



Sierra Vista City Council
Meeting Agenda
January 13, 2022

Call to Order

5:00 p.m., City Hall Council Chambers, 1011 N. Coronado Drive, Sierra Vista, Arizona

Roll Call

Invocation – Pastor Chuck Carlson, Sierra Vista Community Church

Pledge of Allegiance

Item 1 Acceptance of the Agenda

City Manager's Report: Upcoming Meetings, Bid Openings and Bid Awards

Awards and Presentations:

Proclamation declaring January 17, 2022 as Dr. Martin Luther King Jr. Day

Presentation: Retirement of Series 2017 Bonds

Consent Agenda

Item 2.1 Discussion and Possible Action of the Regular City Council Meeting Minutes of December 9, 2021

Item 2.2 Discussion and Possible Action of the Special City Council Meeting Minutes of December 16, 2021

Item 2.3 Discussion and Possible Action of Resolution 2022-001, Reappointment of John Moreno to the Parks and Recreation Commission, said term to expire December 31, 2023

Item 2.4 Discussion and Possible Action of Resolution 2022-002, Utility Easement for Sulphur Springs Electric at the new Emergency Medical Services Station within Tompkins Park

New Business

Item 3 Discussion and Possible Action of Ordinance 2022-001, Amendments to Chapter 30 of the City Code of Ordinances

Item 4 Discussion and Possible Action of Resolution 2022-003, Arizona State Parks and Trails Land and Water Conservation Fund (LWCF) Grant Acceptance and Support

For special needs and accommodations, please contact Jill Adams, City Clerk, 72 hours prior to the meeting or activity at (520) 458-3315 or through the Arizona Relay Service at 1-800-367-8939, or by simply dialing 7-1-1.

Call to the Public

Comments and Requests of the Council

Adjournment

For special needs and accommodations, please contact Jill Adams, City Clerk, 72 hours prior to the meeting or activity at (520) 458-3315 or through the Arizona Relay Service at 1-800-367-8939, or by simply dialing 7-1-1.

City Manager's Report regarding Procurements

City Council Meeting

January 13, 2022

PUBLISHED / POSTED:

Bid for Avenida Escuela Extension and Charleston Road Pavement Replacement - Bid to post on January 7, 2022. Bids due approximately 6 weeks after.

Construction Manager At Risk (CMAR) Services for Animal Care Center Improvement & Expansion Project – The Request For Qualifications was issued on December 15, 2021. Qualifications are due on January 28, 2022.

IN REVIEW

Design Engineering Services for Animal Control Center Improvement and Expansion Project– Two Qualifications were received on December 20, 2021. Award expected soon.

IN PROGRESS

Municipal Airport Redevelopment Project – KE&G started work approximately November 8th with estimated completion February 2022.

North Garden Ave/Fry Blvd Improvements Phase I Rebid– KE&G began work on July 19, 2021, with estimated completion February 2022.

New Lighted Airport Entrance sign–High Desert Sign is 90% complete with fabricating the sign. Installation is expected in January 2022.

Apron And Taxiway J Rehabilitation Project –J. Banicki Construction has substantially completed the project.

EMS Substation Design-Build –Core Construction has begun work on September 17, 2021; with estimated completion by the end of April 2022.

Sierra Vista City Council
Meeting Minutes
[December 9, 2021](#)

Mayor Mueller called the December 9, 2021, City Council Regular Meeting to order at 5:00 p.m., City Hall Council Chambers, 1011 N. Coronado Drive, Sierra Vista, Arizona.

Roll Call:

Mayor Rick Mueller – present
Mayor Pro Tem Rachel Gray – present
Council Member William Benning – present
Council Member Gregory Johnson - present
Council Member Angelica Landry – present
Council Member Mark Rodriguez – present (telephonically)
Council Member Carolyn Umphrey - present

Others Present:

Chuck Potucek, City Manager
Victoria Yarbrough, Assistant City Manager
Adam Thrasher, Police Chief
Brad Dever, Deputy Fire Chief
Laura Wilson, Parks, Recreation and Library Director
Sharon Flissar, Public Works Director
Matt McLachlan, Community Development Director
Tony Boone, Economic Development Manager
Karen Lamberton, AICP, SVMPO Director
Chanel Kirkpatrick, Public Works External Service Manager
Nathan J. Williams, City Attorney
Jill Adams, City Clerk

Invocation – Mayor Mueller led everyone present in prayer.

Pledge of Allegiance - Council Member Umphrey led the Pledge of Allegiance.

[Item 1](#) Acceptance of the Agenda

Council Member Landry moved that the agenda for the Regular City Council Meeting of December 9, 2021, be approved. Mayor Pro Tem Gray seconded the motion. The motion unanimously carried, 7/0. Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Johnson, Landry, and Umphrey voting in favor. Council Member Rodriguez attended telephonically and was not heard.

Awards and Presentations

Mayor Mueller presented the Mayor's Award to United Way of Sierra Vista and Cochise County for the critical role they played during the COVID-19 crisis in Sierra Vista, who partnered with the City to distribute Community Development Block Grant CARES Act funds, more than \$70,000, to citizens in need.

Ms. Ramona McCann on behalf of United Way thanked Council for entrusting them, especially Mr. Reed, who came on behalf of United Way to all the meetings, and Mr. Sanders for being a great advisor.

Mayor Mueller stated that United Way did a great job in helping the City spend money and noted that the City is the second community in the nation that figured out a way to get this money legally to the people that needed it. The City could not have done it without United Way, and there are other charities in town, i.e., the Salvation Army, which gave out money for rental assistance and other things during the same time as well as Catholic Community Services. Lastly, he stated that Christmas time is the time of giving; therefore, he encouraged people with a little extra cash, who are looking for a good cause, and for a tax deduction in most cases, to donate to the United Way and all the charities in Sierra Vista - a good way to make one's money work to take care of those who are less fortunate.

City Manager's Report: Mr. Potucek announced that the next scheduled Council meeting is on December 16, 2021 at 2:30 p.m. that will be a special meeting to go over legal and personnel issues in the conference room. He reminded everyone that the Council work session of December 21, 2021 and the regular Council meeting on December 23, 2021 have been cancelled due to the holiday season. He noted that on December 24, 2021 and December 31, 2021, city offices will be closed in observance of Christmas and New Year's. Therefore, refuse service for those two weeks will be on Monday and Wednesday for the Monday refuse service and then Tuesday and Thursday for the Tuesday refuse service.

Mr. Potucek reported that September sales taxes that were reported in October were up \$122,000 or 6.5 percent over last year, a little down from the numbers that the City had before, but still very robust. The City is 9.3 percent ahead of last year's tax receipts and 13.9 percent over budget. Although, very good, those numbers will be re-looked at due to the holiday season to see improvement on both.

Mr. Potucek announced that the design engineering services for the Animal Control Center's improvement and expansion project are out with qualifications due on December 20, 2021. The Municipal Airport Redevelopment Project, which is moving the dirt, is progressing as a third of the dirt has been relocated to Fort Huachuca that will help the City in terms of improving that property for potential use in the future. He also stated that he has been getting a lot of good comments around town about the Fry Boulevard Improvements Project that is now starting to take shape and is on track to be finished in February, 2022. The EMS Substation is also going on as planned. Lastly, on behalf of the City's wonderful staff, he wished residents Happy Holidays, Merry Christmas, and a Happy New Year. In closing, he stated that it is once again a privilege to serve the Mayor and Council, and he looks forward to a productive and prosperous 2022.

Mayor Mueller voiced his concern about the lack of lighting on the EMS Substation Project, but he saw that the polls were going up. However, he does not know when they are going to flip the switch to turn them on, but hopefully before the moonless night.

Item 2 Consent Agenda

Item 2.1 Discussion and Possible Action of the Regular City Council Meeting Minutes of November 18, 2021

[Item 2.2](#) Discussion and Possible Action of Resolution 2021-084, Re-appointments of Brad Snyder and Daniel Coxworth, and appointment of Leslie Thomas to the Planning and Zoning Commission, said terms to expire December 31, 2023

[Item 2.3](#) Discussion and Possible Action of Resolution 2021-085, Acceptance of Public Improvements for the Holiday at PDS, Phase 5A subdivision plat

[Item 2.4](#) Discussion and Possible Action of Resolution 2021-087, Electrical Utility Easement Modification for the Veteran's Memorial Park Sports Complex and Sports Division Building

[Item 2.5](#) Discussion and Possible Action of Resolution 2021-088, Re-appointment of Debbie Perkinson to the Employee Benefit Trust, said terms to expire December 31, 2024

Mayor Pro Tem Gray moved that the Consent Agenda consisting of the Regular City Council Meeting Minutes of November 18, 2021, Resolution 2021-084, re-appointments of Brad Snyder and Daniel Coxworth, and appointment of Leslie Thomas to the Planning and Zoning Commission, said terms to expire December 31, 2023, Resolution 2021-085, acceptance of public improvements for the Holiday at PDS, Phase 5A Subdivision Plat, Resolution 2021-087, electrical utility easement modification for the Veteran's Memorial Park Sports Complex and Sports Division Building, and Resolution 2021-088, re-appointment of Debbie Perkinson to the Employee Benefit Trust, said term to expire December 31, 2024, be approved. Council Member Benning seconded the motion. The motion unanimously carried, 7/0. Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Johnson, Landry, Rodriguez, and Umphrey voting in favor.

New Business

[Item 3](#) Discussion and Possible Action of Resolution 2021-089, Creation of Economic Development Commission

Council Member Johnson moved that Resolution 2021-089, Creation of Economic Development Commission, be approved. Council Member Umphrey seconded the motion.

Mr. Boone stated that there is no defined process to add an additional commission, whether it be regulatory or non-regulatory. In preparing the proposed resolution and supporting documents, he used the language of the City Administrative Directive Boards and Commission Practice and Procedure Guidelines as approved by Council Resolution 2020-035 on June 11, 2020 and published as amended on June 25, 2020. The resolution does two things, if approved, this directs the creation of the Economic Development Commission, and it approves the mission statement, as drafted, and included in your resolution. In this case, Council is leveraging past decisions of the Council, going back to 2020-035, utilizing a non-regulatory commission includes a couple elements and things that were discussed in the work session. There were questions and comments, but in this case the resolution and the admin directive cover roles, responsibilities, membership, selection in terms, meetings, agendas, public record laws, admin, and budget.

Council Member Johnson stated that Council has discussed this at great length, and thanked Mr. Boone for his efforts in putting this commission together. He added that he hopes and prays that it works to supplement Mr. Boone's efforts on behalf of the City and its Economic Development Commission to continue to grow the town.

Council Member Benning also thanked Mr. Boone.

