



**CITY OF LOVINGTON  
RESOLUTION NO. 2015-105**

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOCAL GOVERNMENT PLANNING GRANT AGREEMENT BY AND BETWEEN THE NEW MEXICO FINANCE AUTHORITY (THE "FINANCE AUTHORITY"), AND CITY OF LOVINGTON (THE "GRANTEE"), IN THE AMOUNT OF FIFTY THOUSAND DOLLARS (\$50,000) EVIDENCING AN OBLIGATION OF THE GRANTEE TO UTILIZE THE GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF LEDA/COMPREHENSIVE PLAN, AND SOLELY IN THE MANNER DESCRIBED IN THE GRANT AGREEMENT; CERTIFYING THAT THE GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE GRANT AGREEMENT.

Capitalized terms used in the following preambles have the same meaning as defined in Section 1 of the Resolution unless the context requires otherwise.

WHEREAS, the Grantee is a political subdivision of the State, being a legally and regularly created, established, organized and existing incorporated municipality under the general laws of the State and more specifically, the Municipal Code, NMSA 1978, §§ 3-1-1 through 3-66-11, as amended; and

WHEREAS, the Grantee is qualified to receive the Planning Grant pursuant to the Finance Authority's Rules Governing the Local Government Planning Fund and NMSA 1978, § 6-21-6.4, as amended; and

WHEREAS, the Governing Body hereby determines that the Project may be financed with amounts granted pursuant to the Grant Agreement, that the Grant Amount, together with and other moneys available to the Grantee, is sufficient to complete the Project, and that it is in the best interest of the Grantee and the public it serves that the Grant Agreement be executed and delivered and that the funding of the Project take place by executing and delivering the Grant Agreement; and

WHEREAS, the Governing Body has determined that it may lawfully enter into the Grant Agreement, accept the Grant Amount and be bound to the obligations and by the restrictions thereunder; and

WHEREAS, the Grantee acknowledges and understands that the Planning Grant must be expended and a Planning Document must be completed within one (1) year from the Closing

Date, or the Grantee will forfeit the ability to draw Grant funds from the Local Government Planning Fund; and

WHEREAS, the Grant Agreement shall not constitute a general obligation of the Grantee or a debt of pledge of the faith and credit of the Grantee, the Finance Authority or the State; and

WHEREAS, there have been presented to the Governing Body and there presently are on file with the City Clerk this Resolution and the form of the Grant Agreement which is incorporated by reference and made a part hereof; and

WHEREAS, all required authorizations, consents and approvals in connection with (i) the use of the Grant Amount for the purposes described and according to the restrictions set forth in the Grant Agreement; and (ii) the authorization, execution and delivery of the Grant Agreement which are required to have been obtained by the date of this Resolution, have been obtained or are reasonably expected to be obtained.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COMMISSION OF LOVINGTON, NEW MEXICO:

**Section 1.** Definitions. A Definitions. All terms used herein have the same definition as contained in the draft Grant Agreement, dated December 18, 2015.

**Section 2.** Ratification. All action heretofore taken (not inconsistent with the provisions of this Resolution) by the Grantee and officers of the Grantee, directed toward the Project and the execution and delivery of the Grant Agreement, shall be and the same hereby is ratified, approved and confirmed.

**Section 3.** Authorization of the Project and the Grant Agreement. The Project and the method of funding the Project through execution and delivery of the Grant Agreement are hereby authorized and ordered. The Project is for the benefit and use of the Grantee and the public it serves.

**Section 4.** Findings. The Governing Body on behalf of the Grantee hereby declares that it has considered all relevant information and data and hereby makes the following findings:

A. The Project is needed to land use, housing conditions, infrastructure, economic development, transportation, and open space use.

B. The costs of the Project are beyond the local control and resources of the Grantee.

C. The Project and the execution and delivery of the Grant Agreement pursuant to the Act to provide funds for the financing of the Project are in the interest of the public health, safety and welfare of the public served by the Grantee.

D. The Grantee will perform (or cause to be performed) the Project with the proceeds of the Planning Grant, and will utilize the Project for the purposes set forth in the Grant Agreement.

E. The Grantee will forfeit the Planning Grant if the Grantee fails to utilize the Grant Amount within one (1) year of the Closing Date.

**Section 5. Grant Agreement—Authorization and Detail.**

A. Authorization. This Resolution has been adopted by the affirmative vote of a majority of a quorum of the Governing Body. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the public served by the Grantee and performing the Project, it is hereby declared necessary that the Grantee execute and deliver the Grant Agreement evidencing the Grantee's acceptance of the Grant Amount of Fifty Thousand Dollars (\$50,000) to be utilized solely for the Project and solely in the manner and according to the restrictions set forth in the Grant Agreement, the execution and delivery of which are hereby authorized. The Grantee shall use the proceeds of the Grant to finance the performance of the Project. The Project will be owned by the Grantee and will be utilized by the Grantee as set forth in the Grant Agreement.

