner terminated as provided in paragraph 12 below, shall run through and including March 31, 2018.

3. **Rent Payments.** Tenant shall pay to Landlord, at Landlord's address designated in this Lease or at such other address as Landlord may hereafter designate in writing to Tenant, annual rent in the amount of \$1,200.00, plus an additional amount assessed each year by Landlord for irrigation water delivered to the premises. Said amounts shall be payable in advance on or before January 1 of each year hereafter. The parties specifically agree that the assessment payable by Tenant for irrigation water delivered in the year 2015 shall be \$3,300.00. The assessment for 2016 and 2017 shall be determined by Landlord and assessed to Tenant in writing by December 15 of each year hereafter during the term of the lease, based upon and equal to Landlord's annual cost paid for the water, plus a small administrative fee for assessing that cost to Tenant. .

4. **Utilities.** The parties recognize that there are presently no utility services provided to the leased premises. Tenant shall be responsible for paying all costs of any utility services hereafter furnished to the premises at Tenant's request.

5. **Maintenance.** In all respects, Tenant shall be responsible for making any necessary repairs to the premises and generally keeping them in a safe, secure and orderly condition. Tenant shall also maintain compliance with all State, federal and local laws governing the leased premises including, but without limitation, those which prohibit nuisances and environmental hazards.

6. **Improvements by Tenant.** Tenant shall make no alteration of, or structural improvement to, the leased premises without Landlord's express written consent. Any improvements actually made to the premises with Landlord's consent shall become a permanent part of the leased premises ultimately surrendered to Landlord, unless the parties agree otherwise in writing.

7. **Relationship of Parties.** The relationship between the parties is strictly that of landlord and tenant, and no partnership, co-venture, agency, employment or other relationship is intended by this agreement.

8. **Liability.** During the term of this lease, Tenant shall bear responsibility for any use of the leased premises and activities conducted or permitted thereon. Tenant agrees to defend and indemnify Landlord against, and hold it harmless from, any and all types and amounts of legal liability arising from or related to his use and occupancy of the premises and the conduct of his e business operations thereon, including any events attributable to Tenant which may result in injury to or death of persons, or loss of or damage to property of Tenant or other third parties. However, it is provided that Landlord shall be liable for such injury, death, property loss or damage which may be the demonstrable result of its own negligent act or omission.

9. **Insurance.** During the term of this lease, Tenant shall carry such insurance as he deems necessary for the protection of his own personal property, and of his business and personal interests hereunder, that could sustain damage or loss as the result of any fire or other casualty occurring on the leased premises. At all times during the duration of this Lease, Tenant shall also be responsible for maintaining in effect, with reputable carriers, comprehensive liability insurance adequate to cover his own business interests and his responsibilities to indemnify Landlord hereunder.

10. **Taxes.** During the lease term, Landlord shall be solely responsible for payment of all taxes levied and/or assessed against the leased premises, if any.

11. **Additional Obligations of Tenant.** Tenant further specifically agrees as follows:

- (a) To cultivate the premises faithfully in a careful and prudent manner, and prevent the growth of noxious weeds thereon.
- (b) To take proper care of any and all trees and shrubs growing on the premises.
- (c) To maintain all fences and irrigation ditches in good condition and to prevent any waste upon or other injury to the premises.
- (d) The City reserves the right to apply its biosolids/compost generated by the Treatment Works as needed, usually in the spring around March or April. Depending on the type of compost generated some restrictions may apply. If through testing compost is determined to be classified as "B" compost

the following crop or access restrictions shall apply:

- 1) No food crops may be planted that grow below the soil surface that will be harvested for human consumption. (e.g., potatoes, onions, etc.)
- 2) No food crops may be planted with harvested parts that may touch the biosolids/compost and which grow above the soil surface. (e.g., tomatoes, cucumbers, etc.)
- 3) No food crops, feed crops, and non-food crops that grow above the soil and are not in direct contact with biosolids/compost shall be harvested for 30 days after application of biosolids. (e.g., alfalfa, hay, corn, etc.)
- 4) Animals shall not be allowed to graze on the land for 30 days after application of biosolids/compost. Animals shall be defined as domesticated livestock whose products are consumed by humans.
- 5) Public access to land with a low potential for public exposure shall be restricted for 30 days after application of biosolids/compost.

