

**REGULAR MEETING OF THE CITY COMMISSION
MONDAY, AUGUST 24, 2015 @ 5:30 P.M.
CITY COMMISSION CHAMBERS, 214 S. LOVE STREET**

Call to Order: The meeting was called to order by Mayor Gandy at 5:30 p.m.

Present and answering roll call: Commissioner Bengé, Commissioner Trujillo, Commissioner Butcher, Commissioner Campos, and Mayor Gandy

Also Present: City Manager James Williams, Assistant City Manager Jared Cobb, City Attorney Patrick McMahon, Police Chief David Rodriguez, City Clerk Carol Ann Hogue, City Planner Merideth Hildreth, Finance Director Chapman, and Administrative Assistant Anna Juarez

Invocation: Mayor Gandy gave the invocation.

Pledge of Allegiance: Mayor Gandy led the pledge.

Approval of Agenda: Mayor Gandy called for a motion. Commissioner Trujillo so moved to approve the agenda with one addition – Appointments for Voting Delegates for Municipal League Meeting in Albuquerque to be added before the Accounts Payable. Commissioner Bengé seconded and a roll call was taken: Commissioner Trujillo – Yes, Commissioner Campos – Yes, Commissioner Butcher - Yes, Commissioner Bengé – Yes, and Mayor Gandy – Yes.

Approval of the Regular Meeting Minutes of August 10, 2015: Mayor Gandy called for a motion. Commissioner Campos so moved to approve the regular meeting minutes of August 10, 2015; Commissioner Trujillo seconded. Roll call was taken: Commissioner Butcher – Yes, Commissioner Trujillo – Yes, Commissioner Bengé – Yes, Commissioner Campos – Yes, and Mayor Gandy – Yes.

COMMISSIONER AND STAFF REPORTS:

- Mayor Gandy asked City Manager Williams to look into handle of RV dump and congratulated MainStreet on their award
- City Manager Williams informed Commissioners of NMDOT meeting at the Town Hall on Wednesday, from 6:00 p.m. – 7:30 p.m. to discuss US 82 Roadway Project
- MainStreet Director Tabitha Lawson stated 2015 Live On Love Street Series Concerts were well attended; Mrs. Lawson thanked Commissioner Butcher, City Manager Williams, and Assistant City Manager Cobb for attending MainStreet awards ceremony in Artesia. Mrs. Lawson stated Lovington MainStreet has received National Accreditation for the 2nd year in a row from the National Organization; Lovington MainStreet is one of seven Communities in the State of New Mexico to receive the National award

NON-ACTION ITEMS:

Discussion of Water Account Deposits and Policy: City Manager Williams informed Commissioners of deposits for Water Department as such: owner occupied \$50, non-owner occupied without waiver \$80, non-owner occupied with waiver \$200, and commercial \$50. City Manager Williams stated that the State law allows the City to have a waiver which states owner is responsible for any overages in utilities, subsection A. It does not apply if owner provides written notice in which case they will not be held liable. Commissioners and Staff discussed if a \$200.00 deposit is adequate, if change in renters require a new signed waiver, if commercial rentals should have increase deposit, and consider a credit check on renters. Commissioner Trujillo asked if it is possible to provide data on usage rate per month and to cut off water after 60 days if renter accumulates more than normal water usage. Commissioner Trujillo asked if the City would be responsible for the excess of \$200.00 if cutoffs are not enforced. City Manager Williams stated water policy is enforced with firmer language and disconnect notice has been reworded. City Manager stated payment extensions are offered and City staff is working on clearing pass due accounts of greater than \$200.00 prior to 2013. Commissioner Benge stated she was unaware of statute in the law that allowed for a waiver to allow a property owner to opt out of anything a renter incurred; Commissioner Benge stated she has assumed responsibility because anything associated with property is the property owner's responsibility. Estella Garcia addressed Commissioners with some of her concerns to a waiver she signed in 1995, suggesting subdividing water, sewer, and trash bill, to consider starting an account for donations or charitable contributions for unpaid bills, and asked if requesting personal information on water bill and billing cycle could possibly eventually lead to lawsuits. Mayor Gandy suggested for Mrs. Garcia to request a deposit on rental properties to cover overages in billing or have bills delivered to Mrs. Garcia's address to be able to control utilities not being paid. Commissioner Trujillo suggested considering a waiver for landlords to be able to ask questions concerning renters' accounts; in reference to responsibility of utility bill, the contract is between renter and the City. City Attorney McMahan stated that based on State statutes and City ordinance, the City could place a lien against a property for unpaid utilities; and as Commission you have an obligation to make sure the City is doing everything it could to alleviate those types of losses. City Attorney McMahan stated if the \$200 is not an appropriate level and puts the City at risk, the City could increase the amount to cover bills and leave landlords out; but something needs to be established to protect the City for its services provided.

Discussion of Fund Policy: Finance Director Chapman addressed Commissioners of Governmental Accounting Standards Board (GASB) requirement for the City to take action on fund balance classifications and to implement a policy on Committing and Assigning fund balances. Finance Director Chapman asked Commissioners for direction on establishing a three or six month fund balance and direction on enterprise funds minimum balance appropriate for the City and reasons for recommendations the City needs to comply with a definition of special revenue, emergency, or maintaining cash

flow. Commissioners and Staff agreed upon an amount of 35% to 40% due to GRT fluctuations; percentage amount will be based on budgeted amount every year. Commissioners and Staff discussed what language to add to allow for decreasing reserves in a case by case or year by year basis, and what items are considered emergencies. Commissioner Campos stated case by case should be discussed as a board; Finance Director Chapman described some triggers such as City flooding to repair serious street damage or hail damage to buildings. City Manager Williams stated 40% would be adequate for the general fund. City Manager Williams asked if there are any issues with percentage listed for the Economic Development Fund, Enterprise Funds, and Special Revenue; Mayor Gandy responded leave as is.

Discussion of City Vehicle Policy: City Manager Williams addressed Commissioners about rough draft of a vehicle use policy which is an IRS requirement. Take home vehicles are classified as a fringe benefit. City Manager Williams stated vehicle use policy clarifies qualifications to drive City owned vehicles, general safety rules, as well as clarifying appropriate usage. City Manager Williams addressed occasions where a non-city employee rides in a City vehicle, the employee will need to get permission from department supervisor and City Manager; it should not be a routine practice. City Manager Williams stated police and fire vehicles are exempt; plan will not take effect until January 1, 2016. Commissioner Campos addressed the public of complaint received on police units left running at businesses and in restaurant parking lot. Commissioner Campos stated it is not best practice and understand it is being addressed.

Discussion of Parks and Recreation Board Appointments: City Manager Williams stated Parks and Recreation Board has staggered terms not identified by Commission; two members, Evelyn Holguin and Clint Laughrin, were chosen by a blind draw. Both members wish to remain as board members. Notice will be published. Appointments will be for a three year term.

ACTION ITEMS:

Consider Approval of Resolution 2015-74: Approval of 2017 – 2021 ICIP: Mayor Gandy called for a motion. Commissioner Trujillo so moved to consider resolution 2015-74: Approval of 2017 – 2021 ICIP; Commissioner Bengé seconded. Assistant City Manager Cobb addressed Commissioners of ICIP is a plan required by the state to apply for state capital outlay funds, grants and loans. Assistant City Manager Cobb stated nine projects have been added to the plan:

- Police Facility and Unit Equipment Upgrades (2017)
- Senior Center – replace tile flooring (2017)
- Senior Center – overlay parking and replace sidewalks (2017)
- Senior Center – replace minivan and ADA Equipment (2017)
- Senior Center – tilting braising pan (2019)
- Senior Center – dishwasher (2020)
- Senior Center – 40 quart standing 3-speed mixer (2020)

Assistant City Manager Cobb stated City is working on a RFP in the amount of \$475,000 for the project to purchase the water meters and another RFP for the installation.

Mayor Gandy stated the top five ICIP items:

- Reconstruct N. Commercial Bypass – Phase 2
- Lovington Sports Complex
- Replace Water Meters
- Industrial Park/Infrastructure Expansion
- Evidence Storage and Impound Lot

There being no further discussion, a roll call was taken: Commissioner Bengé – Yes, Commissioner Campos – Yes, Commissioner Butcher – Yes, Commissioner Trujillo – Yes, and Mayor Gandy – Yes. Motion was approved.

Consider Resolution approving variance at 200 North Roosevelt: Rear-yard setback for manufactured home: Mayor Gandy called for a motion. Commissioner Campos so moved to consider approving variance at 200 North Roosevelt: Rear-yard setback for manufactured home; Commissioner Bengé seconded. City Planner Hildreth addressed Commissioners of variance request to reduce the size of rear-yard setback on Roosevelt and Washington Street. City Planner Hildreth stated reason for request is to install a 30 x 64 unit on the lot which measures 60 x 110 feet deep; to accommodate the unit, the owner is requesting permission for a 20 foot rear-yard setback on this lot. Owner Luis Andujo Teran is present. Planning and Zoning Commission approved variance. Commissioner Campos so moved to amend motion to include Resolution 2015-75; Commissioner Butcher seconded. There being no further discussion, a roll call was taken for amendment: Commissioner Campos – Yes, Commissioner Butcher – Yes, Commissioner Bengé – Yes, Commissioner Trujillo – Yes, and Mayor Gandy – Yes. Motion was approved. Voting on variance, a roll call was taken: Commissioner Bengé – Yes, Commissioner Campos – Yes, Commissioner Trujillo – Yes, Commissioner Butcher – Yes, and Mayor Gandy – Yes. Motion was approved.

