

PUBLIC NOTICE

TO: COUNCIL MEMBERS AND CITIZENS

DATE: DECEMBER 26, 2012

RE: NOTICE OF **SPECIAL MEETING**: THURSDAY, DECEMBER 27, 2012

TIME: **5:00 P.M.**

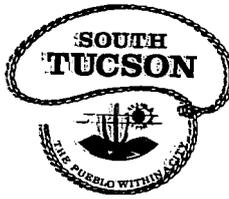
PLACE: CITY OF SOUTH TUCSON COUNCIL CHAMBERS, 1601 SOUTH 6TH AVENUE, SOUTH TUCSON, ARIZONA

NOTICE IS HEREBY GIVEN THAT A REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE CITY OF SOUTH TUCSON, ARIZONA IS SCHEDULED FOR **THURSDAY, DECEMBER 27, 2012 AT 5:30 P.M.** AT THE CITY HALL COUNCIL CHAMBERS LOCATED AT 1601 SOUTH 6TH AVENUE, SOUTH TUCSON, ARIZONA. A COPY OF THE AGENDA MAY BE OBTAINED BY CONTACTING THE CITY CLERK'S OFFICE.

VERONICA B. MORENO
CITY CLERK

FOR

JENNIFER ECKSTROM
MAYOR



**CITY OF SOUTH TUCSON
SPECIAL MEETING
THURSDAY, DECEMBER 27, 2012 5:00 P.M.**

TENTATIVE AGENDA

- 01 CALL TO ORDER
- 02 PLEDGE OF ALLEGIANCE
- 03 INVOCATION
- 04 ROLL CALL
- 05 APPROVAL OF MINUTES:
SPECIAL MEETING, DECEMBER 17, 2012
SPECIAL MEETING, (AMENDED) DECEMBER 10, 2012
- 06 HEARING PUBLIC HEARING AND DISCUSSION OF THE PROPOSED
ALTERNATIVE EXPENDITURE LIMITATION (HOME RULE OPTION)
- 07 RESOLUTION NO. 12-61 OF THE MAYOR AND COUNCIL OF THE CITY OF
SOUTH TUCSON, ARIZONA, APPROVING THE INTERGOVERNMENTAL
AGREEMENT [IGA] FOR ASSISTANCE IN THE PREPARATION AND CONDUCT
OF PRIMARY AND GENERAL ELECTIONS BETWEEN THE CITY OF SOUTH
TUCSON, ARIZONA [CITY] AND PIMA COUNTY RECORDER'S OFFICE
THROUGH THE DIVISION OF ELECTIONS [COUNTY RECORDER] PURSUANT
TO STATUTE AND AUTHORIZING EXECUTION OF THIS RESOLUTION, FOR
THE PURPOSE OF AUTHORIZING THE MAYOR OF THE CITY OF SOUTH
TUCSON TO EXECUTE SAID IGA AND DECLARING AN EMERGENCY TO EXIST
- 08 REPORTS
- 09 CALL TO THE AUDIENCE
- 10 ADJOURNMENT

*Please note that this tentative agenda may be changed prior to the scheduled meeting by modifying or deleting listed matters or adding new ones. Anyone interested in the final agenda for the meeting should contact the City Clerk's Office at (520) 792-2424 twenty-four (24) hours in advance of the meeting.

Minutes of the Regular Meeting of the Mayor and Council of the City of South Tucson, Arizona, held Monday, December 17, 2012, at 6:00 p.m. at the City of South Tucson Council Chambers, 1601 South 6th Avenue, South Tucson, Arizona.

Council Present: Jennifer Eckstrom
Pete Tadeo
Paul Diaz
Mary Soltero
Anita Romero

Staff Present: Enrique Serna, City Manager
Ruben Villa, Finance Director
Veronica Moreno, City Clerk
Richard Munoz, Police Chief
Marilyn Chico, Housing Director
Dennis Rankin, Police Dept.
Patrick Moran, City Attorney

Mayor Eckstrom called the meeting to order and led the Pledge of Allegiance.

ITEM #04 – ROLL CALL – All members of the Council were present except for Councilman Felix and Councilman Salaz, who were excused.

ITEM #04A – DISCUSSION AND APPROVAL OF STATUTORY PROVISIONS ALLOWING FOR TELEPHONE AND VIDEO COFERENCE PARTICIPATION IN COUNCIL MEETINGS WHEN UNABLE TO PARTICIPATE IN PERSON

Mr. Serna: This language that you see before you is, actually, we're going to ask you to table it because typically, the State likes to see policies and procedures in place before, it's done very rarely but in cases like tonight when we've got someone in the hospital, etc., that it might be beneficial. So we just suggest that you table.

