

City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 9

Ordinance/Resolution# 13-017

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of August 6, 2012
(Adoption Date)

Please check box that applies to this item:

QUASI JUDICIAL

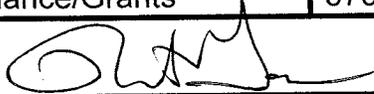
LEGISLATIVE

ADMINISTRATIVE

TITLE: A RESOLUTION AUTHORIZING THE LAS CRUCES MUSEUM OF ART TO ACCEPT A GRANT AGREEMENT FROM THE STATE OF NEW MEXICO DEPARTMENT OF CULTURAL AFFAIRS, NEW MEXICO ARTS DIVISION \$6,613.00 WITH A \$1,653.00 CASH MATCH AND A \$1,654.00 IN-KIND MATCH REQUIREMENT, TO RATIFY THE CITY MANAGER'S SIGNATURE ON THE AGREEMENT, AND TO ADJUST THE FY 2013 BUDGET.

PURPOSE(S) OF ACTION:

To accept grant, ratify City Manager's signature, and adjust budget.

COUNCIL DISTRICT: ALL		
Drafter/Staff Contact: Elizabeth Vega	Department/Section: Finance/Grants	Phone: 575-541-2717
City Manager Signature:		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The mission and goal of the Las Cruces Museum of Art is to engage and inspire a diverse audience through contemporary art exhibitions, public programming, and educational activities. The "Latino Folk Tales / Cuentos Populares" exhibit, along with lectures and workshops related to the exhibit, will do just that. The "Latino Folk Tales / Cuentos Populares" exhibit is currently slated to run at the Museum of Art from September 21, 2012 until November 24, 2012.

The New Mexico Arts (NMA) grant program is a division of the Department of Cultural Affairs and provides financial support for art projects within the state. The Museum of Art was successful in their grant application and the funds received from the New Mexico Arts grant program will be used for performers, lecturers, and general supplies.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", NMA Agreement.
3. Exhibit "B", Budget Adjustment.

(Continue on additional sheets as required)

SOURCE OF FUNDING:

Is this action already budgeted?	Yes	<input type="checkbox"/>	See fund summary below
	No	<input checked="" type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from:
		<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
		<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue?	Yes	<input checked="" type="checkbox"/>	Funds will be deposited into this fund: <u>2760 State Operating Grant</u> in the amount of <u>\$6,613.00</u> for FY 2013.
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

BUDGET NARRATIVE

Grant funds will be deposited into Fund #2760 (State Operating Grant) under project #22014 to be used by the Museum of Art to pay for contracting fees and supplies related to the "Latino Folk Tales / Cuentos Populares" exhibit. Cash match funds will come from local business and foundation support, as well as funds set aside in the Museum of Art budget for FY 2013.

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
State Operating Grant Fund	27205150-722190-22014	\$6,000.00	\$6,000.00*	\$0.00	N/A
State Operating Grant Fund	27205150-730110-22014	\$613.00	\$613.00*	\$0.00	N/A
General Fund (match)	10205140-722190-22014	\$1,653.00	\$1,653.00	\$0.00	N/A

* pending adjustment

(Continue on additional sheets as required)

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will accept grant funds from New Mexico Arts in the amount of \$6,613.00.
2. Vote "No"; this is not an option since the funds are necessary for the Las Cruces Museum of Art to put on the "Latino Folk Tales / Cuentos Populares" exhibit.
3. Vote to "Amend"; this is not an option as the grant agreement has been agreed upon.
4. Vote to "Table"; this not an option, as grant funds need to be accepted in order to be spent.

REFERENCE INFORMATION:

N/A

RESOLUTION NO. 13-017

A RESOLUTION AUTHORIZING THE LAS CRUCES MUSEUM OF ART TO ACCEPT A GRANT AGREEMENT FROM THE STATE OF NEW MEXICO DEPARTMENT OF CULTURAL AFFAIRS, NEW MEXICO ARTS DIVISION \$6,613.00 WITH A \$1,653.00 CASH MATCH AND A \$1,654.00 IN-KIND MATCH REQUIREMENT, TO RATIFY THE CITY MANAGER'S SIGNATURE ON THE AGREEMENT, AND TO ADJUST THE FY 2013 BUDGET.