Mayor Mueller stated that for those people that may be interested in serving on commissions, whether it is the Economic Development Commission, or otherwise, the way to do that is to contact the City Clerk. There are openings on several commissions; therefore, he encouraged people to get ahold of the City Clerk and find out what those commissions are, figure out what their interests are and apply. He added that it is a relatively simple process, and it is rewarding work, having been a City commissioner himself.

The motion unanimously carried, 7/0. Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Johnson, Landry, Rodriguez, and Umphrey voting in favor.

Item 4 Discussion and Possible Action of Resolution 2021-090, Acceptance of the grant offer from the Arizona State Parks Non-motorized Grant Program for funding to construct a stabilized ADA loop trail at Garden Canyon Linear Park off St. Andrews Drive

Council Member Benning moved that Resolution 2021-090, acceptance of the grant offer from the Arizona State Parks Non-motorized Grant Program for funding to construct a stabilized ADA loop trail at Garden Canyon Linear Park off St. Andrews Drive, be approved. Council Member Umphrey seconded the motion.

Ms. Flissar displayed a map as requested by Council Member Rodriguez during the work session and stated that this agenda item will accept a grant from the Arizona State Parks Nonmotorized Grant Program to install a loop trail and other improvements at the Garden Canyon Linear Park off Saint Andrew Drive. The project has faced two recent upgrades at the park, with Phase One being the installation of a trailhead parking lot approximately a year ago. That project used the same funding source through Arizona State Parks. The planned improvements at Garden Canyon Linear Park were developed as part of a master planning effort several years ago, with the park eventually slated to include ramadas, picnic tables, a natural playground, educational areas, and a handicapped accessible loop trail. The Grant award is \$150,000 with an in-kind City match of \$18,780.94.

Ms. Flissar referred to the map displayed and explained that number one is Garden Canyon Linear Park, 148 acres in total. It looks smaller on the map because the limits go from Fort Huachuca all the way to State Route 92 that basically encompasses the wash area. Immediately next to that area, number two is the future Roadrunner Park that is just shy of 14 acres that was dedicated to the City by Castle and Cooke as part of the Canyon de Flores Subdivision. Number three is the former school site now City-owned parcel, and it is just over 15 acres. All three combined will eventually be included in the master planning for that area.

Mayor Pro Tem Gray stated that she is happy to see this and shared that during a meeting with someone that lives in Canyon De Flores told her that they were happy that this was coming in and they will have an opportunity to utilize this trail.

Mayor Mueller stated that he was around when this Roadrunner Park was originally kicked off. The City was not able to acquire the property at zero costs from Castle and Cooke as the City would have liked to have done. Therefore, this pretty much took most of the park development fee for that area to buy parcel number two, and fortunately over the years, the City has been able to save enough money to make a good deal with the Schools, once they realized that they did not need the capacity for a junior high school site at that location. The City was able to make a good deal in the last year to purchase that third piece of property. It is a gradual thing, and it has been very frustrating, especially for the neighbors there because when they were built, and

currently they are pretty much built out, they were promised a park and they did not really have anything but a trail. Now the City can start to give them what they should have had if the City had the money available at the time to build the proper park. Lastly, he thanked Ms. Flissar, Mr. Potucek and Ms. Yarbrough for their management of the funds and doing the negotiation with the School Board to get the property as all those are intricate detailed actions that had to be taken to make this possible.

Council Member Rodriguez voiced his appreciation for the map and the commitment. He added that the residents living in that neighborhood for a long time will now have something that they can use for their money that they paid into early on.

The motion unanimously carried, 7/0. Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Johnson, Landry, Rodriguez, and Umphrey voting in favor.

Item 5 Discussion and Possible Action of Resolution 2021-091, Public Transportation (Transit) Agency Safety Plan

Council Member Umphrey moved that Resolution 2021-091, Public Transportation (Transit) Agency Safety Plan, be approved. Council Member Johnson seconded the motion.

Ms. Flissar stated that this agenda item will provide Council approval of the Vista Transit Public Transit Agency Safety Plan. The Safety Plan is a relatively new requirement for those agencies who receive federal transit funds. The first Transit Safety Plan was approved by Council one year ago, and since it was a new requirement for all agencies at the time, the initial Plan was developed jointly with other Arizona rural transit providers by the Arizona Department of Transportation. Although the initial ADOT Plan provided a good framework from which to build as a shared plan, it was more general in nature and lacked details specific to each organization. For this year's annual update, Vista Transit partnered with the Sierra Vista Metropolitan Planning Organization for the necessary funding to complete a Plan specific to Vista Transit. The Plan was developed by the Consulting Firm of Michael Baker and a more in-depth presentation on both the Safety Plan and the Short-Range Transit Plan was given at the work session on Tuesday, December 7, 2021. Since the Safety Plan is a relatively new federal requirement, it is not expected that transit systems would be fully compliant at this point. The Safety Plan merely provides guidance moving forward and helps to track progress towards meeting established goals. Some of the areas for improvement include updating the Emergency Evacuation Plan and other policies and procedures such as the Vista Transit Employee Handbook and the Hazardous Materials Program. This will be an annual effort from here on forward and is required for Vista Transit to maintain its funding through the Federal Transit Administration.

Mayor Mueller thanked Ms. Lamberton for being present from the MPO and noted that Council appreciated the brief from the Schneider folks as well on Tuesday, December 7, 2021.

The motion unanimously carried, 7/0. Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Johnson, Landry, Rodriguez, and Umphrey voting in favor.

Call to the Public

Mr. Mark Gauthier-Braham talked about the housing crisis that is being faced, which is specifically affecting the underrepresented the most. He noted that anyone who has looked for an apartment lately knows that there is not much available, and what is available has been

priced to a point that most people really cannot afford it. This has given certain people the ability to suppress and harm those who normally would not have a voice. Individuals have become homeless because their apartments have gone up, and one of the reasons that many people have not talked about it, or reported it, is because of their fear of getting evicted. He then presented Council with statistics on the effects of homelessness, specifically in Arizona, and noted that there are claims that landlords are causing part of the problem. Studies were done about rent in comparison to property values that show that the poor communities were charged more. In closing, he stated that this is affecting everyone, and as City Council, he is sure that Council could think of many things that \$3.8 million could be used for because this is a very complicated issue, and it is a balancing scale. He suggested giving incentives and taking a leaf out of the institutional review boards/ethical committees and making an actual independent watchdog that can keep an eye on these places.

Mayor Mueller thanked Mr. Gauthier-Braham for his comments and stated that the City's connection to housing is through Mr. McLaughlin in the Community Development Department, who can connect individuals with state agencies that deal with the issues mentioned. He added that this is an issue that Council looked at several years ago, and the situation was significantly worse. The City has done a lot of work with cleaning up unsightly trailer parks because there were people with miserable living conditions, but the City has cleaned those areas up and got people to develop and redevelop those areas. However, the challenge is that the City currently does not have a good feel today like it did 12 years ago on where the low-income housing is and what the needs are. Twelve years ago, the City had a study done that provided the categories and the needs for the community.

Mayor Mueller stated that based on a prior email, he talked with the City Manager and asked him to see what the City can do to get another study to address the housing problem in the next couple of years because it is going to take a couple years. If the need is out there, the City needs to identify what it is and work toward that goal. He added that since the trailer parks are now cleaned up, there are a lot of vacancies, and eventually people with mobile homes will move in. However, they must be wealthy enough to own a mobile home to be able to do that. There are some challenges that need to be worked through, and the first step is to have a housing need survey as well as addressing the issues mentioned by Mr. Gauthier-Braham to help people that are in a position that they should not be in.

Comments and Requests of Council

Council Member Rodriguez thanked Ms. Wilson, her staff, Chamber of Commerce, and everybody involved with the Christmas Parade, a great event despite the negative comments received online. He added that everybody that he talked to was thankful about the way it was set up and enjoyed it. However, some tweaking for next year will need to be done, but it was a great event. He also mentioned the Firefighters' Toy Drive going on as well as the Bag, Tag, and Delivery. Lastly, he voiced his appreciation at Mr. Gauthier-Braham's comments and reported that he had a chance to go by the EMS station project and was able to talk to Mr. Robles, the project superintendent, who mentioned that it has been good in working with the City because he has worked with other cities that were not as easy to deal with. Mr. Robles is very thankful for the quick response that the City has provided and solutions that they have come across.

Council Member Umphrey thanked Mr. Gauthier-Braham for his comments, and everyone on City staff for another challenging year. She added that she thinks that everyone has done a really great job and Council is lucky to have them on board. She thanked the people of Sierra

Vista for persevering through another difficult year. She announced that next week there is an event to benefit the Friends of Sierra Vista Animal Shelter to help pay for low cost spay and neuter clinics. It is called Sips and Snips, which will be at Hoppin' Grapes on Friday, December 17, 2021. Tickets are on Eventbrite, and in closing wished everyone a Merry Christmas, Happy Holidays, and Happy New Year.

Council Member Landry stated that a lot of things are going on this time of year, and announced that on Saturday, December 18, 2021, there is going to be a Huachuca Art Gallery Open house from 11:00 a.m. to 4:00 p.m. at 1835 Paseo San Luis. She encouraged people to support smaller local artists and to visit this cool place, which will have art, jewelry, and different gift ideas along with raffles that are always a lot of fun. She announced that the animal shelter is currently suspending turn-ins because they are at capacity, but if people are looking for a new best friend, they should go out to the animal shelter and meet the animals. However, if people do not want to adopt, they can foster. Lastly, she wished everybody Happy Holidays, and encouraged people to share the holiday spirit, especially this time of year, because there are people that may be missing their family, are away from their family, or may be experiencing a holiday different from before.

Council Member Johnson wished everyone a Merry Christmas, Happy Holidays, and a safe and Happy New Year. He stated that it is not too late to donate toys to the Sierra Vista Fire and Medical Annual Toy Drive. Finally, as he completes his first year as a City Councilman, he thanked the City staff for their hard work and due diligence this year to continue to move the City forward during these tough times. He stated that it is his honor to serve on this body.

Council Member Benning stated that the City has an adult therapeutic group, one of two in the State of Arizona, and this Saturday, December 11, 2021, they will be performing from 2:00 p.m. until 4:00 p.m. at the Oscar Yrun Center where they meet all the time to dance. He thanked Ms. Wilson and the Leisure and Library Services staff for an amazing job at the park on the two-day event. He announced that there is craft event on Saturday, December 11, 2021 at the Park, and noted that there a lot more events going on at the parks because the City is trying to highlight its parks more and bring more people in. One of biggest pushes was to get more sports tourism and more things happening. Upcoming is the El Tour de Zona and so far, there are over 438 applicants for the races. There are three races and people can go online and check those out. The shortest one is like 26 miles. He noted that 38 percent of those 438 people are from out of the State, and five percent are from Canada. He also announced that on March 25, 2022 through March 27, 2022, there will be RVs at Veterans Memorial Park as well as a tent city where people can come stay and at night there will be festivals. Lastly, he thanked Mr. Reed, Executive Director for United Way, and the rest of the board members who spearheaded the project, which is an honor to work for such a great group and he is glad that the City was able to partner with them. He also thanked Mr. Gauthier-Braham for his comments, and concurred with the things he said, but he knows that this issue is in Council's Strategic Plan, and he looks forward to having a discussion during a work session. In closing, he stated that two years ago, he lost the greatest man he has ever known on Christmas Day. He stressed that it is never too late to say I love you, to call and say I miss you, and to miss those opportunities. In closing, he wished staff, Mayor, Council, and most importantly the people of Sierra Vista a Merry Christmas, noting that it is an honor to sit on the dais and to serve.