Councilman Diaz: Madam Mayor.

Mayor Eckstrom: Councilman Diaz.

Councilman Diaz: Is this for discussion now?

Mr. Serna: Well, it's tabled. I mean we ...

Mayor Eckstrom: Do we have to have things in order with our own policy before we can act on this?

Mr. Serna: The State typically expects that.

Mr. Moran: We can have discussion if he wants since it was noticed on the agenda ...

Mayor Eckstrom: Okay.

Mr. Moran: ... for tonight so if there wants to be discussion by the Council, certainly it can be. And excuse me, Madam Mayor, members of the Council, my suggestion to the Council and also to the City Manager is that we develop a Mayor and Council guideline or rules for Mayor and Council, one of which would be this rule as far as what would be required to allow a member to appear telephonically. But that's something I think that we need to develop for the Council and also the Council has to have an opportunity to have input on it, as Mr. Diaz wants to tonight. And then later on, it can be brought back for the Mayor and Council approval.

Mayor Eckstrom: So it's up for discussion, something we don't have to act on tonight, since it's recommended that we don't, so it's up to you.

Councilman Diaz: So can I have discussion?

Mayor Eckstrom: Yes.

Councilman Diaz: Okay. It seems that the, we are (inaudible) the Council for spending public funds on ordinance that we got violated already by doing it this way, teleconferencing. Is that why we're doing this or why we're adding? You mentioned that he was in the hospital or somebody was in the hospital, but.

Mr. Serna: Madam Mayor, Councilman Diaz, members of the Council, we've never done this. It was contemplated that we have policy in case we ever had to do it regardless of what the excuse of the absence. There might be a matter of urgency that's required, that requires a super majority and (inaudible) so it's just something that was contemplated. It's never been invoked at all 'cause it doesn't exist.

Councilman Diaz: Well, the attendance is compelled by our own ordinances under Section 218 and 251, Sections 2 and 3, so we are covered in respect to those absences or excused absences.

Mayor Eckstrom: That's correct. But as other jurisdictions allow, they allow their members to call in. For example, the City of Tucson Mayor and Council, you're allowed to call in, be on the meeting telephonically. The Board of Supervisors does the same thing so it's not like we're creating this whole new thing that, you

know, just the City of South Tucson does. So, I mean we would be falling in line with our other jurisdictions in the County.

Mr. Moran: Correct. And Madam Mayor, and specifically Councilman Diaz, if the policy was something that we were going to go forward on, it's up to the body to vote on it. And so it isn't just that we're saying we're approving it, it would have to be approved by Mayor and Council to allow a member to appear telephonically or by video conference.

Councilman Diaz: But it's not a resolution.

Mr. Moran: No, it's not a resolution. It would be essentially at your bequest or at your request to allow a member to appear by telephonic or video conference.

Councilman Diaz: Is this each and every time?

Mr. Moran: That would be part of what the policy would state would be when it would be allowed, and what procedures would be for that. And so at this point, that has not been brought before this, so the, I don't think the issue is ripe at this point. However, there was discussion that a member of the Council may want to appear telephonically tonight, so it was put on the agenda. And before it was going to be allowed, it would have to have been voted by the members that were present today. And a majority vote would have had to have been required in order to allow that person to appear telephonically.

Councilman Diaz: Well, I guess why are we not enforcing these other ...

Mr. Serna: Madam, ...

Councilman Diaz: ... sections ...

Mr. Serna: ... Madam ...

Councilman Diaz: ... (inaudible)?

Mr. Serna: ... Council member Diaz, members of the Council, that's not on the agenda tonight. We can't talk about it. Your topic that you're raising now, it's not listed on the agenda. We can't talk about it. That's a completely different matter from what we're talking about, has nothing to do with what we're talking about.

Mr. Moran: And Madam Mayor and Councilman Diaz, if there, I will, just to briefly respond to your statement, if you believe that some conduct of the meetings is going against our Code or something, I would welcome you to alert me and make

me aware of what you think is being violated, and I certainly will look into it and give you an opinion.

Mayor Eckstrom: It's like any other process. If you want to be involved with the City and the processes, or if you think that there is something wrong, you need to bring it forward. You just, it needs to be stated. So your suggestion is to just have this informational discussion and leave it at that. Correct? City Attorney?

Mr. Moran: Yeah, because it has been called. So if there's a motion on it, then it can be tabled, it can be voted on tonight. But I don't think it's ripe at this point.

Mayor Eckstrom: Okay. So do I hear a motion to table Item 04A?

