

**CITY OF SAN ANTONIO
INTERDEPARTMENTAL MEMORANDUM
PARKS AND RECREATION DEPARTMENT**

TO: Mayor and City Council

FROM: Malcolm Matthews, Director, Parks and Recreation Department

THROUGH: Terry M. Brechtel, City Manager

COPIES: Christopher J. Brady; Finance; Management and Budget; Legal; File

SUBJECT: Ordinance Authorizing the Acquisition of .36 Acres of Property Adjacent to Eisenhower Park

DATE: February 12, 2004

SUMMARY AND RECOMMENDATIONS

This ordinance ratifies the submission of an application to acquire .36 acres of property adjacent to Eisenhower Park in City Council District 8 from the National Park Service, through the Federal Lands to Parks Program, at no cost to the City.

Staff recommends approval of this ordinance.

BACKGROUND INFORMATION

The National Park Service contacted the Parks and Recreation Department to inquire whether the City would be interested in acquiring a parcel of .36 acres that is adjacent to Eisenhower Park, located at 19299 N.W. Military Drive in City Council District 8. The property is adjacent to Camp Bullis and has been identified as surplus property by the General Services Administration. The property must be designated as park land and is available at no cost to the City. Staff investigated the property and determined that it will be appropriate to use the property as access to Eisenhower Park. Part of the parcel intersects N.W. Military Drive.

Staff has submitted the required application to the National Park Service, Southeast Regional Office. Upon approval of the City's application and transfer of the property, then the City will become responsible for development, maintenance and operation of the property for public park use.

POLICY ANALYSIS

This acquisition is consistent with the adopted San Antonio Parks and Recreation System Plan published in 1999. The availability and acquisition of appropriate property donated from

public and private resources is a standard methodology to supplement the City's inventory of park land.

FISCAL IMPACT


The National Park Service has indicated that there is no cost to acquire the property. However, should any administrative expenses incident to the transfer occur, they will be paid from the Parks and Recreation Department's operating budget.

COORDINATION

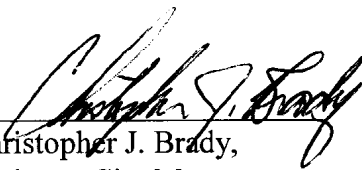
The City Attorney's Office has assisted with this item.

SUPPLEMENTARY COMMENTS

A Discretionary Contracts Disclosure Form is not required.