Consider Resolution approving variance at 622 North Eddy Street: Front-yard setback for manufactured home: Mayor Gandy called for a motion. Commissioner Butcher so moved to consider Resolution 2015-76 approving variance at 622 North Eddy Street: Front-yard setback for manufactured home; Commissioner Campos seconded. City Planner Hildreth addressed Commissioners of variance request for 622 North Eddy Street to allow for a 22 foot front yard setback instead of the required 25 foot per Lovington Municipal Codes. Planning and Zoning recommended approval. There being no further discussion, a roll call was taken: Commissioner Campos – Yes, Commissioner Bengé – Yes, Commissioner Trujillo – Yes, Commissioner Butcher – Yes, and Mayor Gandy – Yes. Motion was approved.

Consider Resolution approving variance at 421 West Tyler Avenue: Rear-yard setback and distance between accessory building and manufactured home: Mayor Gandy called for a motion. Commissioner Campos so moved to consider Resolution 2015-77 approving variance at 421 West Tyler Avenue: Rear-yard setback and distance between accessory building and manufactured home; Commissioner Butcher seconded. City Planner Hildreth addressed Commissioners of variance request for 421 West Tyler with a lot size of 50 feet wide by 140 feet deep includes a historic stone garage in the front yard and owners are installing a single wide unit 16 feet wide by 76 feet long. City Planner Hildreth stated a variance is required to allow for a rear yard setback of 10 feet instead of the required 28 feet per Lovington Municipal Codes and an additional variance to allow for a five foot distance between the home and the accessory building instead of the required 10 feet. Commissioner Bengé stated she did not see a problem with setback from garage and thinks it is great way to be able to continue to utilize the stone garage. Planning and Zoning Commission recommended approval; property is zoned B, multi-family zone. There being no further discussion, a roll call was taken: Commissioner Trujillo – Yes, Commissioner Butcher – Yes, Commissioner Bengé – Yes, Commissioner Campos – Yes, and Mayor Gandy – Yes. Motion was approved.

Consider Resolution approving vacation of a portion of Avenue A from Eddy Street east 140 feet: Mayor Gandy called for a motion. Commissioner Bengé so moved to follow the recommendation of Planning and Zoning to deny vacation of a portion of Avenue A from Eddy Street east 140 feet; Commissioner Butcher seconded. City Planner Hildreth addressed Commissioners of request to vacate avenue A between Eddy Street and the alley. City Planner Hildreth stated Planning and Zoning denied request due to lack of east/west street connectivity in the future. Ryan Burkett, owner of property/developer, stated he agreed with Planning and Zoning recommendation to deny request. Mr. Burkett stated looking in the future, this is a good call. There being no further discussion, a roll call was taken: Commissioner Butcher – Yes, Commissioner Campos – Yes, Commissioner Trujillo – Yes, Commissioner Bengé – Yes, and Mayor Gandy – Yes. Motion was approved.

Consider Resolution approving vacation of a 40-foot right-of-way easement in Block 28 of College Addition, west of Eddy Street between Madison Avenue and Jefferson Avenue: Mayor Gandy called for a motion. Commissioner Butcher so moved to consider Resolution 2015-78 approving vacation of a 40-foot right-of-way easement in Block 28 of College Addition, west of Eddy Street between Madison Avenue and Jefferson Avenue; Commissioner Campos seconded. City Planner Hildreth addressed Commissioners of request to vacate a 40 foot right-of-way easement. A surveyor recently discovered 40-foot easement under consideration. Since the 1950's or earlier, it is surmised that a mistake occurred in recording a survey point of legal description and has been carried over. Approving the recommendation will make the property available for development. There being no further discussion, a roll call was taken: Commissioner Bengé – No, Commissioner Campos – Yes, Commissioner Butcher – Yes, Commissioner Trujillo – Yes, and Mayor Gandy – Yes. Motion was approved.

Commissioner Bengé stated no because this does not address the problem of the survey error.

Consider Resolution approving vacation of a 20-foot alley easement in the West portion of Block 28 of College Addition and dedicating a street right-of-way for East Street: Mayor Gandy called for a motion. Commissioner Campos so moved to consider Resolution 2015-79 approving vacation of a 20-foot alley easement in the West portion of Block 28 of College Addition and dedicating a street right-of-way for East Street; Commissioner Butcher seconded. City Planner Hildreth addressed Commissioners and presented a vacation and dedication plat for the vacation of a 20 foot alley easement and a dedication of a paved portion of East Street that has never been dedicated. Planning and Zoning recommended approval. There being no further discussion, a roll call was taken: Commissioner Trujillo – Abstained, Commissioner Bengé – Yes, Commissioner Campos – Yes, Commissioner Butcher – Yes, and Mayor Gandy – Yes. Motion was approved.

Consider Lodgers Tax Board Appointment: Mayor Gandy called for a motion. Commissioner Trujillo so moved to consider Lodger’s Tax Board Appointment; Commissioner Butcher seconded. City Manager Williams addressed Commissioners of approval of Shannon Pettigrew’s reappointment to the Lodger’s Tax Board. Commissioner Trujillo amended the motion to reappoint Shannon Pettigrew to the Lodger’s Tax Board; Commissioner Campos seconded. There being no further discussion, a roll call was taken: Commissioner Bengé – Yes, Commissioner Trujillo – Yes, Commissioner Butcher – Yes, Commissioner Campos – Yes, and Mayor Gandy – Yes. Motion was approved.

Commissioner Bengé so moved to pay the bills; Commissioner Campos seconded. Mayor Gandy asked City Attorney McMahan if motion needs to be withdrawn or continue with motion, then consider agenda item to appoint delegates for Municipal League; City Attorney McMahan recommended withdrawing the motion and consider voting, and then consider the payables. Commissioner Bengé withdrew motion to pay the bills; Commissioner Campos seconded.

Consider Voting Delegates for Municipal League: Mayor Gandy called for a motion. Commissioner Trujillo so moved to appoint Paul Campos for voting delegate and Benard Butcher for alternate delegate at the Municipal League Conference in Albuquerque; Commissioner Bengé seconded. There being no further discussion, a roll call was taken: Commissioner Bengé – Yes, Commissioner Trujillo – Yes, Commissioner Butcher – Yes, Commissioner Campos – Yes, and Mayor Gandy – Yes. Motion was approved.

Consider Approval of Accounts Payable: Mayor Gandy called for a motion. Commissioner Bengé so moved to approve the accounts payable; Commissioner Trujillo second. There being no further discussion, a roll call was taken: Commissioner Bengé –

Yes, Commissioner Butcher – Yes, Commissioner Trujillo – Yes, Commissioner Campos – Yes, and Mayor Gandy – Yes. Motion was approved.

PUBLIC COMMENT: None

CLOSED SESSION:

At 6:47 p.m., Commissioner Trujillo moved to adjourn the Regular Session and convene in Closed Session Pursuant to Section 10-15-1 NMSA 1978, Subsection H-8-regarding the purchase, acquisition or disposition of real property or water rights – Potential Sale of City Commercial Property. Commissioner Campos seconded, a roll call vote was taken: Commissioner Campos - Yes; Commissioner Butcher - Yes; Commissioner Trujillo – Yes; Commissioner Bengé - Yes; and Mayor Gandy - Yes.

At 7:07 p.m., Commissioner Campos so moved to adjourn the Closed Session and reconvene in Regular Session stating that matters discussed were limited only to those specified in the motion and no action was taken. Commissioner Butcher seconded and a roll call vote was taken: Commissioner Campos - Yes; Commissioner Bengé - Yes; Commissioner Butcher - Yes; Commissioner Trujillo - Yes; and Mayor Gandy - Yes.

ADJOURNMENT: There being no further business, Mayor Gandy adjourned, the meeting at 7:07 p.m.

APPROVED: _____
SCOTTY GANDY, MAYOR

ATTEST: _____
CAROL ANN HOGUE, CITY CLERK

CITY OF LOVINGTON
COMMISSION STAFF SUMMARY FORM

MEETING DATE: September 14, 2015



TYPE: RESOLUTION ORDINANCE PROCLAMATION INFORMATION OTHER ACTION

SUBJECT: Lodger Tax Board Appointment Discussion
DEPARTMENT: Executive
SUBMITTED BY: James R. Williams, City Manager
DATE SUBMITTED: September 8, 2015

STAFF SUMMARY:

Due to very recent changes in her schedule, Shannon Pettigrew has resigned from her position with the Lodgers Tax Board. Mrs. Pettigrew was reappointed at the last City Commission, and there was no other interest received by staff from individuals wishing to serve. This vacancy will be advertised, with final appointment by the City Commission at the September 24, 2015 meeting.