12. **Termination.** Termination of this Lease shall occur on the expiration date specified in paragraph 2 hereof, or sooner upon occurrence of either of the following events: (a) breach of any term or condition of this lease by either party and failure to cure such breach within ten (10) days of written notice thereof by the other party or (b) unilateral election to terminate this lease by either party upon at least sixty (60) days prior written notice to the other party. Upon any elective termination of this lease allowed by subparagraph 12(b) hereof, the pro-rata portion of unused rent pre-paid by Tenant shall be refunded to him by Landlord within ten days after the effective date of termination and return of possession of the leased premises. In situations of termination for breach of the agreement, or for any other reason, the disposition of pre-paid rent shall be subject to judicial determination unless the parties mutually agree upon such disposition.

13. **Surrender of Premises.** Upon termination of this Lease, Tenant shall deliver and return possession of the leased premises to Landlord in as good condition as when first received, except for ordinary wear and business use, acts of God and damage not attributable to Tenant's business or to his proper activities on the premises.

14. **Breach or Default.** Breach of this lease by either party shall entitle the other party to all consistent legal and equitable remedies afforded by Colorado law including, but not limited, to those remedies provided under the unlawful entry and detainer statutes of Colorado. In the event of any dispute arising under the terms of this Lease, the prevailing party shall, in

addition to all other remedies allowed, be entitled to recover reasonable attorney fees and court costs from the non-prevailing party.

15. **Venue and Choice of Laws.** This Lease shall be construed under the laws of the State of Colorado. Venue for any litigation shall be within Delta County, Colorado.

16. **Assignment and Sublease.** Tenant shall not assign his interest in this Lease and shall not sublease all or any part of the subject premises without Landlord's prior written consent.

17. **Payments and Notices.** Payments of rent and/or notices required by this lease shall be delivered to each entitled party at the address listed on page one of this lease or at such other address as such party may hereafter designate in writing to the other party. Notices shall be deemed properly delivered upon actual delivery in person or upon mailing by certified mail with return receipt requested.

18. **Binding Effect.** This Lease shall be binding upon, and shall inure to the benefit of, the parties hereto, their respective successors, personal representatives and permitted assigns.

IN WITNESS WHEREOF the parties hereto have executed this instrument of Lease on the day and year first above written.

Tenant:

Landlord:

CITY OF DELTA

By: _____
Scott Huffington

By: _____
City Manager

MEMO

To: City Council
From: Justin Clifton, City Manager
Date: December 16, 2014
Subject: IAWC Agreement



Office of the City Manager

Recommendation:

Staff recommends Council consider the draft agreement between the City and the Interpretive Association of Western Colorado (IAWC) for management of the Old Fort.

Background:

Council likely recalls a recent presentation by the IAWC requesting to draft the enclosed agreement. The IAWC has a track record of interpretive activities in the area and has plans to revitalize the Old Fort and make better public use of the asset.

Cost:

It is unclear whether or not there will be any associated cost. Initially the City will realize small savings associated with labor cost savings. However, the current agreement does require the City to continue to pay utilities, which may increase as a result of the increased use.

Alignment With Strategic Planning:

Council has historically expressed interest in accomplishing the City's mission through partnerships where appropriate. This partnership has potential to make better use of a City asset with little or no added cost, which also comports with the City's 4th Value, "Fiscal Responsibility."

Actions To Be Taken if Approved:

The City will incorporate any changes directed by Council and prepare for final execution.

**MEMORANDUM OF UNDERSTANDING
BETWEEN T H E
CITY OF DELTA, COLORADO
AND T H E
INTERPRETIVE ASSOCIATION OF WESTERN COLORADO
PROVIDING FOR COOPERATIVE MANAGEMENT OF FORT UNCOMPAGHRE
FACILITIES AT CONFLUENCE PARK**

THIS AGREEMENT is made and entered into this ___ day of _____, 2014, by and between the CITY OF DELTA, COLORADO ("City"), and WESTERN COLORADO INTERPRETIVE ASSOCIATION, INC. d/b/a Interpretive Association of Western Colorado, Inc., a Colorado non-profit corporation ("IAWC");

I. PURPOSE

The purpose of this Memorandum of Understanding ("MOU") or ("Agreement") is to establish and define the partnership between and associated roles of the City and the IAWC on the management of Fort Uncompahgre. The City and the IAWC intend to manage the Fort cooperatively through this Agreement as an Interpretive Center. Specific projects and associated responsibilities will be described in detail in subsequent operating plans. Those operating plans will be consistent with the intent of this document.