Malcolm Matthews,
Director of Parks and Recreation



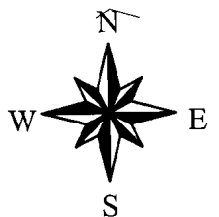
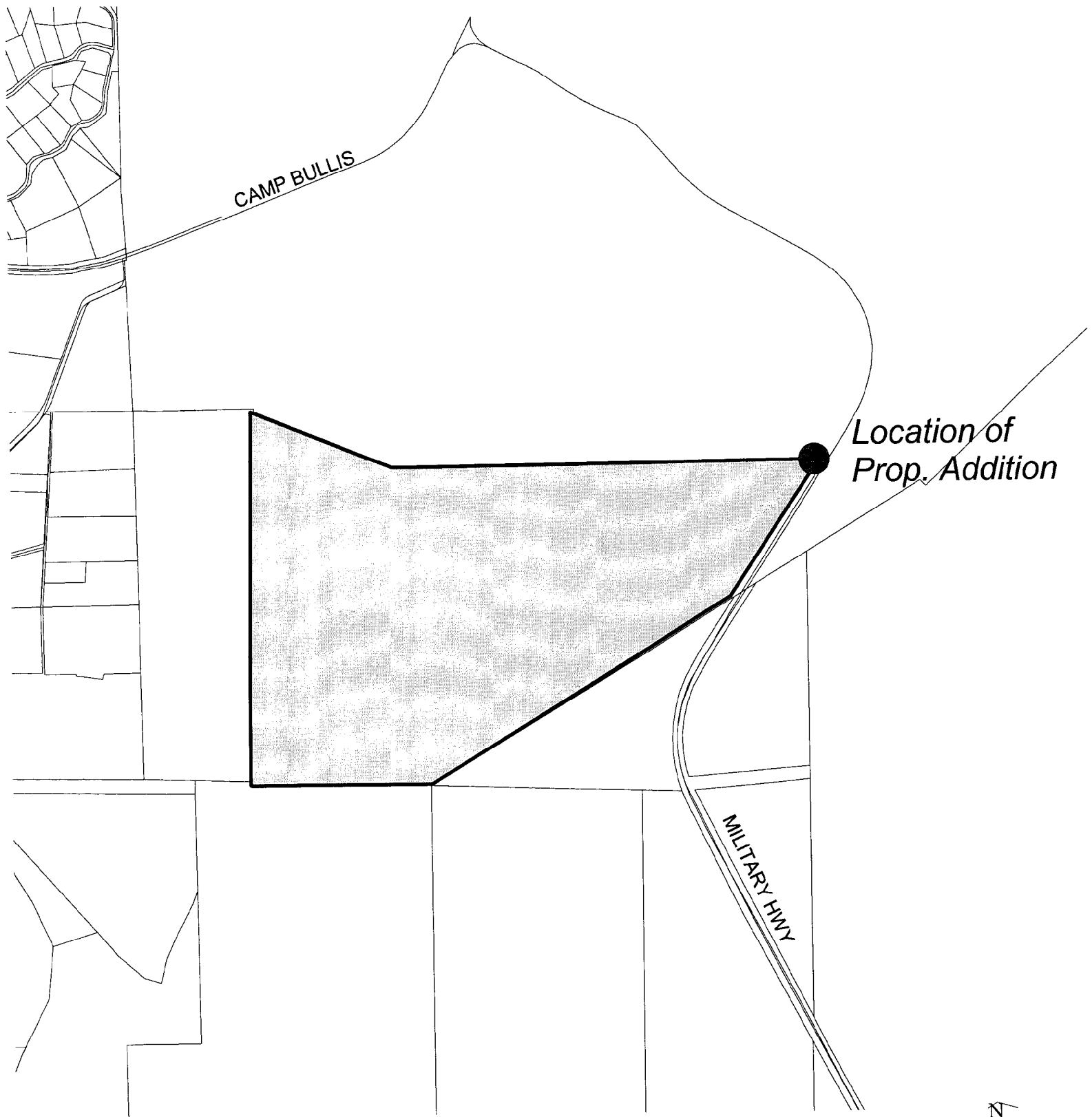
Christopher J. Brady,
Assistant City Manager

Approved:



Terry M. Brechtel
City Manager

Site Map Eisenhower Park





CITY OF SAN ANTONIO

P. O. BOX 839966

SAN ANTONIO, TEXAS 78283-3966

January 15, 2004

Mr. William L. Huie, Program Manager
Federal Lands to Parks Southeast Region
National Park Service
Sam Nunn Atlanta Federal Center
1924 Building
100 Alabama Street, S.W.
Atlanta, Georgia 30303

Re: GSA Control Number 7-D-TX-0474-EO

Dear Mr. Huie,

Please find attached one original and two copies of our application of interest for the portion of Camp Bullis, Bexar County, Texas. The City of San Antonio, Parks and Recreation Department, remains interested in obtaining this parcel of property to access our Eisenhower Park.

Please contact me at (210) 207-2872 should you need additional information, and coordinate the completion of this transfer, should our application be accepted.

Sincerely,

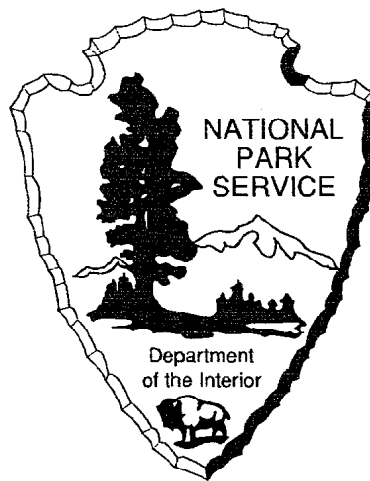
A handwritten signature in black ink, appearing to read "Scott E. Stover", with a large, sweeping flourish underneath.