The City Council is informed that:

WHEREAS, the New Mexico Arts grant program is providing funding opportunities to museums hosting exhibits within the state to supplement costs associated with arts programming; and

WHEREAS, the Las Cruces Museum of Art was successful in their grant application and received \$6,613.00 from the New Mexico Arts grant program with a cash match of \$1,653.00 and an in-kind match of \$1,654.00 as reflected in Exhibit "A"; and

WHEREAS, these funds will be used for programming costs associated with the "Latino Folk Tales / Cuentos Populares" exhibit; and

WHEREAS, the cash match has already been budgeted into the FY 2013 Museum of Art budget, and will be supplemented by monetary support from local businesses and the Foundation for Las Cruces Museums.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the City of Las Cruces Museum of Art is authorized to accept a grant award in the amount of \$6,613.00 with a \$1,653.00 cash match and \$1,654.00 in-kind match requirement.

(II)

THAT the FY 2013 Adopted Budget is hereby adjusted as reflected in Exhibit "B" attached hereto and made a part of this resolution.

(III)

THAT the Council does ratify the signature of the City Manager accepting the grant agreement to meet submission deadline.

(IV)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this ____ day of _____, 2012.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

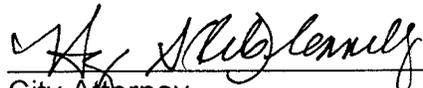
Moved by _____

Seconded by _____

VOTE:

Mayor Miyagishima:	_____
Councillor Silva:	_____
Councillor Smith:	_____
Councillor Pedroza:	_____
Councillor Small:	_____
Councillor Sorg:	_____
Councillor Thomas:	_____

APPROVED AS TO FORM:



City Attorney

ARTS SERVICES CONTRACT
New Mexico Arts, a Division of the Department of Cultural Affairs

THIS AGREEMENT is made and entered into by and between the state of New Mexico, Department of Cultural Affairs, New Mexico Arts division, hereinafter referred to as the "Agency," and **City of Las Cruces** hereinafter known as the "Contractor."

Contractor hereby signifies the acceptance of this arts services contract (hereinafter known as the "Contract") in the amount of **\$6,613.00** from Agency. Contractor agrees to provide matching funds in the amount of at least **\$3,307.00**, of which at least **\$1,653.00** must be in cash. Funds paid directly from the National Endowment for the Arts or other Federal agencies to Contractor CANNOT be used as a cash match. Contract period shall extend from the date of approval by Agency to **May 31, 2013**.

Contractor understands and agrees that acceptance of this arts services contract creates a legal duty on the part of the contractor to use funds in accordance with the terms of the contract and to comply with all provisions and conditions.

Contractor agrees to administer the Contract in compliance with the following provisions:

- A. This Contract provides consideration to Agency in return for funding by completing, according to the terms of this Contract, the programs and services proposed in the Contractor's original application, on file in the Agency office. Furthermore, it has been determined that the programs and services to be provided by Contractor, listed on the Schedule of Programs and Services and incorporated herein, further the purposes of the Agency as set forth in §§18-5-1 to 18-5-7 NMSA 1978.
- B. **Thank You Letters to Governor and New Mexico Legislators**
Contractor should: 1) send a thank you letter, no later than November 10, 2013, to the Governor and the Contractor's local state senator(s) and representative(s); and 2) send a copy of each letter to Agency for placement in Contractor's file.
- C. Contractor is given permission to subcontract with performers, administrators, technical support, and other individuals and/or organizations needed to implement the programs and services indicated on the Schedule of Programs and Services. Any deviation from the attached schedule of programs and services shall be governed by Paragraph N of this Contract.
- D. **Required Acknowledgment of New Mexico Arts**
All visual publicity is required to include the logos of New Mexico Arts and the National Endowment for the Arts. "Visual publicity" shall include all printed and electronic programs, posters, playbills, announcements, and releases to the news media, etc. In addition, Contractor is strongly encouraged to use the following acknowledgment of support, word for word, in any visual publicity:
"This project is made possible in part by New Mexico Arts, a division of the Department of Cultural Affairs, and the National Endowment for the Arts."