Mayor Pro Tem Gray echoed everyone sentiments about the weekend's parade and thanked the Leisure, Library and Recreational staff for the market in the park. She also thanked the Chamber, who did an excellent job, and gave them kudos because throughout a rough year for everyone, they have done well and have been very creative in making sure people still

understand businesses. She also thanked the Kiwanis for their assistance with the tree in the park, thanked the Little Library Bookstore for donating \$5,000 to help with some costs in the library. She announced that on Friday, December 10, 2021, at 5:00 p.m. at the Sierra Vista Mall the Canine Companion, which helps with service dogs for people with PTSD and children with autism, are going to hold a pet parade and pet talent show. Lastly, she stated that if people get a friend to make sure that they are willing to commit long-term because the worst thing anyone can do is to get a dog or a cat and then decide they do not want it. It is very traumatic for them, and it does not help the shelter. In closing, she wished everyone, and the City staff a Merry Christmas, and noted that it has been a challenging but productive year, and she has enjoyed it and hopes to continue enjoying it.

Mayor Mueller stated that he has talked about the housing study, and Council realizes that is an issue for the community, but Council will be talking about this to see what can be done to rectify it. He further stated that he briefly talked about the charities in town and the great job they are doing in taking care of the City's folks in the crisis going on currently, as well as during normal times. He encouraged people, who have the economic ability to donate, to do so because there are a lot of great local charities, and some of those are tax deductible. He noted that this is the time to look around and help, if not by writing a check, giving money, one can volunteer, look for ways to support a church and charities of their choice. He thanked City staff for great work and a great year. He asked people to be safe as we go into the holiday weekends, and if traveling, to not overspend too much time on the road, and to take breaks so that they can make it back home secure.

In response to Mayor Mueller, Deputy Fire Chief Dever announced that on Wednesday, December 15, 2021 from 4:00 p.m. until 6:00 p.m. in the Schlotzsky's and Ace Hardware's parking lot there will be a toy drive. He encouraged people to donate toys or money. He noted that the Department has been doing this for a long time and it is a wonderful event and a wonderful way to give back to the community and those in need. The Bag and Tag event will be on December 18, 2021 from 1:00 to 4:00 p.m. to gather the toys into bags for the individual families and children who are in need. The community is welcome to come to that event that takes place Fire Station One on Fry Boulevard. Delivery will be on December 19, 2021 starting at 8:00 a.m., and members of the community are welcome to come help deliver the toys to those families throughout the region that begins at 8:00 a.m. at Fire Station One.

In response to Mayor Mueller, Deputy Fire Chief Dever stated that if people are unable to make the date to drop it off at the ACE parking lot, they can knock on the door at any of the fire stations and drop it off if it is before December 18, 2021.

Police Chief Thrasher announced that on Sunday, December 12, 2021 the Police Department will have their Christmas with a Cop sponsored by the Service Police Officers Association starting at 7:30 a.m. at Walmart. They have over 100 needy children that are signed up to shop and they get \$100 worth of merchandise. He added that Walmart will pick up the taxes.

Mayor Mueller thanked City staff for all that they do and have done over the past year for the community. Staff has done a great job as you can see, it is not just being on the beat or answering fire calls, building buildings and streets. They are out there in the community, and they are of the community making the community better to make sure that this is indeed a great community.

Council Member Benning stated that on December 18, 2021 the Glow Rods will be at the park from 12:00 noon to 10:00 p.m. They will light up and drive around the community.

Adjournment

Mayor Mueller adjourned the December 9, 2021, meeting of the Sierra Vista City Council at 5:54 p.m.

Frederick W. Mueller, Mayor

Minutes prepared by:

Attest:

Maria G. Marsh, Deputy Clerk

Jill Adams, City Clerk

Sierra Vista City Council
Special Meeting Minutes
December 16, 2021

Mayor Mueller called the December 16, 2021, City Council Special Meeting to order at 2:36 p.m., City Hall, City Manager's Conference Room, 1011 N. Coronado Drive, Sierra Vista, AZ

Mayor Rick Mueller – present
Mayor Pro Tem Rachel Gray – present
Council Member William Benning – present
Council Member Gregory Johnson – present
Council Member Angelica Landry – present
Council Member Mark Rodriguez - present
Council Member Carolyn Umphrey - present

Others Present:

Chuck Potucek, City Manager
Nathan Williams, City Attorney
Jill Adams, City Clerk

Item 1 Acceptance of Agenda

Mayor Pro Tem Gray moved that the agenda for the Special City Council Meeting of December 16, 2021, be approved as written. Council Member Umphrey seconded the motion. The motion passed by a unanimous vote of 7/0, Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Johnson, Landry, Rodriguez, and Umphrey.

New Business

Item 2 Request to adjourn into Executive Session in accordance with Arizona Revised Statute §38-431.03(A.1), discussion regarding personnel issues – City Manager Compensation and §38-431.03(A.3), discussions or consultations for legal advice with the attorney or attorneys of the public body on current litigation in which the City of Sierra Vista is a party – Root vs. CSV, Brown vs. CSV, Beck vs. CSV, and Barbee vs. CSV

Council Member Umphrey at 2:37 p.m. moved to adjourn into Executive Session in accordance with Arizona Revised Statute 38-431.03(A.1) and §38-431.03(A.3). Council Member Benning seconded the motion. The motion passed by a unanimous vote of 7/0, Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Johnson, Landry, Rodriguez, and Umphrey.

Item 3 Adjournment

Mayor Mueller adjourned the December 16, 2021, meeting of the Sierra Vista City Council Executive Session at 4:50 p.m. and the Special Meeting at 4:51 p.m.

Mayor Frederick W. Mueller

Minutes prepared by:

Attest:

Maria G. Marsh, Deputy Clerk

Jill Adams, City Clerk

January 5, 2022

MEMORANDUM TO: Honorable Mayor and City Council

THRU: Charles P. Potucek, City Manager
Victoria Yarbrough, Assistant City Manager

FROM: Laura Wilson, Director
Parks, Recreation & Library

SUBJECT: Request for Agenda Item Placement
Resolution 2022-001, Reappointing John Moreno to
the Parks and Recreation Commission

Initiated and Recommended by:

The Director of Leisure and Library Services recommends approval.

Background

The terms of one Parks and Recreation Commissioner expired at the end of December 2021; and John Moreno has submitted an application for reappointment. The Parks and Recreation Commission recommends approval to Council.

Budget Appropriations:

Not applicable.

Attachment

RESOLUTION 2022-001

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; REAPPOINTING JOHN MORENO TO THE PARKS AND RECREATION COMMISSION, SAID TERM TO EXPIRE DECEMBER 31, 2023, AND AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, the City Council has created a Parks and Recreation Commission for the purpose of advising the Mayor and City Council on matters relating to parks and recreation issues in the community; and

WHEREAS, applications have been received to fill current vacancies, and it is in the best interest of the citizens to have a full complement of Parks and Recreation Commission members to address parks and recreation issues in the community concerns; and

WHEREAS, the Commission has recommended to reappoint John Moreno to fill the vacancy on the commission;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, AS FOLLOWS:

SECTION 1

That the City Council policy to make appointments to boards and commissions when qualified applicants are available is hereby reaffirmed.

SECTION 2

The City Council hereby reappoints John Moreno to the Parks and Recreation Commission, said term to expire December 31, 2023.

SECTION 3

The City Manager, City Clerk, and City Attorney, or their duly authorized officers and agents, are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 13TH DAY OF JANUARY 2022.

FREDERICK W. MUELLER
Mayor

Approval as to Form:

Attest:

NATHAN J. WILLIAMS
City Attorney

JILL ADAMS
City Clerk

Prepared by:
Laura Wilson, Director
Leisure & Library Services



City of Sierra Vista

1011 North Coronado Drive, Sierra Vista, Arizona 85635
520/458-3315 - fax 520/458-0584 - www.ci.sierra-vista.az.us

APPLICATION TO CITY BOARD/COMMISSION

DATE: 1/3/22

BOARD/COMMISSION: Parks and recreation commission

NAME: John Moreno TELEPHONE: [REDACTED] (ONE PER FORM)
[REDACTED] (HOME) [REDACTED] (WORK)

E-MAIL ADDRESS: [REDACTED]

ADDRESS: [REDACTED] CITY: Sierra Vista ZIP: 85650

MAILING ADDRESS: _____

CITY RESIDENT? REGISTERED TO VOTE IN CITY?

EDUCATION: some college

OCCUPATION: Journeyman Lineman at Sapho Springs Valley Electric coop.
(IF RETIRED, INDICATE FORMER OCCUPATION)

PROFESSIONAL/COMMUNITY ACTIVITIES: Safety committee at SSVCC

QUALIFICATIONS/INTEREST IN BOARD/COMMISSION: Prior experience to help improve community infrastructure.

- REFERENCES: 1. Mark Roll [REDACTED]
(NAME) (ADDRESS) (PHONE)
2. Wayne Flissar [REDACTED]
(NAME) (ADDRESS) (PHONE)

THIS APPLICATION WILL BE KEPT ON FILE FOR A PERIOD OF ONE YEAR FROM ABOVE DATE.

AS A CANDIDATE TO A COUNCIL APPOINTED BOARD/COMMISSION/COMMITTEE, YOUR NAME, ADDRESS AND PHONE NUMBER WILL BE AVAILABLE TO THE PRESS AND PUBLIC UPON REQUEST.

(APPLICANT'S SIGNATURE)

Please return completed application to the city clerk's office

January 4, 2022

MEMORANDUM TO: Honorable Mayor and City Council

THRU: Charles P. Potucek, City Manager
Victoria Yarbrough, Assistant City Manager
Sharon Flissar, Director of Public Works
Irene Zuniga, Capital Improvements & Development Manager

FROM: Angela Dixon Maher, Senior Civil Engineer

SUBJECT: REQUEST FOR AGENDA ITEM
PLACEMENT RESOLUTION 2022-002
Utility Easement for Sulphur Springs Valley Electric Cooperative at
the new Emergency Medical Services Substation

RECOMMENDATIONS:

The Capital Improvements and Development Manager recommends approval.