Scott E. Stover, ASLA
Park Projects Manager
Parks and Recreation Department

NATIONAL PARK SERVICE

Federal Lands to Parks Program

Application



U.S. Department of the Interior
National Park Service
Southeast Region
100 Alabama Street, S.W.
Atlanta, Georgia 30303-8701
404-562-3175



Part A:

Acceptance of Terms and Conditions by the Applicant

Date: January 14, 2004

To: U.S. Department of the Interior, National Park Service, Mr. Bill Huie;
Southeast Regional Office; 100 Alabama St., S.W.; Atlanta, GA; 30303-8701,

The undersigned,

City of San Antonio, Parks and Recreation Department.

Hereinafter referred to as the Applicant or Grantee, acting by and through

Mr. Malcolm Matthews, Director, Parks and Recreation Department,

City of San Antonio

114 W. Commerce, 11th Floor

San Antonio, Texas

78205,

hereby makes application to the U.S. Department of the Interior, National Park Service, acting for and on behalf of the Secretary of the Interior pursuant to Section 203(k)(2) of the Federal Property and Administrative Services Act of 1949, as amended [40 U.S.C. § 484(k)(2)], and in accordance with the regulations and policies of the U.S. Department of the Interior for the transfer of the following property which has been declared surplus by the General Services Administration

And is subject to assignment to the National Park Service for disposal for public park or recreational purposes:

Property:
Portion of Camp Bullis; Bexar County, Texas

Acres: 0.36 acres

General Services Administration Control Number: 7-D-TX-0474-EO

The property is more fully described in Part B of this application, attached hereto and made a part thereof. Enclosed herewith as Part C of the application is a resolution or certified statement showing the authority of the undersigned to execute this application and to do all other acts necessary to consummate the transaction.

Part B:

Justification for Acquiring Property

1. Description of Property

The property is a small triangular tract of land at the end of N.W. Military Drive, and at the entrance gate to Camp Bullis. The entrance driveways to Eisenhower Park lies within this tract of land. The tract has been developed with roadway and driveways. A map and legal description previously provided are attached.

2. Program of Utilization

The property will continue to be used for access to the Eisenhower Park, which is currently developed as a nature park, but also has playgrounds, pavilions, picnic facilities, and other general park development. There would be no further development of the parcel, as it is already developed with roadway and driveways.

3. Need

The current and future need of the property will be to maintain access to the heavily used Eisenhower Park.

4. Suitability

The parcel is already developed with roadway and access driveways to Eisenhower Park and this function will remain unchanged after property transfer.

5. Capability

The parcel is minor in size to the existing Eisenhower Park, which is 323 acres, which the City currently owns and maintains.

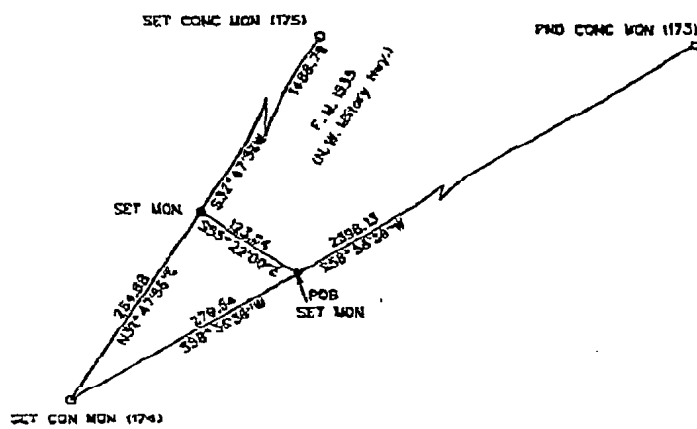
Part C:

Resolution/Certification of Authority to Acquire Property

An ordinance authorizing this action by the City Council, is in progress.