B. Detail. The Grant Agreement shall be in substantially the form of the Grant Agreement presented at the meeting of the Governing Body at which this Resolution was adopted. The Grant shall be in the amount of Fifty Thousand Dollars (\$50,000).

**Section 6. Approval of Grant Agreement.** The form of the Grant Agreement as presented at the meeting of the Governing Body at which this Resolution was adopted is hereby approved. Authorized Officers are hereby individually authorized to execute, acknowledge and deliver the Grant Agreement with such changes, insertions, and deletions as may be approved by such individual Authorized Officers, and the City Clerk is hereby authorized to affix the seal of the Grantee on the Grant Agreement and attest the same. The execution of the Grant Agreement shall be conclusive evidence of such approval.

**Section 7. Disposition of Proceeds; Completion of Acquisition of the Project.**

A. Grant Account. The Grantee hereby consents to creation of the Grant Account by the Finance Authority and approves of the deposit of the Grant Amount into the Grant Account. Until the Completion Date, the money in the Grant Account shall be used and paid out solely for the purpose of the Project in compliance with applicable law and the provisions of the Grant Agreement.

B. Completion of Acquisition of the Project. The Grantee shall proceed to acquire and complete the Project with all due diligence. Upon the Completion Date, the Grantee shall execute a certificate substantially in the form attached as Exhibit "C" to the Grant Agreement stating that acquisition of and payment for the Project have been completed. As soon as practicable and, in any event, not more than sixty (60) days after the Completion Date, any

balance remaining in the Grant Account shall be transferred and returned to the Local Government Planning Grant Fund.

C. Finance Authority Not Responsible. The Finance Authority shall in no manner be responsible for the application or disposal by the Grantee or by the officers of the Grantee of the funds derived from the Grant Agreement or of any other funds held by or made available to the Grantee's in connection with use of the Project.

**Section 8.** Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the Grant Agreement, and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually authorized to do all acts and things required of them by this Resolution and the Grant Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Resolution and the Grant Agreement, including, but not limited to, the execution and delivery of closing documents in connection with the execution and delivery of the Grant Agreement.

**Section 9.** Amendment of Resolution. This Resolution after its adoption may be amended without receipt by the Grantee of any additional consideration, but only with the prior written consent of the Finance Authority.

**Section 10.** Resolution Irrepealable. After the Grant Agreement has been executed and delivered, this Resolution shall be and remain irrepealable until all obligations of the Grantee under the Grant Agreement shall be fully discharged, as herein provided.

**Section 11.** Severability Clause. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

**Section 12.** Repealer Clause. All bylaws, orders, resolutions, ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

**Section 13.** Effective Date. Upon due adoption of this Resolution, it shall be recorded in the book of the Grantee kept for that purpose, authenticated by the signatures of the Mayor and City Clerk of the Grantee, and this Resolution shall be in full force and effect thereafter, in accordance with law; provided, however, that if recording is not required for the effectiveness of this Resolution, this Resolution shall be effective upon adoption of this Resolution by the Governing Body.

*[Signature page follows.]*

**Section 14. Execution of Agreements.** The City of Lovington through its Governing Body agrees to authorize and execute all such agreements with the Finance Authority as are necessary to consummate the Grant contemplated herein and consistent with the terms and conditions attached hereto.

PASSED, APPROVED AND ADOPTED THIS 14<sup>th</sup> DAY OF DECEMBER, 2015.

CITY OF LOVINGTON

By \_\_\_\_\_  
Scotty Gandy, Mayor

[SEAL]

ATTEST:

By \_\_\_\_\_  
Carol Ann Hogue, City Clerk

*[Remainder of page intentionally left blank.]*

Governing Body Member \_\_\_\_\_ then moved adoption of the foregoing Resolution, duly seconded by Governing Body Member \_\_\_\_\_.

The motion to adopt said Resolution, upon being put to a vote was passed and adopted on the following recorded vote:

Those Voting Aye: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Those Voting Nay: \_\_\_\_\_  
\_\_\_\_\_

Those Absent: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ (\_\_\_) members of the Governing Body having voted in favor of said motion, the Mayor declared said motion carried and said Resolution adopted, whereupon the Mayor and the City Clerk signed the Resolution upon the records of the minutes of the Governing Body.

After consideration of matters not relating to the Resolution, the meeting on motion duly made, seconded and carried, was adjourned.

*[Signature page follows.]*

CITY OF LOVINGTON

By \_\_\_\_\_  
Scotty Gandy, Mayor

[SEAL]

ATTEST:

By \_\_\_\_\_  
Carol Ann Hogue, City Clerk

*[Remainder of page intentionally left blank.]*



**EXHIBIT “A”**

**Notice of Meeting**