

1. DATE ISSUED MM/DD/YYYY 09/23/2021

1a. SUPERSEDES AWARD NOTICE dated except that any additions or restrictions previously imposed remain in effect unless specifically rescinded

2. CFDA NO. 15.916 - Outdoor Recreation Acquisition, Development and Planning

3. ASSISTANCE TYPE Project Grant

4. GRANT NO. P21AP12338-00
Originating MCA #

5. TYPE OF AWARD Other

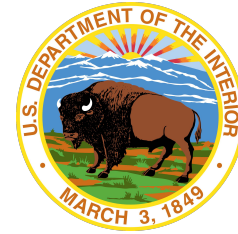
4a. FAIN P21AP12338

5a. ACTION TYPE New

6. PROJECT PERIOD MM/DD/YYYY
From 05/20/2021 Through 09/30/2024

7. BUDGET PERIOD MM/DD/YYYY
From 05/20/2021 Through 09/30/2024

NOTICE OF AWARD



AUTHORIZATION (Legislation/Regulations)

54 U.S.C. § 200305 Land and Water Conservation Fund, Assistance to States

8. TITLE OF PROJECT (OR PROGRAM)
48-01204 County of Hildago Memorial Sunflower Park

9a. GRANTEE NAME AND ADDRESS
TEXAS PARKS AND WILDLIFE DEPARTMENT
4200 Smith School Rd
Austin, TX 78744-3218

9b. GRANTEE PROJECT DIRECTOR
DAN REECE
4200 Smith School Road
STate Parks
Austin, TX 78744-3218
Phone: 5123894656

10a. GRANTEE AUTHORIZING OFFICIAL
BROCK TALLEY
4200 Smith School Rd
Austin, TX 78744-3218
Phone: 5123898679

10b. FEDERAL PROJECT OFFICER
Mr. Jeremy Edwards
601 Riverfront Dr
Omaha, NE 68102-4226
Phone: 402 679-1294

ALL AMOUNTS ARE SHOWN IN USD

11. APPROVED BUDGET (Excludes Direct Assistance)		12. AWARD COMPUTATION	
I Financial Assistance from the Federal Awarding Agency Only		a. Amount of Federal Financial Assistance (from item 11m)	\$ 1,223,357.00
II Total project costs including grant funds and all other financial participation		b. Less Unobligated Balance From Prior Budget Periods	\$ 0.00
a. Salaries and Wages	\$ 0.00	c. Less Cumulative Prior Award(s) This Budget Period	\$ 0.00
b. Fringe Benefits	\$ 0.00	d. AMOUNT OF FINANCIAL ASSISTANCE THIS ACTION	\$ 1,223,357.00
c. Total Personnel Costs	\$ 0.00	13. Total Federal Funds Awarded to Date for Project Period	\$ 1,223,357.00
d. Equipment	\$ 0.00	14. RECOMMENDED FUTURE SUPPORT (Subject to the availability of funds and satisfactory progress of the project):	
e. Supplies	\$ 0.00	YEAR	TOTAL DIRECT COSTS
f. Travel	\$ 0.00	a. 2	\$
g. Construction	\$ 2,196,714.00	b. 3	\$
h. Other	\$ 250,000.00	c. 4	\$
i. Contractual	\$ 0.00	d. 5	\$
j. TOTAL DIRECT COSTS	\$ 2,446,714.00	e. 6	\$
k. INDIRECT COSTS	\$ 0.00	f. 7	\$
l. TOTAL APPROVED BUDGET	\$ 2,446,714.00	15. PROGRAM INCOME SHALL BE USED IN ACCORD WITH ONE OF THE FOLLOWING ALTERNATIVES:	
m. Federal Share	\$ 1,223,357.00	a. DEDUCTION	
n. Non-Federal Share	\$ 1,223,357.00	b. ADDITIONAL COSTS	
		c. MATCHING	
		d. OTHER RESEARCH (Add / Deduct Option)	
		e. OTHER (See REMARKS)	
		e	
		16. THIS AWARD IS BASED ON AN APPLICATION SUBMITTED TO, AND AS APPROVED BY, THE FEDERAL AWARING AGENCY ON THE ABOVE TITLED PROJECT AND IS SUBJECT TO THE TERMS AND CONDITIONS INCORPORATED EITHER DIRECTLY OR BY REFERENCE IN THE FOLLOWING:	
		a. The grant program legislation	
		b. The grant program regulations.	
		c. This award notice including terms and conditions, if any, noted below under REMARKS.	
		d. Federal administrative requirements, cost principles and audit requirements applicable to this grant.	
		In the event there are conflicting or otherwise inconsistent policies applicable to the grant, the above order of precedence shall prevail. Acceptance of the grant terms and conditions is acknowledged by the grantee when funds are drawn or otherwise obtained from the grant payment system.	

REMARKS (Other Terms and Conditions Attached - Yes No)
No program income

GRANTS MANAGEMENT OFFICIAL:

Kelly Pearce, Awarding Officer
601 Riverfront Drive
Omaha, NE 68102-4226
Phone: 4026611552

17. VENDOR CODE	0070050488	18. DUNS	806782256	19. CONG. DIST.	35	
LINE#	FINANCIAL ACCT	AMT OF FIN ASST	START DATE	END DATE	TAS ACCT	PO LINE DESCRIPTION
1	0051016478-00010	\$50,000.00	05/20/2021	09/30/2024	5035	Memorial (Sunflower) Park FY17 LW SRA
2	0051016478-00020	\$1,173,357.00	05/20/2021	09/30/2024	5536	Memorial (Sunflower) Park FY20 GM

NOTICE OF AWARD (Continuation Sheet)

PAGE 2 of 2	DATE ISSUED 09/23/2021
GRANT NO. P21AP12338-00	

Federal Financial Report Cycle			
Reporting Period Start Date	Reporting Period End Date	Reporting Type	Reporting Period Due Date
05/20/2021	09/30/2021	Annual	12/29/2021
10/01/2021	09/30/2022	Annual	12/29/2022
10/01/2022	09/30/2023	Annual	12/29/2023
10/01/2023	09/30/2024	Final	01/28/2025