For oral publicity, such as radio or announcements at events, the following statement must be used, word for word. "Oral publicity" shall include radio spots, announcements at events, etc.

"This project is made possible in part by New Mexico Arts, a division of the Department of Cultural Affairs, and the National Endowment for the Arts."

If Contractor makes a good faith effort to include the credit lines as stipulated above, and the entity with whom Contractor is placing the advertisement fails to include the credit lines, Contractor will not be in violation of this contract.

E. Limitations on the Use of Contract Funds

1. The Contractor shall expend the funds provided by the Contract only for purposes and activities set forth in the Contractor's budget as originally submitted in the Contractor's *General Application FY2013*, on file with the Agency, or as submitted with this Contract and subsequently approved by the Agency.
2. The Contractor shall expend Contract funds, and/or such matching funds as are required, during the Contract period, which runs from the date of approval by the Agency to **May 31, 2013**. **CONTRACTOR SHALL NOT SUBMIT ANY REQUESTS FOR REIMBURSEMENT OF THESE CONTRACT FUNDS BEFORE THE APPROVAL OF THE CONTRACT BY THE AGENCY.**
3. The Contractor shall submit any proposed amendments in writing by the Contractor's authorizing official for approval by the Agency. Significant changes requiring such action include:
 - a) Significant changes in scope and purpose of as shown in the Schedule of Programs and Services or the Estimated Revised Budget;
 - b) Changes in any key individuals identified in the approved application (Project Director or Authorizing Official).
4. Funds from this Contract shall not be used for the excluded items listed in the guidelines, which include the following: to fund investment or contingency funding; direct aid to individuals; projects outside of the Contract period or outside of New Mexico; projects in which course credit is the primary purpose of the project; cost of parties, receptions, fund raising, or other social activities; deficit reduction; negotiated indirect cost rates; permanent acquisitions (including works of art, buildings, land, or capital outlay); scholarships or fellowships; cash prizes or awards; or requests that fund other divisions, foundations, employees, or contractors of the Department of Cultural Affairs or members of the New Mexico Arts Commission. The Contractor shall not use the Agency funds to pay another New Mexico Arts-funded organization for the same activity.
5. **Misapplied Funds:** Misapplied funds shall be repaid to the Agency. The Agency shall consider funds given in exchange for programs and services that were not completed as specified in the Schedule of Programs and Services to be misapplied funds. All misapplied funds shall be repaid to the Agency within 30 days of receipt of official notification letter from the Agency. The Agency reserves the right to seek relief for damages and other remedies available at law or in equity.
6. **Unexpended Funds:** Funds remaining unexpended at the end of the Contract period shall revert to the Agency.

F. Cash Requests

1. The Contractor may submit Interim Cash Requests during the Contract period; Interim Cash Requests may be submitted no more frequently than monthly, if expenditures were made during that period. A Final Cash Request and entire Final Report must be submitted when the Contract activities have been completed. A brief narrative report shall accompany each Interim Cash Request; the entire Final Report shall accompany the Final Cash Request. Cash request forms, furnished by the Agency, shall be

completed, signed, and submitted to the Agency office, accompanied by the required reports, in order to obtain funds.

2. ALL cash requests shall be made on a reimbursement basis only and shall be submitted in accordance with applicable cash request form instructions. Cash Requests shall be submitted using forms provided by the Agency. Contractor shall provide all information required on forms. Agency shall not be required to make payments based on incomplete Cash Request or Final Report forms.