The Director of Public Works recommends approval.

The Assistant City Manager recommends approval.

The City Manager recommends approval

INITIATED BY:

Sulphur Springs Valley Electric Cooperative (SSVEC), in order to supply power to the new Emergency Medical Services Substation

BACKGROUND:

SSVEC has requested that the City grant an easement for the placement of electrical lines through the Emergency Medical Services Substation Site. The easement agreement would allow for a perpetual easement at the site to construct, reconstruct, operate, and maintain the facility. The Exclusive Easement Agreement and associated legal descriptions are attached. The Engineering Services Division does not believe these easements will interfere with any future improvements at the site, and it is noted that there is language within the utility easement agreement giving the City "prior rights" in case unexpected situations arise.

BUDGET APPROPRIATIONS:

Not applicable.

ADM/jl
Attachment

RESOLUTION 2022-002

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; REAFFIRMING SETTLED POLICY; GRANTING UTILITY EASEMENTS ON CITY-OWNED PROPERTY; AND AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, the City of Sierra Vista owns property situated in the eastern half of Section 10, Township 22 South, Range 20 East, at the intersection of South Seventh Street and Buffalo Soldier Trail; and

WHEREAS, Sulphur Springs Valley Electric Cooperative (SSVEC), an electric utility provider, desires easements for the placement of electrical facilities across City-owned property at the new Emergency Medical Services Substation; and

WHEREAS, it is settled policy of the City Council, most recently affirmed by Resolution 2021-075, to provide easements on City-owned property as determined to be necessary by the City Council; and

WHEREAS, the City Council has determined it to be necessary to grant an electrical utility easement as identified and attached herein.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, AS FOLLOWS:

SECTION 1

That the settled policy of the City Council, most recently affirmed by Resolution 2021-075, be, and hereby is, reaffirmed.

SECTION 2

That it be, and hereby is, determined to be necessary to grant a permanent electrical easement to SSVEC, as described in the attached easement description, on City-owned property at the City of Sierra Vista Emergency Medical Services Substation for the purpose of the placement of electrical services.

SECTION 3

That the City Manager, City Clerk, City Attorney, or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 13TH DAY OF JANUARY 2022.

Frederick W. Mueller, II
Mayor

ATTEST:

APPROVED AS TO FORM:

JILL ADAMS
City Clerk

Nathan Williams
City Attorney

Prepared by: Angela Dixon-Maher, P.E., Senior Civil Engineer

EXHIBIT "A"

PARCEL DESCRIPTION:

Lots 8 & 9 of Section 10, Township 22 South, Range 20 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona;

AND

The "Drainageway & Accessway" as shown on and dedicated to the Public per SUMMIT ESTATES, according to Book 11 of Maps, page 93 records of Cochise County, Arizona, being a portion of the Southwest quarter of Section 11, Township 22 South, Range 20 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona.

EASEMENT DESCRIPTION:

A 20.00-foot-wide easement lying 10.00 feet on each side of the following described centerline:

COMMENCING at the Northwest corner of the above-described "Drainageway & Accessway";

thence South 25° 13' 15" East, a distance of 105.17 feet to the POINT OF BEGINNING for said easement;

thence South 50° 47' 23" West, a distance of 57.84 feet to a point on the West line of said "Drainageway & Accessway", said point also being a point on the East line of the above-described Lot 9;

thence continuing South 50° 47' 23" West, a distance of 10.46 feet;

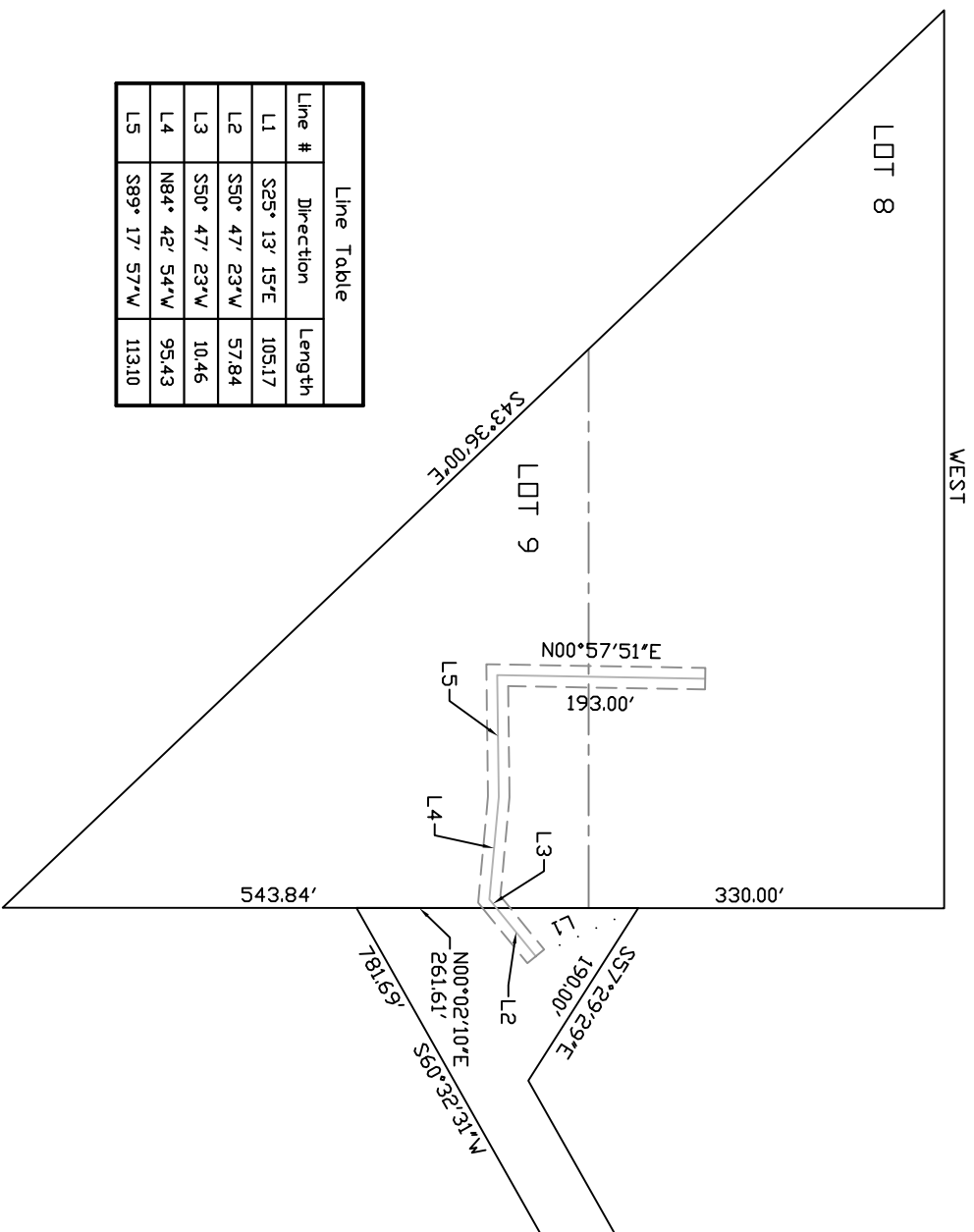
thence North 84° 42' 54" West, a distance of 95.43 feet;

thence South 89° 17' 57" West, a distance of 113.10 feet;

thence North 00° 57' 51" East, a distance of 193.00 feet to the POINT OF TERMINUS for said easement.

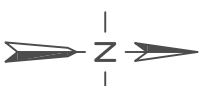
The sidelines of the above-described easement are to be lengthened or shortened to intersect at angle points and terminate at property lines.

PARCEL ILLUSTRATION



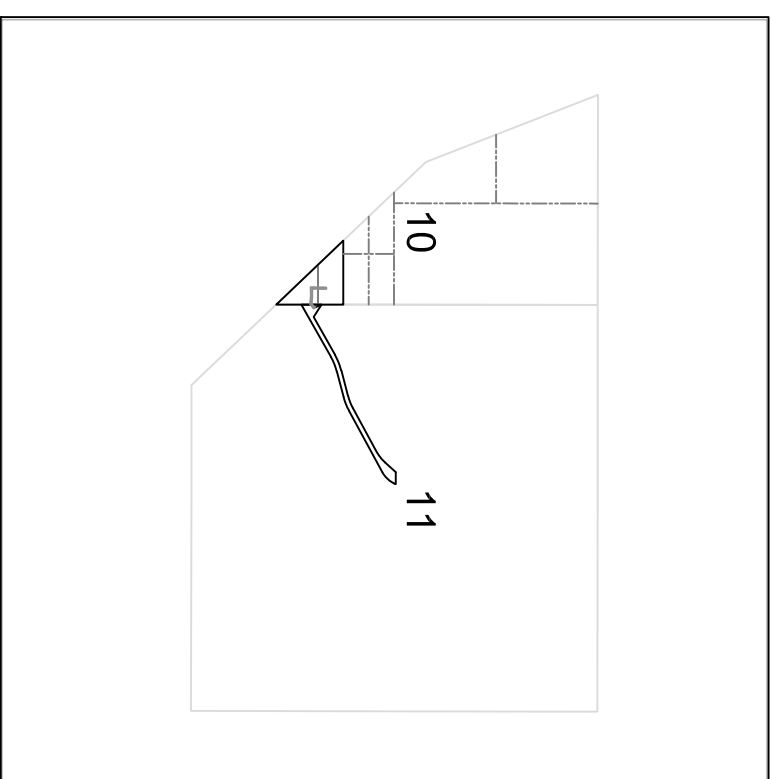
Line Table		
Line #	Direction	Length
L1	S25° 13' 15"E	105.17
L2	S50° 47' 23"W	57.84
L3	S50° 47' 23"W	10.46
L4	N84° 42' 54"W	95.43
L5	S89° 17' 57"W	113.10

--- REPRESENTS EASEMENT AREA



T 22
S

SECTION REPRESENTATION R 20 E



SECTION 10 & 11

EXHIBIT "A"

DRAWING NOT TO SCALE - FOR REPRESENTATION PURPOSES ONLY

GRANTOR: City of Sierra Vista	EASEMENT NO. E16956
DRAWN BY: Ruth Bigelow	WORK ORDER NO. 94700
DATE DRAWN: January 3, 2021	FILE NO.



Sulphur Springs Valley
Electric Cooperative, Inc.

January 13, 2022

MEMORANDUM TO: Honorable Mayor and City Council

THRU: Charles P. Potucek, City Manager
Victoria Yarbrough, Assistant City Manager

FROM: Jill Adams, City Clerk

SUBJECT: Request for Agenda Item Placement
Ordinance 2022-001: Amendments to City Code
Chapter 30: Mayor and City Council

Recommendation:

The City Manager recommends approval.
The Assistant City Manager recommends approval.
The City Clerk recommends approval.