FISCAL IMPACT:

REVIEWED BY: _____

(Finance Director)

ATTACHMENTS:

RECOMMENDATION:

Discussion only.

Department Head

James R. Williams

City Manager

CITY OF LOVINGTON
COMMISSION STAFF SUMMARY FORM

MEETING DATE: September 14, 2015



TYPE: RESOLUTION ORDINANCE PROCLAMATION INFORMATION OTHER ACTION

SUBJECT: Resolution 2015-80: Fund Balance Reserve Policy
DEPARTMENT: Finance
SUBMITTED BY: Gary Chapman, Finance Director
DATE SUBMITTED: September 8, 2015

STAFF SUMMARY:

Resolution 2015-80 will implement the Fund Balance and Reserve Policy discussed by Commission at the August 24, 2015 meeting. All changes discussed have been incorporated into the policy.

FISCAL IMPACT:

REVIEWED BY: Gary Lee Chapman
(Finance Director)

ATTACHMENTS:

Fund Balance Reserve Policy
Resolution 2015-80

RECOMMENDATION:

Motion to adopt Resolution 2015-80.

Gary Lee Chapman
Department Head

James R. Williams
City Manager

FUND BALANCE RESERVE POLICY

POLICY:

The City utilizes a variety of accounting funds for accounting and budgeting for revenues and expenditures of the City. Appropriations lapse at each fiscal year-end. The City Commission authorizes continued appropriations for certain incomplete capital projects, other one-time projects and services that have not been billed. Remaining dollars left in each fund that are undesignated and unencumbered constitute available reserves of the City. It is appropriate that reserve policies for the City be established for each of the various funds, that the purpose of these reserves be designated, and that dollars available in excess of the reserve amounts be appropriately and effectively utilized. This policy governs the City's reserves as follows:

A. General Fund

The City will maintain a minimum fund balance of at least forty (40) percent of annual operating expenditures in the General Fund. This is considered the minimum level necessary to maintain the City's credit worthiness and to adequately provide for:

1. Economic uncertainties, local disasters, and other financial hardships or downturns in the local or national economy.
2. Contingencies for unseen operating or capital needs.
3. Cash flow requirements.

B. Economic Development Fund

Project spending in Economic Development fund fluctuates year-to-year depending upon the specific projects approved by the board many of which are grant funded. This being the case, it is recommended the City maintain \$100,000 available to cover matching funds.

C. Enterprise Funds

The City will maintain a minimum fund balance of at least 25% of annual operating expenditures.

D. Special Revenue

The City will maintain a minimum fund balance of at least 8% of annual operating expenditures.

Reserve levels will be reviewed annually during the budget process. Any recommended adjustments to reserve levels will be presented to City Commission for its consideration during the annual budget process.

COMMITMENTS AND ASSIGNMENTS OF FUND BALANCE:

Governmental Accounting Standards Board Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*, provides the City with a method to self-classify fund balance for financial statement reporting purposes.

A. Committed Fund Balance

Fund balance may be committed to specific purposes using its highest level of decision-making authority, the City Commission. It is the City Commission's policy that commitments of fund balance for a fiscal year must be adopted by resolution prior to fiscal year end. Amounts that have been committed by the City Commission cannot be used for any other purpose unless the City Commission adopts another resolution to remove or change the constraint.

B. Assigned Fund Balance

The General Fund balance may be assigned for amounts the City Commission intends to use for a specific purpose. It is the City Commission's policy that assignments of fund balance for a fiscal year must be approved by minute-order of the City Commission prior to the fiscal year end. Any changes to assignments must also be made by minute-order of the City Commission.

It is the City Commission's policy to spend fund balance in the following order when amounts in more than one classification are available for a particular purpose:

1. Restricted Fund Balance – amounts constrained to specific purpose by their providers through constitutional provisions or enabling legislation. Examples include grants, bond proceeds and pass-through revenue from other levels of government.
2. Committed Fund Balance – amounts constrained to specific purpose by resolution of the City Commission.
3. Assigned Fund Balance – amounts in the General Fund that are intended to be used for a specific purpose, expressed by minute-order of the City Commission.
4. Unassigned Fund Balance - amounts available for any purpose in the General Fund.

BACKGROUND:

Reserves, rainy-day funds, or contingency funds are a prudent fiscal policy and an important credit factor in the analysis of financial analysis and management. Local governments have experienced much volatility in their financial stability due to the economy, natural disasters, terrorist attacks, and actions taken by state government that includes taking revenues from local governments to resolve state budget problems. Sound financial management includes the practice and discipline of maintaining adequate reserve funds for known and unknown contingencies. Such contingencies include, but are not limited to: cash flow requirements, economic uncertainties including

downturns in the local, state or national economy, local emergencies and natural disasters, loss of major revenue sources, unanticipated operating or capital expenditures, uninsured losses, tax refunds, future capital projects, vehicle and equipment replacement, and capital asset and infrastructure repair and replacement. The establishment of prudent financial reserve policies is important to ensure the long-term financial health of the City.

RESOLUTION NO. 2015-80

ADOPT POLICY ON FUND BALANCE RESERVES

WHEREAS, the Governmental Accounting Standard Board (GASB) issued Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions; and

WHEREAS, for financial statement reporting purposes, the GASB Statement defines non-spendable amounts as those that are not in a spendable form or are required to be maintained intact; and

WHEREAS, for financial statement reporting purposes, the GASB Statement defines committed amounts as those constrained to specific purposes by the government itself; and

WHEREAS, for financial statement reporting purposes, the GASB Statement defines assigned amounts as those the government intends to use for a specific purpose; and

WHEREAS, the City Commission's policy is created to include the City Commission's policy for committing and assigning fund balance for financial statement reporting purposes, and the City Commission's policy for the order in which classified fund balance is spent when amounts in more than one classification are available for a particular purpose.

NOW, THEREFORE, BE IT RESOLVED, by the governing body, the City Commission of the City of Lovington, New Mexico that a Fund Balance Reserve Policy for compliance with GASB Statement No. 54 is approved and adopted by the City Commission and attached hereto for reference.

APPROVED THIS 14TH DAY OF SEPTEMBER, 2015.

ATTEST:

SCOTTY GANDY, MAYOR

CAROL ANN HOGUE, CITY CLERK

CITY OF LOVINGTON
COMMISSION STAFF SUMMARY FORM

MEETING DATE: September 14, 2015



TYPE: RESOLUTION ORDINANCE PROCLAMATION INFORMATION OTHER ACTION

SUBJECT: Resolution 2015-81: Vehicle Use Policy
DEPARTMENT: Finance
SUBMITTED BY: Gary Chapman, Finance Director
DATE SUBMITTED: September 8, 2015

STAFF SUMMARY:

Resolution 2015-81 will formally adopt the Vehicle Use Policy discussed at the August 24, 2015 meeting. The changes discussed during the meeting have been incorporated as requested. In addition, City staff have incorporated banning the use of cell phones in a moving vehicle unless a hands free device is utilized.

FISCAL IMPACT:

REVIEWED BY: Gary Lee Chapman
(Finance Director)

ATTACHMENTS:

Vehicle Use Policy
Resolution 2015-81

RECOMMENDATION:

Motion to approve Resolution 2015-81

Gary Lee Chapman
Department Head

James R. Williams
City Manager

City Vehicle Use

Certain employees are required to use City-owned vehicles to carry out their duties. Any employee who operates a City vehicle must follow these rules:

1. Employee must possess a valid operator's license for the class of vehicle being driven.
2. Employee using the vehicle must be conducting City business.
3. Assignment of a specific City vehicle is neither a privilege nor a right of any City employee and shall be based on service delivery requirements.
4. Take-home City vehicle assignments must be reviewed and approved based on established and documented performance measures clearly indicating the public benefits derived from any authorized take-home assignments.
5. Employee must receive prior approval from Division Supervisor and City Manager before driving vehicle for personal use.
6. Transportation of non-city employees will require prior approval from the Division Supervisor and City Manager.
7. Employee is responsible for checking the vehicle at the beginning of each workday to assure that the vehicle is in good mechanical condition and properly equipped.
8. The driver of the City vehicle is responsible for the condition of the vehicle.
9. Employee(s) must wear seat belt(s) at all times while vehicle is in motion. The driver shall instruct any passenger to fasten seat belt before vehicle is in motion.
10. Employee must operate the vehicle in a safe manner conforming to traffic laws and road conditions.
11. All drivers and passengers shall comply with all applicable state and local traffic laws. The driver shall be personally liable for any criminal or civil penalty incurred.
12. Use of any tobacco or nicotine-containing product is prohibited in all City vehicles. Use of or transporting alcohol is prohibited in all City vehicles.
13. Employee shall not leave keys in vehicles for any reason. The only exception to this is ambulances and fire apparatus parked within the truck bays.
14. Vehicles will not be left running and unattended unless it is being used for a specific work task (i.e. K-9 unit, running work lights at a job site, etc.)