Motion by Vice-Mayor Tadeo to table the item. Seconded by Councilwoman Soltero. Motion passed unanimously.

ITEM #05 – APPROVAL OF MINUTES: SPECIAL MEETING, DECEMBER 10, 2012

Mr. Serna: Madam Mayor, members of the Council, I'd like the City Attorney to address some issues relative to that before the Mayor and Council takes a vote on the minutes.

Mr. Moran: Thank you. Madam Mayor, members of the Council, as everyone recalls, we had a vote last week on a rezoning case. And that rezoning case was number 12-002. According to the minutes, and also from the vote that took place, the vote was 3 to 2 to pass the rezoning. Councilman Diaz made a point, order, stating that he believed that the vote had to be a two-thirds vote because it was a rezoning. At that point, there was some further discussion. The Mayor had actually already, after the vote, had already stated on the record that the motion had passed. The discussion was made. Then essentially there was nothing else stated on the record as to the motion passing or failing. And then we moved on and the next rezoning case was tabled. Upon researching the matter, I found that the vote that was taken last week on that rezoning case actually did pass. And the reason that it did pass was because under the City Code Section 24-43d and also under Arizona Revised Statute 9-462.04(h), the only time a super majority or more than a majority vote is required in a zoning case is if 20% of the persons living within 150 feet of the proposed rezoning file an objection with the City to object to the rezoning. In this particular matter, there was no dissents or there was no opposition to the rezoning that were filed with the City within the time frame. And in fact, it doesn't sound like there was anything that was filed one way or the other. Therefore, and if that had happened, then Mr. Diaz is correct. There is a super majority requirement. And

it's actually a three-fourths vote that would be required if there had been that opposition that had been filed with the City. So, therefore, it would have taken a more than majority vote to have passed that rezoning application. Therefore, the record needs to be clear and the minutes ...

Councilman Diaz: (Inaudible) ...

Mr. Moran: ... need to clear that, and I'll be finished in just a moment, Mr. Diaz, the minutes need to be clear that that vote that was taken last week was passed, and that that rezoning case was approved by Mayor and Council by a 3-2 majority vote. As to the issue of on the agenda tonight we do have a agenda item for a motion to reconsider on that rezoning. As that issue is moot, that motion to reconsider doesn't necessarily need to be made. And if anyone has any questions, I'm obviously here to answer them.

Councilman Diaz: I need to correct you on a couple of items there.

Mr. Moran: Okay.

Councilman Diaz: The first item was that the meeting was called for a Tuesday. And the people that showed up for that meeting were there because the statement on the notice for the 300 foot people state the fact that you have to be in person to testify under oath your testimony. Okay? They did not have a quorum so it went to a Thursday meeting, and all the commissioners were notified. The community of the 300 feet limit were not allowed that notice. And that's why. The other item is that in the record, Mr. Felix states that the buildings are supposed to be stuccoed, tempered, and so any walls and ceilings, which is not the case. And the other item is that the commissioners were told at the very beginning that the City wants this passed. For the record, thank you.

Mr. Moran: Just to clarify, Madam Mayor and Council member Diaz, under our City Code, our City Code is actually 150 feet, rather than under the, under the, under the A.R.S. is also 150 feet, as far as the property owners vicinity to the rezoning. As far as the issue that you proposed as to, I guess as to what is being built or anything like that, that's, I think, certainly something for you to consider in making your vote as to whether to pass the rezoning, but as far as the information that I have been provided by our staff, all of the City Code has been followed as far as notice and everything else. Again, if you're aware of a particular case or cases, or persons or person that they believe that they were not notified legally or anything like that, please bring them to my attention and I will investigate. But as far as what I've been provided, it was properly noticed under the Code. It was ripe for vote by the Council. The vote was taken last week. The vote was 3 to 2 in favor of passing the rezoning. And to clarify the minutes, that should be clarified by the Council so that it's clear in the minutes

that that rezoning case was passed. Motion by Vice-Mayor Tadeo to amend the minutes, clarifying that rezoning no. 12-002 did pass. Seconded by Councilwoman Soltero. Councilman Diaz; nay. Motion carried.

ITEM #06 - PUBLIC HEARING AND DISCUSSION OF THE PROPOSED ALTERNATIVE EXPENDITURE LIMITATION (HOME RULE OPTION)

Motion by Vice-Mayor Tadeo to open the public hearing regarding the proposed Home Rule Option. Seconded by Councilwoman Soltero. Motion passed.

Mayor Eckstrom: We are now in the Public Hearing for the Home Rule Option.