Background

At the Special City Council Meeting held on November 18, 2021, Council discussed and approved for public comment, amendments to Chapter 30 of the City Code, Mayor and City Council. It is established practice to periodically review and update City Code when appropriate. The updates correct and update language and practices to reflect current technology and practice. The primary amendments are as follows:

- 30.01: Review of Council Salaries is reworded to be reviewed no less than every four years.
- 30.16: Amended to reflect current policy and practice on scheduling special meetings and work sessions.
- 30.17: Amended to state the Mayor Pro Tem shall be approved by Council Resolution.
- 30.22: The section prohibiting smoking during council or other public meetings was removed as was the penalty for violations in 30.99

Following the opening of a public comment period on November 18, 2021, no comments have been received.

A copy of the amended City Code is attached.

Fiscal Impact

None.

CHAPTER 30: MAYOR AND CITY COUNCIL

Section

General Provisions

[30.01](#) Compensation

Council Rules of Procedure

[30.15](#) Regular meetings

[30.16](#) Special and work session meetings

[30.17](#) Mayor as presiding officer; Mayor Pro Tem

[30.18](#) Quorum

[30.19](#) Addressing Council

[30.20](#) Disruption of meeting prohibited

[30.21](#) Filling vacancies on City Council

[30.99](#) Penalty

Cross-reference:

Mayor to be elected by voters rather than designated by Council, see § [38.04](#)

GENERAL PROVISIONS

§ 30.01 COMPENSATION.

(A) The Mayor shall receive compensation in the amount of \$1,000 per month, such compensation to commence January 1, 2011. Each Council member shall receive compensation in the amount of \$750 per month, such compensation to commence January 1, 2011.

(B) Council shall review the salaries granted herein no less than every four years.

('76 Code, Art. 2-3) (Ord. 597, passed 7-8-82; Am. Ord. 1128, passed 3-8-01; Am. Ord. 2008-007, passed 3-27-08; Am. Ord. 2008-008, passed 3-27-08)

Statutory reference:

Establishment of salaries of Council, see A.R.S. § 9-274

COUNCIL RULES OF PROCEDURE

§ 30.15 REGULAR MEETINGS.

Regular meetings of the City Council will be held on the second and fourth Thursday of each month at 5:00 p.m. in the City Hall, 1011 N. Coronado Drive, Sierra Vista. Special meetings may be called at any time or any place by the Council with proper notice. A quorum shall consist of four members for the transaction of all business.

('76 Code, § 2-2-1) (Ord. 332, passed 9-23-76; Am. Ord. 942, passed 2-24-94; Am. Ord. 969, passed 3-8-95; Am. Ord. 1029, passed 3-27-97)

Statutory reference:

Council meetings, see A.R.S. § 9-233

§ 30.16 SPECIAL AND WORK SESSION MEETINGS.

(A) Special meetings may be called by the Mayor or if requested by two members of the City Council, with at least 24 hours' notice to the members of the Council and the general public.

(B) It shall be the duty of the City Clerk to prepare the notices, to see that the same are delivered forthwith, to post the notices, and give such public notice as is reasonable and practicable as to the time and place of any special meeting. Special meetings shall be held at such time and place as shall be designated by the Mayor in calling the special meeting.

(C) Work sessions of the City Council may be held upon request of any member of the City Council at such times and places as shall be designated in the request. Work sessions shall be for the purpose of study and discussion only and no final action will be taken at such sessions. Work sessions are to be scheduled for 90 minutes in duration; however, upon agreement by a majority of Council members present, a work session may be extended by up to one additional hour.

('76 Code, § 2-2-2) (Ord. 332, passed 9-23-76; Am. Ord. 942, passed 2-24-94; Am. Ord. 969, passed 3-8-95; Am. Ord. 989, passed 9-28-95; Am. Ord. 2015-002, passed 5-28-15)

§ 30.17 MAYOR AS PRESIDING OFFICER; MAYOR PRO TEM.

(A) The Mayor shall preside at all regular and special meetings of the Council; provided, that in the absence of the Mayor, the Mayor Pro Tem shall be the presiding officer and in the absence of both, a majority of the council members present shall elect a temporary presiding officer.

('76 Code, § 2-2-3)

(B) During the first regular meeting of the newly elected City Council, the Mayor shall appoint the Mayor Pro Tem from among the Council for a two-year term. The appointment of the Mayor Pro Tem shall be approved by Council Resolution.

('76 Code, § 2-2-7) (Ord. 332, passed 9-23-76; Am. Ord. 924, passed 8-12-93; Am. Ord. 942, passed 2-24-94; Am. Ord. 969, passed 3-8-95)

§ 30.18 QUORUM.

A majority of the Council shall constitute a quorum for transacting business.

('76 Code, § 2-2-4) (Ord. 332, passed 9-23-76; Am. Ord. 924, passed 8-12-93; Am. Ord. 942, passed 2-24-94; Am. Ord. 969, passed 3-8-95)

Statutory reference:

Quorum, see A.R.S. § 9-233

§ 30.19 ADDRESSING COUNCIL.

Any person wishing to address any regular or special meeting of the Council will obtain consent of the Mayor or consent of a majority of the Council members present. If the City Council includes an opportunity for public comment regarding an agenda item scheduled for discussion at a work session, any person wishing to address that item will also obtain consent of the Mayor or consent of a majority of the Council members present.

('76 Code, § 2-2-5) (Ord. 332, passed 9-23-76; Am. Ord. 923, passed 8-12-93; Am. Ord. 924, passed 8-12-93; Am. Ord. 942, passed 2-24-94; Am. Ord. 2015-002, passed 5-28-15)

§ 30.20 DISRUPTION OF MEETING PROHIBITED.

It shall be unlawful to disturb or interrupt any regular or special meeting of the Council; any person violating this section, in addition to being punished as set forth in [30.99](#) of this chapter, shall be summarily ejected from the meeting.

('76 Code, § 2-2-6) (Ord. 332, passed 9-23-76; Am. Ord. 924, passed 8-12-93; Am. Ord. 942, passed 2-24-94; Am. Ord. 969, passed 3-8-95) [Penalty, see § 30.99](#)

Statutory reference:

Disorderly conduct and council meetings, see A.R.S. § 9-234

§ 30.21 FILLING VACANCIES ON CITY COUNCIL.

(A) (1) The Council shall fill a vacancy that may occur by either of the following methods:

(a) Appointment for the unexpired term, provided said period is less than the last two years of the term of the vacant seat.

(b) Appointment until the next regularly scheduled council election, if the vacancy occurs more than 30 days before the nomination petition deadline, pursuant to the provisions of division (B) of this section, subject to the following:

1. If, in filling a vacancy until the next regularly scheduled council election, said appointment would result in the elimination of the required stagger of council terms,

then the three candidates receiving the most votes shall receive four year terms, and the next highest vote getters shall receive two year terms until all terms have been filled.

(2) Upon the creation of any vacant Council position, the City Clerk shall promptly advise the Council, the public, and all local news media of the fact of the vacancy and shall solicit applications, resumes, and letters of recommendation from the public for the appointment to the vacant position. Applicants must apply in writing and provide:

(a) The applicant's name, address, and telephone number.

(b) A statement of what they consider to be their qualifications for serving on the City Council.

(c) Reasons why they would like to serve on the City Council.

(3) A notarized statement attesting they are a qualified elector and have lived in the city continuously for one year prior to the date of application must be returned with the application.

(4) Applications and supporting materials for appointment to a vacant Council position on the City Council shall be accepted by the Clerk for a period of seven days from the date of the notice provided pursuant to subsection (A)(2) of this section. No application tendered to or received by the Clerk after such date may be considered for appointment by the Council. The City Clerk shall be responsible to ascertain that all applicants are qualified to serve on the Council.

(5) A mayoral vacancy shall be filled by appointment from current Council members, and a vacated Council seat filled by the procedure pursuant to provisions of this section.

(B) (1) Upon the expiration of the date for acceptance of applications established by subsection (A)(4) of this section, the Clerk shall forward to each member of the Council all applications timely received.

(2) The Clerk shall schedule and post an executive session for the Council during which it shall consider all applications received. The meeting shall be held within three days subsequent to the expiration for the date for acceptance of applications in order to establish a short list of applicants, the number of which shall be determined by the Council.

(3) Subsequent to the holding of the executive session provided for in subsection (B)(2) of this section, the Council may meet in further executive sessions as may be called for the purpose of discussing and interviewing the applicants.

(4) The City Council shall adjourn out of executive session and nominate and elect the replacement in an open public session of Council.

(5) The City Clerk will notify the newly appointed member and administer the oath of office within the next working day.

('76 Code, §§ 2-2-8, 2-2-9) (Ord. 332, passed 9-23-76; Am. Ord. 924, passed 8-12-93; Am. Ord. 942, passed 2-24-94; Am. Ord. 969, passed 3-8-95; Am. Ord. 2008-006, passed 3-27-08; Am. Ord. 2009-004, passed 6-25-09; Am. Ord. 2011-013, passed 11-17-11; Ord. 2011-013, passed 11-17-11)

§ 30.99 PENALTY.

(A) Any person violating any provision of § [30.20](#) of this chapter shall be fined not more than \$50.

('76 Code, § 2-2-10) (Ord. 332, passed 9-23-76; Am. Ord. 924, passed 8-12-93; Am. Ord. 942, passed 2-24-94; Am. Ord. 969, passed 3-8-95)

('76 Code, § 10-1-10) (Ord. 490, passed 4-24-80)

ORDINANCE 2022-001

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; ADOPTING AMENDMENTS TO CHAPTER 30: MAYOR AND CITY COUNCIL OF THE CITY CODE OF ORDINANCES, BY REFERENCE, REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY. NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, AS FOLLOWS:

WHEREAS, Chapter 30: Mayor and City Council was originally included in the Code of Ordinances to establish practices and procedures of an administrative nature for the Council; and

WHEREAS, some practices and language have become outdated and require amendments to reflect changes in practice and technology. Additionally, some language has been enacted into State Statute and is no longer required to be included in local codes; and

WHEREAS, the City Manager recommends that the amendments to Chapter 30: Mayor and City Council as provided in Exhibit A of Resolution 2021-078, be adopted; and

WHEREAS, the City Council held a public hearing on the amendment after proper notice had been given; and

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, AS FOLLOWS:

SECTION 1

That the amendments to City Code of Ordinances, Chapter 30: Mayor and City Council, as shown in Exhibit A of Resolution 2021-078 are hereby adopted by this reference.