15. The use of cell phones while driving the vehicle is prohibited unless a hands free device is being used.
16. Flammables such as gasoline must be stored in approved containers for transportation.
17. All accidents must be reported immediately.
18. Any employee who has an automobile accident caused by the employee must submit to a drug screen within two (2) hours of accident. In the event the employee is injured and medical attention is required, the drug screen shall be administered at the hospital or urgent care.

Any violation of the rules listed above may result in disciplinary action up to and including termination.

Personal Use of Automobiles

1. Use of City vehicles for personal travel is not permitted unless the employee has the approval of the Division Supervisor and City Manager
2. Personal use of City vehicles is limited to commuting to and from the employee's workplace. The value of the commute will be \$1.50 per one-way trip, \$3.00 round-trip. If more than one employee commutes in the same vehicle, the \$1.50 is applied to each employee. Any changes to the value of the commute, per IRS code, will be applied.
 - a. The IRS allows for certain vehicles to be exempted from fringe benefit compensation consideration. That is, their use is deemed to be exclusively for City business purposes. The following types of "Qualified Non Personal Use" vehicles represent vehicles from a portion of the IRS list that may currently be in use by the City:
 - i. Clearly marked police and fire vehicles – A police or fire vehicle is a vehicle, owned or leased by the City, that is required to be used for commuting by a police officer or firefighter who, when not on a regular shift, is on call at all times.
 - ii. Unmarked vehicles used by law enforcement officers – use must be officially authorized, the vehicle must be owned or leased by the City, and the law enforcement officers must be full time employees of the City.
 - iii. Large cargo capacity vehicle – any vehicle designed to carry cargo with a loaded gross vehicle weight over 14,000 pounds.

- b. Employees who drive City vehicles to commute must complete the time sheets indicating the number of days that they are using the automobile.
- c. Only employees who are on call, or generally called out, are authorized to take home City vehicles. The employee must live within twenty (20) miles of the city limits.

RESOLUTION NO. 2015-81

ADOPT POLICY ON CITY VEHICLE USE

WHEREAS, recognizes that certain employees are required to use City-owned vehicles to carry out their duties; and

WHEREAS, there is a need to adopt a city-owned vehicle use policy for its employees; and

WHEREAS, this policy will implement a system to track the use of a take-home city vehicle per IRS rules.

NOW, THEREFORE, BE IT RESOLVED, by the governing body, the City Commission of the City of Lovington, New Mexico that a Vehicle Use Policy is approved and adopted by the City Commission and attached hereto for reference.

APPROVED THIS 14TH DAY OF SEPTEMBER, 2015.

ATTEST:

SCOTTY GANDY, MAYOR

CAROL ANN HOGUE, CITY CLERK

CITY OF LOVINGTON
COMMISSION STAFF SUMMARY FORM

MEETING DATE: September 14, 2015



TYPE: RESOLUTION ORDINANCE PROCLAMATION INFORMATION OTHER ACTION

SUBJECT: Resolution 2015-82: Fiscal Agent Agreement
DEPARTMENT: Executive
SUBMITTED BY: James R. Williams, City Manager
DATE SUBMITTED: September 9, 2015

STAFF SUMMARY:

Resolution 2015-82 will authorize the Mayor to sign a fiscal agent agreement with the Southeastern New Mexico Council of Governments in order for the City to utilize a 2014 Legislative Capital Outlay Appropriation in the amount of \$29,000 for the purchase of a van for the Senior Citizens Center.

FISCAL IMPACT:

REVIEWED BY: Gary Lee Chapman
(Finance Director)

\$588.00 in fees to the Fiscal Agent

ATTACHMENTS:

Fiscal Agent Agreement
Resolution 2015-82

RECOMMENDATION:

Motion to approve Resolution 2015-82

Department Head

City Manager

**SOUTHEASTERN NEW MEXICO
ECONOMIC DEVELOPMENT DISTRICT/COUNCIL OF GOVERNMENTS
CONTRACT FOR FISCAL AGENT SERVICES**

This agreement for fiscal agent services is between the City of Lovington (hereinafter called the **City**) and the **Southeastern New Mexico Economic Development District/Council of Governments**, a non-profit public corporation organized under the laws of the State of New Mexico (hereinafter called the **SNMEDD/COG**).

RECITALS:

The **CITY** has received funds and entered into an agreement with the State of New Mexico for funding from the 2014 Legislative Capital Outlay Appropriation in the amount **\$29,000.00** for **Project No: 2014-1156 to purchase a van for the Lovington (Billy McKibben) Senior Citizens Center in the City of Lovington**. As a government member of the **SNMEDD/COG**, the **CITY** desires the **SNMEDD/COG** to provide certain fiscal agent services.

AGREEMENT:

The **CITY** agrees to engage the **SNMEDD/COG** and **SNMEDD /COG** hereby agrees to perform the following Scope of Services: (See Exhibit A)

1. **Payment:** The **CITY** shall pay **SNMEDD/COG** the sum of **\$ 580.00** (2%, of Project funded amount.) for the purpose of providing fiscal agent services to project. The fiscal agent fee shall be paid from the **CITY'S** general fund or other funds but shall not be paid from the funding awarded for the project from Legislative Capital Outlay funds.
2. **Compensation and method of payment:** Payments will be requested by the **SNMEDD/COG** and shall be made by the **CITY** according to the following schedule:
4 quarterly installments with the remaining installment paid upon close out of the project
3. **Term of agreement:** This agreement shall be from **August 25, 2015 to July 31, 2017**, or completion of project, whichever comes first, and may be renewed or terminated upon the written agreement of both parties. Termination may be affected upon 30 days written notice from the date of agreement by both parties. Such early termination shall not nullify obligations incurred for performance or failure to perform prior to termination
4. **Indemnification and Claims:** The **SNMEDD/COG** shall defend, indemnify and hold the **CITY** harmless from all actions, proceedings, claims, demands, costs, damages, attorney's fees and all other liabilities and expenses of any kind from any source which may arise out of performance of this agreement, but only to the extent caused by the tortuous acts of omissions of the **SNMEDD/COG** or its agents or employees. The **CITY** shall hold harmless the **SNMEDD/COG** from claims that might arise in connection with work the **SNMEDD/COG** will perform under this contract. The **CITY** also agrees to pay for staff time at standard hourly billing rates, plus expenses at costs that might be required for expert testimony or any other court appearances, together with preparation time and legal costs that might arise because of the **SNMEDD/COG's** involvement in this assignment, whether subpoenaed by the **SNMEDD/COG** or any other group.

1. Status: The **SNMEDD/COG** and its agents and employees are independent contractors performing services for the CITY and are not employees of the CITY. The **SNMEDD/COG** and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of the state vehicles, or any other benefits afforded to employees of the CITY.
2. Assignment: The **SNMEDD/COG** shall not assign or transfer any interest in this agreement or assign any claims for money due or to become due under this agreement without the prior written approval of both parties.
3. Subcontracting: The **SNMEDD/COG** may not subcontract portions of the services to be performed under this agreement without the prior written approval of the CITY.
4. Bonding: The **SNMEDD/COG** shall provide, at the time of execution of the agreement evidence satisfactory to the CITY that all **SNMEDD/COG** personnel handling funds or authorizing payment of funds under this agreement are covered by fidelity bond satisfactory to the CITY.
5. Appropriations: The terms of this agreement are contingent upon sufficient funds being made available by the Legislature of the State of New Mexico or the federal government in the performance of this agreement. If sufficient funds are not made available by the legislature or the federal government this agreement shall terminate upon written notice being given by the CITY and shall be final.
6. Release: The **SNMEDD/COG**, upon final payment of all amounts due under this agreement, releases the CITY, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this agreement.
7. Authority: The **SNMEDD/COG** agrees not to purport to bind the CITY to an obligation not herein assumed unless the **SNMEDD/COG** has express written authority to do so, and then only within the strict limits of that authority.
8. Amendment: This agreement shall not be altered, changed or amended except by written instrument executed and signed by both parties.
9. Notice: The Procurement Code, sections 13-1-28 through 13-1-199 NMSA 1978, imposed civil and criminal penalties for its violation. Any property purchased and or procured in compliance with the Procurement Code. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.
10. Equal Opportunity Compliance: **SNMEDD/COG** agrees to abide by all applicable federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations the **SNMEDD /COG** agrees to assure that no person shall, on the grounds of race, color, religion, national origin, sex, sexual orientation, age or handicap, be excluded from employment with or participation in, be denied the benefits of or be otherwise be subjected to discrimination under any program or activity performed under this agreement. If the **SNMEDD/COG** is found not to be in compliance with these requirements during the life of this agreement, the **SNMEDD/COG** agrees to take appropriate steps to correct these deficiencies.
11. Product of Services; Copyright: All materials developed or acquired by the **SNMEDD/COG** under this agreement shall become the property of the CITY and shall be delivered to the CITY no later than the termination date of this contract. Nothing produced in whole or in part by the **SNMEDD/COG** shall be the subject of the application for copy right by or on behalf of the **SNMEDD/COG**.
12. Applicable Law: This agreement shall be governed by the laws of the State of New Mexico.

