

November 15, 2023

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 2023-102, Acceptance of Tohono O'odham  
grant award

RECOMMENDATION:

The City Manager recommends approval.

The Director of Leisure & Library Services recommends approval.

BACKGROUND:

The City of Sierra Vista submitted a proposal for \$65,000 to the Tohono O'odham Nation to assist with updates and renovations needed at the Henry F. Hauser Museum. These funds are conveyed as a portion of the Nation's 12% local revenue-sharing contribution and requires no local match. These funds will be utilized in addition to the generous donation received last year from the Sierra Vista Historical Society to update lighting, replace flooring, replace display cabinets, paint, create a children's discovery room, and to explore technology options that will share facts and history to future generations in modern ways.

This resolution is a requirement by the Nation to accept the awarded funds and will demonstrate the Mayor and Council's support of the City's application. The resolution and attached agreement will be forwarded to the Nation upon approval.

BUDGET APPROPRIATION:

N/A

Attachment

RESOLUTION 2023-102

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA, SUPPORTING THE CITY'S GRANT REQUEST TO THE TOHONO O'ODHAM NATION, 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 PURPOSE AND INTENT OF THIS RESOLUTION.

WHEREAS, the City of Sierra Vista operates the Henry F. Hauser Museum located at the Ethel Berger Center; and

WHEREAS, the Henry F. Hauser Museum needs several updates and replacements to in order protect displayed artifacts and provide an enticing atmosphere to attract all generations of patrons, young and old; and

WHEREAS, MuseumNext reports that "local museums are able to provide a sense of community and place by celebrating a collective heritage, offering a great way to get to know the history of a particular area"; and

WHEREAS, the Mayor and City Council included Initiative 14.2 to "evaluate and consider Visitors Center and Museum options" in their current strategic plan; and

WHEREAS, updating the Henry F. Hauser Museum in its current footprint will help to broaden the Museum's offerings, appeal to a wider audience, and reflect the image we wish to portray to our visitors;

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

SECTION 1

That the City Council hereby supports and accepts the grant award in the amount of \$65,000 conveyed by the Tohono O'odham Nation as a portion of its annual 12% local revenue-sharing contribution to assist with renovations to the Henry F. Hauser Museum.

SECTION 2

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 14<sup>TH</sup> DAY OF DECEMBER 2023.

\_\_\_\_\_  
CLEA MCCAA II  
Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JILL ADAMS  
City Clerk

\_\_\_\_\_  
NATHAN J. WILLIAMS  
City Attorney

Prepared by:  
Laura Wilson, Director of Parks, Recreation & Library

**GRANT-IN-AID AGREEMENT  
BETWEEN  
THE TOHONO O’ODHAM NATION  
AND THE  
CITY OF SIERRA VISTA, AZ**

THIS GRANT-IN-AID AGREEMENT (“Agreement”) is between the Tohono O’odham Nation, a federally recognized Indian tribe (the “Nation”), and the City of Sierra Vista, AZ, a political subdivision of the State of Arizona (“CITY”).

**RECITALS**

The Nation desires to convey to CITY a portion of its annual 12% local revenue-sharing contribution (“Contribution”) to be used by CITY and CITY recipients for services that benefit the general public.

The Constitution of the Tohono O’odham Nation, Article VI, Section 1(f) provides that the Tohono O’odham Legislative Council is authorized to negotiate and conclude agreements on behalf of the Nation with Federal, State, and local governments.

The Constitution of the Tohono O’odham Nation Article VII, Section 2(f) provides that the Chairman of the Nation is the official representative of the Nation; and as such, upon passage of a Resolution by the Legislative Council approving of any agreement with Federal, State, and local governments, the Chairman is authorized to sign such agreements on behalf of the Nation.

Under A.R.S. § 5-601.02(H)(4), CITY may receive monies from the Nation for services identified by the Nation that benefit the general public, including public safety, mitigation of gaming impacts, and promotion of commerce and economic development.

CITY is authorized by A.R.S. § 11-951 through § 11-954 to enter into agreements for joint or cooperative actions with public agencies.

Now, therefore, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

**AGREEMENT**

- 1. Purpose.** The purpose of this Agreement is to set forth the rights and responsibilities of the parties with respect to the payment and distribution of the Contribution, as hereinafter defined.
- 2. Contribution.** On execution of this Agreement, the Nation will issue payment to the CITY in the amount described in Schedule A (the “Contribution”) for the purpose(s) detailed in Schedule A. CITY will distribute funds directly to the recipients (“Recipients”) listed in Schedule A.

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**3. Disbursement of Contribution.**

- a. Disbursing Contribution and Recordkeeping.** CITY is responsible for disbursing the Contribution consistent with this Agreement. Within a reasonable time following receipt of the Contribution from the Nation, CITY shall distribute the Contribution per CITY policies and procedures governing the disbursement of these funds. CITY shall keep and maintain records relating to the disbursements and this Agreement.
- b. Post-Disbursement Responsibilities.** When applicable, the parties agree that CITY will be acting as a conduit for distribution of the Contribution to the Recipient. Upon distribution of the Contribution to the Recipients as identified in Section 2 of this Agreement, the CITY shall have no further responsibility to the Nation with respect to such funds or the use thereof by the Recipients. Therefore, upon the CITY's disbursement of the Contribution to a Recipient as provided in Section 2, the Nation shall release the CITY from any and all claims, demands, debts, liabilities, or obligations that may arise in the event that a Recipient fails to expend the Contribution in accord with Section 2. The Nation further agrees that the CITY shall have no obligation to reimburse the Nation the amount of the Contribution after the CITY disburses the Contribution to a Recipient and that the Nation shall look solely to the Recipient for repayment of the Contribution if the Contribution is not used for the intended purposes.