SECTION 2

All other ordinances and parts of ordinances in conflict with the provisions of this provision are hereby repealed.

SECTION 3

Should any section, clause or provision of this Ordinance be declared by the courts to be invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provision, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION 4

That the City Manager, City Clerk, City Attorney, or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this ordinance.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 13th DAY OF JANUARY 2022.

Frederick W. Mueller
Mayor

Approval as to Form:

Attest:

Nathan Williams
City Attorney

Jill Adams
City Clerk

PREPARED BY:
Jill Adams
City Clerk

January 5, 2022

MEMORANDUM TO: Honorable Mayor and City Council

THRU: Charles P. Potucek, City Manager
Victoria Yarbrough, Assistant City Manager
Sharon Flissar, Director of Public Works
Irene Zuñiga, CIP and Development Manager

FROM: Bryce Kirkpatrick, Civil Engineer

SUBJECT: REQUEST FOR AGENDA ITEM
PLACEMENT RESOLUTION 2022-003
Arizona State Parks and Trails Land and Water
Conservation Fund (LWCF) Grant Acceptance and Support

RECOMMENDATIONS:

The Director of Public Works recommends approval.

The Assistant City Manager recommends approval.

The City Manager recommends approval.

INITIATED BY:

Public Works Department

BACKGROUND:

The City of Sierra Vista has been awarded an Arizona State Parks & Trails grant with funding from the Land and Water Conservation Fund (LWCF) for park infrastructure improvements at Veterans Memorial Park (VMP) and Veterans Memorial Park Sports Complex (VMP-SC). The grant will help pay for a project encompassing the installation of artificial turfgrass at the VMP-SC Football field; reconfiguration and subsurface drainage improvements at VMP-SC Softball Field; updating the VMP wellsite with a storage tank, booster station, and necessary electrical; and replacing the irrigation system at VMP-SC. These improvements are an effort to both conserve water, provide additional public park area, and reduce ongoing system maintenance.

The grant provides \$1,500,000 of the construction costs. The total cost for the project was estimated to be \$3,090,000, with the City matching \$1,500,000 in addition to the grant required 6% project surcharge of \$90,000.

The grant application for this project was previously discussed and approved by Council in Resolution 2021-035.

BUDGET APPROPRIATION:

The awarded grant amount is 1,500,000 with a City Match of \$1,590,000.

RESOLUTION 2022-003

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA, ARIZONA; AUTHORIZING THE CITY TO ACCEPT A GRANT OFFER FROM THE ARIZONA STATE PARKS LAND AND WATER CONSERVATION FUND; AND AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, the City of Sierra Vista has a need to replace and upgrade existing irrigation at the Veterans Memorial Park Sports Complex baseball, football, and softball fields due to the facility surpassing its useful life, resource conservation, and maintenance efficiency needs; and

WHEREAS, the City of Sierra Vista has a need to update and upgrade the Veterans Memorial Park Well site, install a water storage tank, and install a booster pump station to address the irrigation water needs at both Veteran's Memorial Park and Veterans Memorial Park Sports Complex; and

WHEREAS, the City of Sierra Vista has a need to reconfigure and install subsurface drainage improvements at the Veterans Memorial Park Sports Complex softball field in order to save on maintenance costs, lessen soil erosion, conserve water, and allow increased activities onsite; and

WHEREAS, the City of Sierra Vista has a need to install artificial turf at the Veterans Memorial Park Sports Complex football field in order to save on maintenance costs, conserve water, and allow year-round activities onsite; and

WHEREAS, the City of Sierra Vista encourages and aggressively seeks grant funding and collaboration in order to offset costs for needed infrastructure improvements; and

WHEREAS, the City of Sierra Vista supports funding in order to match costs for needed infrastructure improvements; and

WHEREAS, the City of Sierra Vista encourages field safety, water conservation, and outdoor recreation;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA AS FOLLOWS:

SECTION 1

The City's practice of applying for and accepting grant funding to offset the cost of replacing needed City infrastructure is hereby reaffirmed.

SECTION 2

That the City of Sierra Vista:

1. Approves the acceptance of Land and Water Conservation Fund assistance, and
2. Certifies that the application is consistent and compatible with all adopted plans and programs for Park development; and
3. Agrees to comply with all appropriate procedures, guidelines, and requirements established by Arizona State Parks and Trails as a part of the grant process; and
4. Certifies that the City will comply with all appropriate state and federal regulations, policies, guidelines, and requirements as they relate to the application; and
5. Certifies that the City has matching funds for 50% cash match plus 6% cash surcharge of the grant funding.

- Total Project Cost is estimated at \$3 Million.
- Grant award is \$1.5 Million.
- City is required to match approximately \$1.59 Million for cash match and surcharge.

6. Appoints the City's Chief Procurement Officer as the agent of the City of Sierra Vista to conduct all negotiations, execute and submit all documents including, but not limited to, applications, agreements, amendments, billing statements, and so on which may be necessary for the completion of the aforementioned project.

SECTION 3

The Mayor and City Council supports the acceptance of the Arizona State Park and Trail Grant funded by the Land and Water Conservation Fund in order to install well site improvements at Veteran's Memorial Park, install new irrigation to Veterans Memorial Park Sports Complex sports fields, reconfigure and install subsurface drainage at Veterans Memorial Park Sports Complex softball field, and install artificial turf at the Veterans Memorial Park Sports Complex football field.

SECTION 4

The City Manager, City Clerk, City Attorney, or their duly authorized officers and agents are hereby authorized and directed to execute an agreement with the Arizona State Park and Trail's Land and Water Conservation Fund in order to install well site improvements at Veteran's Memorial Park, install new irrigation to Veterans Memorial Park Sports Complex sports fields, reconfigure field and install subsurface drainage at Veterans Memorial Park Sports Complex softball field, and install artificial turf at the Veterans Memorial Park Sports Complex football field.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 13TH DAY OF JANUARY 2022.

FREDERICK W. MUELLER
Mayor

APPROVED AS TO FORM:

ATTEST:

Nathan Williams
City Attorney

Jill Adams
City Clerk

Prepared by:
Bryce Kirkpatrick, Civil Engineer, City of Sierra Vista Public Works Department

Arizona State Parks and Trails
 23751 N 23RD Ave, Phoenix, AZ 85085
PROJECT SPONSOR AGREEMENT

This Agreement is entered into by and between the Arizona State Parks Board (BOARD) and City of Sierra Vista (PROJECT SPONSOR) becomes effective on the date of signature by the authorized representative of Arizona State Parks and Trails.

PROJECT TITLE: Veteran's Memorial Park and Veteran's Memorial Park Sports Complex Irrigation Replacement Project				PROJECT NUMBER: ASP # 04-00780 CFDA #: 15.916	
THIRD PARTY PARTICIPANT'S NAME:				FY OF REVENUE: 2021	
PROJECT PERIOD: 12/28/21-12/31/2024					
GRANT PROGRAM: Land and Water Conservation Fund	GRANT AMOUNT: \$1,500,000.00	%	PARTICIPANT MATCH: \$1,500,000.00	%	TOTAL PROJECT COST: \$3,000,000.00
50.0%		50.0%			
APPROVED SCOPE OF WORK AND SPECIAL CONDITIONS: Attachment A					
AUTHORITIES TO ENTER INTO THIS AGREEMENT: (statute, resolution, minutes, etc.) STATUTE: A.R.S. §41-511.26 RESOLUTION: 2021-035					
AWARDING OFFICIAL ON BEHALF OF THE ARIZONA STATE PARKS BOARD: _____ Signature: Kevin Brock, Assistant Director Date: _____					
ACCEPTANCE OF ALL TERMS OF THIS AGREEMENT AND ITS ATTACHMENTS IS ACKNOWLEDGED BY THE PROJECT SPONSOR'S SIGNATURE BELOW.			PARTICIPANT ATTORNEY APPROVAL AS TO FORM AND AS BEING WITHIN THE AUTHORITY OF THE PROJECT SPONSOR (optional)		
_____ Frederick W. Muller, Mayor Date			_____ Nathan Williams, City Attorney Date		

The most recent version of the General Provisions based on the Project Sponsor and project type are attached and incorporated into this agreement.

**Arizona State Parks and Trails
PROJECT SPONSOR AGREEMENT**

**Attachment A
Approved Project Scope and Special Conditions**

PROJECT SPONSOR: City of Sierra Vista

PROJECT TITLE: Veteran's Memorial Park and Veteran's Memorial Park Sports Complex Irrigation Replacement Project

PROJECT NUMBER: 04-00780

PROJECT DESCRIPTION: This project is to provide improvements at the existing well site a Veteran's Memorial Park. This includes electrical upgrades, a 150,000-gallon storage tank, new onsite piping, fencing, and a booster station housed in a metal building. Additionally, this project will include irrigation replacement at Veteran's Memorial Park Sports Center (VMP-SC), formerly known as Rothery. Artificial turf will be installed on the Football field at VMP-SC. Lastly, a new sand base, additional grading, drainage infrastructure, and fencing will be added for the softball field within VMP-SC. The total project is estimated to cost \$3,000,000.00. The City is requesting \$1,500,000 and will match the same amount.

APPROVED PROJECT SCOPE:

Construction	\$3,000,000.00
Total: \$3,000,000.00	

DESCRIPTION AND SOURCE(S) AND AMOUNTS FOR APPROVED MATCH

Sierra Vista will provide a minimum of 50.0% in staff, volunteer and cash as match. A minimum of 50.0% match must be submitted with each reimbursement request.

SPECIAL CONDITIONS:

A surcharge of six (6) % (\$90,000.00) of the grant amount is required for this project which must be paid prior to requesting first reimbursement.

The area acquired and/or developed with LWCF grant assistance shall be available to the general public for outdoor recreation use in perpetuity. Approved project work shall start no later than the specified project start up date. Development activities must begin within 6 months of the fully executed participant agreement.

The administration of this grant agreement is additionally subject to the contents of the “found at: [https://d2umhuunwbec1r.cloudfront.net/gallery/0004/0044/E7D755C6BDC94F93B7B3EB1773677D0E/Admin%20Guidelines%205 18 2020%20\(3\)%20\(1\).pdf](https://d2umhuunwbec1r.cloudfront.net/gallery/0004/0044/E7D755C6BDC94F93B7B3EB1773677D0E/Admin%20Guidelines%205%2018%2020%20(3)%20(1).pdf)

Detailed quarterly reporting on forms provided is required. Failure to provide these reports when requested will result in points being deducted in future funding requests.

See the General Provisions

OTHER CONDITIONS

If any archeological remains are encountered during project related ground disturbance, work will cease in the are of the discovery and the participant will inform the Director of the Arizona State Museum pursuant to A.R.S. 41-844. The participant will then inform the Chief of Grant and Trails of the discovery to determine any further action that may be necessary.