Performance Progress Report Cycle			
Reporting Period Start Date	Reporting Period End Date	Reporting Type	Reporting Period Due Date
05/20/2021	09/30/2021	Annual	12/29/2021
10/01/2021	09/30/2022	Annual	12/29/2022
10/01/2022	09/30/2023	Annual	12/29/2023
10/01/2023	09/30/2024	Final	01/28/2025

AWARD ATTACHMENTS

TEXAS PARKS AND WILDLIFE DEPARTMENT

P21AP12338-00

1. Grant Agreement
2. General Provisions
3. Environmental Certification
4. Waiver of Retroactivity
5. Budget Estimate

Grant Agreement P21AP12338
Between
THE UNITED STATES DEPARTMENT OF INTERIOR
NATIONAL PARK SERVICE
and
TEXAS PARKS AND WILDLIFE DEPARTMENT

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ARTICLE I – DEPARTMENT OF THE INTERIOR STANDARD TERMS AND CONDITIONS

Recipients must also adhere the Department of Interior Standard Terms and Conditions located at <https://www.doi.gov/grants/doi-standard-terms-and-conditions> (version effective December 19, 2019-revised June 19, 2020), except the provision related to the Davis-Bacon Act in Section VII.

ARTICLE II – LEGAL AUTHORITY

The NPS enters into this Agreement pursuant to the Land and Water Conservation Fund (LWCF) Act of 1965, as amended (P.L. 88-578; currently codified at 54 U.S.C. § 200301 et seq.).

ARTICLE III – PERFORMANCE GOALS AND PROJECT OBJECTIVES

- A. Performance Goals –LWCF financial assistance is intended to assure that a sufficient quality and/or quantity of outdoor recreation resources are available to serve the present and future outdoor recreation demands and needs of the general public. This grant project will improve public outdoor recreation opportunity by developing Memorial (Sunflower) Park. The regional community will benefit from improved access to diverse recreation resources.
- B. Project Objectives – Develop Memorial (Sunflower) Park to increase rural community participation in a variety of outdoor recreation programs and improve communication, education, fitness and health through learning and community events within the park.

ARTICLE IV – PUBLIC PURPOSE

The purposes of the LWCF Act are to assist in preserving, developing, and assuring accessibility to all citizens of the United States of present and future generations, and visitors who are lawfully present within the boundaries of the United States, such quality and quantity of outdoor recreation resources as may be available and are necessary and desirable for individual active participation in such recreation; and to strengthen the health and vitality of U.S. citizens. These purposes are accomplished in part by providing funds for and authorizing Federal financial assistance to States (and through States to local units of government) to plan for, acquire, and develop needed land and water areas and facilities for outdoor recreation.

ARTICLE V – COVID-19 PROVISIONS

Due to the COVID-19 pandemic, access to National Park Service (NPS) property, personnel, or resources may be limited at the start of the agreement. Any performance that requires access to National Park Service property, personnel, or resources shall not commence until the recipient receives confirmation from the NPS Financial Assistance Awarding Officer of the availability of those resources. The recipient shall contact the NPS Financial Assistance Awarding Officer for approval prior to incurring any costs for performance that requires access to National Park

Service property or resources. Such approvals can only be provided by the NPS Financial Assistance Awarding Officer. In the event of a prolonged unavailability of resources, the period of performance may be modified to a later date, or the agreement may be cancelled, by either the National Park Service or the recipient, in its entirety. In addition, the recipient shall contact the NPS Financial Assistance Awarding Officer to coordinate any other changes to the agreement that may be needed to ensure successful performance during the COVID-19 pandemic.

ARTICLE VI - STATEMENT OF WORK

The County of Hidalgo proposes to expand the park into a regional facility with basketball courts and soccer fields developments, bleachers and site amenities such as benches and trash cans installations, walking trail with concrete edging development, exercise stations and lighting installation, playground expansion with surfacing, shade and splashpad installation with mechanical and equipment storage, pavilion construction, picnic table and grill installation, parking lot renovation with solar lighting and landscaping and irrigation at Memorial (Sunflower) Park, as described in the project proposal. In addition, the project will involve site preparation, grading, demolition, and pre-planning professional services.

This project received a Waiver of Retroactivity to begin work on May 20, 2021.

All work described in this agreement will be completed by the subrecipient by September 30, 2024.

The Recipient shall adhere to the approved statement of work as set forth here and in Attachment F of this agreement.

ARTICLE VII – RESPONSIBILITIES OF THE PARTIES

A. The Recipient agrees to:

1. Administer the grant to the Subrecipient, who will carry out the Statement of Work in accordance with the terms and conditions stated herein. The Recipient and Subrecipient shall adhere to Federal, state, and local laws, regulations, and codes, as applicable.
2. Collect and submit annual and final performance and financial reports in accordance with Article XIV.
3. Conduct inspections of the project site in accordance with the State’s inspection agreement and Attachment A, Part III.B.
4. Ensure documentation memorializing the LWCF assistance is recorded with the property deed(s) by the time of grant closing in accordance with Attachment A, Part II.F.

5. Verify the Subrecipient's actual project expenses and match contributions before submitting requests for reimbursement to the NPS.
 6. Ensure the Subrecipient understands they are subject to the requirements of 2 C.F.R. § 200.92 Subaward; 200.101 Applicability; and 200.331 Requirements for pass-through entities. The Recipient must provide a list of selected subrecipients and associated budgets to the NPS for review prior to making subawards.
 7. Recipients must hire qualified consultants and submit documentation to the NPS showing competitive selection or justification for single source procurement for contracted amounts greater than \$10,000, in accordance with 2 C.F.R. §§ 200.318 – 200.327.
- B. No substantial involvement on the part of the NPS is anticipated for the successful completion of the statement of work detailed in this award. It is anticipated that involvement will be limited to actions related to monitoring project performance, technical assistance at the request of the recipient.

ARTICLE VIII – COST-SHARE REQUIREMENT

At least 50% non-Federal cost-share is required for costs incurred under this Agreement. If pre-award costs are authorized, reimbursement of these costs is limited to the Federal cost share percentage identified in this agreement.

ARTICLE IX – PRE-AWARD INCURRENCE OF COSTS

The Recipient shall be entitled to use as match, or reimbursement in accordance with the approved cost-share percentage for, costs incurred on or after August 1, 2019 which, if they had been incurred after this Agreement was entered into, would have been allowable, allocable, and reasonable under the terms and conditions of this Agreement.

