

City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 18

Ordinance/Resolution# 15-247

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of July 6, 2015
(Adoption Date)

Please check box that applies to this item:

QUASI JUDICIAL

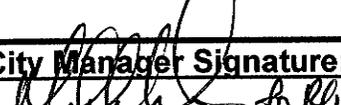
LEGISLATIVE

ADMINISTRATIVE

TITLE: A RESOLUTION FOR APPROVAL OF AMENDMENT TO MANAGEMENT AGREEMENT BETWEEN THE CITY OF LAS CRUCES (CITY) AND THE DONA ANA ARTS COUNCIL (DAAC) FOR OPERATION OF THE RIO GRANDE THEATRE (RGT), LOCATED AT 211 NORTH MAIN STREET, LAS CRUCES, NEW MEXICO, INCREASING THE CONTRACT AMOUNT TO \$120,000 FOR YEAR TWO OF A POSSIBLE FIVE YEAR MANAGEMENT AGREEMENT, SUBJECT TO ANNUAL CITY OF LAS CRUCES COUNCIL APPROVAL.

PURPOSE(S) OF ACTION:

Approve Amendment to the Management Agreement.

COUNCIL DISTRICT: 5		
<u>Drafter/Staff Contact:</u> Catherine Duarte	<u>Department/Section:</u> Public Works/Facilities Management	<u>Phone:</u> 541-2767
<u>City Manager Signature:</u> 		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The City owns the RGT facility, which was constructed in 1926. It first served as a movie theater, and ultimately was renovated in the early 2000's to serve as a performing arts space with the DAAC providing the programming at the location. After completion of the renovations, it was placed on the National Historic Register in 2004. The City considers the RGT to be an important part of downtown activities through the arts and performance-related programming offered at the site while also providing support for local economic development initiatives.

On June 16, 2014, per Resolution 13-14-362, the DAAC was awarded a Management Agreement (Agreement) for a five-year term, renewable annually contingent on available budget and City Council approval., As part of the Agreement the City retains the right to use the RGT for various functions on an "as-needed" basis.

The proposed action is to authorize an amendment to the existing Agreement for year two of five, and to increase the amount paid to DAAC from \$100,000.00 to \$120,000.00 per year, for a

(Continue on additional sheets as required)

net change of \$20,000.00. The revised amount is a "not exceed" number. Except as specifically noted above, the original terms and conditions of the Agreement remain unchanged.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Amendment to Management Agreement

SOURCE OF FUNDING:

Is this action already budgeted?	Yes	<input checked="" type="checkbox"/>	See fund summary below
	No	<input 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 type="checkbox"/>	Funds will be deposited into this fund: _____ in the amount of \$_____ for FY_____.
	No	<input checked="" type="checkbox"/>	There is no new revenue generated by this action.

BUDGET NARRATIVE

Funds for this action are budgeted in FY16 under the General Fund, Legislative, Purchased Services account.

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
General	10100040-722190-10940	\$120,000.00	\$120,000.00	0	N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; to approve the Resolution, and authorizing year two of a possible five year Agreement with the to the DAAC.

(Continue on additional sheets as required)

2. Vote "No"; and not approve the Resolution, authorizing year two of a possible five year Agreement with the DAAC. The existing lease will conclude effective June 30, 2015 and therefore potentially ceasing operations.
3. Vote to "Amend"; and direct staff to proceed as amended by City Council.
4. Vote to "Table"; and provide staff with further direction. This could delay implementation of the Agreement; therefore, potentially ceasing operations.

REFERENCE INFORMATION:

1. N/A

RESOLUTION NO. 15-247

A RESOLUTION FOR APPROVAL OF AN AMENDMENT TO THE MANAGEMENT AGREEMENT BETWEEN THE CITY OF LAS CRUCES (CITY) AND THE DONA ANA ARTS COUNCIL (DAAC) FOR OPERATION OF THE RIO GRANDE THEATRE (RGT), LOCATED AT 211 NORTH MAIN STREET, LAS CRUCES, NEW MEXICO, INCREASING THE CONTRACT AMOUNT TO \$120,000.00 FOR YEAR TWO OF A POSSIBLE FIVE YEAR MANAGEMENT AGREEMENT SUBJECT TO ANNUAL CITY OF LAS CRUCES COUNCIL APPROVAL.

The City Council is informed that:

WHEREAS, the City owns the RGT located at 211 North Main Street; and

WHEREAS, the RGT continues to be an important component of economic development in the downtown area through arts and performance programming at the facility; and

WHEREAS, DAAC was awarded the Request for Proposal and the Management Agreement hereafter referred to as "Agreement" between the City and the DAAC; and

WHEREAS, the Agreement is for a five-year term, contingent on available budget and with the City retaining use of the RGT on an "as-needed" basis; and

WHEREAS, the Amendment for approval will be for year two of the existing agreement for an additional one year term from July 1, 2015 to June 30, 2016; and

WHEREAS, the total Management Agreement funding for year two shall not exceed \$120,000.00 and is subject to City Council approval; and

WHEREAS, except as specifically amended, the original terms and conditions of the Agreement remain unchanged.