A waiver of retroactivity has been approved for this project with an effective date of December 28, 2021. Retroactive costs are not reimbursable or allowable as match under ordinary circumstances. However, a waiver has been approved due to tribal consultation has taken place, NEPA requirements have been met and the National Park Service (NPS) is currently unable to administratively process the grant in their system. All expenses and match are eligible from the effective date, Deember 28, 2021, and will be reimbursed once NPS has executed an agreement with Arizona State Parks releasing these funds.

All other terms and conditions remain unchanged.

Allocated project funds can only be expended on the designated scope items.

Attachment A
**LAND AND WATER CONSERVATION FUND
PROJECT AGREEMENT GENERAL PROVISIONS**

Part I – Definitions

- A. The term "NPS" or "Service" as used herein means the National Park Service, United States Department of the Interior.
- B. The term "Director" as used herein means the Director of the National Park Service, or any representative lawfully delegated the authority to act for such Director.
- C. The term "Manual" as used herein means the Land and Water Conservation Fund State Assistance Program Manual.
- D. The term "project" as used herein means a Land and Water Conservation Fund grant, which is subject to the project agreement and/or its subsequent amendments.
- E. The term "State" as used herein means the State or Territory that is a party to the project agreement, and, where applicable, the political subdivision or public agency to which funds are to be transferred pursuant to this agreement. Wherever a term, condition, obligation, or requirement refers to the State, such term, condition, obligation, or requirement shall also apply to the recipient political subdivision or public agency, except where it is clear from the nature of the term, condition, obligation, or requirement that it is to apply solely to the State. For purposes of these provisions, the terms "State," "grantee," and "recipient" are deemed synonymous.
- F. The term "Secretary" as used herein means the Secretary of the Interior, or any representative lawfully delegated the authority to act for such Secretary.

Part II - Continuing Assurances

The parties to the project agreement specifically recognize that the Land and Water Conservation Fund project creates an obligation to maintain the property described in the project agreement and supporting application documentation consistent with the Land and Water Conservation Fund Act and the following requirements.

Further, it is the acknowledged intent of the parties hereto that recipients of assistance will use monies granted hereunder for the purposes of this program, and that assistance granted from the Fund will result in a net increase, commensurate at least with the Federal cost-share, in a participant's outdoor recreation.

It is intended by both parties hereto that assistance from the Fund will be added to, rather than replace or be substituted for, State and local outdoor recreation funds.

- A. The State agrees, as recipient of this assistance, that it will meet the following specific requirements and that it will further impose these requirements, and the terms of the project agreement, upon any political subdivision or public agency to which funds are transferred pursuant to the project agreement. The State also agrees that it shall be responsible for compliance with the terms of the project agreement by such a political subdivision or public agency and that failure by such political subdivision or public agency to so comply shall be deemed a failure by the State to comply with the terms of this agreement.
- B. The State agrees that the property described in the project agreement and the signed and dated project boundary map made part of that agreement is being acquired or developed with Land and Water Conservation Fund assistance, or is integral to such acquisition or development, and that, without the approval of the Secretary, it shall not be converted to other than public outdoor recreation use but shall be maintained in public outdoor recreation in perpetuity or for the term of the lease in the case of leased property. The Secretary shall approve such conversion only if it is found to be in accord with the then existing comprehensive statewide outdoor recreation plan and only upon such conditions deemed necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location pursuant to Title 36 Part 59.3 of the *Code of Federal Regulations*. This replacement land becomes subject to Section 6(f)(3) protection. The approval of a conversion shall be at the sole discretion of the Secretary, or his designee.

Prior to the completion of this project, the State and the Director may mutually alter the area described and shown in the project agreement and the signed and dated project boundary map to provide the most satisfactory public outdoor recreation unit, except that acquired parcels are afforded Section 6(f)(3) protection as Fund reimbursement is provided.

In the event the NPS provides Land and Water Conservation Fund assistance for the acquisition and/or development of property with full knowledge that the project is subject to reversionary rights and outstanding interests, conversion of said property to other than public outdoor recreation uses as a result of such right or interest being exercised will occur. In receipt of this approval, the State agrees to notify the Service of the potential conversion as soon as possible and to seek approval of replacement property in accord with the conditions set forth in these provisions and program regulations. The provisions of this paragraph are also applicable to: leased properties acquired and/or developed with Fund assistance where such lease is terminated prior to its full term due to the existence of provisions in such lease known and agreed to by the Service; and properties subject to other outstanding rights and interests that may result in a conversion when known and agreed to by the Service.

- C. The State agrees that the benefit to be derived by the United States from the full compliance by the State with the terms of this agreement is the preservation, protection, and the net increase in the quality of public outdoor recreation facilities and resources which are available to the people of the State and of the United States, and such benefit exceeds to an immeasurable and unascertainable extent the amount of money furnished by the United States by way of assistance under the terms of this agreement. The State agrees that payment by the State to the United States of an amount equal to the amount of assistance extended under this agreement by the United States would be inadequate compensation to the United States for any breach by the State of this agreement.

The State further agrees, therefore, that the appropriate remedy in the event of a breach by the State of this agreement shall be the specific performance of this agreement or the submission and approval of a conversion-of-use request as described in Section II.B above.

- D. The State agrees to comply with the policies and procedures set forth in the Manual. Provisions of said Manual are incorporated into and made a part of the project agreement.
- E. The State agrees that the property and facilities described in the project agreement shall be operated and maintained as prescribed by Manual requirements and published post-completion compliance regulations (Title 36 Part 59 of the *Code of Federal Regulations*).
- F. The State agrees that a notice of the grant agreement shall be recorded in the public property records (e.g., registry of deeds or similar) of the jurisdiction in which the property is located, to the effect that the property described and shown in the scope of the project agreement and the signed and dated project boundary map made part of that agreement, has been acquired or developed with Land and Water Conservation Fund assistance and that it cannot be converted to other than public outdoor recreation use without the written approval of the Secretary of the Interior.
- G. Nondiscrimination
 - 1. By signing the LWCF agreement, the State certifies that it will comply with all Federal laws relating to nondiscrimination as outlined in the Civil Rights Assurance appearing at Part III-I herein.
 - 2. The State shall not discriminate against any person on the basis of residence, except to the extent that reasonable differences in admission or other fees may be maintained on the basis of residence as set forth in the Manual.

Part III - Project Assurances

A. Applicable Federal Requirements

The State shall comply with applicable regulations, policies, guidelines and requirements as they relate to the application, acceptance, and use of Federal funds for this federally assisted project, including:

2 *CFR Part 200*, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;

2 CFR Parts 182 & 1401, Government-wide Requirements for a Drug-Free Workplace;

2 CFR Part 180 & 1400, Non-Procurement Debarment and Suspension, previously located at 43 CFR Part 42, "Government-wide Debarment and Suspension (Non-Procurement)";

43 CFR Part 18, New Restrictions on Lobbying;

FAR Clause 52.203-12, Paragraphs (a) and (b), Limitation on Payments to Influence Certain Federal Transactions;

2 CFR Part 25, System for Award Management (www.SAM.gov) and Data Universal Numbering System (DUNS); and

2 CFR Part 170, Reporting Subawards and Executive Compensation

B. Project Application

1. The Application for Federal Assistance bearing the same project number as the agreement and associated documents is by this reference made a part of the agreement.
2. The State possesses legal authority to apply for the grant, and to finance and construct the proposed facilities. A resolution, motion, or similar action has been duly adopted or passed authorizing the filing of the application, including all understandings and assurances contained herein, and directing and authorizing the person identified as the official representative of the State to act in connection with the application and to provide such additional information as may be required.
3. The State has the capability to finance the non-Federal share of the costs for the project. Sufficient funds will be available to assure effective operation and maintenance of the facilities acquired or developed by the project.

C. Project Execution

1. The project period shall begin at the date specified on the project agreement or the effective date of a waiver of retroactivity and shall terminate at the end of the stated or amended project period, unless the project is completed or terminated sooner in which event the project shall end on the date of completion or termination.
2. The State shall transfer to the project sponsor identified in the Application for Federal Assistance or the Description and Notification Form all funds granted hereunder except those reimbursed to the State to cover eligible expenses derived from a current approved negotiated indirect cost rate agreement.
3. The State will cause work on the project to start within a reasonable time after receipt of notification that funds have been approved and assure that the project will be implemented to completion with reasonable diligence.
4. The State will require the facility to be designed to comply with the Architectural Barriers Act of 1968 (Public Law 90-480) and DOI Section 504 Regulations (43 CFR Part 17). The State will be responsible for conducting inspections to insure compliance with these specifications by the contractor.
5. The State shall secure completion of the work in accordance with approved construction plans and specifications, and shall secure compliance with all applicable Federal, State, and local laws and regulations.
6. In the event the project covered by the project agreement, cannot be completed in accordance with the plans and specifications for the project; the State shall bring the project to a point of recreational usefulness agreed upon by the State and the Director or his designee.
7. The State will provide for and maintain competent and adequate architectural/engineering supervision and inspection at the construction site to insure that the completed work conforms with the approved plans and specifications; that it will furnish progress reports and such other information as the NPS may require.

8. The State will comply with the terms of Title II and Title III, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646), 94 Stat. 1894 (1970), and the applicable regulations and procedures implementing such Act for all real property acquisitions and where applicable shall assure that the Act has been complied with for property to be developed with assistance under the project agreement.
9. The State will comply with the provisions of: Executive Order 11988, relating to evaluation of flood hazards; Executive Order 11288, relating to the prevention, control, and abatement of water pollution, and Executive Order 11990 relating to the protection of wetlands.
10. The State will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1976. Section 102(a) requires the purchase of flood insurance in communities where such insurance is available, as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes, for use in any area that has been identified as an area having special flood hazards by the Flood Insurance Administration of the Federal Emergency Management Agency. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.
11. The State will assist the NPS in its compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), Executive Order 11593, and the Archaeological and Historic Preservation Act of 1966 (16 U.S.C. 469a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to effects (see CFR Part 800.8) by the activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.
12. It is national policy to award a fair share of contracts to small and women- and minority-owned firms. The Department of the Interior and the National Park Service are strongly committed to the objectives of this policy and encourage all grant recipients to take affirmative steps to ensure such fairness. Positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women's business enterprises whenever possible. In accordance with Executive Orders 11625, 12138, and 12432, recipients shall take the following steps to further this policy:
 - a) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
 - b) Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.
 - c) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.
 - d) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.
 - e) Use the services and assistance, as appropriate, of such organizations as the Small Business Development Agency in the solicitation and utilization of small business, minority-owned firms and women's business enterprises.

The National Park Service Regional Offices will work closely with the States to ensure full compliance and that grant recipients take affirmative action in placing a fair share of purchases with minority business firms.