ARTICLE X – APPROVED INDIRECT RATE

Not applicable.

ARTICLE XI – KEY OFFICIALS

- A. **Communications.** Recipient shall address any communication regarding this Agreement to the Program Officer with a copy to the Awarding/Grants Management Officer. Communications that relate solely to technical matters may be sent only to the Program Officer.
- B. **Changes in Key Officials.** Neither the NPS nor Recipient may make any permanent change in a key official without written notice to the other party reasonably in advance of

the proposed change. The notice will include a justification with sufficient detail to permit evaluation of the impact of such a change on the scope of work specified within this Agreement. Any permanent change in key officials will be made only by modification to this Agreement.

ARTICLE XII – AWARD AND PAYMENT

- A. The NPS will provide funding to the Recipient in an amount not to exceed \$1,223,357.00 in accordance with the NPS approved budget. The approved budget detail is incorporated herein. Any award beyond the current fiscal year is subject to availability of funds. Acceptance of a Federal financial assistance award from the Department of the Interior carries with it the responsibility to be aware of, and comply with, the terms and conditions within this award document. Acceptance is defined as the start of work, drawing down funds, or accepting the award via electronic means.
- B. Recipient shall request payment in accordance with the following:
1. **Method of Payment.** Payment will be made by advance and/or reimbursement through the Department of Treasury’s Automated Standard Application for Payments (ASAP) system.
 2. **Requesting Advances.** Requests for advances must be submitted via the ASAP system. Requests may be submitted as frequently as required to meet the needs of the Financial Assistance (FA) Recipient to disburse funds for the Federal share of project costs. If feasible, each request should be timed so that payment is received on the same day that the funds are dispersed for direct project costs and/or the proportionate share of any allowable indirect costs. If same-day transfers are not feasible, advance payments must be as close to actual disbursements as administratively feasible.
 3. **Requesting Reimbursement.** Requests for reimbursements must be submitted via the ASAP system. Requests for reimbursement should coincide with normal billing patterns. Each request must be limited to the amount of disbursements made for the Federal share of direct project costs and the proportionate share of allowable indirect costs incurred during that billing period.
 4. **Adjusting Payment Requests for Available Cash.** Funds that are available from repayments to, and interest earned on, a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries, credits, discounts, and interest earned on any of those funds must be disbursed before requesting additional cash payments.
 5. **Bank Accounts.** All payments are made through electronic funds transfer to the bank account identified in the ASAP system by the FA Recipient.
 6. **Supporting Documents and Agency Approval of Payments.** Additional supporting documentation and prior NPS approval of payments may be required when/if a FA Recipient is determined to be “high risk” or has performance issues. If prior Agency

payment approval is in effect for an award, the ASAP system will notify the FA Recipient when they submit a request for payment. The Recipient must then notify the NPS AO that a payment request has been submitted. The NPS AO may request additional information from the Recipient to support the payment request prior to approving the release of funds, as deemed necessary. The FA Recipient is required to comply with these requests. Supporting documents may include invoices, copies of contracts, vendor quotes, and other expenditure explanations that justify the reimbursement requests.

- C. Any award beyond the current fiscal year is subject to availability of funds; funds may be provided in subsequent fiscal years if project work is satisfactory and funding is available.
- D. Expenses charged against awards under the Agreement may not be incurred prior to the beginning of the Agreement and may be incurred only as necessary to carry out the approved objectives, scope of work and budget with prior approval from the NPS AO. The Recipient shall not incur costs or obligate funds for any purpose pertaining to the operation of the project, program, or activities beyond the expiration date stipulated in the award.
- E. Any non-Federal share, whether in cash or in-kind, is expected to be paid out at the same general rate as the Federal share. Exceptions to this requirement may be granted by the AO based on sufficient documentation demonstrating previously determined plans for or later commitment of cash or in-kind contributions. In any case, the Recipient must meet their cost share commitment over the life of the award.

ARTICLE XIII – PRIOR APPROVAL

The Recipient shall obtain prior approval for budget and program revisions, in accordance with 2 CFR § 200.308.

ARTICLE XIV – REPORTS AND/OR OUTPUTS/OUTCOMES

- A. Refer to the last page of the Notice of Award document for Federal Financial reporting frequency and due dates. Performance reports are also required at the same reporting frequency and due dates as the FFR. Reports must be submitted through the Grant Solutions "Manage Report" functionality.
- B. A final Performance Report and a final Federal Financial Report will be due 120 days after the end-date of the Term of Agreement. If the recipient does not submit the final report before the required due date, NPS is required to submit a finding of non-compliance to the Federal Awardee Performance and Integrity Information System (FAPIIS). Each report shall be submitted as described above.

- C. The Secretary of the Interior and the Comptroller General of the United States, or their duly authorized representatives, will have access, for the purpose of financial or programmatic review and examination, to any books, documents, papers, and records that are pertinent to the Agreement at all reasonable times during the period of retention in accordance with 2 CFR § 200.333.
- D. Refer to the LWCF Manual Chapter 7.G.3 for the documentation required to close out an LWCF grant.

ARTICLE XV – PROPERTY UTILIZATION

Property management standards set forth in 2 CFR §§ 200.310 through 200.316 applies to this Agreement.

ARTICLE XVI – MODIFICATION, REMEDIES FOR NONCOMPLIANCE, TERMINATION

- A. This Agreement may be modified at any time, prior to the expiration date, only by a written instrument executed by both parties. Modifications will be in writing and approved by the NPS Awarding Officer and the authorized representative of Recipient.
- B. Additional conditions may be imposed by NPS if it is determined that the Recipient is noncompliant to the terms and conditions of this agreement. Remedies for Noncompliance can be found in 2 CFR § 200.339 and the LWCF General Provisions in Attachment A.
- C. This Agreement may be terminated consistent with applicable termination provisions for Agreements found in 2 CFR §§ 200.340 through 200.343.

ARTICLE XVII – REPORTING OF MATTERS RELATED TO RECIPIENT INTEGRITY AND PERFORMANCE

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.

ARTICLE XVIII – FUNDING USED FOR THE PURCHASE AND OPERATION OF UNMANNED AIRCRAFT SYSTEMS (UAS)

If Federal funding is provided to a State, local, tribal, or territorial government for the purchase or use of UAS for their operations, the recipient must have in place policies and procedures to safeguard individuals' privacy, civil rights, and civil liberties prior to expending such funds.