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

(I)

THAT the Amendment to the Management Agreement for the use of the RGT located at 211 North Water Street, between the City and the DAAC is hereby approved in

the amount of \$120,000.00 for year two of a possible five-year management contract.

(II)

THAT the Mayor is hereby authorized to execute the Amendment to Management Agreement, designated as Exhibit "A", attached hereto and made a part this resolution.

(III)

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

DONE AND APPROVED this ____ day of _____, 20__.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

VOTE:

Mayor Miyagishima: _____

Councillor Silva: _____

Councillor Smith: _____

Councillor Pedroza: _____

Councillor Small: _____

Councillor Sorg: _____

Councillor Levatino: _____

Moved by _____

Seconded by _____

APPROVED AS TO FORM:

Attest by William R. Babington Jr.
City Attorney

**AMENDMENT TO MANAGEMENT AGREEMENT
BETWEEN CITY OF LAS CRUCES AND DONA ANA ARTS COUNCIL FOR
RIO GRANDE THEATRE LOCATED AT 211 N. MAIN STREET,
LAS CRUCES, NEW MEXICO**

This Amendment to Management Agreement (this "Amendment") is made and entered into on 18th day of June, 2015, effective as of July 1, 2015 by and between the City of Las Cruces ("City"), a New Mexico municipal corporation as Owner whose address is P.O. Box 20000, Las Cruces, NM 88004, and the Dona Ana Arts Council, a non-profit corporation ("DAARTS") as Manager, as follows:

WITNESSETH:

WHEREAS, the Owner and Manager have previously executed a Management Agreement dated July 1, 2014 (the Agreement) pursuant to the terms of which Manager has operated and managed the Rio Grande Theatre a city facility located at 211 N. Main Street, Las Cruces, New Mexico ("Premises"); and

WHEREAS, the Owner and Manager have agreed to extend the Term of the Agreement as for an additional year which will be year 2 of a 5 year term as set forth on page 2 Article 2, (b), on the existing Management Agreement.

WHEREAS, the Owner and Manager have agreed to amend the Total Management Agreement Funding as set forth on page 6 and continued on page 7, Article 6, Section 6.1 and 6.2 during the Term 2015-2016, on the existing Management Agreement.

NOW THEREFORE, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, effective as of the 1st day of July, 2015, the parties agree as follows:

1. The parties acknowledge and agree that the Agreement is currently in effect and that neither party is in breach or default of the Agreement.
2. The parties agree by this Amendment to extend the term of the Agreement and to otherwise amend the Agreement as set forth below.
3. The Agreement shall commence as of the 1st day of July, 2015 and shall end on June 30th, 2016, both days inclusive.
4. The parties agree by the Amendment to add to item 6.1 of the Agreement, the Owner shall disburse the additional \$20,000 funds half in July, 2015 and half in January, 2016 upon the submittal of the required Monthly and Quarterly reports.
5. The parties agree by this Amendment to the Total Management Agreement Funding by Owner for this Management Agreement during Term 2015-2016 shall not exceed \$120,000.
6. Except as specifically amended hereinabove, the original terms and provisions of the Agreement remain in full force and effect, and the parties hereby affirm and consent to the Agreement, as herein amended and agree to be bound thereby.

IN WITNESS WHEREOF, this Amendment has been executed on the date first above written.

Dona Ana Arts Council

City of Las Cruces

BY

 6/18/15

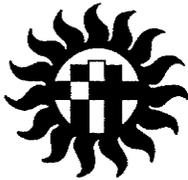
Scott Breckner, Board President

BY: _____

Robert Garza, City Manager

Approved:

, City Attorney



City of Las Cruces®

PEOPLE HELPING PEOPLE

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COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of July 6, 2015
 (Adoption Date)

TITLE:

A RESOLUTION FOR APPROVAL OF AN AMENDMENT TO THE MANAGEMENT AGREEMENT BETWEEN THE CITY OF LAS CRUCES (CITY) AND THE DONA ANA ARTS COUNCIL (DAAC) FOR OPERATION OF THE RIO GRANDE THEATRE (RGT), LOCATED AT 211 NORTH MAIN STREET, LAS CRUCES, NEW MEXICO, INCREASING THE CONTRACT AMOUNT TO \$120,000 FOR YEAR TWO OF A POSSIBLE FIVE YEAR MANAGEMENT AGREEMENT SUBJECT TO ANNUAL CITY OF LAS CRUCES COUNCIL APPROVAL.

Purchasing Manager's Request to Contract (PMRC) {Required?} Yes No

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	<i>Cathy Swartz</i> ^{BA} FOR DEM	x 2767	6/26/15
Department Director	<i>[Signature]</i>	x 3135	6/26/15
Other			
Assistant City Manager /CAO	<i>[Signature]</i>	x 2028	6/26/15
Management & Budget Manager	<i>[Signature]</i>	x 2106	6/26/15
Assistant City Manager/COO	<i>[Signature]</i> for D Anila	x 2271	6/26/15
City Attorney	<i>ASL</i> <i>[Signature]</i> for Wilk Babington J	x 541-2128	6/26/15
City Clerk - Interim	<i>[Signature]</i>	541-2115	6/26/15