Mr. Villa: Madam Mayor, members of the Council, this is hearing number two out of four of the scheduled Council meeting/public hearings to discuss the Home Rule Option. It's a, a question that will be asked to our voters in May in the General Election. It's been passed since the adoption of the amendment to the Constitution back in '80. And it's, it's, I mentioned this in the past, these topics are incredibly important to the finances of the City. If this measure is not passed by our voters, it represents a reduction and a possible cut of our operational expenses simply because the formula that is used by the State would allow for a lot less expenditure total than we are able to afford. I have to remind you that the total that is adopted on an annual basis is only the total of the money that is available, not any more, not any less. And that's the luxury, I guess, if you will, by having a Home Rule Option that you're not bound by the smaller limit imposed by the State that is a formula based on population figures back in 1980, not the inflation factor. As you may recall, in 1980 the population of South Tucson was well over 6,000. Now, it's less. So we are on a negative factor. We have less population to take a share of the State dollars. So in that alone, that formula alone allows for a lot less money to be available to be spent. So I don't have to mention to you that a total of \$4,000,000, which is the estimated level that the State formula is roughly the amount of money that the City needs to keep Public Safety operational. So again, from a finance perspective, it's one of those measures that are incredibly important that the right message is taken to the voters. And this is the opportunity to answer those questions to our residents and that's why we have allowed for two additional Public Hearings to do so.

Mayor Eckstrom: So just to clarify, if this were not to pass, if the voters were not to pass this Home Rule Option, we would have a major reduction in Public Safety because it does come from General Fund.

Mr. Villa: Yes. It could represent a cut in several places, but we understand that our largest expense is Public Safety so that would be the first place to look at adjusting to the minimal and to the smaller amount. Next Public Hearing, which

is on the 27th, and the 3rd, we will provide the Council with the estimated totals at that time. And then we can compare the formula and then our estimates for the next four years. Our estimates include a lot more than we will potentially get, but idea is that at this point, we are unaware of potential Federal, State, and local dollars, but we want to put them in there just in case. And that's, that's the principal behind Home Rule.

Mayor Eckstrom: Is there any discussion from Mayor and Council, or questions from City Manager?

(No response)

Mayor Eckstrom: Would anyone in the audience like to address Mayor and Council regarding this issue?

(No response)

Mayor Eckstrom: If not, yes.

Mr. Latrell: Yes, Dennis Latrell from 305 East Benson Highway. Does this mean because there's less people, and you establish the Home Rule, there will be more of a tax burden on the people here?

Mr. Villa: No. The answer is no. What, the answer is that we can only operate, even with taxation, to a certain amount. It means that we would have to adjust our operation to that level. And it has nothing to do with money available (inaudible).

Mr. Latrell: You mean if, just, the Home Rule, the Home Rule is passed, where will the additional funds come from? The State or the people in the City?

Mr. Villa: Madam Mayor, members of the Council, members of the public, the amount of money that is budgeted for, on an annual basis, is only the amount of money that is available and comes from all sources; State-shared revenues, taxation, local fees and fines. And Home Rule only allows you to spend as much money that is available to be able to operate. And also allows to budget in accordance to those sources. Not any more, not any less. Compared to a State-imposed limit, which even if you have the money, and you have the taxation, you're only limited to that formula, meaning that for a year or two until voters would approve, you're only limited and bound by that limit.

Mayor Eckstrom: So even if we were to make, say an additional \$5,000,000, this is just hypothetical, we wouldn't be able to spend to that amount.

Mr. Villa: There are, there are some constitutional exclusions that are allowed, which means that there's certain types of expenditures that can be spent above and beyond the limit. But the problem is that, as the Mayor has mentioned, if we were to arrive at a total of \$5,000,000 in a certain grant or any item like that, we, you simply couldn't spend it. We couldn't, we couldn't apply it to our operation. Because again, have to be, we're bound by what the State, now I have to say that almost all the cities in Arizona, if not two, are on a Home Rule. Or some sort of alternative ...

Mayor Eckstrom: Does, does ...

Mr. Villa: ... (inaudible).

Mayor Eckstrom: ... that make sense, Mr. ...

Mr. Latrell: Yeah, ...

Mayor Eckstrom: ... Latrell?

Mr. Latrell: ... just one last question. Okay, then under the Home Rule, if you spend more money, could the Council levy additional taxes to the people? I mean not the town, the City Council.

Mr. Villa: Well, the answer is yes. The answer, again, is the budget is limited to the amount of money that is available. It, it really, I guess between the two, we're not talking about increasing revenues or decreasing anything. What we're saying is what is available and what needs to be spent can't, that, that's the only answer to Home Rule. It doesn't mean that the Council has a blank check to go and tax and add additional revenue sources. It does not mean that.