Per the policy memorandum issued by National Park Service Director, dated June 19, 2014, the launching, landing, and operating of unmanned aircraft, that is not under the control of the Federal government, on lands and waters administered by the National Park Service is prohibited unless approval is received from the Associate Director for such purposes as:

Scientific study, search and rescue operations, fire operations, and law enforcement.

Administrative use includes the use of unmanned aircraft by

- (i) NPS personnel as operators or crew;
- (ii) cooperators such as government agencies and universities that conduct unmanned aircraft operations for the NPS pursuant to a written agreement; and
- (iii) other entities, including commercial entities, conducting unmanned aircraft operations for the NPS, provided such entities are in compliance with all applicable FAA and Department of the Interior requirements.

ARTICLE XIX - PATENTS AND INVENTIONS (37 C.F.R. Part 401)

Recipients of agreements which support experimental, developmental, or research work shall be subject to applicable regulations governing patents and inventions, including the government-wide regulations issued by the Department of Commerce at 37 CFR § 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements. These regulations do not apply to any agreement made primarily for educational purposes.

In accordance with 37 C.F.R. § 401.3(a), the provision at 37 C.F.R. § 401.14(a), with authorized modifications for the National Park Service, is hereby included in this agreement:

(a) Definitions

(1) *Invention* means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C. § 2321 et seq.).

(2) *Subject invention* means any invention of the recipient conceived or first actually reduced to practice in the performance of work under this agreement, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. § 2401(d)) must also occur during the period of agreement performance.

(3) *Practical Application* means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or government regulations, available to the public on reasonable terms.

(4) *Made* when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) *Small Business Firm* means a small business concern as defined at section 2 of Public Law. 85-536 (15 U.S.C. § 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this provision, the size standards for small business concerns involved in government procurement and subcontracting at 13 CFR § 121.3-8 and 13 CFR § 121.3-12, respectively, will be used.

(6) *Nonprofit Organization* means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c) and exempt from taxation under section 501(a) of the Internal Revenue Code (25 U.S.C. § 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(b) Allocation of Principal Rights.

The Recipient may retain the entire right, title, and interest throughout the world to each subject invention subject to this provision and 35 U.S.C. § 203. With respect to any subject invention in which the Recipient retains title, the Federal government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) Invention Disclosure, Election of Title and Filing of Patent Application by Recipient

(1) The Recipient will disclose each subject invention to the National Park Service within two months after the inventor discloses it in writing to Recipient personnel responsible for patent matters. The disclosure to the National Park Service shall be in the form of a written report and shall identify the agreement under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the National Park Service, the Recipient will promptly notify the National Park Service of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Recipient.

(2) The Recipient will elect in writing whether or not to retain title to any such invention by notifying the National Park Service within two years of disclosure to the National Park Service. However, in any case where publication, on sale or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the National Park Service to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Recipient will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The Recipient will file patent applications in additional countries or international patent offices within either ten months of the corresponding initial patent application or six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure, election, and filing under subparagraphs (1), (2), and (3) may, at the discretion of the National Park Service, be granted.

(d) Conditions When the Government May Obtain Title.

The Recipient will convey to the National Park Service, upon written request, title to any subject inventions

(1) If the Recipient fails to disclose or elect title to the subject invention within the times specified in (c), above, or elects not to retain title; provided that the National Park Service may only request title within 60 days after learning of the failure of the Recipient to disclose or elect within the specified times.

(2) In those countries in which the Recipient fails to file patent applications within the times specified in (c) above; provided, however, that if the Recipient has filed a patent application in a country after the times specified in (c) above, but prior to its receipt of the written request of the National Park Service, the Recipient shall continue to retain title in that country.

(3) In any country in which the Recipient decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

(e) Minimum Rights to Recipient and Protection of the Recipient Right to File

(1) The Recipient will retain a nonexclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the Recipient fails to disclose the invention within the times specified in (c), above. The Recipient's license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the Recipient is a party and includes the right to grant sublicenses of the same scope to the extent the Recipient was legally obligated to do so at the time the agreement was awarded. The license is transferable only with the approval of the National Park Service except when transferred to the successor of that party of the Recipient's business to which the invention pertains.

(2) The Recipient's domestic license may be revoked or modified by the National Park Service to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR Part 404 and the National Park Service licensing regulations (if any). This license will not be revoked in that field of use or the geographical areas in which the Recipient has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the National Park Service to the extent the Recipient, its licensees, or the domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the National Park Service will furnish the Recipient a written notice of its intention to revoke or modify the license, and the Recipient will be allowed thirty days (or such other time as may be authorized by the National Park Service for good cause shown by the Recipient) after the notice to show cause why the license should not be revoked or modified. The Recipient has the right to appeal, in accordance with applicable regulations in 37 CFR Part 404 and National Park Service regulations (if any) concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of the license.

(f) Recipient Action to Protect the Government's Interest

(1) The Recipient agrees to execute or to have executed and promptly deliver to the National Park Service all instruments necessary to

(i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the Recipient elects to retain title, and

(ii) convey title to the National Park Service when requested under paragraph (d) above and to enable the government to obtain patent protection throughout the world in that subject invention.

(2) The Recipient agrees to require, by written agreement, its employees, other than clerical and non-technical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Recipient each subject invention made under agreement in order that the Recipient can comply with the disclosure provisions of paragraph (c), above, and to execute all papers necessary to file patent applications on subject inventions and to establish the government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by (c)(1), above. The Recipient shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Recipient will notify the National Park Service of any decisions not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.

(4) The Recipient agrees to include, within the specification of any United States patent applications and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with government support under (identify the agreement) awarded by (identify the Federal agency). The government has certain rights in the invention."

(g) Subcontracts. The Recipient will include this provision, suitably modified to identify the parties, in all sub-agreements or subcontracts, regardless of tier, for experimental, developmental or research work. The sub-recipient or subcontractor will retain all rights provided for the Recipient in this provision, and the Recipient will not, as part of the consideration for awarding the sub-agreement or subcontract, obtain rights in the sub-recipient's or subcontractor's subject inventions.