The Final Cash Request shall consist of a minimum of twenty percent (20%) of the total Contract funds. This 20% balance shall be payable upon receipt of the Final Report with the Final Cash Request, and then only on the basis of reimbursement of expenses. **Failure to submit the Final Cash Request and Final Report for receipt by the Agency by June 15, 2013, shall result in the loss of the balance of the Contract funding. Failure to submit the Final Cash Request and Final Report for receipt by the Agency by June 15, 2013, may also make contractor ineligible to apply for funding the following year.**

G. Accounting, Records, and Reports

1. The Contractor shall maintain records and accounts consistent with generally accepted accounting principles, and shall provide for such fiscal control and fund accounting procedures as are necessary to assure proper disbursing of, and accounting for, Contract funds.
 - a) The Contractor certifies that accounts and supporting documentation (canceled checks, receipts, vouchers, original invoices, sales slips, cash register tapes, etc.) relating to project expenditures shall be adequate to permit an accurate and expeditious audit. An audit may be made at any time by the Agency, its Fiscal Agent, or any applicable agency of the United States Government.
 - b) The Contractor shall maintain all records and accounts for not less than three (3) years. the Agency and its agents and employees, as well as the State Auditor, shall have the right, at any and all times during regular business hours, to examine and inspect all of these records and accounts of the Contractor for the purpose of investigating and verifying the accuracy of any statement provided to the Agency. Records required pursuant to this agreement shall be produced by Contractor at a state office location in Santa Fe as designated by the Agency. In addition, the Agency shall have the right to audit billings both before and after payment. Furthermore, payment under this Contract shall not foreclose the right of the Agency to recover excessive and/or illegal payments.
2. The Contractor shall maintain and keep intact records to demonstrate that matching and cost sharing contributions are not less than the amount indicated above, or any revision thereof which is approved by the Agency. The Contractor shall secure and maintain written proof of both the value and type of "in-kind" contributions.
3. Periodic Reports: The Contractor shall submit reports of expenditures and such other financial and descriptive reports as the Agency may require on the appropriate forms.

4. Final Reports: The Contractor shall submit the complete four-page Final Report packet, with accompanying Final Cash Request, FOR RECEIPT AT THE AGENCY NO LATER THAN **JUNE 15, 2013**, on forms furnished by the Agency. **Failure to submit the Final Report packet on time may deem the Contractor ineligible to apply for funding the following year and shall result in the loss of the balance of the Contract.**

A Final Cash Request and Final Report may be submitted at any time during the Contract period after the last scheduled event to which the Agency funding is applied has been completed.

5. Audits: In accordance with the Federal Office of Management and Budget Circular A-133, any organization that expends \$500,000 or more in total Federal awards during its fiscal year is required to complete an audit within nine (9) months of the end of the audit period. The governing body must forward the independent audit to the Agency within thirty (30) days of completion.

H. Copyright

1. The State of New Mexico and the Federal Government reserve a non-exclusive license to use and reproduce for government purposes, without payment, any tangible material, including copyrighted matter, resulting from the Contract activities.

I. The Termination of Contracts

1. The Agency may terminate any contract, in whole or in part, at its discretion and at any time, effective ten (10) days after Contractor's receipt of the notice. Except as otherwise allowed or provided under this Agreement, the Agency's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the Agency is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the Agency or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE STATE'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.
2. Termination Management. Immediately upon receipt by either the Agency or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the Agency; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and

records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the Agency upon termination and shall be submitted to the agency as soon as practicable.

The Contractor shall furnish the Agency with an itemized accounting of funds expended, obligated, and remaining under the Contract within thirty (30) days of the date of termination. The Contractor shall remit, within thirty (30) days of the receipt of a written request, any amount found due by the Agency.

J. Charitable Organizations and Solicitations Act

1. The Contractor represents that it has registered to the extent required by law with the State of New Mexico Attorney General's Office in compliance with the Charitable Organizations and Solicitations Act (57-22-1 to 57-22-11 NMSA 1978).

