

STATE OF NEW MEXICO)
) ss.
COUNTY OF TAOS)

The Town Council (the "Governing Body") of the Town of Taos, New Mexico (the "Grantee") met in a regular session in full conformity with the law and the rules and regulations of the Governing Body at the Town Council Chambers, Coronado Hall, 120 Civic Plaza, Taos, New Mexico 87571, being the meeting place of the Governing Body for the meeting held on the 20th day of March, 2007 at the hour of 6:30 P.M. Upon roll call, the following members were found to be present:

Present:

Bobby F. Duran, Mayor_____

Erlinda S. Gonzales, Councilmember_____

Meliton Struck, Councilmember_____

Darren M. Cordova, Councilmember_____

Rudy C. Abeyta, Councilmember_____

Absent:

None

Also Present:

Tomas R. Benavidez, Town Manager_____

Renee Barela-Gutierrez, Town Attorney_____

Thereupon, there was officially filed with the Town Clerk copies of a proposed resolution and Grant Agreement in final form.

**THE TOWN OF TAOS, NEW MEXICO
RESOLUTION 07-23**

AUTHORIZING THE EXECUTION AND DELIVERY OF A WATER PROJECT FUND GRANT AGREEMENT BY AND BETWEEN THE TOWN OF TAOS, NEW MEXICO (THE "GRANTEE"), THE NEW MEXICO WATER TRUST BOARD AND THE NEW MEXICO FINANCE AUTHORITY (THE "GRANTORS") IN THE AMOUNT OF \$695,250.00 EVIDENCING AN OBLIGATION OF THE GRANTEE TO UTILIZE THE GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF A WATER IMPROVEMENT PROJECT TO UTILIZE SAN JUAN/CHAMA WATER, INCLUDING UPGRADES OF INFRASTRUCTURE TO CONVEY WATER TO THE DISTRIBUTION SYSTEM: INSTALLATION OF TRANSMISSION LINES TO PUMP SAN JUAN/CHAMA WATER TO THE TOWN'S MAIN STORAGE TANK; AND A THIRD WATER WELL SUPPLY TO TAP THE 'OJO CALIENTE AND CHAMA EL RITO MEMBER OF THE TESUQUE FORMATION' TO USE THE FULL ALLOCATION OF SAN JUAN/CHAMA WATER, INCLUDING RETURN FLOW CREDITS 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 this Resolution unless the context requires otherwise.

WHEREAS, the Grantee is a legally and regularly created, established, organized and existing municipality under the general laws of the State of New Mexico and more specifically, NMSA 1978, §3-2-1 *et seq.*; and

WHEREAS, the Governing Body has determined and hereby determines that the Project may be financed with amounts granted pursuant to this Grant Agreement, that the Grant Amount, together with 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 represents that the Grant Agreement be executed and delivered and that the funding of the acquisition 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 Grant Agreement shall not constitute a general obligation of the

Grantee, the Board or the NMFA or a debt or pledge of the faith and credit of the Grantee, the Board, the NMFA or the State; and

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

WHEREAS, the Governing Body hereby determines that (i) the Additional Funding Amount is now available to the Grantee to complete the Project; or (ii) that the Governing Body will take such steps as are necessary to obtain the Additional Funding Amount within six months after the Closing Date; and

WHEREAS, the Grantee acknowledges that, in the event that it is unable to provide the Additional Funding Amount within six months after the Closing Date, this Grant Agreement shall, at the option of the Board and the NMFA, terminate and be of no further force or effect; 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; (ii) the availability of other moneys necessary and sufficient, together with the Grant Amount, to complete the Project; and (iii) 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 GOVERNING BODY OF THE TOWN OF TAOS, NEW MEXICO that:

The Town of Taos, New Mexico through it's Governing Body agrees to authorize and execute all such agreements with the New Mexico Water Trust Board as are necessary to consummate the Grant contemplated herein and consistent with the terms and conditions attached hereto.

PASSED, APPROVED AND ADOPTED THIS 20TH DAY OF MARCH, 2007.