**4. Term and Termination.**

- a. Effective Date.** This Agreement shall become effective when all parties have signed. The date this Agreement is signed by the last party, as indicated by the date associated with the party's signature, shall be deemed the Effective Date.
- b. Term.** This Agreement shall commence upon the Effective Date and will continue for twelve (12) months unless terminated earlier ("End Date"). The Nation, in its discretion, may approve in writing any request by the CITY for a no-cost extension, including amending the End Date and adjusting any affected reporting requirements.
- c. Termination by Nation.** The Nation may terminate this Agreement with or without cause at any time by providing CITY fifteen (15) days advance notice in writing. If the Nation terminates this Agreement after CITY receives the Contribution but before CITY disbursed the Contribution in accord with Section 2, the Nation shall include in the notice of termination specific instructions regarding disposition of the Contribution.
- d. Termination by CITY.** All parties acknowledge that this Agreement may be subject to cancellation by CITY per A.R.S. § 38-511.

**5. Money Unclaimed.** If CITY fails to accept the Contribution on or before June 30, 2024, this Agreement will be deemed to have been terminated by CITY and the Nation will award the Agreement Contribution to another local government entity.

**6. Monitoring, Review, and Audit.** The Nation may monitor and review the Recipients' use of their portions of the Contribution as well as the Recipients' performance of the projects

funded thereunder, and their compliance with this Agreement, which may include onsite visits to assess the Recipients' governance, management and operations, to discuss the Recipient's programming and finances, and review relevant financial and other records and materials related to the Recipient's use of their portion of the Contribution. In addition, the Nation may conduct audits, including onsite audits, at any time during the term of this Agreement, and within three years after the Contribution has been fully spent by the Recipients. Any onsite visit or audit shall be conducted at the Nation's expense, following prior written notice, during normal business hours, and no more than once during any twelve (12) month period.

7. **Dispute Resolution.** The parties mutually agree that any disputes arising pursuant to this Agreement shall be resolved through informal dispute resolution. For all disputes arising under this Agreement the Nation and CITY shall first attempt to negotiate a resolution. All disputes that cannot be resolved through informal dispute resolution shall be resolved in the Courts of the Nation, subject to the laws of the Nation.
8. **Notices.** Any notice, consent or other communication required or permitted under this Agreement shall be in writing and shall be deemed received at the time it is personally delivered, on the day it is sent by facsimile transmission, on the second day after its deposit with any commercial air courier or express service or if mailed, three (3) days after the notice is deposited in the United States mail addressed as follows:

If to the Nation:

Verlon M. Jose, Chairman  
Tohono O'odham Nation  
P.O. Box 837  
Sells, Arizona 85634  
Phone: (520) 383-2028  
Fax: (520) 383-3379

and

Executive Counsel  
Tohono O'odham Nation  
P.O. Box 837  
Sells, Arizona 85634  
Phone: (520) 383-2028  
Fax: 520-383-3379

If to the CITY:

City of Sierra Vista, AZ  
Attn: Jill Adams, Clerk of the City Council  
1011 N. Coronado Dr.  
Sierra Vista, AZ 85635

[Type here]

(520) 439-2145  
jill.adams@sierravistaaz.gov

Any time period stated in a notice shall be computed from the time the notice is deemed received. Either party may change its mailing address or the person to receive notice by notifying the other party as provided in this paragraph.

- 9. Entire Agreement, and Amendments.** This Agreement constitutes the entire understanding and agreement of the parties. This Agreement integrates all of the terms and conditions mentioned herein or incident hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.
- 10. Relationship.** The relationship of the parties to this Agreement is determined solely by the provisions of this Agreement. The parties do not intend to create any agency, partnership, joint venture, trust, fiduciary or other relationship which would impose liability upon one party for the act or failure to act of the other party.
- 11. No Waiver.** Except as otherwise expressly provided in this Agreement, any failure or delay by any party in asserting any of its rights or remedies as to any default, shall not operate as a waiver of any default, or of any such rights or remedies, or deprive any such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.
- 12. Severability.** If any provision of this Agreement shall be found invalid or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.
- 13. Counterparts and Electronic Signatures.** This Agreement is executed in duplicate originals. Except as may be prohibited by applicable law or regulation, this Agreement and any amendment may be signed in counterparts, by facsimile, PDF, or other electronic means, each of which will be deemed an original and all of which when taken together will constitute one agreement. Facsimile and electronic signatures will be binding for all purposes.
- 14. Sovereign Immunity.** Nothing in this Agreement shall be deemed a waiver of either party's sovereign immunity in any forum or jurisdiction.

This Agreement is signed on behalf of the parties:

**TOHONO O'ODHAM NATION**



Verlon M. Jose, Chairman

11/15/2023

Date

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**CITY OF SIERRA VISTA, AZ**

\_\_\_\_\_  
Mayor, City of Sierra Vista, AZ

\_\_\_\_\_  
Date

**ATTEST:**

\_\_\_\_\_  
Clerk of the Sierra Vista City Council

\_\_\_\_\_  
Date



### Schedule A--Recipients

<b>Organization</b>	<b>Project</b>	<b>Amount</b>
Henry F. Hauser Museum	Museum Renovations	\$65,000.00
	<b>TOTAL:</b>	<b>\$65,000.00</b>

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