(h) Reporting on Utilization of Subject Inventions. The Recipient agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Recipient or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Recipient, and such other data and information as the National Park Service may reasonably specify. The Recipient also agrees to provide additional reports as may be requested by the National Park Service in connection with any march-in proceeding undertaken by the National Park Service in accordance with paragraph (j) of this provision. As required by 35 U.S.C. § 202(c)(5), the National Park Service agrees it will not disclose such information to persons outside the government without permission of the Recipient.

(i) Preference for United States Industry. Notwithstanding any other part of this provision, the Recipient agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject inventions in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the National Park Service upon a showing

by the Recipient or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) March-in Rights. The Recipient agrees that with respect to any subject invention in which it has acquired title, the National Park Service has the right in accordance with the procedures in 37 CFR § 401.6 and any supplemental regulations of the National Park Service to require the Recipient, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Recipient, assignee, or exclusive licensee refuses such a request the National Park Service has the right to grant such a license itself if the National Park Service determines that:

(1) Such action is necessary because the Recipient or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.

(2) Such action is necessary to alleviate health or safety needs, which are not reasonably satisfied by the Recipient, assignee or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Recipient, assignee or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this provision has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) Special Provisions for Agreements with Nonprofit Organizations.

If the Recipient is a nonprofit organization, it agrees that:

(1) Rights to a subject invention in the United States may not be assigned without the approval of the National Park Service, except where such assignment is made to an organization which has as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the Recipient;

(2) The Recipient will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when the National Park Service deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. § 202(e) and 37 CFR § 401.10;

(3) The balance of any royalties or income earned by the Recipient with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education; and

(4) It will make efforts that are reasonable under the circumstances to attract licensees of subject invention that are small business firms and that it will give a preference to a small business firm when licensing a subject invention if the Recipient determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; provided, that the Recipient is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the Recipient. However, the Recipient agrees that the National Park Service may review the Recipient's licensing program and decisions regarding small business applicants, and the Recipient will negotiate changes to its licensing policies, procedures, or practices with the National Park Service when this review discloses that the Recipient could take reasonable steps to implement more effectively the requirements of this paragraph (k)(4).

(l) Communication. Communications regarding matters relating to this provision shall be directed to the Deputy Associate Solicitor, Branch of Procurements and Patents, Office of the Solicitor, U.S. Department of the Interior, 1849 C Street NW, Washington, D.C. 20240.

ARTICLE XX - STRENGTHENING BUY-AMERICAN PREFERENCES FOR INFRASTRUCTURE PROJECTS PER E.O. 113858

Per Executive Order 113858, entitled "Strengthening Buy-American Preferences for Infrastructure Projects" the Recipient shall maximize, consistent with law, the use of iron and steel goods, products, and materials produced in the United States, for infrastructure projects as defined by the Executive Order when the statement of work includes alteration, construction, conversion, demolition, extension, improvement, maintenance, reconstruction, rehabilitation, or repair.

ARTICLE XXI - SECTION 508 OF THE REHABILITATION ACT OF 1973 (29 U.S.C. § 794 (d))

While the requirements of Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794d), do not apply to financial assistance agreements, the NPS is subject to the Act's requirements that all documents posted on an NPS or NPS-hosted website comply with the accessibility standards of the Act. Accordingly, final deliverable reports prepared under this agreement and submitted in electronic format must be submitted in a format whereby NPS can easily meet the requirements of Section 508 of the Rehabilitation Act of 1973, as amended. *NOTE: Quarterly Progress Reports and financial reports are not considered final deliverables and therefore the following requirements do not apply.*

All electronic documents prepared under this Agreement must meet the requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The Act requires that all electronic products prepared for the Federal Government be accessible to persons with disabilities,

including those with vision, hearing, cognitive, and mobility impairments. View [Section 508 of the Rehabilitation Act, Standards and Guidelines](#) for detailed information.

The following summarizes some of the requirements for preparing NPS reports in conformance with Section 508 for eventual posting by NPS to an NPS-sponsored website. For specific detailed guidance and checklists for creating accessible digital content, please go to [Section508.gov, Create Accessible Digital Products](#). All accessible digital content must conform to the requirements and techniques of the [Web Content Accessibility Guidelines \(WCAG\) 2.0 or later, Level AA Success Criteria](#).

a. Electronic documents with images

Provide a text equivalent for every non-text element (including photographs, charts and equations) in all publications prepared in electronic format. Use descriptions such as "alt" and "longdesc" for all non-text images or place them in element content. For all documents prepared, vendors must prepare one standard HTML format as described in this statement of work AND one text format that includes descriptions for all non-text images. "Text equivalent" means text sufficient to reasonably describe the image. Images that are merely decorative require only a very brief "text equivalent" description. However, images that convey information that is important to the content of the report require text sufficient to reasonably describe that image and its purpose within the context of the report.

b. Electronic documents with complex charts or data tables

When preparing tables that are heavily designed, prepare adequate alternate information so that assistive technologies can read them out. Identify row and column headers for data tables. Provide the information in a non-linear form. Markups will be used to associate data cells and header cells for data tables that have two or more logical levels of row and column headers.

c. Electronic documents with forms

When electronic forms are designed to be completed on-line, the form will allow people using assistive technology to access the information, field elements, and functionality required for completion and submission of the form, including all directions and cues.

ARTICLE XXII - GENERAL AND SPECIAL PROVISIONS

1. **Lobbying Prohibition.** 18 U.S.C. § 1913, Lobbying with Appropriated Moneys, as amended by Public Law 107-273, Nov. 2, 2002 Violations of this section shall constitute violations of section 1352(a) of title 31. In addition, the related restrictions on the use of appropriated funds found in Div. F, § 402 of the Omnibus Appropriations Act of 2008 (P.L. 110-161) also apply.
2. **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 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.