IN WITNESS WHEREOF, THE PARTIES HERETO EXECUTED THIS AGREEMENT
THIS _____ DAY OF _____, 2015.

CITY OF LOVINGTON
LEA COUNTY, NEW MEXICO

BOARD OF DIRECTORS
SOUTHEASTERN NEW MEXICO
ECONOMIC DEVELOPMENT
DISTRICT/
COUNCIL OF GOVERNMENTS

By: _____
Chief Elected Official or
Authorized Staff

By: _____
Executive Director, SNMEDD/COG

Date: _____

Date: _____

EXHIBIT A
SCOPE OF SERVICES

The **Southeastern New Mexico Economic Development District/Council of Governments** will provide the following administrative services for the CITY OF LOVINGTON

1. Prepare professional service and contract documents in accordance with mandatory applicable federal law and regulations
2. Act as liaison between New Mexico AGING AND LONG TERM SERVICE DEPARTMENT and the CITY OF LOVINGTON
3. Complete environmental assessment per regulations
4. Comply with construction of public improvements requirements and compliance with federal and state laws and regulations
5. Prepare all pay requests; track in-kind and cash match as well as required financial ledgers/reports
6. Prepare all progress, labor, minority, Section 3 and other grant required reports
7. Preparation of project files for monitoring purposes
8. Preparation and submittal of close-out documents
9. Compliance with New Mexico State Audit Rules for this project
10. Ensure that grant funds are expended in compliance with all applicable laws, regulations and grant agreement and the transactions are appropriately accounted for in compliance with such laws, regulations and grant agreement.
11. Ensure safeguarding of grant funds and assets acquired with grant funds and proper accounting thereof in compliance with applicable laws, regulations and grant agreement.

RESOLUTION 2015-82

**APPROVING A FISCAL AGENT AGREEMENT WITH THE SOUTHEASTERN NEW MEXICO
ECONOMIC DEVELOPMENT DISTRICT**

WHEREAS, the Commission of the City of Lovington of Lea County of the State of New Mexico shall enter into a Fiscal Agent Agreement with the Southeastern New Mexico Economic Development District, and

WHEREAS, the Agreement is for fiscal agent services for Project No. 2014-1156 to purchase a van for the Lovington (Billy McKibben) Senior Citizens Center in the City of Lovington.

NOW THEREFORE, BE IT RESOLVED by the City of Lovington that Scotty Gandy, Mayor, is authorized to sign the fiscal agent agreement for this project.

PASSED, APPROVED, AND ADOPTED SEPTEMBER 14, 2015.

Scotty Gandy, Mayor

ATTEST:

Carol Ann Hogue, City Clerk

CITY OF LOVINGTON
COMMISSION STAFF SUMMARY FORM

MEETING DATE: September 14, 2015



TYPE: RESOLUTION ORDINANCE PROCLAMATION INFORMATION OTHER ACTION

SUBJECT: Resolution 2015-83: Economic Development Agreement
DEPARTMENT: Executive
SUBMITTED BY: James R. Williams, City Manager
DATE SUBMITTED: September 8, 2015

STAFF SUMMARY:

Resolution 2015-83 will approve the 2015-2016 Economic Development agreement between the City of Lovington and Lea County. This is an annual agreement reviewed and approved by both parties. The funding provided by this agreement is utilized to support the activities performed by the Lovington EDC on behalf of the City of Lovington.

FISCAL IMPACT:

REVIEWED BY: Gary Lee Chapman
(Finance Director)

\$5,000 reimbursement from Lea County

ATTACHMENTS:

City and County Agreement
Resolution 2015-83

RECOMMENDATION:

Motion to approve Resolution 2015-83

Department Head

James R. Williams
City Manager

**LEA COUNTY – CITY OF LOVINGTON
ECONOMIC DEVELOPMENT AGREEMENT
2015-2016**

WHEREAS, the legislature of the State of New Mexico has declared that local government may promote the general welfare of its citizenry by expenditures designed to promote economic development; and

WHEREAS, the Board of County Commissioners of Lea County, New Mexico has determined that public monies expended towards an economic development by the municipalities in Lea County would be monies well spent to promote the general welfare of all the citizens of Lea County.

NOW, THEREFORE, the City of Lovington, New Mexico (the "City") and the Lea County Board of County Commissioners (the "County") wish to enter into an agreement upon the following terms:

Scope of Work:

- 1.1 City covenants and agrees that the funds are to be used for the promotion or enhancement of economic development for the City. Appropriate uses of these funds are, but are not limited to: travel, printing, research, and advertising.

Term of Contract:

- 2.1 This agreement shall be effective until June 30, 2016.
- 2.2 Nothing herein shall be construed as obligating County to fund City or reimburse City for any work performed after June 30, 2016.

Compensation:

- 3.1 For services rendered to County by City pursuant to this agreement, City shall be paid up to \$5,000.00 for economic development for the 2015-2016 fiscal year.
- 3.2 City shall be reimbursed by County upon presentation of documentation, satisfactory to County, of expenditures made on economic development projects.

Performance:

- 4.1 City is permitted to subcontract those components of this contract as it deems necessary, with the written consent of County.
- 4.2 Upon payment of the compensation specified above, County shall be released from any further claims by City in connection with this contract. It is specifically understood that all expenses and obligations incurred by City in providing the services required of it by this contract shall be the sole responsibility of City.

Independent Contractor:

- 5.1 It is specifically acknowledged and understood that City is an independent contractor and not an agent of County by virtue of this contract.
- 5.2 Nothing herein shall be construed as giving City the right to make any contracts or commitments for or on behalf of County.

Miscellaneous Provisions:

- 6.1 This agreement incorporates all agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such agreements, covenants and understanding have been merged into this written agreement. No prior agreement or understanding, verbal or otherwise, between the parties concerning the subject matter of this contract shall be valid or enforceable unless embodied in this contract.
- 6.2 This contract is subject to New Mexico law. Should any provision herein be found to be illegal or unenforceable, it shall not affect the legality or enforceability of the remainder of the agreement, so long as the basic intent and object of this agreement is not undermined thereby.
- 6.3 City agrees to hold County safe and harmless from any cost or expenditure made in connection with this agreement determined to be ineligible by the New Mexico State Auditor's Office or the New Mexico Attorney General's Office.
- 6.4 At any time during normal business hours, and as often as County may deem necessary, there shall be made available to County, for examination, all records maintained by City with respect to all matters covered by this agreement.
- 6.5 This agreement shall not be altered, changed or amended except by a writing, signed by both parties, which clearly refers to the agreement and clearly identifies what provisions herein is to be changed thereby.

Approved and executed on the ____ day of _____, 2015.

LEA COUNTY BOARD OF COMMISSIONERS

CITY OF LOVINGTON, NEW MEXICO

Mike Gallagher, Manager

Scotty Gandy, Mayor

ATTEST: Pat Chappelle
Lea County Clerk

ATTEST: Lovington City Clerk

By: _____
Kelli Williams, Deputy

By: _____

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: _____
Lea County Attorney

By: _____
City of Lovington Attorney

RESOLUTION NO. 2015-83

CITY OF LOVINGTON – LEA COUNTY 2015 – 2016 ECONOMIC DEVELOPMENT AGREEMENT

WHEREAS, the legislature of the State of New Mexico has declared that local government may promote the general welfare of its citizenry by expenditures designed to promote economic development; and

WHEREAS, the Board of County Commissioners of Lea County, New Mexico has determined that public monies expended towards economic development by the municipalities in Lea County would be monies well spent to promote the general welfare of the Citizens of Lea County; and

WHEREAS, any public monies received from Lea County for economic development by the City of Lovington will be used for those purposes.

NOW, THEREFORE, BE IT RESOLVED, by the governing body, the City Commission of the City of Lovington, New Mexico that the attached 2015-2016 Economic Development Agreement between the City of Lovington and Lea County is approved.

APPROVED THIS 14TH DAY OF SEPTEMBER, 2015.

ATTEST:

SCOTTY GANDY, MAYOR

CAROL ANN HOGUE, CITY CLERK

CITY OF LOVINGTON
COMMISSION STAFF SUMMARY FORM

MEETING DATE: September 14, 2015



TYPE: RESOLUTION ORDINANCE PROCLAMATION INFORMATION OTHER ACTION

SUBJECT: Resolution 2015-84: LGRF Agreement
DEPARTMENT: Executive
SUBMITTED BY: Jared Cobb, Assistant City Manager
DATE SUBMITTED: September 9, 2015

STAFF SUMMARY:

Resolution 2015-84 will approve the Local Government Road Fund agreement with NMDOT. Funding from this grant will pay for a portion of the 17th Street Phase I Project.

This is the second LGRF grant that will be applied to this project. Additional funding for this estimated \$984,000 will be provided for through proceeds from the 2015 HHGRT Bond Series.