Fort Uncompahgre is located on City property on the northeast area of the Confluence Park.

II. BACKGROUND

Fort Uncompahgre brings out the flavor and desire to experience the old west. It is a symbol of and the story of the American West. As the only Fort on the Old Spanish Trail network, it allows for a unique perspective for visitors. According to Jon Horn, the lead project manager at Alpine Archeology for researching the north branch of the Old Spanish Trail, Delta County has some of the most intact and visible sections of the Old Spanish Trail. In terms of undeveloped landscape, the area inspires the imagination of life when the west was still being explored and settled.

The City of Delta has operated Fort Uncompahgre through its Recreation and Culture Department as a history facility. In 2014, programs offered at the facility were reduced and the Fort was only open to school groups and to groups larger than 10 wishing to rent the Fort.

In May, 2014, the IAWC hosted a weekend at Fort Uncompahgre with re-enactors from Bent's Fort in eastern Colorado to gauge public interest and support for the Fort.

Visitation over the weekend saw nearly 200 visitors, many bringing children to experience life in 1840 at a trading post. The limited marketing and funding produced a positive result and the IAWC is moving forward with a proposal for operating the Fort seasonally as a living history museum, an Old Spanish Trail interpretive center, a Public Lands Education and Information Center and a Confluence Park recreation hub.

III GOALS

Through this agreement, the City and IAWC seek to:

- Utilize the existing site and facilities to promote understanding of the role that Fort Uncompahgre played in the era of the fur trade here in Western Colorado
- Preserve the pioneer heritage of Delta
- Showcase the role of the area's Native American cultures
- Introduce visitors to the historic role of Fort Uncompahgre on the Northern Branch of the Old Spanish Trail
- Create venues for cultural and educational events
- Promote recreational opportunities on the Gunnison River and surrounding public lands
- Work with federal agencies to establish a National Trails Interpretive Center
- Increase available hours of operation
- Increase public utilization of the site
- Maintain and/ or improve the condition of site to ensure long term viability of the site for public access
- Maintain and/or expand partnerships with area agencies and individuals that foster diverse activities and users consistent stated preservation goals

IV. AGREEMENT

The City and IAWC have determined that an agreement is necessary to describe and define the relationship between the City and IAWC regarding the operation of the existing facilities on City property.

In consideration of the mutual covenants contained herein, the City and IAWC agree as follows:

- A. The City does hereby license and authorize IAWC to occupy and use, under the terms and conditions of this agreement, the following real property in the County of Delta, State of Colorado to wit:

An aerial photograph is attached hereto as Exhibit 1 and is incorporated by reference as is fully set forth. Exhibit 1 further depicts and describes “the Property.”

- B. The term of this Agreement and of the initial license for use of the Property shall be for five (5) years (First Term), commencing on midnight, January 1, 2015 and expiring on midnight December 31, 2019.
- C. If the IAWC performs pursuant to this Agreement, the City hereby gives and grants to IAWC an option to extend this Agreement for two (2) successive five (5) year periods (Extended Terms) each commencing upon the expiration of the prior term, upon the same terms and conditions set here.
- D. In order to exercise an option for an Extended Term, IAWC shall give written notice to the City of its intention to exercise the option not less than ninety (90) days prior to the expiration of the First Term and any Extended Term of this Agreement. The extension shall then apply automatically unless, prior to the effective date of the new term, the City provides written notice of IAWC’s failure to perform any provision of this Agreement, in which case the renewal shall not become effective until and unless such performance issues are adequately addressed as determined by the Delta City Council in its sole discretion and written notice thereof has been provided to IAWC.
- E. IAWC agrees to use the property to operate and maintain an Interpretive Center as outlined in this agreement. General services to be offered, key performance indicators, target objectives, goals and strategies, dates and times of operation and designated special events shall be mutually agreed upon during an annual meeting between the City and the IAWC and shall be captured in an Annual Operations Plan by January 1st of each year or as soon as practical. The Operations Plan is subject to review and approval by City Council.
- F. IAWC agrees to maintain the property in a condition equal to or better than its condition at the time of execution of this Agreement. IAWC will submit an annual maintenance plan for City approval before January 1st each year or as soon as practical. That Maintenance Plan shall outline all maintenance to be performed for the calendar year including but not limited to:

[add details]

- G. IAWC agrees to issue reports to the City on the conformance to the Operations and Maintenance Plans, all relevant finances and the success of achieving desired goals as requested by the City but not less than twice per year.
- H. The City shall retain ownership of all existing inventory items on hand at the time of execution of this agreement. Said inventory includes but is not limited to all those outlined on Exhibit 2.
- I. IAWC shall retain ownership of any inventory it acquires during the period of this agreement. IAWC shall submit to the City and update at least annually a list of all inventory items it expects to retain.
- J. IAWC shall have the right to establish and collect fees relating to the operation of the Fort, which shall be subject to prior review and approval by the City, which approval shall not be unreasonably withheld. IAWC agrees to invest revenues from Fort-related activities back into the operation and maintenance of the Interpretive Center. IAWC will retain its standard 10% admin fee to administer grants associated with this project which will be used to cover costs associated with administering these grants.
- K. IAWC shall post, in consultation with and approval of the City, signs on-site directing visitors to the Fort and Interpretive Center. The City shall post directional signs on Confluence Drive and other City streets as necessary for visitor way-finding. IAWC and the City shall work jointly with the Colorado Department of Transportation for appropriate signing on State Highways.
- L. It is generally recognized that IAWC shall have sole responsibility for managing the property during the period of this agreement provided that approval for other events and/activities requested by the City shall not be unreasonable denied.
- M. IAWC shall maintain the Fort buildings in good order, good appearance and condition similar to that of their design. IAWC and the City shall conduct a physical inspection and inventory of the facilities prior to taking over operations.
- N. The City shall provide and maintain those utilities to the Visitor Center that have been historically provided at the time this agreement was executed, including electricity, heat and cooling. IAWC will be responsible for any additional utilities including internet connectivity.

- O. IAWC shall each maintain separate policies of premises and general liability insurance covering all operation and use of the Property, with each policy to name the other party as an additional co-insured party. The policy shall provide coverage with limits at least equal to the maximum amount of liability under the Colorado Governmental Immunity Act. Nothing herein shall be deemed a waiver of the City's governmental immunity nor of any protections afforded to IAWC as a result of its non-profit status.
- P. IAWC shall not assign the terms, benefits or obligations of this Agreement without the prior written consent of the City.
- Q. Unless otherwise agreed by the parties, all improvements placed on or attached to the property by IAWC shall be and become part of the property. The improvements shall be the sole and separate property of the City, subject to this agreement. Upon the expiration or termination of the Agreement the City may use, modify or dispose of the improvements, in its sole discretion as it sees fit.
- R. This agreement contains the entire agreement between the parties and cannot be changed or terminated except by a written instrument subsequently executed by the parties hereto.
- S. The City and IAWC agree to cooperate and support one another with respect to any grant applications concerning the Property or the use thereof.
- T. This Agreement shall be governed by and construed in accordance with the laws of the City of Delta, State of Colorado. In the event of any dispute arising out of this Agreement, the exclusive venue shall be the state courts of Delta, County, Colorado, AND BOTH PARTIES AGREE TO WAIVE THE RIGHT TO TRIAL TO JURY. Any fiscal or monetary obligations of the City relating to this Agreement shall at all times be subject to and contingent upon annual budgeting and appropriation by the City in accordance with Colorado law.
- U. In the event of any breach or failure to perform this Agreement, the non-breaching party shall give the breaching party written notice of the breach, and the breaching party shall then have sixty (60) days to cure the breach. If the breaching party fails to cure within this deadline, then the non-breaching party may exercise any or all of the following remedies by subsequent written notice:
 - a. If the City is the non-breaching party, the City shall have the right to terminate the license for use of the Property; or

- b. Termination of this Agreement; or
- c. Specific Performance; or
- d. Damages; or
- e. Any other remedy available at law or equity.

V. Notices. All notices under this Agreement shall be in writing and shall be effective three days after placing in the United States Mail, postage prepaid, addressed as follows:

To the City:

To IAWC

More detail is need to capture existing inventory, maintenance of the facility and operational expectations.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date indicated.

IAWC

The City of Delta, a Colorado home rule municipality

MEMO

To: City Council
From: Jolene E. Nelson, City Clerk
Date: December 16, 2014
Subject: Hotel/Restaurant Liquor License Renewal; Ocean Pearl



Office of the City Clerk

Recommendation:

Staff recommends approval of the Hotel/Restaurant License Renewal for Ocean Pearl located at 109 Main Street. The Police Department's report and recommendation is attached.