Mr. Serna: Madam Mayor, members of the Council, a couple of things. One, I think we'll look at, when we come back and provide you more specific numbers, hopefully clarify a little bit better, a better answer, you know, a better answer to Mr. Latrell's questions, by way of example, but I think the major focus should be that the economy has not turned around. If the economy were to turn around, and revenues started to come back to a time in the past even that would allow us to rehire firefighters and bring additional police on, which is something we always direly need, we would not be able to do so if we're constrained by this rule or formula. So it's not, no, it's not a smoky topic. I mean it's not, it's not anything that we're devising of our own accord. It's something that almost all the cities and towns in the State are doing exactly what that title is, is a Home Rule, that the cities rule it selves and they're not ruled by the State legislature, which is what they were trying to do back in 1980. So I would look at it more positively as an ability, at some point in the future, should revenues ever come up, we, if those

revenues came up and we didn't have Home Rule, we wouldn't be able to hire additional firefighters or policemen or anything else. We couldn't do anything to improve the services even. So that's kind of the gist of it. And again, if, as the Mayor said earlier, if you have specific questions, we can deal with those face-to-face with you. Come on in and, you know, the City Attorney has invited you as well. And I've done so repeatedly, come in and talk and we can flush these issues out. That way, we can, when you all come together as a Council, you'll have more information that you've had an opportunity to digest before the final meeting on December 3rd, which is when we ...

Mayor Eckstrom: January 3rd.

Mr. Serna: January 3rd, which is when we vote on (inaudible).

Mr. Villa: I have to add that just as easily as it is for the Council on an annual basis to, I mean the Council has the authority to cut, add, delete, move, and Home Rule does not remove those authorities. Home Rule only allows for the Council to be able to move freely on an annual basis without having a ceiling to worry about.

Mayor Eckstrom: Are there any other questions from anyone?

(No response)

Motion by Vice-Mayor Tadeo to close the public hearing and reconvene the Regular Meeting. Seconded by Councilwoman Soltero. Motion carried.

ITEM #07 – MOTION TO RECONSIDER RE-ZONING #12-002

Mayor Eckstrom: Do we have to address this, Mr. Moran?

Mr. Moran: It's been noticed, Your Honor, so it does need to be open for, if there's, if there's a motion.

Mayor Eckstrom: Is there a motion to reconsider zoning #12-002?

Vice-Mayor Tadeo: Miss Mayor, so moved.

Councilwoman Soltero: Second.

All members of the Council voted aye, with the exception of Councilman Diaz, who voted nay. Motion carried.

Mr. Moran: So on the motion to reconsider, it ...

Mayor Eckstrom: We don't have to because it's already passed.

Mr. Moran: It's already been passed but it's been noticed on the agenda. So it needed to be called as to, ...

Mayor Eckstrom: Okay.

Mr. Moran: ... as to whether or not somebody wanted to make a motion to reconsider.

Mayor Eckstrom: Okay. So ...

Mr. Moran: Under the Roberts Rules, a motion to reconsider can only be made by the prevailing party, which in this case would have been the party that voted for the rezoning. And so at this point, there was a motion, there was a second, so if there, if, if there wants to be a discussion or perhaps another vote to rescind the motion to reconsider, then that would be proper on the table. But since it has been moved and seconded, there does need to be discussion. And what I'll state is part of the discussion is that since we clarified the minutes from last week, the rezoning case did pass already. And so unless any of the members of the Council that voted for that want to reconsider that rezoning, then it would be proper, but likely to not motion to reconsider.

Mayor Eckstrom: So then?

Mr. Moran: But now since the motion has been made, we could have a discussion or there could be a motion to rescind the motion to reconsider and ...

Unknown: Or vote again.

Mr. Moran: Or vote again.

Mayor Eckstrom: What are the ...

Mr. Moran: Any of those ...

Mayor Eckstrom: ... wishes of ...

Mr. Moran: ... options ...

Mayor Eckstrom: ... the Council?

Mr. Moran: ... are on ...

Mayor Eckstrom: Okay.

Mr. Moran: ... the table.

Mayor Eckstrom: So if there's nothing, can we move forward?

Mr. Moran: We do need to have either a vote on the reconsideration or a subsequent vote to overlay the motion to reconsider.

Councilman Diaz: We already did.

Mr. Serna: Just vote, vote again to approve.

Mayor Eckstrom: Vote again to approve. Okay. Vice-Mayor Tadeo.

Vice-Mayor Tadeo: Aye.

Mayor Eckstrom: So we need another motion to approve. Okay. So you need to make the same motion if you want to ...