K. Assurances as to Labor Standards under Section 5(I) of the National Foundation on the Arts and the Humanities Act of 1965

In consideration of this Contract, made under Section 5 of the National Foundation on the Arts and Humanities Act of 1965 ("Act") and in order to satisfy the condition expressed in Section 5(I) of the Act so as to be eligible to receive the Contract funds, the undersigned does hereby make its contractually binding promise to the Secretary of Labor that:

1. All professional performers and related or supporting professional personnel (other than laborers or mechanics with respect to whom labor standards are prescribed in Subsection 5(j) of the said Act) employed on projects or productions which are financed in whole or in part under this section shall be paid, without subsequent deduction or rebate on any account, not less than the minimum compensation as determined in 29 CFR 505.3(a) to be the prevailing minimum compensation for persons employed on similar activities; and
2. No part of any project or production which is financed in whole or in part under Section 5 of the National Foundation of the Arts and the Humanities Act of 1965 shall be performed or engaged in under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employee engaged in such project or production, including particularly, no work which is prohibited for safety or sanitary reasons by any of the contracts with labor organizations listed in 29 CFR 505.3(a).
3. Contractor further agrees to keep the records and permit the inspections provided by 29 CFR 505.5(b). This agreement shall be enforced by the Secretary of Labor through any appropriate action at law or in equity in any court of competent jurisdiction.

L. Status of Contractor

The Contractor and its agents and employees are independent contractors performing professional services for the Agency and are not employees of the State of New Mexico. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico as a result of this Contract. If applicable, the Contractor acknowledges that all

sums received hereunder are personally reportable by it for income tax purposes as self-employment or business income and are reportable for self-employment tax.

M. Assignment

The Contractor shall not assign or transfer any interest in this Contract or assign any claims for money due or to become due under this Contract without the prior written approval of the Agency.

N. Subcontracting

The Contractor shall not subcontract any portion of the services to be performed under this Contract without the prior written approval of the Agency. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the Procuring Agency.

O. Release

The Contractor's acceptance of final payment of the amount due under this Agreement shall operate as a release of the Agency, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The Contractor agrees not to purport to bind the State of New Mexico unless the Contractor has express advanced written authority to do so by the Agency, and then only within the strict limits of that authority.

P. Conflict of Interest; Governmental Conduct Act

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

1) in accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any Agency employee while such employee was or is employed by the Agency and participating directly or indirectly in the Agency's contracting process;

2) this Agreement complies with Section 10-16-7(A) NMSA 1978 because (i) the Contractor is not a public officer or employee of the State; (ii) the Contractor is not a member of the family of a public officer or employee of the State; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the State, a member of the family of a public officer or employee of the State, or a business in which a public officer or employee of the State or the family of a public officer or employee of the State has a substantial interest, public notice was given as required by Section 10-16-7(A) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;

3) in accordance with Section 10-16-8(A) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the State within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former

public officer or employee of the State whose official act, while in State employment, directly resulted in the Agency's making this Agreement;

4) this Agreement complies with Section 10-16-9(A) NMSA 1978 because (i) the Contractor is not a legislator; (ii) the Contractor is not a member of a legislator's family; (iii) the Contractor is not a business in which a legislator or a legislator's family has a substantial interest; or (iv) if the Contractor is a legislator, a member of a legislator's family, or a business in which a legislator or a legislator's family has a substantial interest, disclosure has been made as required by Section 10-16-9(A) NMSA 1978, this Agreement is not a sole source or small purchase contract, and this Agreement was awarded in accordance with the provisions of the Procurement Code;

5) in accordance with Section 10-16-13 NMSA 1978, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and

6) in accordance with Section 10-16-3 and Section 10-16-13.3 NMSA 1978, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of the Agency.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the Agency relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the Agency if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the Agency and notwithstanding anything in the Agreement to the contrary, the Agency may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(B).

Q. Penalties for violation of law

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

R. Equal Opportunity Compliance.

The Contractor agrees to abide by all 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 of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, 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 Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

S. 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. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

T. Workers Compensation.

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the Agency.

U. Indemnification

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connections with this Agreement. Any liability incurred in connections with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act §41-1-1, et seq. NMSA 1978, as amended.

Contractor or any officer, agent, employee, servant, or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant, or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the Agency and the Risk Management Division of the New Mexico General Services Department by certified mail.

