

## **FISCAL AGENCY AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND (AGENCY LEGAL NAME)**

**THIS AGREEMENT** is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_, between the and \_\_\_\_\_ (herein called the "OPERATING ENTITY"), a non-profit agency, whose mailing address is \_\_\_\_\_ and City of Las Cruces (herein called the "CITY") with a principle mailing address of 700 N. Main Street, Las Cruces, New Mexico 88001, (collectively referred to as the "Parties").

### **RECITALS**

**WHEREAS**, the CITY agrees to provide Fiscal Agent services to the OPERATING ENTITY under the terms and conditions set forth herein;

**WHEREAS**, the OPERATING ENTITY desires to engage the CITY for the provision of these services;

**WHEREAS**, the CITY and OPERATING ENTITY desire to enter into this Agreement.

**NOW, THEREFORE**, it is agreed that OPERATING ENTITY does hereby pledge to the CITY its compliance with this Agreement and the CITY pledges to perform the work and responsibilities as stated in this Agreement.

### **PURPOSE**

The purpose of this Agreement is to establish the terms and conditions under which the CITY will provide Fiscal Agency services to the OPERATING ENTITY, enabling the OPERATING ENTITY to receive State Capital Outlay Appropriation grants through the CITY for approved projects.

#### **I. TERM AND TERMINATION**

The term of this Agreement shall commence on [START DATE] and continue until [END DATE], unless terminated earlier in accordance with this Agreement.

Either Party may terminate this Agreement by providing [NUMBER OF DAYS] days' written notice to the other Party.

In the event of termination, the CITY will ensure that any remaining funds are used for the Project's charitable purposes or returned to the donors if

required.

## **II. CITY SERVICES**

The CITY agrees to provide the following services to the OPERATING ENTITY:

- 1) Fiduciary oversight and financial management;
- 2) Receiving and administering funds on behalf of the OPERATING ENTITY;
- 3) Maintaining accurate financial records and providing regular financial reports to the OPERATING ENTITY;
- 4) Management of the funds in compliance with appropriation agreement, and all applicable laws and regulations;
- 5) Preparation of a Memorandum of Agreement for each appropriation Project for the Operating Entity's review and execution; and
- 6) Provide administrative support as agreed upon by both Parties.

## **III. RESPONSIBILITIES OPERATING ENTITY**

A. The OPERATING ENTITY will submit to the CITY the following documents no later than fifteen (15) days after the anniversary of this Agreement's effective date at the top of page 1:

- 1) Letter/certificate of good standing from the New Mexico Secretary of State (dated within 180 days of this Agreement's anniversary date)
- 2) A list of substantiated claims of fraud, waste, abuse, or discrimination to include information below:
  - a. Documentation of outcomes of each of the claims
  - b. If claims are not yet resolved, please provide the status of the claim
- 3) Conflict of interest forms completed by each board member, executive staff member, and administration staff

B. OPERATING ENTITY will also provide to the CITY the previous fiscal year's financial statement or audit report including the Single Audit, if applicable, within 30 calendar days after receiving the auditor's report or 9 months after the end of the audit period, whichever is earlier.

## **IV. FUNDS MANAGEMENT**

All funds received by the CITY on behalf of the Project shall be used exclusively for the Project's charitable purposes, as described in Exhibit A. [Attach detailed project description and budget.]

The CITY will disburse funds in accordance with the budget and spending plan approved by the CITY.

The OPERATING ENTITY will submit requests for disbursements to the CITY, along with appropriate documentation and receipts, as may be applicable per the budget and spending plan.

**V. NOTICES**

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent, as aforesaid, shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

Communication and details concerning this contract shall be directed to the following contract representatives:

<b>OPERATING ENTITY</b>	<b>CITY OF LAS CRUCES</b>
Name Title Mailing Address City, ST Zip Code Email address	Gabriela M. Prats Grant Manager P.O. Box 20000 Las Cruces, NM 88004 gprats@lascruces.gov  With copy to:  Grants Administration Program 700 N Main St Las Cruces, NM 88001 grants@lascruces.gov

**VI. GENERAL CONDITIONS**

## **A. COMPLIANCE**

The CITY agrees to comply with applicable Federal, State, and local laws, regulations, and its own governing policies. The CITY does not assume any of OPERATING ENTITY responsibility for applicable Federal regulations, reporting, other compliance required by grantor, and/or policies governing the funds provided under this contract. The CITY further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

## **B. COMPLIANCE WITH LAWS**

- 1) The CITY agrees to comply with all applicable laws and regulations in the performance of its duties under this Agreement.
- 2) The OPERATING ENTITY agrees to conduct the Project's activities in compliance with all applicable laws and regulations.

## **C. INSURANCE**

The OPERATING ENTITY will maintain appropriate insurance coverage for the approved Project's activities and provide proof of insurance to the CITY upon request.

## **D. GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico, in the courts of Doña Ana County.

## **E. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the Parties and supersedes all prior negotiations, understandings, and agreements, whether written or oral.

## **F. HOLD HARMLESS**

The OPERATING ENTITY shall hold harmless, defend, and indemnify the CITY from any and all claims, actions, suits, charges, and judgments whatsoever that arise out of the OPERATING ENTITY'S performance or nonperformance of the services or subject matter called for in this Agreement.

## **G. AMENDMENTS**

The either Party may amend this Agreement at any time provided that such

amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization. Such amendments shall not invalidate this Agreement, nor relieve or release the OPERATING ENTITY or CITY from its obligations under this Agreement.

The CITY may, at its discretion, amend this Agreement to conform with Federal, State, or local governmental guidelines, policies, available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both OPERATING ENTITY and CITY.

#### **H. TERMINATION OR REVOCATION**

The Agreement will terminate on the expiration of the term, or upon mutual agreement of the Parties, or by the default of the OPERATING ENTITY if it fails to meet any of its obligations enumerated in this Agreement after the OPERATING ENTITY is given an opportunity to cure the default within thirty (30) days after written notice of default.

The Agreement may also terminate in the event that the CITY's Lease Agreement with OPERATING ENTITY is terminated, and the OPERATING ENTITY leaves the Leased property. Should the Agreement be terminated under this condition, the OPERATING ENTITY will return any funds, plans, designs, or other property to the CITY for disposition under the CITY's Property Disposition Policy and after the CITY consults with the FUNDER or its successor agency.

**[ SIGNATURES FOLLOW ON THE NEXT PAGE ]**

**IN WITNESS WHEREOF**, the parties hereto do mutually execute the Agreement effective as written on the first page of this AGREEMENT:

FOR (OPERATING ENTITY  
NAME)

FOR CITY OF LAS CRUCES

BY:

BY:

\_\_\_\_\_  
Name  
Title

\_\_\_\_\_  
Ikani Taumoepeau  
City Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney