

RESOLUTION 2015-86

A RESOLUTION APPROVING AMENDMENTS TO THE PROJECT PARTICIPATION AGREEMENT BETWEEN THE CITY OF LOVINGTON AND LEA COMMUNITY FOUNDATION FOR THE ARTS

WHEREAS, the City of Lovington and the Lea Community Foundation for the Arts entered into a Project Participation Agreement for the operation of a theater and performing arts center on October 1, 2014; and

WHEREAS, the Foundation has requested an extension of time in which to begin operation of the theater as defined in the Agreement; and

WHEREAS, the City has deemed an extension of time to be in the best interests of the community.

NOW THEREFORE, BE IT RESOLVED by the City Commission that the Amendments to the Project Participation Agreement, attached hereto for reference, are approved and adopted.

PASSED, APPROVED, AND ADOPTED SEPTEMBER 28, 2015.

Scotty Gandy, Mayor

ATTEST:

Carol Ann Hogue, City Clerk

AMENDMENT TO PROJECT PARTICIPATION AGREEMENT

The City of Lovington, herein called "City", the Lovington Economic Development Corporation, herein called "EDC", and the Lea Community Foundation for the Arts, herein called "Foundation" agree to the following Amendments to Section 2 of the attached Project Participation Agreement for the Lea Theater and that bolded language below will replace and/or add to the current subsections of Section 2 of the Agreement.

2. Contribution by Lea Community Foundation for the Arts

- A. The Foundation will adopt bylaws that create a permanent voting position on the Foundation's Board of Directors for a Lovington Economic Development Corporation Director. The EDC Representative shall also be a permanent member of the Executive Committee, per Foundation bylaws, whether an officer or not.**
- B. The Foundation will be required to begin operation of the Lea Theater prior to 12:01 a.m. (MST) on November 30, 2015. Operation is deemed as conducting its first regular digital movie or performing arts production, as defined by the Foundations mission statement and goals. Fundraisers, of any form, held at the theater will not satisfy this requirement.**
- E. The Foundation will adopt bylaws upon execution of the amendment approved by the City Commission on September 28, 2015 that creates a permanent voting position on the Foundation's Board of Directors for a representative appointed by the Lovington City Commission.**

Furthermore, the City, EDC, and Foundation agree to the following Amendment to Section 3 of the attached Project Participation Agreement for the Lea Theater and that bolded language below will add to the current Section 3 of the Agreement.

3. Contribution by City of Lovington

- C. The City will provide the Foundation space for an office at a location separate from the Theater if needed during the initial term and lease period specified in Section 8.**

Furthermore, the City, EDC, and Foundation agree to the following Amendment to Section 8 of the attached Project Participation Agreement for the Lea Theater and that bolded language below will replace the current Section 8 of the Agreement.

8. Term of Participation Agreement

This agreement will be effective upon execution of the agreement and terminate at 12:01 a.m. (MST) on November 30, 2015 if obligations and conditions as specified are not met. If all commitments and obligations are met by the Foundation as specified in this agreement, the City will enter into a lease agreement with the Foundation for a ten (10) year period with an option to purchase the property for one dollar (\$1.00) at any time during the lease period upon approval by the City Commission.

IN WITNESS WHEREOF, the parties hereto have executed this amendment.

Scotty Gandy, Mayor
City of Lovington

Date

ATTEST:

Carol Ann Hogue, City Clerk
City of Lovington

Date

APPROVED AS TO FORM

Patrick McMahon, City Attorney
City of Lovington

Date

Randy Pettigrew, President
Lovington Economic Development Corporation

Date

Connie Sevier, President
Lea Community Foundation for the Arts

Date