Vice-Mayor Tadeo: Miss Mayor, I move to approve the request to rezone Lot 8, Block 17 of Southern Heights subdivision from SR-1 to SR-2, subject to standard and special conditions.

Councilwoman Soltero: Second.

Mayor Eckstrom: Motion and a second. Is there any discussion?

(No response).

All members of the Council voted aye, with the exception of Councilman Diaz, who voted nay. Motion carried.

ITEM #08 - RE-ZONING #12-003

Mr. Serna: Madam Mayor, members of the Council, the same circumstances occurred with this particular item in that the Zoning Commission approved unanimously. Again, there were no comments submitted against this rezoning. So the motion is to approve the request to rezone. The information is listed there.

Mayor Eckstrom: Do I hear a motion to approve Rezoning Case #12-003?

Vice-Mayor Tadeo: Madam Mayor.

Mayor Eckstrom: Vice-Mayor Tadeo.

Vice-Mayor Tadeo: I move to approve the request to rezone Lot 8, Block 17 of Southern Heights subdivision from SR-1 to SR-2, subject to standard and special conditions.

Councilwoman Soltero: Second.

Mayor Eckstrom: Motion and a second. Is there any discussion?

Councilman Diaz: Madam Mayor.

Mayor Eckstrom: Council member Diaz.

Councilman Diaz: Mr. Serna, are you also going to deny the fact, the information that I presented earlier?

Mr. Serna: Madam Mayor, Councilman Diaz, members of the Council, I don't know that what you stated is correct. I've been told that everything has been complied with. I'm familiar with the numerous attempts to get people to show up for meetings, etc. But a valid meeting was held and notices were provided. And so this item, again, Mayor and Council, it's been approved. We're looking for it to be passed. And there is a certain urgency about getting housing built in our community. For, unfortunately, some members of Mayor and Council are not up to date on what we're doing with Chapter 7 and how some of the difficulties we've had on this particular lot until Primavera picked up this property. We would have continued to see all the trash accumulating on that lot and it's an uphill battle we've been fighting so there, there are a lot of angles to what's taking place here, but Primavera is our housing partner. If it weren't for them, we wouldn't be having people that don't have housing get housing. So I know there have been some concerns about the kind of housing that it is, but it's housing and people are buying the houses. And that's all I've got to say, Madam.

Mayor Eckstrom: It's homeowner-occupied housing.

Mr. Serna: Yes.

Mayor Eckstrom: Okay. Is there any other discussion?

(No response)

All members of the Council voted aye, with the exception of Councilman Diaz, who voted nay. Motion carried.

ITEM #09 – RESOLUTION NO. 12-59 OF THE MAYOR AND COUNCIL OF THE CITY OF SOUTH TUCSON, ARIZONA, APPROVING THE SOUTH TUCSON HOUSING AUTHORITY'S REQUEST TO CLOSE THE HOUSING CHOICE VOUCHER SAVINGS ACCOUNT AND AUTHORIZING THE EXECUTION OF THIS RESOLUTION FOR THE PURPOSE OF AUTHORIZING THE CITY OF SOUTH TUCSON HOUSING AUTHORITY DIRECTOR TO CLOSE SAID ACCOUNT AND TO SUBMIT SAME TO HUD AND DECLARING AN EMERGENCY TO EXIST

Mr. Serna: Madam Mayor, members of the Council, we just recommend the suggested motion.

Motion by Vice-Mayor Tadeo to approve and adopt Resolution No. 12-59 of the Mayor and Council of the City of South Tucson, Arizona, approve the South Tucson Housing Authority's request to close the Housing Choice Voucher savings account and authorizing the execution of this resolution for the purpose of authorizing the City of South Tucson Housing Authority's Director to close said account and to submit same to HUD and declaring an emergency to exist. Seconded by Councilwoman Soltero. Motion passed unanimously.

ITEM #10 – RESOLUTION NO. 12-60 OF THE MAYOR AND COUNCIL OF THE CITY OF SOUTH TUCSON, APPROVING AND ADOPTING THE INTERGOVERNMENTAL AGREEMENT WITH PIMA COUNTY FOR THE MANAGEMENT AND IMPLEMENTATION OF THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM THAT INCLUDES ADMINISTRATION, COMMUNITY POLICING & CRIME PREVENTION, FIRE SAFETY EQUIPMENT, YOUTH PROGRAMS AND FAMILY ASSISTANCE AND GRAFFITI ABATEMENT PROGRAM ACTIVITIES AND DECLARING AN EMERGENCY TO EXIST

Mr. Serna: Madam Mayor, members of the Council, you are familiar, over the years, with the allocation of fund distribution of CDBG monies and the amounts are listed there. They're a mirror image of what they have been appropriated. Actually, they're less in terms of the appropriations, but along the same major categories and we recommend the suggested motion.