THE TOWN OF TAOS, NEW MEXICO

By _____
Bobby F. Duran, Mayor

ATTEST:

By _____
Renee Lucero, Taos Town Clerk

TERMS AND CONDITIONS OF RESOLUTION 07-23

Section 1. Definitions. As used in this Resolution, the following terms shall, for all purposes, have the meanings herein specified, unless the context clearly requires otherwise (such meanings to be equally applicable to both the singular and the plural forms of the terms defined):

"Act" means the general laws of the State, including Sections 72-4A-1 through 72-4A-10 NMSA 1978, as amended, and enactments of the Governing Body relating to the Grant Agreement, including this Resolution.

"Additional Funding Amount" means the amounts to be provided by the Grantee which, in combination with the Grant Amount, are sufficient to complete the Project. The Additional Funding Amount for the Project is (\$00.00).

"Authorized Officers" means the Mayor and Town Council of the Grantee.

"Board" means the New Mexico Water Trust Board.

"Closing Date" means the date of execution, delivery and funding of the Grant Agreement.

"Completion Date" means the date of final payment of the cost of the Project.

"Expense Account" means the account established pursuant to this Resolution and held by the NMFA in connection with the Grant to pay the Expenses.

"Expenses" means the costs of originating and administering the Grant, including legal fees, in the amount shown in Exhibit "A" to the Grant Agreement.

"Fiscal Year" means the period commencing on July 1 in each calendar year and ending on the last day of June of the next succeeding calendar year, or any other twelve-month period which any appropriate authority may hereafter establish for the Grantee as its fiscal year.

"Governing Body" means the Town Council of the Grantee, or any future successor governing body of the Grantee.

"Grant" or "Grant Amount" means the amount provided to the Grantee as a grant pursuant to the Grant Agreement for the purpose of funding the Project.

"Grant Agreement" means the Water Project Fund Grant Agreement entered into by and between the Grantee, the Board and the NMFA, as authorized by this Resolution.

"Grantee" means the Town of Taos, New Mexico.

"Herein," "hereby," "hereunder," "hereof," "hereinabove" and "hereafter" refer to the entire Resolution and not solely to the particular section or paragraph of the Resolution in which such word is used.

"NMFA" means the New Mexico Finance Authority.

"NMSA" means the New Mexico Statutes Annotated, 1978 Compilation, as amended and supplemented.

"Project Account" means the account in the name of the Grantee established pursuant to this Resolution and held by the NMFA for deposit of the Grant Amount for disbursement to the Grantee for payment of the costs of the Project.

"Project" means the project described in Exhibit "A" to the Grant Agreement.

"Qualifying Water Project" means a water project for (i) storage, conveyance or delivery of water to end-users; (ii) implementation of the federal Endangered Species Act of 1973 collaborative programs; (iii) restoration and management of watersheds; (iv) flood prevention or (v) conservation, recycling, treatment or reuse of water as provided by law; and which has been approved by the state legislature pursuant to Section 72-4A-9(B) NMSA 1978.

"Resolution" means this Resolution as supplemented or amended from time to time.

"State" means the State of New Mexico.

"Useful Life" means the structural and material design life of the Project.

"Water Project Fund" means the fund of the same name created pursuant to Section 72-4A-9 NMSA 1978 and held and administered by the NMFA.

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

Section 3. Authorization of the Project and the Grant Agreement. The acquisition of 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 whom it serves.

Section 4. Findings. 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 meet the needs of the Grantee and the public whom it serves.

B. Moneys available and on hand for the Project from all sources other than the Grant are not sufficient to defray the cost of acquiring the Project but, together with the Grant Amount, are sufficient to complete the Project.

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 necessary and in the interest of the public health, safety, morals and welfare of the public served by the Grantee.

D. The Grantee will acquire and complete the Project with the proceeds of the Grant, and except as otherwise expressly provided by the Grant Agreement, will utilize, operate and maintain the Project for the duration of its Useful Life, which is not less than 20 years, as required by Section 72-4A-7A(1) NMSA.

E. Together with the Grant Amount, the Additional Funding Amount is now available to the Grantee, or is expected to become available to the Grantee within six months after the Closing Date, and, in combination with the Grant Amount, will be sufficient to complete the Project and pay Expenses.

F. The Grantor shall maintain on behalf of the Grantee a separate project account or project accounts and financial records in accordance with generally accepted accounting principles during the construction or implementation of the Project.