Camp Bullis Military Reservation

NORTH



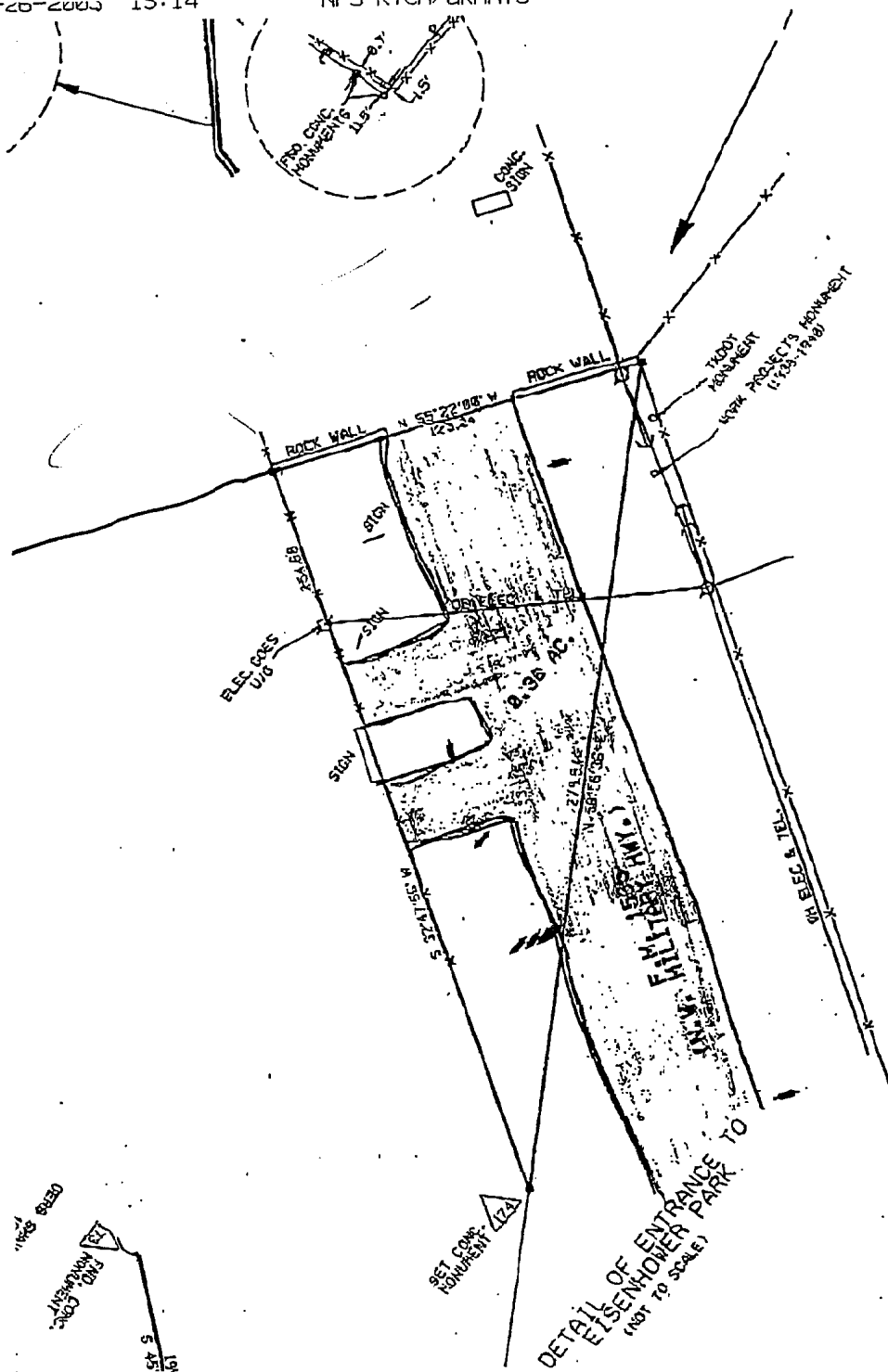
U. S. Army Corps of Engineers

Camp Bullis
Entrance to Eisenhower Park

0.35 Acres

Date 8-12-2003

Scale 1" = 200 Feet



Camp Bullis
Bexar County, Texas

Owner: United States of America

Acres: 0.36

Being a parcel of land situated in the County of Bexar, State of Texas and being a part of the original acquisition of Camp Bullis and more particularly described as follows;