Motion by Vice-Mayor Tadeo to approve and adopt Resolution No. 12-60 of the Mayor and Council of the City of South Tucson, approving and adopting the

intergovernmental agreement with Pima County for the management and implementation of the CDBG Program that includes administration, community policing & crime prevention, fire safety equipment, youth programs, and family assistance and graffiti abatement program activities and declaring an emergency to exist. Seconded by Councilwoman Soltero. Motion passed unanimously.

ITEM #11 - REPORTS – Mr. Serna reported there will be an employee luncheon on Wednesday and everyone is invited.

ITEM #12 – CALL TO THE AUDIENCE

Dennis Latrell: I'm Dennis Latrell from 305 East Benson Highway. I wanted to comment and express Item #04A that was up for discussion. It's my understanding that the open meeting laws are built so that the audience can not only hear the Mayor and Council or the government, but they can also hear the discussion of others that are in the meeting. And one of the things that I have concerns about is, is should the wrong Council people that (inaudible) Council. For example, there could be somebody that has some type of influence. It could be like me standing behind the Mayor and telling her what to say and do because somebody else reacted. And, in other words, for example, Mayor, picture yourself on a video camera. And I'm sitting to the right off camera. Now I can coach you then, but it's (inaudible) the people in the audience are unaware of the impact (inaudible) or any type of influence that may be improper for a Council member, that could be going on. For example, when I ask questions of the Council here, you give instructions, you cannot respond. But if I'm a Council member and I'm on camera, you don't know if I'm responding to somebody else. And neither does the public. And I think, for example, that's one of the reasons that the Congress of the United States requires congressmen be there for the vote, is to help limit that type of, that type of problem and I believe that not having the council people that he's present, and so that all discussions to be heard by the public violates the spirit of (inaudible).

ITEM #11 – ADJOURNMENT - Motion by Vice-Mayor Tadeo to adjourn the Special Meeting. Seconded by Councilwoman Soltero. Motion passed unanimously. The meeting adjourned at 6:33 p.m.

Jennifer Eckstrom, Mayor

ATTEST:

Veronica Moreno, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting of the City Council of South Tucson, Arizona, held on the 17th day of December, 2012. I further certify the meeting was duly called and a quorum was present.

Dated this _____ day of _____, 2012.

Veronica Moreno, City Clerk

Minutes of the Special Meeting of the Mayor and Council of the City of South Tucson, Arizona, held Monday, December 10, 2012, at 5:00 p.m. at the City of South Tucson Council Chambers, 1601 South 6th Avenue, South Tucson, Arizona.

Council Present: Jennifer Eckstrom
Pete Tadeo
Paul Diaz
Mary Soltero
Anita Romero

Staff Present: Enrique Serna, City Manager
Ruben Villa, Finance Director
Veronica Moreno, City Clerk
Richard Munoz, Police Chief
Marilyn Chico, Housing Director
Dennis Rankin, Police Dept.
Joel Gastelum, Planning Director
Patrick Moran, City Attorney

Guests: Gary Hickey, Primavera Foundation

Mayor Eckstrom called the meeting to order and led the Pledge of Allegiance.

ITEM #04 – ROLL CALL – All members of the Council were present except for Councilman Felix and Councilman Salaz, who were excused.

ITEM #05 – APPROVAL OF MINUTES: SPECIAL MEETING, NOVEMBER 19, 2012 – Motion by Vice-Mayor Tadeo to approve the minutes of the Special Meeting of November 19, 2012. Seconded by Councilwoman Soltero. Councilman Diaz; nay. Motion passed.

ITEM #06 - 1st HEARING PUBLIC HEARING AND DISCUSSION OF THE PROPOSED ALTERNATIVE EXPENDITURE LIMITATION (HOME RULE OPTION) – Motion by Vice-Mayor Tadeo to open the public hearing regarding the proposed Home Rule Option. Seconded by Councilwoman Soltero. Motion passed unanimously.

The following is the transcript of Item #06:

Mr. Villa: This hearing is the first of two public hearings required by law, and this item will be on the ballot in May. Since 1980, the City of South Tucson has adopted a Home Rule Option. The State of Arizona voters adopted a

constitutional amendment that imposes a limit on cities, but at the same time, adopted alternatives for cities to adopt if they so desire. In the case of the City of South Tucson, since 1980, there has been an alternative Home Rule Option, which means that your total annual budget is what your limit is. We can't exceed beyond those limits. But the State imposes a limit based on a formula that actually is a lot less than the revenues that we actually receive. So it's important that this item is placed on the ballot, that the voters understand that they're not giving the City authority to spend beyond the limits of the resources that are available, but allows the City to spend accordingly beyond the limits imposed by the State. I have a spreadsheet here that's in a preliminary state. The second meeting, we'll provide that to the Council and to members of the public. But again, this is an item that is required. It's approval for four years. The approval expires this fiscal year, at the end of June 30th.