FISCAL IMPACT:

REVIEWED BY: Gary Lee Chapman
(Finance Director)

\$46,875.00 in reimbursement from NMDOT

ATTACHMENTS:

Project Agreement
Resolution 2015-84

RECOMMENDATION:

Department Head

James R. Williams
City Manager

Contract No. _____
Vendor No. 54447
Project No. SP-2-16(919)
Control No. L200280

COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT entered into this _____ day of _____, 2015 between the **NEW MEXICO DEPARTMENT OF TRANSPORTATION** (“Department”) and **THE CITY OF LOVINGTON**(“Public Entity”).

In consideration of the covenants contained herein and pursuant to Sections 67-3-28 and 67-3-28.2 NMSA 1978 and Commission Policy No. 44-12, THE PARTIES AGREE AS FOLLOWS:

SECTION ONE – PURPOSE:

The purpose of this Agreement is to provide Local Government Road Funds to **LOVINGTON** for the **Plan, design, construction, reconstruction, pavement rehabilitation/improvements, blading & shaping, drainage improvements, as** described in Project No. **SP-2-16(919)**, Control No. **L200280** and the Public Entity’s resolution attached as Appendix C ("Project"). The Project is a joint and coordinated effort for which the Department and the Public Entity each have authority or jurisdiction. This Agreement shall specify and delineate the rights and duties of the Parties hereto.

SECTION TWO – PROJECT FUNDING BY PARTIES:

1. The estimated total cost for the Project is **SIXTY-TWO THOUSAND FIVE HUNDRED DOLLARS and no cents. (\$62,500.00)** to be funded in proportional share by the parties hereto as follows:

- a. **Department’s share shall be 75%** **\$46,875.00**
Plan, design, construction, reconstruction, pavement rehabilitation/improvements, blading & shaping, drainage improvements, misc. on various county roads
- b. The **Public Entity’s** required proportional matching
Share shall be **25%** **\$15,625.00**
For purpose stated above

c. **Total Project Cost**

\$62,500.00

2. The **Public Entity** shall pay all Project costs, which exceed the total amount of **SIXTY-TWO THOUSAND FIVE HUNDRED DOLLARS and no cents. (\$62,500.00).**

SECTION THREE – THE PUBLIC ENTITY SHALL:

1. Act in the capacity of lead agency for the purpose as described in Section One.
2. Submit an estimate of the Project, including work to be performed and cost to the District Engineer within thirty (30) days of execution of this Agreement, or as otherwise agreed to in writing by the Parties.
3. Be solely responsible for all local matching funds identified in Section Two. Certify that these matching funds have been appropriated, budget and approved for expenditure prior to execution of this Agreement.
4. Pay all costs, perform/supply or contract for labor and material, for the purpose as described in Section One and the Project estimate approved by the District Engineer.
5. In the event a contractor is hired for the Project, require the contractor to have a general liability insurance policy, with limits of liability of at least \$1,000,000 per occurrence. The Department is to be named as an additional insured on the contractor's policy and a certificate of insurance must be provided to the Department and it shall state that coverage provided under the policy is primary over any other valid insurance.
6. Require contractors that the Public Entity hires to perform services to defend, indemnify and hold harmless the Department from and against all suits, actions or claims of any character brought because of injury, including death or damages arising out of contractors' construction or maintenance activities pursuant to this agreement, as memorialized herein and subject to any additional permit that may be required of the contractor to perform said activities.
7. Be responsible, for performing or directing the performance, of all pre-construction activities, including, but not limited to, the following:

a. **Utility Certification,**

- b. Drainage and storm drain design,
 - c. Geotechnical design,
 - d. Pavement design,
 - e. Environmental and archaeological clearances Certification,
 - f. Right of-way acquisition Certification,
 - g. Hazardous substance/waste site(s) contamination,
 - h. Railroad Certification,
 - i. Intelligent Transportation System (ITS) Certification
8. Cause all designs and plans to be performed under the direct supervision of a Registered New Mexico Professional Engineer, when applicable, as determined by the Department.
 9. Obtain all required written agreements or permits, when applicable, from all public and private entities.
 10. Allow the Department to inspect the Project to determine that the Project is being constructed in accordance with the provisions of this Agreement. Disclosures of any failure to meet such requirements and standards as determined by the Department shall result in termination, for default, including without limitation the Public Entity's costs for funding, labor, equipment and materials.
 11. Complete the project within 18 months of approval of funding by the State Transportation Commission.
 12. Agree that the Department may terminate this Agreement if the funds identified in Section Two have not been contractually committed within nine (9) months from the effective date of this agreement.
 13. Within thirty (30) days of completion, provide written certification that all work under this Agreement was performed in accordance with either the New Mexico Department of Transportation's Standard Specification, Current Edition; American Public Works Association (APWA) Specifications; Department approved Public Entity established Specifications; or Department Specifications established for Local Government Road Fund projects, by submitting the **"Project Certification of Design, Construction, and Cost," form**, which is attached as Exhibit A.

14. Within thirty (30) days of completion, furnish the Department an “**AS BUILT Summary of Costs and Quantities**” form, which is attached as Exhibit B. The report should reflect the total cost of project as stated in “**Project Certification of Design, Construction, and Cost**” form.
15. Failure to provide the “**Project Certification of Design, Construction, and Cost**” form and an “**AS BUILT Summary of Costs and Quantities**” report within thirty (30) days of Project completion will be considered a material breach of this Agreement and Public Entity shall reimburse to the Department all funds disbursed in accordance with this agreement.
16. Maintain all facilities constructed or reconstructed with funds provided by this Agreement.

SECTION FOUR – THE DEPARTMENT SHALL:

Pay project funds as identified in Section Two, Paragraph 1a, to the Public Entity in a single lump sum payment after:

1. Receipt of a Notice of Award and Notice to Proceed and,
2. Verification of available Local Government Road Funds and Public Entity’s local matching funds identified in Section Two, Paragraph 1b.

SECTION FIVE – BOTH PARTIES AGREE:

1. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department shall be accounted for and disposed of by the Public Entity as directed by the Department.
2. That no money in the Local Government Road Fund shall be used by the Department to administer any program, and no entity receiving a distribution pursuant to a program requiring matching funds shall use another distribution made pursuant to NMSA 1978 Section 67-3-28.2, to meet the match required.
3. That the provisions of the Local Government Road Fund Project Handbook (Current Edition) and any amendments thereto, are incorporated herein by reference and shall control the contractual rights and obligations of the parties unless in conflict with the specific terms expressed in this Agreement or any amendments thereto.

SECTION SIX – THIRD PARTY BENEFICIARY CLAUSE:

It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public, or any member thereof, a third party beneficiary or to authorize anyone not a party to the Agreement to maintain a suit for wrongful death, bodily and/or personal injury to a person, damage to property, and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

SECTION SEVEN – PROJECT RESPONSIBILITY:

The improvements proposed in Section One of this Agreement shall not be under the jurisdiction and control of the Department.

SECTION EIGHT – JURISDICTION:

By reason of the Department's participation in the funding of this Project, the Department is not incorporating this Project into the state highway system, nor is the Department assuming any maintenance or user responsibility of liability for participation on this project.

SECTION NINE – NEW MEXICO TORT CLAIMS ACT:

Each party shall be responsible for liability arising from personal injury or damage to person and property occasioned by its own agents or employees in the performance of this Agreement, subject in all cases to the immunities and limitations of the New Mexico Tort Claims Act (Section 41-4-1, et seq., NMSA 1978). This paragraph is intended only to define the liabilities between the parties hereto and is not intended to modify, in any way, the parties' liabilities as governed by common law or the New Mexico Tort Claims Act.

The Public Entity and its "employees" as defined in the New Mexico Tort Claims Act, and the Department and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and/or do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies and/or waives any provision of the New Mexico Tort Claims Act.

SECTION TEN – EQUAL OPPORTUNITY COMPLIANCE:

The Public Entity agrees to abide by all applicable Federal and State Laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the Public Entity agrees to assure that no person in the United States shall, on the grounds of race, color, national origin, sex, sexual preference, age or disability, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program or activity performed under this Agreement. If the Public Entity is found to be not in compliance with these requirements during the life of this Agreement, the Public Entity agrees to take appropriate steps to correct these deficiencies.

SECTION ELEVEN –LEGAL COMPLIANCE

The Public Entity shall comply with all applicable federal, state, local, and Department laws, regulations and policies in the performance of this Agreement, including , but not limited to laws governing civil right, equal opportunity compliance, environmental issue, workplace safety, employer-employee relations and all other laws governing operations of the workplace, including laws and regulations hereafter enacted. The Public Entity shall ensure that the requirements of this compliance are made a part of each subcontract on this Project at all tiers.

SECTION TWELVE – PUBLIC ENTITY'S PRIOR COSTS:

Any costs incurred by the Public Entity prior to this Agreement are not eligible for reimbursement and will not be included in the amount to be disbursed as agreed upon.

SECTION THIRTEEN – ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS:

There shall be strict accountability for all receipts and disbursements relating hereto. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If an audit finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) days of written notification. If documentation is

insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation shall be reimbursed to the Department within thirty days.