Commencing at a found concrete monument numbered 173, THENCE South $58^{\circ}56'36''$ West, a distance of 2398.13 feet to a monument set for the Northeast corner of this parcel and the POINT OF BEGINNING;

THENCE South $58^{\circ}56'36''$ West, a distance of 279.54 feet to a monument set, numbered 174, for the Southwest corner of this parcel;

THENCE North $32^{\circ}47'56''$ East, 254.88 feet to a monument set for the Northwest corner of this parcel;

THENCE South $55^{\circ}22'00''$ East, 123.24 feet to the POINT OF BEGINNING, and containing 0.36 acres, more or less.

TOTAL P.04

Received 11-26-03 13:37

From-

To-PARKS AND RECREATION Page 04

The following agreement is made by the Applicant in consideration of and for the purpose of obtaining the transfer of any or all property covered by this application, and the Applicant recognizes and agrees that any such transfer will be made by the United States of America in reliance on said agreement. The undersigned understands and agrees that the application is made and the property is conveyed subject to the following terms and conditions which may be enforced through a reversionary right in the property reserved to the United States of America:

1. This application and its acceptance by the National Park Service shall constitute the entire agreement between the Applicant and the United States of America, unless modified and approved in writing by both parties. This agreement becomes binding only once the instrument of conveyance for the property is duly recorded by the Applicant.
2. The description of the property set forth herein is believed to be correct, but any error or omission shall not constitute ground or reason for nonperformance of the agreement resulting from the acceptance of this application.
3. The Applicant understands and agrees that the property is to be conveyed "as is" and "where is" without representation, warranty, or guaranty as to quantity, quality, character, condition, size, or kind, or that the same is in condition or fit to be used for the purpose intended and no claim for any adjustment upon such grounds will be considered after this application has been accepted.
4. The Applicant agrees to assume constructive possession of the property upon receipt of written notification from the National Park Service. Should the Applicant fail to assume constructive possession of the property, it shall nonetheless be charged with constructive possession upon receipt of such notification from the National Park Service.
5. At the date of assumption of constructive possession of the property, or the date of conveyance, which ever occurs first, the Applicant shall assume responsibility for any general and special real and personal property taxes, which may have been or may be assessed on the property, and to prorate sums paid, or due to be paid, by the United States of America in lieu of taxes; and for care and handling and all risks of loss or damage to the property, and have all obligations and liabilities of ownership.
6. If a purchase price is due, the Applicant shall tender the purchase price to the United States of America on a mutually agreeable date after the property has been assigned to the National Park Service.

7. Conveyance of the property shall be accomplished by an instrument, or instruments, in a form satisfactory to the National Park Service without warranty, express or implied, and shall contain substantially, but may not be limited to, the following reservations, restrictions, and conditions:

(a) The Grantee shall forever use the property exclusively for public park and recreational use in accordance with its application for property, particularly the Program of Utilization contained in Part B of the application, and approved amendments thereto, as provided below.

(b) The Program of Utilization contained in Part B of the application may be amended only for the continued use of the property for public park or recreational purposes at the request of either the Grantee or the National Park Service with the written concurrence of the other party. Such amendments will be added to and become a part of the original application and of this Quitclaim Deed, and shall be consistent with purposes for which the property was originally transferred. The Grantee shall furnish any documentation, maps, photographs, studies, and other information to support the request as requested by the National Park Service to evaluate any proposed use or development of the property.