3. **Minority Business Enterprise Development.** Pursuant to Executive Order 12432 it is national policy to award a fair share of contracts to small and minority firms. NPS is strongly committed to the objectives of this policy and encourages all recipients of its Cooperative Agreements to take affirmative steps to ensure such fairness by ensuring procurement procedures are carried out in accordance with the Executive Order.
4. **Assignment.** No part of this Agreement shall be assigned to any other party without prior written approval of the NPS and the Assignee.
5. **Member of Congress.** Pursuant to 41 U.S.C. § 22, no Member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or adopted by or on behalf of the United States, or to any benefit to arise thereupon.
6. **Agency.** The Recipient is not an agent or representative of the United States, the Department of the Interior, or the NPS, nor will the Recipient represent itself as such to third parties. NPS employees are not agents of the Recipient and will not act on behalf of the Recipient.
7. **Non-Exclusive Agreement.** This Agreement in no way restricts the Recipient or NPS from entering into similar agreements, or participating in similar activities or arrangements, with other public or private agencies, organizations, or individuals.
8. **Partial Invalidity.** If any provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement or the application of such provision to the parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
9. **No Employment Relationship.** This Agreement is not intended to and shall not be construed to create an employment relationship between NPS and Recipient or its representatives. No representative of Recipient shall perform any function or make any decision properly reserved by law or policy to the Federal government.
10. **No Third-Party Rights.** This Agreement creates enforceable obligations between only NPS and Recipient. Except as expressly provided herein, it is not intended nor shall it be construed to create any right of enforcement by or any duties or obligation in favor of persons or entities not a party to this Agreement.
11. **Program Income.** If the Recipient earns program income, as defined in 2 CFR § 200.80, during the period of performance of this agreement, to the extent available the Recipient must disburse funds available from program income, and interest earned on such funds, before requesting additional cash payments (*2 CFR § 200.305 (5)*). As allowed under 2 CFR § 200.307, program income may be added to the Federal award by the Federal agency and the non-Federal entity. The program income must be used for the purposes,

and under the conditions of, the Federal award. Disposition of program income remaining after the end of the period of performance shall be negotiated as part of the agreement closeout process.

12. **Rights in Data.** The Recipient must grant the United States of America a royalty-free, non-exclusive and irrevocable license to publish, reproduce and use, and dispose of in any manner and for any purpose without limitation, and to authorize or ratify publication, reproduction or use by others, of all copyrightable material first produced or composed under this Agreement by the Recipient, its employees or any individual or concern specifically employed or assigned to originate and prepare such material.

13. **Conflict of Interest**

(a) Applicability.

- (1) This section intends to ensure that non-Federal entities and their employees take appropriate steps to avoid conflicts of interest in their responsibilities under or with respect to Federal financial assistance agreements.
- (2) In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict of interest provisions in 2 CFR § 200.318 apply.

(b) Requirements.

- (1) Non-Federal entities must avoid prohibited conflicts of interest, including any significant financial interests that could cause a reasonable person to question the recipient's ability to provide impartial, technically sound, and objective performance under or with respect to a Federal financial assistance agreement.
- (2) In addition to any other prohibitions that may apply with respect to conflicts of interest, no key official of an actual or proposed recipient or subrecipient, who is substantially involved in the proposal or project, may have been a former Federal employee who, within the last one (1) year, participated personally and substantially in the evaluation, award, or administration of an award with respect to that recipient or subrecipient or in development of the requirement leading to the funding announcement.
- (3) No actual or prospective recipient or subrecipient may solicit, obtain, or use non-public information regarding the evaluation, award, or administration of an award to that recipient or subrecipient or the development of a Federal financial assistance opportunity that may be of competitive interest to that recipient or subrecipient.

(c) Notification.

- (1) Non-Federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to the DOI awarding agency or pass-through entity in accordance with 2 CFR § 200.112, Conflicts of interest.
- (d) Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest. The recipient is responsible for notifying the Financial Assistance Officer in writing of any conflicts of interest that may arise during the life of the award, including those that have been reported by subrecipients. Restrictions on Lobbying. Non-Federal entities are strictly prohibited from using funds under this grant or cooperative agreement for lobbying activities and must provide the required certifications and disclosures pursuant to 43 CFR Part 18 and 31 USC § 1352.
- (e) Review Procedures. The Financial Assistance Officer will examine each conflict of interest disclosure on the basis of its particular facts and the nature of the proposed grant or cooperative agreement, and will determine whether a significant potential conflict exists and, if it does, develop an appropriate means for resolving it.
- (f) Enforcement. 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 for Noncompliance, including suspension or debarment (see also 2 CFR Part 180).

ARTICLE XXIII – SIGNATURES

Recipients are NOT required to sign the Notice of Financial Assistance Award letter or any other award document. As per DOI standard award terms and conditions, the recipient's acceptance of a financial assistance award is defined as the start of work, drawing down funds, or accepting the award via electronic means.

ARTICLE XXIV – ATTACHMENTS

The following completed documents are attached to and made a part of this Agreement by reference:

- Attachment A. LWCF General Provisions
- Attachment B. LWCF Federal Financial Assistance Manual (v. 71, March 11, 2021)
- Attachment C. SF-424 – Application for Federal Assistance
- Attachment D. SF-424C – Budget Information for Construction Programs
- Attachment E. SF-424D – Assurances for Construction Programs
- Attachment F. Project Application and Attachments
- Attachment G. 36 C.F.R. Part 59

ATTACHMENT A
LWCF GENERAL PROVISIONS

Part I – Definitions

- A. The term "NPS" as used herein means the National Park Service, United States Department of the Interior (DOI).
- 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 "Secretary" as used herein means the Secretary of the Interior, or any representative lawfully delegated the authority to act for such Secretary.
- D. The term "State" as used herein means the State, Territory, or District of Columbia that is a party to the grant agreement to which these general provisions are attached, and, when applicable, the political subdivision or other public agency to which funds are to be subawarded 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 political subdivision or public agency, except where it is clear from the nature of the term, condition, obligation, or requirement that it applies solely to the State. For purposes of these provisions, the terms "State," "grantee," and "recipient" are deemed synonymous.
- E. The term "Land and Water Conservation Fund" or "LWCF" as used herein means the Financial Assistance to States section of the LWCF Act (Public Law 88-578, 78 Stat 897, codified at 54 U.S.C. § 2003), which is administered by the NPS.
- F. The term "Manual" as used herein means the Land and Water Conservation Fund State Assistance Program Manual, Volume 71 (March 11, 2021).
- G. The term "project" as used herein refers to an LWCF grant, which is subject to the grant agreement and/or its subsequent amendments.

Part II - Continuing Assurances

The parties to the grant agreement specifically recognize that accepting LWCF assistance for the project creates an obligation to maintain the property described in the agreement and supporting application documentation consistent with the LWCF Act and the following requirements.