G. The Grantee has title to or easements or rights of way on the real property upon which the Project is being constructed or located.

Section 5. Grant Agreement- Authorization and Detail.

A. Authorization. This Resolution has been adopted by the affirmative vote of at least a majority of all of the members of the Governing Body. For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the constituent public served by the Grantee and by the other qualifying entities involved in the Project and acquiring 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 \$695,250.00 to be utilized solely for the purpose of completing the Project and paying Expenses, 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 Grant Amount to pay Expenses and to finance the completion of the Project. The Project will be owned as provided by 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 \$695,250.00.

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, are hereby approved. Authorized Officers are hereby individually authorized to execute, acknowledge and deliver the Grant Agreement with such changes, insertions and omissions as may be approved by such individual Authorized Officers, and the Town Clerk is hereby authorized to attest the Grant Agreement. The execution of the Grant Agreement shall be conclusive evidence of such approval.

Section 7. Disposition of Proceeds: Completion of the Project.

A. Project Account and Expense Account. The Grantee hereby consents to creation of the Project Account and the Expense Account by the NMFA and approves of the deposit of the Grant Amount in those accounts as shown in Exhibit "A" to the Grant Agreement. Until the Completion Date, the money in the Project Account shall be used and paid out solely for the purpose of acquiring the Project in compliance with applicable law and the provisions of the Grant Agreement. The Grantee shall proceed to complete the Project with all due diligence.

B. Completion of the Project. Upon the Completion Date, the Grantee shall execute a certificate stating that completion of and payment for the Project has been completed. As soon as practicable, and, in any event, not more than 60 days from the Completion Date, any balance remaining in the Project Account shall be transferred and deposited into the Water Project Fund.

C. Board and NMFA Not Responsible. Neither the Board nor the NMFA shall in any manner be responsible for the application or disposal by the Grantee or by its officers of the funds derived from the Grant Agreement or of any other funds herein designated.

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. Prior to the date of the initial delivery of the Grant Agreement to the NMFA, the provisions of this Resolution may be supplemented or amended by resolution of the Governing Body with respect to any changes which are not inconsistent with the substantive provisions of this Resolution. This Resolution may be amended without receipt by the Grantee of any additional consideration, but only with the prior written consent of the Board or the NMFA.

Section 10. Resolution Irrepealable. After the Grant Agreement has been executed and delivered, this Resolution shall be and remain irrepealable until all obligations due 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(note that a resolution can not repeal an ordinance), 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 Town 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.

Councilmember **Cordova** then moved adoption of the foregoing Resolution, duly seconded by Councilmember **Gonzales**.

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

Those Voting Aye:

Councilmember Cordova _____

Councilmember Gonzales _____

Councilmember Abeyta _____

Councilmember Struck _____

Those Voting Nay:

None _____

Those Absent:

None

Four (4) Members of the Governing Body having voted in favor of the motion, the Mayor declared the motion carried and the Resolution adopted, whereupon the Mayor and the Town 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 the motion duly made, seconded and unanimously carried, was adjourned.

THE TOWN OF TAOS, NEW MEXICO

By _____
Bobby F. Duran, Mayor

ATTEST:

By _____
Renee Lucero, Town Clerk

STATE OF NEW MEXICO)
) ss.
COUNTY OF TAOS)

I, Renee Lucero, the duly qualified, and acting Town Clerk of the Town of Taos, New Mexico (the "Grantee"), do hereby certify:

1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the Town Council of the Grantee (the "Governing Body"), had and taken at a duly called meeting held at the Town Council Chambers, Coronado Hall, 120 Civic Plaza Drive, Taos, New Mexico 87571, on March 20, 2007 at the hour of 6:30 p.m., insofar as the same relate to the execution and delivery of the proposed Grant Agreement, a copy of which is set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.

2. Said proceedings were duly had and taken as therein shown, the meeting therein was duly held, and the persons therein named were present at said meeting, as therein shown.

3. Notice of the meeting was given in compliance with the permitted methods of giving notice of meetings of the Governing Body as required by the Grantee's open meetings standards presently in effect.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, 2007.

THE TOWN OF TAOS, NEW MEXICO

By _____
Its Town Clerk

EXHIBIT "A"

Notice of Meeting