13. If applicable, the State will comply with the intergovernmental review requirements of Executive Order 12372.

D. Construction Contracted for by the State Shall Meet the Following Requirements:

1. Contracts for construction shall comply with the applicable provisions of 2 CFR 200.

2. No grant or contract may be awarded by any grantee, subgrantee, or contractor of any grantee or subgrantee, to any party that has been debarred or suspended under Executive Order 12549. By signing the LWCF agreement, the State certifies that it will comply with debarment and suspension provisions appearing at Part III-J herein.

E. Retention and Custodial Requirements for Records

1. All Recipient financial and programmatic records, supporting documents, statistical records, and all other grant-related records shall be retained in accordance with 2 CFR 200.333 to .337 for a period of three years; except the records shall be retained beyond the three-year period if audit findings have not been resolved.
2. The retention period starts from the date of the final expenditure report for the project.
3. State and local governments are authorized to substitute copies in lieu of original records.
4. The Secretary of the Interior and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the State and local governments and their subgrantees which are pertinent to a specific project for the purpose of making audit, examination, excerpts and transcripts.

F. Project Termination

1. The Director may temporarily suspend Federal assistance under the project pending corrective action by the State or pending a decision to terminate the grant by the Service.
2. The State may unilaterally terminate the project at any time prior to the first payment on the project. After the initial payment, the project may be terminated, modified, or amended by the State only by mutual agreement.
3. The Director may terminate the project in whole, or in part, at any time before the date of completion, whenever it is determined that the grantee has failed to comply with the conditions of the grant. The Director will promptly notify the State in writing of the determination and the reasons for the termination, together with the effective date. Payments made to States or recoveries by the Service under projects terminated for cause shall be in accord with the legal rights and liabilities of the parties.
4. The Director or State may terminate grants in whole, or in part at any time before the date of completion, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The NPS may allow full credit to the State for the Federal share of the non-cancelable obligations, properly incurred by the grantee prior to termination.
5. Termination either for cause or for convenience requires that the project in question be brought to a state of recreational usefulness agreed upon by the State and the Director or that all funds provided by the National Park Service be returned.

G. Lobbying with Appropriated Funds

The State must certify, for the award of grants exceeding \$100,000 in Federal assistance, that no Federally appropriated funds have been paid or will be paid, by or on behalf of the State, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding, extension, continuation, renewal, amendment, or modification of this grant. In compliance with 31 USC 1352, the State certifies, as follows:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

H. Provision of a Drug-Free Workplace

In compliance with the Drug-Free Workplace Act of 1988 (2 CFR Parts 182 & 1401), the State certifies that it will or continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

- (1) The dangers of drug abuse in the workplace;
- (2) The grantee's policy of maintaining a drug-free workplace;
- (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
- (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of a grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

- (1) Abide by the terms of the statement; and
- (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted;

- (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
- (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

I. Civil Rights Assurance (Ref: DI-1350)

The State certifies that, as a condition to receiving any Federal assistance from the Department of the Interior, it will comply with all Federal requirements relating to nondiscrimination. These include, but are not limited to: (a) Executive Order 11246, as amended; (b) Title VI of the Civil Rights Act of 1964, as amended (78 Stat. 252; 42 U.S.C. §§2000d et seq.), which prohibits discrimination on the basis of race, color, or national origin; (c) Title V, Section 504 of the Rehabilitation Act of 1973, as amended (87 Stat. 394, 29 U.S.C. §794), which prohibits discrimination on the basis of disability; (d) the Age Discrimination Act of 1975, as amended (89 Stat. 728, 42 U.S.C. §§6101 et seq.), which prohibits discrimination on the basis of age; and with all other applicable federal laws and regulations prohibiting discrimination, to the end that no person in the United States shall, on the grounds of race, color, sexual orientation, national origin, disability, religion, age, or sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the applicant.

THE APPLICANT HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

THIS ASSURANCE shall apply to all aspects of the applicant's operations including those parts that have not received or benefited from Federal financial assistance.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant by the Department, this assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which it retains ownership or possession of the property. In all other cases, this assurance shall obligate the Applicant for the period during which the Federal financial assistance is extended to it by the Department.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant by the Department, including installment payments after such date on account of applications for Federal financial assistance which were approved before such date.

The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United State shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, its successors, transferees, assignees, and subrecipients and the person whose signature appears on the grant agreement and who is authorized to sign on behalf of the Applicant.

J. Debarment and Suspension

Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission or embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

The State further agrees that it will include the clause "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions" appearing below in any agreement entered into with lower tier

participants in the implementation of this grant. Department of Interior Form 1954 (DI-1954) may be used for this purpose.

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this application that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this application.

K. Anti-Deficiency Act.

Pursuant to 31 U.S.C. §1341 nothing contained in this Agreement shall be construed as binding the NPS to expend in any one fiscal year any sum in excess of the appropriations made by Congress, for the purposes of this Agreement for that fiscal year, or other obligation for the further expenditure of money in excess of such appropriations.

L. Audit Requirements.

- 1) Non-Federal entities that expend \$750,000 or more during a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and 2 CFR Part 200, Subpart F, which is available at <http://www.ecfr.gov/cgi-bin/text-idx?SID=fd6463a517ceea3fa13e665e525051f4&node=sp2.1.200.f&rgn=div6>
- 2) Non-Federal entities that expend less than \$750,000 for a fiscal year in Federal awards are exempt from Federal audit requirements for that year, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).
- 3) Audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits. Additional audit requirements applicable to this agreement are found at 2 CFR Part 200, Subpart F, as applicable. Additional information on single audits is available from the Federal Audit Clearinghouse at <http://harvester.census.gov/sac/>.

M. Recipient Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights

- 1) This award and employees working on this financial assistance agreement will be subject to the whistleblower rights and remedies in the pilot program on Award Recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239).
- 2) The Award Recipient shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712.
- 3) The Award Recipient shall insert the substance of this clause, including this paragraph (3), in all subawards or subcontracts over the simplified acquisition threshold, 42 CFR § 52.203-17 (as referenced in 42 CFR § 3.908-9).

N. Reporting Subawards and Executive Compensation

a) Reporting of first-tier sub-awards.

1. Applicability. Unless you are exempt as provided in paragraph D. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery Act funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a sub-award to an entity (see definitions in paragraph E. of this award term).
2. Where and when to report.

- i. You must report each obligating action described in paragraph a)1. of this award term to <http://www.fsrc.gov>.
 - ii. For sub-award information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
 3. What to report. You must report the information about each obligating action that the submission instructions posted at <http://www.fsrc.gov> specify.
- b) Reporting Total Compensation of Recipient Executives.
 1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—
 - i. The total Federal funding authorized to date under this award is \$25,000 or more;
 - ii. In the preceding fiscal year, you received—
 - a. 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - b. \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
 2. Where and when to report. You must report executive total compensation described in paragraph A.1. of this award term:
 - i. As part of your registration profile at <https://www.sam.gov>.
 - ii. By the end of the month following the month in which this award is made, and annually thereafter.
- c) Reporting of Total Compensation of Subrecipient Executives.
 1. Applicability and what to report. Unless you are exempt as provided in paragraph D. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—
 - i. In the subrecipient's preceding fiscal year, the subrecipient received—
 - a. 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - b. \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
 - ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has

access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. Where and when to report. You must report subrecipient executive total compensation described in paragraph c.1. of this award term:
 - i. To the recipient.
 - ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.
- d) Exemptions.
1. If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:
 - i. Subawards, and
 - ii. The total compensation of the five most highly compensated executives of any subrecipient.
- e) Definitions. For purposes of this award term:
1. Entity means all of the following, as defined in 2 CFR part 25:
 - i. A Governmental organization, which is a State, local government, or Indian tribe;
 - ii. A foreign public entity;
 - iii. A domestic or foreign nonprofit organization;
 - iv. A domestic or foreign for-profit organization;
 - v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
 2. Executive means officers, managing partners, or any other employees in management positions.
 3. Subaward:
 - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - ii. The term includes your procurement of property and services needed to carry out the project or program. The term does not include procurement of incidental property and services needed to carry out the award project or program.
 - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
 4. Subrecipient means an entity that:
 - i. Receives a subaward from you (the recipient) under this award; and
 - ii. Is accountable to you for the use of the Federal funds provided by the subaward.

5. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
 - i. Salary and bonus.
 - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
 - v. Above-market earnings on deferred compensation which is not tax-qualified.
 - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

O. Conflict of Interest

- 1) The Recipient must establish safeguards to prohibit its employees and Sub-recipients from using their positions for purposes that constitute or present the appearance of a personal or organizational conflict of interest. The Recipient is responsible for notifying the Awarding Officer in writing of any actual or potential conflicts of interest that may arise during the life of this award. Conflicts of interest include any relationship or matter which might place the Recipient or its employees in a position of conflict, real or apparent, between their responsibilities under the agreement and any other outside interests. Conflicts of interest may also include, but are not limited to, direct or indirect financial interests, close personal relationships, positions of trust in outside organizations, consideration of future employment arrangements with a different organization, or decision-making affecting the award that would cause a reasonable person with knowledge of the relevant facts to question the impartiality of the Recipient and/or Recipient's employees and Sub-recipients in the matter.
- 2) The Awarding Officer and the servicing Ethics Counselor will determine if a conflict of interest exists. If a conflict of interest exists, the Awarding Officer will determine whether a mitigation plan is feasible. Mitigation plans must be approved by the Awarding Officer in writing.
- 3) Failure to resolve conflicts of interest in a manner that satisfies the government may be cause for termination of the award. Failure to make required disclosures may result in any of the remedies described in 2 CFR § 200.338, Remedies/or Noncompliance, including suspension or debarment (see also 2 CFR Part 180).

P. Reporting of Matters Related to Recipient Integrity and Performance (Note: Applicable only to grants where the LWCF share is \$500,000 or greater)

1) General Reporting Requirement

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you, as the recipient, during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

2) Proceedings You Must Report

Submit the information required about each proceeding that:

- a) Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- b) Reached its final disposition during the most recent five-year period; and
- c) Is one of the following:
 - 1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
 - 2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 - 3) An administrative proceeding, as defined in paragraph 5 of this award term and condition, that resulted in a finding of fault and liability and payment of either a monetary fine or penalty of \$5,000 or more; or reimbursement, restitution, or damages in excess of \$100,000; or
 - 4) Any other criminal, civil, or administrative proceeding if:
 - i. It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;
 - ii. It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
 - iii. The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3) Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

4) Reporting Frequency

During any period of time when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five-year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

5. Definitions

For purposes of this award term and condition:

- a) Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- b) Conviction means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
- c) Total value of currently active grants, cooperative agreements, and procurement contracts includes—
 - 1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and
 - 2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.