SECTION FOURTEEN – DEPARTMENT'S AUTHORIZATION OF EXPENDITURES:

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the Legislature of New Mexico, for performance of this Agreement. The Department is expressly not committed to expenditure of any funds until such time as they are budgeted, appropriated by the legislature, and approved for expenditure. The Department's decision as to whether its funds are sufficient for fulfillment of this Agreement shall be final.

SECTION FIFTEEN – UNEXPENDED, UNENCUMBERED PROJECT BALANCES:

Any unexpended or unencumbered balance from the Local Government Road Fund appropriated for this project shall revert to the Department. These balances, if any, shall be reimbursed to the Department within thirty- (30) days of project completion or expiration of this Agreement, whichever occurs first.

SECTION SIXTEEN – TERMS OF THIS AGREEMENT:

This Agreement constitutes the entire Agreement between the parties. Any claimed covenant, term, condition, warranty or promise of performance not expressly included in this document or its amendments, is not part of this Agreement and not enforceable pursuant to this Agreement. Performance of all duties and obligations herein shall conform with and shall not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

SECTION SEVENTEEN – TERM:

This Agreement becomes effective upon signature of all Parties. This Agreement terminates on December 31, 2016.

SECTION EIGHTEEN – TERMINATION:

1. If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement, by providing 30 days written notice.

2. The Department may terminate this Agreement if the funds identified in Section Two have not been contractually committed within nine months from the effective date of this agreement.
3. If sufficient appropriations and authorizations are not made by the Legislature, this Agreement may terminate immediately upon written notice of the Department to the Public Entity.
4. Neither party shall have any obligation after said date of termination, except as stated in Sections Five, Seven and Eight. The Public Entity agrees to reimburse to the Department all unexpended Department funds disbursed in accordance with this Agreement.

SECTION NINETEEN – SCOPE OF AGREEMENT:

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No prior agreement or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

SECTION TWENTY – SEVERABILITY:

In the event that any portion of this Agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement shall remain in full force and effect.

SECTION TWENTY-ONE – APPLICABLE LAW:

The Laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1(G) NMSA 1978.

SECTION TWENTY-TWO – AMENDMENT:

This Agreement shall not be altered, modified, or amended except by an instrument in writing and executed by the parties hereto.

IN WITNESS WHEREOF, the Parties have set their hands and seals this day and year set forth below.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: _____ Date: _____
Cabinet Secretary or Designee

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE DEPARTMENT'S
OFFICE OF GENERAL COUNSEL**

By: _____ Date: _____
Assistant General Counsel

City of Lovington

By: _____ Date: _____
Mayor or City Manager

ATTESTED

By: _____ Date: _____
City Clerk

**EXHIBIT A
PROJECT CERTIFICATION OF
DESIGN, CONSTRUCTION, AND COST**

TO: New Mexico Department of Transportation
District _____ LGRF Coordinator

Cooperative Agreement No. _____ Control No. _____
Joint Powers Agreement No. _____ Control No. _____

Entity: _____

Scope of Work (Including Routes and Termini):

I, the undersigned, in my capacity as _____ of _____
state that:

1. The design is in compliance with all state laws, rules, regulations, and local ordinances and was performed in accordance with the provisions set forth in this agreement and in the Local Government Road Fund Project Handbook (Current Edition);
2. Construction of the project was performed in accordance with standards and specifications set forth in:

_____ And completed on _____, 20____; and

3. That the total project cost of _____, with New Mexico Department of Transportation 75% share of _____ and the **Public Entity** share of _____ (as submitted in attached "As Built Summary of Costs and Quantities") is accurate, legitimate, and appropriate for the project.

Name Date

Print Name

Title

EXHIBIT B

**RESOLUTION 2015-84
CITY OF LOVINGTON**

**PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM ADMINISTERED BY NEW
MEXICO DEPARTMENT OF TRANSPORTATION**

WHEREAS, the City of Lovington and the New Mexico Department of Transportation enter into a Cooperative Agreement; and

WHEREAS, the estimated total cost of the project will be \$62,500.00 to be funded in proportional share by the parties hereto as follows:

a. New Mexico Department of Transportation's share shall be 75% or \$46,875.00

and

b. City of Lovington's proportional matching share shall be 25% or \$15,625.00.

NOW, THEREFORE, BE IS RESOLVED in official session that the City of Lovington determines, resolves, and orders as follows:

1. That the project for this Cooperative agreement is adopted and has a priority standing.
2. The agreement terminates on December 31, 2016 and the City of Lovington incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

FURTHERMORE, BE IT RESOLVED by the City of Lovington to enter into Cooperative Agreement Project Number SP-2-16(919), Control Number L200280 with the New Mexico Department of Transportation for LGRF Project for year 2015-2016 to plan, design, construct, provide for pavement rehabilitation/improvements, blading & shaping, and drainage improvements for North 17th Street beginning at the intersection of 17th Street and West Avenue D and ending at 17th Street and West Jefferson within the control of the City of Lovington in Lovington, Lea County, New Mexico.

APPROVED THIS 14TH DAY OF SEPTEMBER, 2015.

ATTEST:

SCOTTY GANDY, MAYOR

CAROL ANN HOGUE, CITY CLERK

CITY OF LOVINGTON
COMMISSION STAFF SUMMARY FORM

MEETING DATE: September 14, 2015



TYPE: RESOLUTION ORDINANCE PROCLAMATION INFORMATION OTHER ACTION

SUBJECT: Approval of Street Closure Permit
DEPARTMENT: Executive
SUBMITTED BY: James R. Williams, City Manager
DATE SUBMITTED: September 10, 2015

STAFF SUMMARY:

The Lea Community Foundation for the Arts has requested that Central Avenue from Love Street to Main Street be closed to traffic on September 19, 2015 between the hours of 5:30 p.m. and 9:30 p.m.

The purpose of this closure is to allow for a fundraising event named "An Evening of Previews", which will showcase the recent digital upgrades to the Lea Theater. Tickets will be available at \$10 for adults and \$7.00 for children and will include "Movie Food" and access to the Theater.

As there is a charge for this event and a temporary closure of a collector street, Commission approval is required.

FISCAL IMPACT:

REVIEWED BY: _____

(Finance Director)

ATTACHMENTS:

RECOMMENDATION:

Motion to approve the Street Closure Permit.

Department Head

James R. Williams

City Manager

CITY OF LOVINGTON
COMMISSION STAFF SUMMARY FORM

MEETING DATE: September 14, 2015



TYPE: RESOLUTION ORDINANCE PROCLAMATION INFORMATION OTHER ACTION

SUBJECT: Parks and Recreation Board Appointments
DEPARTMENT: Executive
SUBMITTED BY: James R. Williams, City Manager
DATE SUBMITTED: September 8, 2015

STAFF SUMMARY:

The initial terms of Evelyn Holguin and Clint Laughrin on the Parks and Recreation Board have expired. Both of these board positions are for three year terms. The following individuals have submitted requests for appointment or reappointment to City staff:

Evelyn Holguin
Clint Laughrin
Mara Salcido-Alcantar
Sherron Little

FISCAL IMPACT:

REVIEWED BY: _____
(Finance Director)

ATTACHMENTS:

RECOMMENDATION:

Motion to appoint two individuals to the Parks and Recreation Board

Department Head

James R. Williams

City Manager

CITY OF LOVINGTON
COMMISSION STAFF SUMMARY FORM

MEETING DATE: September 14, 2015



TYPE: RESOLUTION ORDINANCE PROCLAMATION INFORMATION OTHER ACTION

SUBJECT: Accounts Payable
DEPARTMENT: Finance
SUBMITTED BY: Gary L. Chapman, Finance Director
DATE SUBMITTED: September 10, 2015

STAFF SUMMARY:

The Finance Department has prepared the accounts payable for Commission review and approval.

FISCAL IMPACT:

See Accounts Payable detail.

REVIEWED BY: _____

(Finance Director)

ATTACHMENTS:

Accounts Payable - General Fund
Accounts Payable - Utilities Fund

RECOMMENDATION:

Motion to approve accounts payable.