Background:

The current liquor license expires February 25, 2015.

Cost:

There is no cost to the City to renew this license. The applicant has paid his \$500 renewal fee to the State, and his \$150 City license renewal fee, along with the City's \$400 liquor occupation tax for a hotel/restaurant liquor license.

Alignment With Strategic Planning:

Per Delta Municipal Code 5.10.010 "the Delta City Council is hereby designated the local licensing authority for the purposes of exercising the duties and powers provided for in the Colorado Beer Code and the Colorado Liquor Code."

Actions To Be Taken if Approved:

The Mayor and Clerk will sign the renewal application and the Clerk will mail it to the State, who will review the application and issue the State license.

LIQUOR OR 3.2 BEER LICENSE RENEWAL APPLICATION

Fees Due	
Renewal Fee	_____
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
Amount Due/Paid	

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

PLEASE VERIFY & UPDATE ALL INFORMATION BELOW

RETURN TO CITY OR COUNTY LICENSING AUTHORITY BY DUE DATE

Licensee Name Ocean Pearl Delta LLC		DBA Ocean Pearl Delta LLC		
Liquor License # 42558800000	License Type Hotel & Restaurant (city)	Sales Tax License # 42558800000	Expiration Date 2/25/2015	Due Date 1/11/2015
Street Address 109 Main Street Delta CO 81416-1838				Phone Number (970)874-1888
Mailing Address PO Box 1931 Glenwood Springs CO 81602-1931				
Operating Manager Le Le Quach	[REDACTED]	Home Address 126 Meeker, Delta, CO 81416		Phone Number (970) 874-1888

1. Do you have legal possession of the premises at the street address above? YES NO
 Is the premises owned or rented? Owned Rented* *If rented, expiration date of lease 12/31/2020
2. Since the date of filing of the last annual application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. YES NO
NOTE TO CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP APPLICANTS: If you have added or deleted any officers, directors, managing members, general partners or persons with 10% or more interest in your business, you must complete and return immediately to your Local Licensing Authority, Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, along with all supporting documentation and fees.
3. Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. YES NO
4. Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. YES NO
5. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. YES NO
6. **SOLE PROPRIETORSHIPS, HUSBAND-WIFE PARTNERSHIPS AND PARTNERS IN GENERAL PARTNERSHIPS:** Each person must complete and sign the DR 4679: Affidavit – Restriction on Public Benefits (available online or by calling 303-205-2300) and **attach a copy of their driver's license, state-issued ID or valid passport.**

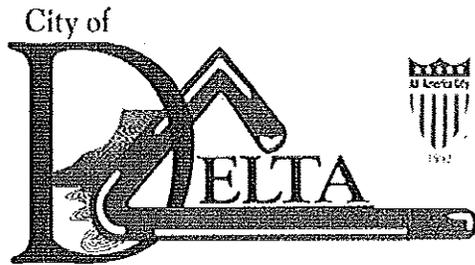
AFFIRMATION & CONSENT
I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name of Applicant/Authorized Agent of Business Le Le Quach	Title Member
Signature 	Date 11/21/14

REPORT & APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY

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

Local Licensing Authority For	Date
Signature	Title
	Attest



360 Main St. • Delta, Colorado 81416 • Phone (970) 874-7566 • Fax (970) 874-8776

LIQUOR LICENSE RENEWAL RECOMMENDATION

To: City Council

Re: Application of Ocean Pearl LLP

DBA: Ocean Pearl

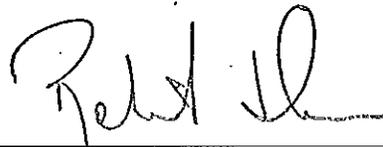
The report sheets show the following liquor violations for the past twelve months for the above named applicant:

No liquor violations in the past twelve months.

Remarks:

Police Department recommendation:

Recommend liquor license renewal.



Robert Thomas, Chief of Police

Attorney Comments



City Manager Comments



Councilmember Comments



Item M:

Executive Session:

For a conference with the City Attorney for the purpose of receiving legal advice on specific legal questions under CRS Section 24-6-402(4)(b) and for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under CRS Section 24-6-402(4)(e).