Further, it is the acknowledged intent of the parties hereto that recipients of LWCF assistance will use the monies granted hereunder for the purposes of this program, and that assistance granted from the LWCF 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 the LWCF assistance will be added to, rather than replace or be substituted for, the State and/or local outdoor recreation funds.

- A. The State agrees, as the recipient of the LWCF assistance, that it will meet these LWCF General Provisions, and the terms and provisions as contained or referenced in, or attached to, the NPS grant agreement and that it will further impose these terms and provisions upon any political subdivision or public agency to which funds are subawarded pursuant to the grant agreement. The State also agrees that it shall be responsible for compliance with the terms and provisions of the 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.

- B. The State agrees that the property described in the grant agreement and depicted on the signed and dated project boundary map made part of that agreement is being acquired or developed with LWCF 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 property leased from a federal agency. The Secretary shall approve such a conversion only if it is found to be in accord with the then existing statewide comprehensive 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 (54 U.S.C. 200305(f)(3)). The LWCF post-completion compliance regulations at 36 C.F.R. Part 59 provide further requirements. The replacement land then becomes subject to LWCF protection. The approval of a conversion shall be at the sole discretion of the Secretary, or her/his designee.

Prior to the completion of this project, the State and the Director may mutually agree to alter the area described in the grant agreement and depicted in the signed and dated project boundary map to provide the most satisfactory public outdoor recreation unit, except that acquired parcels are afforded LWCF protection as soon as reimbursement is provided.

In the event the NPS provides LWCF 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 use as a result of such right or interest being exercised will occur. In receipt of this approval, the State agrees to notify the NPS 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 the program regulations. The provisions of this paragraph are also applicable to: leased properties developed with LWCF 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 NPS; and properties subject to other outstanding rights and interests that may result in a conversion when known and agreed to by the NPS.

- 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 and quantity of public outdoor recreation facilities and resources that 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 request as described in Part 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 grant agreement.
- E. The State agrees that the property and facilities described in the grant agreement shall be operated and maintained as prescribed by Manual requirements and published post-completion compliance regulations (36 C.F.R Part 59).
- 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 grant agreement and the signed and dated project boundary map made part of that agreement, has been acquired or developed with LWCF assistance and that it cannot be converted to other than public outdoor recreation use without the written approval of the Secretary as described in Part II.B above.
- 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 Section V of the Department of the Interior Standard Award Terms and Conditions.
 - 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 54 U.S.C. § 200305(i) and the Manual.

Part III - Project Assurances

A. Project Application

- 1. The Application for Federal Assistance bearing the same project number as the Grant 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.

B. Project Execution

1. The State shall transfer to the project sponsor identified in the Application for Federal Assistance all funds granted hereunder except those reimbursed to the State to cover eligible expenses derived from a current approved negotiated indirect cost rate agreement.
2. 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.
3. 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.
4. 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.
5. In the event the project 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 her/his designee in accord with Section III.C below.
6. As referenced in the DOI Standard Terms and Conditions, the State will ensure the project's compliance with applicable federal laws and their implementing regulations, including: the Architectural Barriers Act of 1968 (P.L. 90-480) and DOI's Section 504 Regulations (43 CFR Part 17); the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) and applicable regulations; and the Flood Disaster Protection Act of 1973 (P.L. 93-234).
7. The State will comply with the provisions of: Executive Order (EO) 11988, relating to evaluation of flood hazards; EO 11288, relating to the prevention, control, and abatement or water pollution, and EO 11990 relating to the protection of wetlands.
8. The State will assist the NPS in its compliance with Section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. § 306108) and the Advisory Council on Historic Preservation regulations (36 C.F.R. Part 800) by adhering to procedural requirements while considering the effect of this grant award on historic properties. The Act requires federal agencies to take into account the effects of their undertaking (grant award) on historic properties by following the process outlined in regulations. That process includes (1) initiating the process through consultation with the State Historic Preservation Officer and others on the undertaking, as necessary, by (2) identifying historic properties listed on or eligible for inclusion on the National Register of Historic Places that are subject to effects by the undertaking, and notifying the NPS of the existence of any such properties, by (3) assessing the effects of the undertaking upon such properties, if present, and by (4)

resolving adverse effects through consultation and documentation according to 36 C.F.R. §800.11. If an unanticipated discovery is made during implementation of the undertaking, the State in coordination with NPS shall consult per provisions of 36 C.F.R. §800.13.

9. The State will assist the NPS in its compliance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. §4321 et seq) and the CEQ regulations (40 C.F.R. §1500-1508), by adhering to procedural requirements while considering the consequences of this project on the human environment. This Act requires Federal agencies to take into account the reasonably foreseeable environmental consequences of all grant-supported activities. Grantees are required to provide the NPS with a description of any foreseeable impacts to the environment from grant-supported activities or demonstrate that no impacts will occur through documentation provided to the NPS. The applicant must submit an Application & Revision Form in order to assist the NPS in determining the appropriate NEPA pathway when grant-assisted development and other ground disturbing activities are expected. If a Categorical Exclusion (CE) is the appropriate NEPA pathway, the NPS will confirm which CE, according to NPS Director's Order 12, applies.

C. 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 NPS.
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 with the NPS.
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 NPS 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 NPS be returned.

D. Project Closeout

1. The State will determine that all applicable administrative actions, including financial, and all required work as described in the grant agreement has been completed by the end of the project's period of performance.
2. Within 120 calendar days after completing the project or following the Expiration Date of the period of performance, whichever comes first, the State will submit all required documentation as outlined in the Manual and the Federal Financial Report (SF-425) as outlined in Article XIV of this Agreement for approval by the NPS prior to requesting final reimbursement.
3. After review, including any adjustments, and approval from the NPS, the State will request through ASAP the final allowable payment of reimbursable costs. The State will submit a completed "LWCF Record of Electronic Payment" form to the NPS within 24 hours (before or after) of initiating the request for payment in ASAP.
4. The NPS retains the right to disallow costs and recover funds on the basis of later audit or other review within the record retention period.