Department Head

James R. Williams

City Manager

City of Lovington (New)
Summary A/P Ledger - A/P Summary CMeeting - General
From 9/1/2015 Through 9/30/2015

101 - General Fund

Vendor Name	Dept Code	Current Balance
A-Tech Air Cond. & Heating		477.26
Accent Landscape Constructors		13,333.48
Accent Landscape Constructors	1400	124,533.28
Alsco		420.11
Amazon		72.99
America Supply, LLC		635.22
American Medical Group, Inc		617.38
Arrowhead Forensic, Inc.		215.25
Atco International		222.00
BeGeo Investment LLC		400.00
Blaine Industrial Supply		616.09
Bob's Thriftway		408.13
Bound Tree Medical, LLC		209.85
Brandon Dew		427.00
Breen Glass Service		237.38
C & S Motor Parts Co.		494.02
Casco Industries		1,164.00
Center Point Large Print		84.48
CNM Electric LLC		246.68
Copies, Inc.		5,482.26
Cowboys Corner		48.90
Farmer Brothers Company		363.85
Fernandez Lawn Care		547.16
Forrest Tire Co.		751.24
Gale/Cengage Learning		197.16
Galls/Quartermaster		1,022.40
Gebo Credit Corporation		777.12
General Welding Supply		270.00
Global Equipment Company		113.49
Grants & Technology Veterans		34,722.42

City of Lovington (New)
Summary A/P Ledger - A/P Summary CCMeeting - General
From 9/1/2015 Through 9/30/2015

GT Distributors, Inc.	19,708.50
H & K Pest Control Co.	117.98
Haarmeyer Electric	186.30
Higginbotham-Bartlett Co.	2,708.59
Hits, Inc	300.00
Hobbs News-Sun	44.56
Imagine Video Productions	54.00
Keith Morwood Enterprises, Inc	599.97
Kid's Reference Company, Inc.	220.67
Kleen-Tech Services Corp.	5,489.76
LA Police Gear, Inc	3,087.24
Larry Mahan's Paint & Body	1,000.00
Lea County Museum	5,000.00
Lovington Auto Supply	528.68
Lovington Chamber of Commerce	1,000.00
Lovington Leader	1,415.24
Lovington Veterinary	3,595.50
Lyle Signs	2,331.00
MAS Modern Marketing	857.58
Master Plumbers	1,964.11
McJunkin Red Man Corporation	508.67
MicroMarketing LLC	898.42
Mr. Key's Locksmith	362.17
National Creative Enterpries	56.25
OCLC, Inc.	1,339.86
OverDrive	8,346.63
P & D Petroleum, Inc	16,210.17
Paraclete Press	166.73
Personnel Concepts	25.85
Premier Electric	8,642.21
Pro-Treat Power Equipment	1,425.21
Professional Ambulance Sales	62.11

City of Lovington (New)
Summary A/P Ledger - A/P Summary CCMeeeting - General
From 9/1/2015 Through 9/30/2015

Public Agency Training Council	295.00
Radio Accounting Service	350.00
Recorded Books LLC	130.93
Reid Insurance Group, Inc.	882.73
Richard Cummins	500.00
Roberts Oil & Lube	599.17
Sage Publications Inc.	215.09
San Bar Construction Corp	695.61
Savant Learning Systems	1,932.00
Sherwin-Williams	151.89
Staples Advantage	1,967.49
Stericycle, Inc.	1,147.49
Strong Electric	2,263.39
SWAT, LLC	1,088.58
SYSCO West Texas, Inc.	1,403.22
The Lovington Toastmasters	405.00
Tom's Sharp Shop	732.38
TransUnion Risk and Alternativ	6.50
U S Food Service	2,077.98
U.S. Postal Service	147.00
Unifirst Corp.	284.30
Valentine Auto Service	1,446.80
Viewu	1,818.90
Weiss Ratings, Inc	1,300.00
Zimmerman Library	<u>75.00</u>
Report Balance	<u><u>299,281.01</u></u>

City of Lovington (New)
 Summary A/P Ledger - A/P Summary CMeeting - General
 From 9/1/2015 Through 9/30/2015

Payee	Transaction Description	Check Amount
Accent Landscape Constructors	Chaparral Park Irrigation System Construction Phase1, 2-4	242,385.00
AT&T Mobility	Animal Control-HDS LGe Ton	243.00
AT&T Mobility	Gen-Cellular Phone 8/15	2,832.70
Barbara Campbell	Judicial-Riemb For Coffee Pot	95.06
Carol Ann Hogue	Finance-Reimb of Fuel for Travel to Las Cruces for Federal	24.00
Jim Trujillo	Judicial-Alternate Judge 7/30, 8/6 2015	128.25
Lea County Electric	Gen-Electric Bill 7/15	23,639.81
New Mexico Gas Company	Gen-Gas Utility Bill 7/15	407.99
NM Judicial Education Center	Judicial Fees for July, 2015	525.00
Noalmark Broadcasting Corp.	Lodgers Tax-Adv 4th of July 2015	160.22
Noalmark Broadcasting Corp.	Lodgers Tax-Adv of 4th July 2015	170.90
Phillips 66 Co.	Gen-Phillips 66 Fuel Credit Card 8/14	487.28
Shell Oil Co.	Gen-Fuel Card for 8/15	25.67

City of Lovington (New)
 Summary A/P Ledger - A/P Summary CCMeeting - General
 From 9/1/2015 Through 9/30/2015

Staples	Gen-Staples Credit Card Office Supplies 8/15	668.69
Valentine Auto Service	Police-Engine for Unit 20	4,500.00
Visa	Visa 9934 CAH 7.15-Finance National and NM Labor Law Posters and Freight	293.35
Visa	Visa 9934 CAH 9.15 Vet/Animal Control-Cat Litter 3 @ \$11.00 and 4 @ \$10.00 /Dawn dish soap 3 @ \$5.00 and 1 @ \$4.50 plus Tax	99.21
Visa	Visa 9934 CAH 7.15 Vet/Animal Control-Food and Drinks for Inmates working	218.11
Visa	Visa 9934 CAH 7.15-Vet/Animal Control-Lowe's Honeywell 175 sq ft Evap/Flexible Solid Drain	193.31
Visa/Fire	Visa 9298 Ole Jax feed Inmates	47.75

City of Lovington (New)
 Summary A/P Ledger - A/P Summary CMeeting - General
 From 9/1/2015 Through 9/30/2015

Visa/Fire	Visa 9298 Fire- Finger Print fee	44.00
Visa/Fire	Visa 9298 Fire- Supplies Paper Plates, forks, spoons, napkins Pitcher/CD burner/Igloo Cooler/Water/in sect repellent	158.42
Visa/Fire	Visa 9298 Fire- US Flag	329.15
Visa/Fire	Visa 9298 Fire 7.15-Fire- Wireless Router	79.99
Visa/Fire	Visa 9298 Fire 7.15-Ambulance- Fold down Windshield/Top/ Frame Assembly	762.16
Windstream	Finance-EDC	201.65
Windstream	Phone Bill 7/15 Finance-Phone Bill for Main 7/15	153.00
Windstream	Gen-Phone bill for 7/15	4,797.84
Windstream	Chamber of Commerce- Phone Bill 7/15	<u>262.30</u>
Report Total		<u>583,214.8</u>

City of Lovington (New)
Summary A/P Ledger - A/P Summary CCMeeting - General
From 9/1/2015 Through 9/30/2015

505 - Water & WasteWater

Vendor Name	Dept Code	Current Balance
Atco International		3,319.25
B.I.C.I., LLC.		17,471.85
C & S Motor Parts Co.		160.10
California Cont. Supplies, Inc		279.98
Cardinal Laboratories		117.49
Certified Laboratories		644.66
Copies, Inc.		600.36
Culligan Water Conditioning		24.50
Dana Kepner Co.		16,658.40
DPC Industries Inc.		752.56
Forrest Tire Co.		790.00
Frank's Supply Company, Inc.		163.28
Gebo Credit Corporation		29.78
General Welding Supply		85.00
Haarmeyer Electric		381.21
Higginbotham-Bartlett Co.		2,164.19
Hobbs News-Sun		56.78
Industrial Muncipal Products		389.90
J & L Equipment		226.36
Lovington Auto Supply		143.33
Lovington Tire Service		276.43
Mr. Key's Locksmith		218.02
Odessa Pumps & Equipment		3,505.01
P & D Petroleum, Inc		2,693.54
Patriot Pipe & Supply LTD		142.94
Phoenix Enterprises, Inc		6,532.58
Polydyne Inc.		1,008.00
Pro-Treat Power Equipment		223.62

City of Lovington (New)
 Summary A/P Ledger - A/P Summary CCMeting - General
 From 9/1/2015 Through 9/30/2015

Solid Waste Authority	14,071.90
Staples Advantage	122.39
SWAT, LLC	209.25
Underground, Inc.	741.65
Unifirst Corp.	272.95
Utility Operator Certification	25.00
Report Balance	<u>74,502.26</u>

<u>Payee</u>	<u>Transaction Description</u>	<u>Check Amount</u>
AT&T Mobility	Water-Cellular Phone Bill 8/15	662.23
CP Grubbing LLC	Water-Barbed Wire Fence	12,482.52
Lea County Electric	Water-Electric Bill July 2015	22,023.56
New Mexico Gas Company	Water-Gas Utility Bill 7/15	93.60
New Mexico Self Insurers Fund	Water-Workers Compensation Payment for July 2015	26,768.00
Staples	Wastewater- Staples Credit Card Office Supplies 8/15	45.75

City of Lovington (New)
 Summary A/P Ledger - A/P Summary CCMeting - General
 From 9/1/2015 Through 9/30/2015

Utility Operator Certification	WasteWater- Examination Application fee Level II -S Hernandez	30.00
Waste Management of New Mexico	Solid Waste- Polycarts 7/15- Res \$65109.61 Comm \$57012.81	122,122.42
Waste Management of New Mexico	Solid Waste- Roll- offs July 2015	11,893.61
Windstream	Water-Phone Bill 7/15	457.98
Windstream	WasteWater- Phone Line for Scada 8/15	61.81
		271,143.74