(c) The property shall not be sold, leased, assigned, or otherwise disposed of except to another eligible governmental agency that the National Park Service agrees in writing can assure the continued use and maintenance of the property for public park or recreational purposes subject to the same terms and conditions in the original instrument of conveyance. Any mortgage, lien, or any other encumbrance not wholly subordinate to the reverter interest of the Grantor shall constitute an impermissible disposal. However, this provision shall not preclude the Grantee and its successors or assigns from issuing revenue or other bonds related to the use of the property to the extent that such bonds shall not in any way restrict, encumber, or constitute a lien on the property, or from providing related recreational facilities and services consistent with the approved application through concession agreements, permits, and licenses entered into with third parties, provided prior concurrence to such agreements is obtained in writing from the National Park Service.

(d) The Grantee shall, within three months of the date of the recording of the instrument of conveyance, erect and forever maintain a conspicuous sign or signs near the principal point or points of access to the property that states: "The National Park Service, U.S. Department of the Interior, donated this land to the *name of Grantee* for public recreational use through the Federal Lands to Parks Program."

(e) Beginning two years from the date of conveyance, the Grantee shall prepare biennial reports describing the development and use of the property, and any revenue generated from its operation during the preceding two-year period. The Grantee shall prepare and submit ten consecutive biennial reports to the appropriate National Park Service office and further as the National Park Service may determine to be necessary.

(f) All revenue received by the Grantee through concession agreements, use permits, or other fees generated by activities on the property shall be used only for the implementation of an approved Program of Utilization or the operation of park and recreation facilities and programs on the property. After the Program of Utilization is completed, and as long as the property is properly and sufficiently operated and maintained, the revenue may be used only for other public park and recreational purposes by the Grantee. Any revenue received by the Grantee which is generated through the operation of the property shall be listed and accounted for in its biennial reports to the National Park Service.

(g) The Grantee further covenants and agrees for itself, its successors, and assigns, to comply with the provisions of the Federal Disaster Protection Act of 1973 (87 Stat. 975); Executive Order 11988, relating to the evaluation of flood hazards; Executive Order 11288, relating to the prevention, control, and abatement of water pollution; and Executive Order 11990, relating to the protection of wetlands, where and to the extent said Act and Orders are applicable to the property herein conveyed, and the Grantee shall be subject to any use restrictions issued under said Act and Orders.

(h) The Grantee further covenants and agrees for itself, its successors and assigns, to comply with all Federal laws relating to nondiscrimination in connection with any use, operation, program, or activity on or related to the property requested in this application, including, but not limited to:

All requirements imposed by or pursuant to the regulations of the U.S. Department of the Interior (43 C.F.R. Part 17);

Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d-1), which prohibits discrimination on the basis of race, color, or national origin;

The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.), which prohibits discrimination on the basis of age;

Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicap;

The Architectural Barriers Act of 1968, as amended (82 Stat. 718), which requires facilities located on the property to be accessible to the physically handicapped; and

The Americans with Disabilities Act of 1990 (104 Stat. 337), which requires that no otherwise qualified handicapped individual shall, solely by reason of his or her handicap, be excluded from the participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

The Applicant further agrees to require any other person or entity who, through contractual or other arrangements with the Applicant, is authorized to provide services or benefits on or in connection with the property requested herein, and to promptly take and continue to take such action as may be necessary to effect this agreement.

(i) Title to the property transferred shall revert to the United States of America at its option for non-compliance with any of the terms and conditions of the conveyance. In the event that there is a breach of any of the conditions and covenants herein contained by the Grantee, its successors and assigns, whether caused by legal or other inability of the Grantee, its successors and assigns, to perform said conditions and covenants, or otherwise, all right, title, and interest in and to the said premises shall revert to and become the property of the Grantor at its option which, in addition to all other remedies for such breach, shall have the right of entry upon said premises, and the Grantee, its successor and assigns, shall forfeit all right, title, and interest in said premises and in any and all of the tenements, hereditaments, and appurtenances thereunto belonging.