48-01204, County of Hildago - Memorial
(Sunflower) Park

Edinburgh, Hildago County, Texas

Proposed Federal Action:

Approval of a Land and Water Conservation Fund grant to develop a regional facility by Hildago County with basketball courts, soccer fields and bleachers and site amenities such as benches and trash cans installations, concrete edge trails, exercise stations, lighting installation, playground expansion with surfacing, shade and splashpad installation with mechanical and equipment storage, pavilion construction, picnic table and grill installation, parking lot renovation with solar lighting and landscaping and irrigation, site preparation, grading, demolitions, pre-planning and professional services at Memorial (Sunflower) Park.

Categorical Exclusion


On the basis of the environmental impact information in the LWCF grant file, including the public and agency involvement documented on the associated Proposal Description and Environmental Screening Form, I am categorically excluding the described project from further NEPA analysis. The action is fully described in NPS DO-12, Section 3.3 F(5) which states:

F(5)Grants for the construction of new facilities within an existing park or recreation area, provided that the facilities will not: a) conflict with adjacent ownerships or land use, or cause a nuisance to adjacent owners or occupants, e.g., extend use beyond daylight hours; b) introduce motorized recreation vehicles; c) introduce active recreation pursuits into a passive recreation area; d) increase public use or introduce noncompatible uses to the extent of compromising the nature and character of the property or causing physical damage to it; or e) add or alter access to the park from the surrounding area.

None of the exceptional circumstances described in NPS DO-12, Section 3.5 apply to this project.

ROGER KNOWLTON

**Roger A. Knowlton, Chief, Recreation Grants
Midwest Region**

 Digitally signed by ROGER KNOWLTON
Date: 2021.09.20 19:17:44 -05'00'

Date



United States Department of the Interior

NATIONAL PARK SERVICE

601 Riverfront Drive
Omaha, NE 68102

IN REPLY REFER TO:
10.B(2550)

May 20, 2021

L32(MWR-LWCF)

Mr. Dan Reece
Alternate State Liaison Officer
Texas Parks and Wildlife Department
4200 Smith School Road
Austin, Texas 78744-3291

Dear Mr. Reece:

This letter is in response to your requests for a waiver of retroactivity for the following Texas projects. I am granting approval for your waiver of retroactive requests to preserve the eligibility of expenses incurred while the applications for Land and Water Conservation Fund grants are pending.

48-01190 City of Rio Hondo Boat Ramp Park
48-01198 Cameron County Santa Rosa
Community Park

48-01204 Hidalgo County Memorial
(Sunflower) Park

Retractive costs are not reimbursable or allowable as match under ordinary circumstances. This developmental waiver of retroactivity is allowable because Tribal consultation has taken place, Section 106 of the National Historic Preservation Act is complete, NEPA requirements have been met and the National Park Service is currently unable to administratively process these grants in our system.

The start date for the listed grants will be May 20, 2021.

Sincerely,

KELLY
PEARCE

Digitally signed by
KELLY PEARCE
Date: 2021.05.20
17:09:30 -05'00'

Kelly A. Pearce
Awarding Officer
State & Local Assistance Programs

TEXAS PARKS AND WILDLIFE DEPARTMENT
Hidalgo County Memorial (Sunflower) Park
48-01204

BUDGET NARRATIVE

The project total for the Hidalgo County Memorial (Sunflower) Park is \$2,196,714 with a 50% match contribution of \$1,223,357 and a grant request of \$1,223,357. The match is provided by Hidalgo County.

Professional services total \$250,000 and include: \$100,000 for park design services, \$100,000 for engineering, and \$50,000 for materials testing. This is less than 12% of construction costs. There is a pre-agreement date of August 1, 2019.

Construction costs total \$2,196,714 and include: \$148,500 for site preparation, grading, and demolition, and \$2,048,214 for development. The development at the park site is substantial. While the park is partially developed, the \$2,048,214 will transform the space into a regional facility by including: basketball (\$50,070); soccer (\$60,600); bleachers and site amenities such as benches and trash cans (\$50,000); a walking trail (\$95,500) with concrete edging (\$64,050), exercise stations (\$10,000), and lighting (\$291,000); expanded play areas including a playground (\$128,800) and an accessible playground (\$135,000) with surfacing (\$225,000) and shade (\$15,000); a splashpad (\$285,526) with mechanical and equipment storage (\$35,250); pavilions (\$75,000) with picnic tables and grills (\$25,500); landscaping and irrigation (\$229,255); and parking lot renovations (\$146,838) with solar lighting (\$50,775).

Construction costs were developed through an opinion of probable cost provided by a licensed engineer.

There are no land acquisition costs.

Type of Cost	Cost
Professional Services	\$250,000
Construction/Development	\$2,196,714
Land Acquisition	NA

Project Funding Source	Entity	Amount
Grant Assistance	LWCF	\$1,223,357
Required Match	Hidalgo Couty	\$1,223,357
	<i>Total</i>	\$2,196,714

BUDGET SUMMARY

PROJECT: Hidalgo County Memorial (Sunflower) Park

PROJECT NUMBER: 48-01204

		ESTIMATE
1. <u>PROFESSIONAL SERVICES</u>		
Design Services		100,000.00
Engineering Services		100,000.00
Testing Services	\$	50,000.00
Limited to 12% of Construction Costs		
Pre-agreement Date: 8/1/2019		
2. <u>CONSTRUCTION ELEMENTS</u>		
Site Preparation, Grading, Demo	\$	148,500.00
Basketball	\$	50,070.00
Soccer	\$	60,600.00
Bleachers & Site Amenities	\$	50,000.00
Baseball/Softball Field	\$	75,000.00
Walking Trail	\$	95,500.00
Concrete Edging for Trail	\$	64,050.00
Lighting	\$	291,000.00
Accessible Playground	\$	135,000.00
Playground	\$	128,800.00
Playground Surfacing	\$	225,000.00
Pavilions	\$	75,000.00
Picnic Tables & Grills	\$	25,550.00
Splashpad	\$	285,526.00
Mechanical Storage	\$	35,250.00
Landscaping and Irrigation	\$	229,255.00
Parking Lot Renovation	\$	146,838.00
Parking Solar Lights	\$	50,775.00
Exercise Equipment	\$	10,000.00
Playground Shade	\$	15,000.00
Construction Cost	\$	2,196,714.00
Less Retainage	\$	-
TOTAL CONSTRUCTION	\$	2,196,714.00
3. <u>LAND ACQUISITION</u>		
	\$	-
TOTAL PROJECT COST	\$	2,446,714.00
Match:	\$	1,223,357.00