V. New Mexico Employees Health Coverage.

A. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2011, if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.

B. Contractor agrees to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.

C. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information: <http://insurenwnewmexico.state.nm.us/>.

W. Employee Pay Equity Reporting

Contractor agrees if it has ten (10) or more New Mexico employees OR eight (8) or more employees in the same job classification, at any time during the term of this contract, to complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. If contractor has (250) or more employees contractor must complete and submit the PE250 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. For contracts that extend beyond one (1)

calendar year, or are extended beyond one (1) calendar year, contractor also agrees to complete and submit the PE10-249 or PE250 form, whichever is applicable, within thirty (30) days of the annual contract anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract, whichever comes first. Should contractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor agrees to provide the required report within ninety (90) days of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter. Contractor also agrees to levy this requirement on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. Contractor further agrees that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor will submit the required report, for each such subcontractor, within ninety (90) days of that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal. Contractor shall submit the required form(s) to the State Purchasing Division of the General Services Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this paragraph. Contractor acknowledges that this subcontractor requirement applies even though contractor itself may not meet the size requirement for reporting and be required to report itself.

Notwithstanding the foregoing, if this Contract was procured pursuant to a solicitation, and if Contractor has already submitted the required report accompanying their response to such solicitation, the report does not need to be re-submitted with this Agreement.

X. Invalid Term or Condition.

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

Y. Enforcement of Agreement.

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

Z. Notices.

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, to the persons and addresses shown on the signature page.

AA. Authority.

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

The remainder of this page is intentionally left blank.

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REVISED BUDGET ESTIMATE FORM

*A blank copy of this form is on our website for use if needed to revise budget during contract period.
<http://www.nmarts.org/grantee-documents-and-forms.html>*

City of Las Cruces, CUGE-13-092

Income	<u>Cash</u>	<u>NMArts-Share</u>	<u>In-Kind(donated)</u>
1. Earned Income		N/A	N/A
2. Business/Corporate Support	1,000	N/A	
3. Foundation Support	1,000	N/A	2,000
4. Private Support (<i>Individual Contributions</i>)		N/A	3,000
5. Federal Government Support		N/A	
6. Other Government Support	5,000	N/A	10,000
7. WESTAF Support		N/A	N/A
8. Applicant Cash	13,528	N/A	N/A
Subtotal Income for each column	<u>\$ 20,528</u>	N/A	<u>\$ 15,000</u>
9. NM Arts Funding for Fiscal Year 2012	N/A	\$6613	N/A
TOTAL INCOME: (<i>CASH COLUMN +NM Arts Funding only</i>)	<u>\$ 27,141</u>		N/A
Expenses	<u>Cash</u>	<u>NMArts-Share</u>	<u>In-Kind(donated)</u>
1. Administrative Salaries & Benefits			10,000
2. Artistic Salaries & Benefits			
3. Administrative Contracted Fees & Services			
4. Artistic Contracted Fees & Services	13,528	6,000	
5. Travel			
6. Marketing/Public Relations	3,000		5,000
7. Rent/Mortgage			
8. Materials/Supplies	1,000	613	
9. Remaining Expenses (<i>telephone, postage, insurance, etc</i>)	3,000		
Subtotal Expenses for each Column:	<u>\$ 20,528</u>	\$6613	<u>\$ 15,000</u>
TOTAL EXPENSES (<i>CASH COLUMN +NM Arts Funding only</i>)	<u>\$ 27,141</u>		N/A

SCHEDULE OF PROGRAMS & SERVICES

*A blank copy of this form is on our website for use if needed to revise schedule during contract period.
<http://www.nmarts.org/grantee-documents-and-forms.html>*

City of Las Cruces, CUGE-13-092

Your New Mexico Arts Program Coordinator must be notified in writing at any time there is a significant change or deletion in programming dates for which you will be expending FY13 contract funds.

List below or on a separate page your schedule of programming, only for those programs and services for which you will be using New Mexico Arts funding during the period of date of contract approval to May 31, 2013. Include proposed services, programs, and/or exhibitions, giving all dates and locations. Tentative dates should be listed as such.