(j) The Grantee, by its acceptance of this deed, covenants and agrees for itself, and its successors and assigns, that in the event the Grantor exercises its option to revert all right, title, and interest in the property to the Grantor, or the Grantee voluntarily returns title to the property in lieu of a reverter, then the Grantee shall provide protection to and maintenance of said property at all times until such time as the title is actually reverted or returned to and accepted by the Grantor, including the period of any notice of intent to revert. Such protection and maintenance shall, at a minimum, conform to the standards prescribed by the General Services Administration in its Federal Property Management Regulations in effect at the time of the reversion. Prior to any such reversion, the Grantee further agrees to complete and submit to the Grantor an environmental assessment of the property that sufficiently documents and evaluates its condition in regard to the release of hazardous substances as defined under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended [42 U.S.C. § 9620(h)].

(k) The National Park Service, and any representative it may so delegate, shall have the right of entry upon said premises at all reasonable times to conduct inspections of the property for the purpose of evaluating the Grantee's compliance with the terms and conditions of the conveyance.

(l) The failure of the National Park Service, or any other agency of the United States, to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other right or remedy or the use of such right or remedy at any other time.

(m) The Grantee, its successors and assigns, shall hold harmless, defend, and indemnify the United States, its employees, agents, and representatives from and against any suit, claim, demand or action, liability, judgment, cost or other fee arising out of any claim for personal injury or property damage (including death, illness, or loss of or damage to property or economic loss) that arises from the Grantee's or the Grantee's agent's use or occupancy of the property and/or the Grantee's failure to comply with the terms of this deed.

(n) The United States of America shall have the right to reserve all oil, gas, and mineral rights in the property.

8. Any title evidence which may be desired by the Applicant will be procured by the Applicant at its sole expense. The National Park Service will, however, cooperate with the Applicant or its authorized agent in this effort and will permit examination and inspection of such deeds, abstracts, affidavits of title, judgments in condemnation proceedings, or other documents relating to the title of the premises and property involved as it may have available. The United States of America will not be obligated to pay for any expense incurred in connection with title matters or survey of the property.
9. The Applicant shall pay all taxes imposed on this transaction and shall obtain at its own expense and affix to all instruments of conveyance and security documents such revenue and documentary stamps as may be required by Federal and local law. All instruments of conveyance and security documents shall be recorded at the Applicant's expense within 30 days of their receipt in the manner prescribed by local recording statutes. The Applicant shall provide the National Park Service with a certified copy of the instrument of conveyance within 30 days of the date of recordation which indicates the date, location, and book and page number of its recording.
10. The Applicant agrees to comply with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470) by (a) consulting with the State Historic Preservation Officer and conducting investigations, as necessary, to identify sites and resources on the property listed on or eligible for nomination to the National Register of Historic Places, (b) notifying the National Park Service and

disposal agency of the existence of any such sites and resources, and (c) complying with the requirements of 36 C.F.R. Part 800, as established under the National Historic Preservation Act of 1966, as amended, to avoid or mitigate adverse effects on such sites and resources.

11. The National Park Service or disposal agency may require additional reservations, restrictions, and conditions in the instrument of conveyance to safeguard the interests of the United States of America, including covenants relating to environmental protection and historic preservation. The National Park Service will give the Applicant sufficient opportunity to review any additional requirements prior to the conveyance of title to the property.

I agree that the instrument effecting the transfer to the Applicant of any property covered by this application will contain provisions satisfactory to the United States of America, incorporating the substance of the foregoing agreement, with such provisions to consist of (1) a condition, coupled with a right reserved to the United States of America to cause the property to revert to the United States of America at its option in the event of any breach of such condition, and (2) a covenant running with the land. The Applicant understands that the United States of America shall have the right to seek judicial enforcement of this agreement, and that this agreement shall be binding upon the successors and assigns of the Applicant.

1.15.04
(Date of Application)


(Signature)

Malcolm Matthews

Director

(Title)

San Antonio Parks & Recreation Dept.
(Agency)

Acceptance by the United States of America

The foregoing application is hereby approved and accepted by and on behalf of the Secretary of the Interior for the United States of America this _____ day of _____, 2004.

(Signature)

Federal Lands to Parks Program Manager
(Title)

Southeast Regional Office
(Office)

National Park Service
U.S. Department of the Interior