



City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 9Ordinance/Resolution# 16-245For Meeting of _____
(Ordinance First Reading Date)For Meeting of June 20, 2016
(Adoption Date)

Please check box that applies to this item:

 QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION FOR APPROVAL OF AN AMENDMENT TO THE MANAGEMENT AGREEMENT (AGREEMENT) BETWEEN THE CITY OF LAS CRUCES (CITY) AND THE DONA ANA ARTS COUNCIL (DAAC), FOR AN INCREASE IN THE ORIGINAL CONTRACT AMOUNT OF \$100,000.00 TO \$120,000.00 FOR YEAR THREE OF A POSSIBLE FIVE-YEAR MANAGEMENT AGREEMENT, FOR OPERATION OF THE RIO GRANDE THEATRE (RGT), LOCATED AT 211 N. MAIN STREET, LAS CRUCES, NEW MEXICO, SUBJECT TO ANNUAL CITY COUNCIL APPROVAL.

PURPOSE(S) OF ACTION:

Extend contract period and amend contract amount.

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>	<i>Daniel Avila</i>	

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 No. 13-14-362, the DAAC was awarded an agreement for year one of a possible five-year management agreement, 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 agreement was amended as per Resolution No. 15-247 to authorize an amendment to the existing agreement for year two of a possible five-year management agreement, and to increase the amount paid to DAAC from \$100,000.00 to \$120,000.00. The revised amount is a "not to

exceed" number. Except as specifically noted above, the original terms and conditions of the agreement remain unchanged.

The proposed action is to authorize an amendment to the original agreement for year three of five, and to increase the amount paid to DAAC from \$100,000.00 to \$120,000.00 for year three for a net change of \$20,000.00 from the original agreement. The revised amount is a "not to 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 FY17 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 authorize year three of a possible five-year agreement with the DAAC.
2. Vote "No"; and not approve the Resolution, to authorize year three of a possible five-year agreement with the DAAC. The existing lease will conclude effective June 30, 2017, 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

5



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COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of _____
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TITLE: A RESOLUTION FOR APPROVAL OF AN AMENDMENT TO THE MANAGEMENT AGREEMENT (AGREEMENT) BETWEEN THE CITY OF LAS CRUCES (CITY) AND THE DONA ANA ARTS COUNCIL (DAAC), FOR AN INCREASE IN THE ORIGINAL CONTRACT AMOUNT OF \$100,000.00 TO \$120,000.00 FOR YEAR THREE OF A POSSIBLE FIVE-YEAR MANAGEMENT AGREEMENT, FOR OPERATION OF THE RIO GRANDE THEATRE (RGT), LOCATED AT 211 N. MAIN STREET, LAS CRUCES, NEW MEXICO, SUBJECT TO ANNUAL CITY COUNCIL APPROVAL

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

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	ISA FOR CATHERINE QUARTE RA FOR E.M. 5-31-16	2767	5-31-16
Department Director	<i>[Signature]</i>	3479	5/31/16
Other			
Assistant City Manager /CAO Management & Budget Manager	<i>[Signature]</i>	541-2078 541-207	6/1/2016 5-31-2016
Assistant City Manager/COO	<i>[Signature]</i>	541-2271	6-1-16
City Attorney	<i>[Signature]</i>	EXT 2128	2 JUNE 2016
Deputy City Clerk	Christine Rivera	2118	6-2-16

RESOLUTION NO. 16-245

A RESOLUTION FOR APPROVAL OF AN AMENDMENT TO THE MANAGEMENT AGREEMENT (AGREEMENT) BETWEEN THE CITY OF LAS CRUCES (CITY) AND THE DONA ANA ARTS COUNCIL (DAAC), FOR AN INCREASE IN THE ORIGINAL CONTRACT AMOUNT FROM \$100,000.00 TO \$120,000.00 FOR YEAR THREE OF A POSSIBLE FIVE-YEAR MANAGEMENT AGREEMENT, FOR OPERATION OF THE RIO GRANDE THEATRE (RGT), LOCATED AT 211 N. MAIN STREET, LAS CRUCES, NEW MEXICO, SUBJECT TO ANNUAL CITY COUNCIL APPROVAL.

The City Council is informed that:

WHEREAS, the City owns the RGT located at 211 N. Main Street, in the downtown area; 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, the DAAC was awarded the Request for Proposal and the agreement between the City and DAAC; and

WHEREAS, the agreement is for a five-year term, contingent on available budget and the City retains the right to use the RGT on an "as-needed" basis throughout the contract for City functions as necessary; and

WHEREAS, City staff has met with board members and staff and have mutually agreed to continue their combined efforts to continue the agreement; and

WHEREAS, the Amendment for approval will be for year three of the existing agreement for an additional one-year term; and

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

WHEREAS, except as specifically amended, the original terms and provisions of the

agreement remain in full force and effect.

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

(I)

THAT the amendment to the agreement for the use of 211 N. Water Street, between the City and DAAC is hereby approved for year three of a possible five-year management agreement in the amount not to exceed \$120,000.00.

(II)

THAT the Mayor is hereby authorized to execute the amendment to the agreement, designated as Exhibit "A", attached hereto and made a part hereof.

(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 Gandara: _____

Councillor Smith: _____

Councillor Pedroza: _____

Councillor Eakman: _____

Councillor Sorg: _____

Councillor Levatino: _____

VOTE:

Mayor Miyagishima: _____

Councillor Gandara: _____

Councillor Smith: _____

Councillor Pedroza: _____

Councillor Eakman: _____

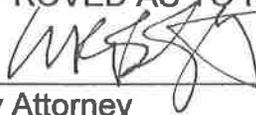
Councillor Sorg: _____

Councillor Levatino: _____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney

**AMENDMENT TO MANAGEMENT AGREEMENT
BETWEEN CITY OF LAS CRUCES (CITY) AND
THE DONA ANA ARTS COUNCIL (DAAC) FOR
THE RIO GRANDE THEATRE (RGT) LOCATED AT 211 NORTH MAIN STREET,
LAS CRUCES, NEW MEXICO**

This Amendment to the Management Agreement is made and entered into on the 1st day of July, 2016, by and between the City, a New Mexico municipal corporation as Owner whose address is P.O. Box 20000, Las Cruces, New Mexico, 88004, and the DAAC, a non-profit corporation as Manager, is 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 RGT, a City facility located at 211 North Main Street, Las Cruces, New Mexico ("Premises"); and

WHEREAS, the Owner and Manager have agreed to extend the term of the agreement for an additional year which will be year three (3) of a five (5) year term as set forth on page 2 Article 2, (b), on the existing Management Agreement; and

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 2016-2017, on the existing Management Agreement; and

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, 2016, 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 lease and to otherwise amend the agreement as set forth below.
3. The lease shall commence as of the 1st day of July, 2016 and shall end on June 30th, 2017, 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 \$20,000.00 funds half in December, 2016, and half in June, 2017, upon the submittal of the required quarterly reports.
5. The parties agree by this amendment to the total Management Agreement funding by Owner for this Management Agreement during term 2016-2017 shall not exceed \$120,000.00, subject to City Council approval.
6. Except as specifically amended hereinabove, the original terms and provisions of the lease remain in full force and effect, and the parties hereby affirm and consent to the lease, 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: _____
Scott Breckner, Board President

By: _____
Daniel Avila, P.E., Interim City Manager

Approved:

By:  _____
City Attorney