09/21/12 to 11/24/12	Exhibition: <i>Latino Folk Tales / Cuentos Populares</i>
09/29/12	Lucia Perez, Antonio Castro L., Antonio Castro H. Gallery Talk – Artists, Illustrators and Family
10/13/12	Teatro de la Rosa Bilingual Children's Theater Rio Grande Theatre (211 N. Main Street, Las Cruces)
10/19/12 & 10/20/12	Amy Cordova 2-day retablo workshop for adults plus story time and art activity for children
11/03/12	Geronimo Garcia Reading plus family clay workshop
11/10/12	Gaspar Enriquez Gallery Talk – Chicano art
Date TBD	Susan Guevara Lecture – <i>The Illustrator's Creative Process</i> plus reading and art activity for children

Note: With the exception of Teatro de La Rosa's performance, all activities will take place at the

Las Cruces Museum of Art
491 N. Main Street
Las Cruces, NM 88001

Signature Page for New Mexico Arts – Arts Services Contract

This form may be typed or handwritten, except for signatures. Signatures in blue ink are preferred.

For the Contractor:

City of Las Cruces

Mailing Address (include zip) _____

Physical Address (include zip) _____

Organization Phone _____ Fax: _____

Website Address(if any) _____

Contractor Project Director (PD) Information – administrator for contract & primary contact person

PD Signature *Lisa M. Pugh* Date 7/26/12

Project Director Name & Title (please print) LISA M. PUGH, MUSEUM MANAGER

PD Mailing Address (include zip) PO BOX 20000, LAS CRUCES, NM 88001

PD Phone 575 541-2137 Fax: 575 541-2371

PD E-mail Address LPUGH@LAS-CRUCES.ORG

Contractor Authorizing Official (AO) Information – authorized representative of governing body
Must be different from project director.

AO Signature _____ Date _____

AO Name & Title (please print) _____

AO Mailing Address (include zip) _____

AO Phone _____ Fax: _____

AO E-mail Address _____

For New Mexico Arts:

Loie Fecteau
Executive Director, New Mexico Arts

Therese L. Trujillo, DCA-CFO/ASD Director
Budgetary Sufficiency

Date

Date

**CITY OF LAS CRUCES
ADOPTED BUDGET FY 2012/2013**

FUND	DIVISION		FUND TYPE	
State Operating Grants Fund 2760	Various		Special Revenue	
	FY 2011/12 Projected*	FY 2012/13 Adopted	FY 2012/13 Adjustment	FY 2012/13 Adjusted
RESOURCES				
Beginning Balance	\$ 13,600	13,600		13,600
REVENUES				
20407 NMFA Econ Dev Feasibility Study	\$ 0	50,000		50,000
21006 NM State Library Aid 2011	1,528	0		0
22009 NM Museum of Art	3,941	0		0
22011 100 Years of Art	6,000	6,000		6,000
22012 NM Humanities Council	5,927	0		0
22014 NM Dept of Cultural Affairs	0	0	6,613	6,613
60306 Water Trust Board	0	100,620		100,620
Total Revenues	\$ 17,396	156,620	6,613	163,233
Total Resources	\$ 30,996	170,220	6,613	176,833
EXPENDITURES				
20407 NMFA Econ Dev Feasibility Study	\$ 0	50,000		50,000
21006 Branigan Library State Aid	1,528	0		0
22009 NM Museum of Art	3,941	0		0
22011 100 Years of Art	6,000	6,000		6,000
22012 NM Humanities Council	5,927	0		0
22014 NM Dept of Cultural Affairs	0	0	6,613	6,613
23003 NM Dept of Health Summer Food	0	0		0
30613 NM Tourism Department Grant	0	0		0
60306 Water Trust Board	0	100,620		100,620
Total Expenditures	\$ 17,396	156,620	6,613	163,233
ENDING BALANCE	\$ 13,600	13,600	0	13,600

*Projected based on 8 months actual through February 29, 2012 and 4 months projected.