Mayor Eckstrom: Are there any questions for the Finance Director or City Manager?

Councilman Diaz: Madam Mayor.

Mayor Eckstrom: Council member Diaz.

Councilman Diaz: Are you sure it's for the General Election and not the Primary Election? With the ballot.

Mr. Villa: No, this, the calendar we're calling is for the General Election.

Councilman Diaz: General Election.

Mr. Villa: Yes.

Councilman Diaz: Okay. And when that went into law, we chose to follow it. Was there a resolution number on it?

Mr. Villa: Yes. There have been several resolutions. Every four years, the Council adopts a new resolution.

Councilman Diaz: Okay. So which, we're following the State law, then, at this time for public hearing?

Mr. Villa: Yes. Actually, State Constitution.

Councilman Diaz: Okay. So there won't be a, for the public hearings, there is no other information other than what you just stated now?

Mr. Villa: Yes. The purpose of the public hearing is to explain the plan, explain that the total of the expenditures that are contemplated for the following four years, and to allow the public to ask questions. We advertised, we're required to advertise in the newspaper of record two weeks prior to the Council meetings, which we have. In fact, we advertise for three weeks prior to the Council meeting so the public has an opportunity to address the Council during this time. The next public hearing will be on the 17th and at that time, we will have projected numbers that will be more than likely the numbers that we put on the ballot.

Councilman Diaz: Okay. So it was advertised in the newspaper, you said?

Mr. Villa: Yes.

Councilman Diaz: The information, but not the formulas and all this?

Mr. Villa: No. No, just that the public hearing will be held today, and that the following public hearing will be held on the 17th. And that's all we're required to publish.

Councilman Diaz: Okay. Thank you.

Mayor Eckstrom: Any other discussion? Would anyone in the audience like to address Mayor and Council regarding this issue?

No response from the public.

Motion by Vice-Mayor Tadeo to close the public hearing. Seconded by Councilwoman Soltero. Motion passed unanimously.

ITEM #07 - RE-ZONING #12-002 – Mr. Gastelum informed the Council that the Primavera Foundation, applicant for 1509 South 11th Avenue, Lot 1 Block 16 of Southern Heights Subdivision, is requesting the property be rezoned from SR-1 to SR-2 to allow for lot splits for the placement of two new ground set owner occupied manufactured homes. The rezoning request has been duly processed in accordance with Chapter 24, Article II, and Division 2 of the South Tucson City Code. The Planning and Zoning Commission voted unanimously to approve the request. Mr. Gary Hickey was present to answer questions from the Council. Motion by Vice-Mayor Tadeo to approve the request to rezone Lot 1 Block 16 of Southern Heights Subdivision from SR-1 to SR-2 subject to standard and special conditions. Seconded by Councilwoman Soltero. Councilman Diaz; nay. Motion passed. Councilman Diaz stated rezoning requires two-thirds vote. The following is the transcript of the discussion on Item #07:

Mr. Gastelum: The funds that are being brought, or let me give you a little history first on the property. It's been a haven for illegal dumping. There was a home that was there that was demolished. It was dilapidated. Vagrants were constantly trespassing on it. It was a Chapter 7 kind of property that we kind of had always paid attention to. We were fortunate enough that Primavera, in conjunction with Pima County, had some grant funds that they need to expend by December 31st. So that's why the urgency in trying to get this done as soon as possible. It's going to provide owner-occupied. It's not going to be rental. So it's going to be owner-occupied home. It's going through the Primavera, and it's satisfying all the financial requirements to make it go through.

Councilman Diaz: It still doesn't override the two-thirds vote.

Mayor Eckstrom: That's fine, but if you want to vote yes on the next one, then that would be appropriate to do so.

Councilman Diaz: On the next one what?

Mayor Eckstrom: The next item on the agenda.

Councilman Diaz: You still need two-thirds vote ...

Mayor Eckstrom: So you're telling ...

Councilman Diaz: ... regardless.

Mayor Eckstrom: ... me, okay. So then you know what? Maybe we should table the next item and bring it back too.

Mr. Serna: Excuse me. If I might, Madam Mayor, Councilman Diaz, and members of the Council, what's the, you had talked about a deadline for expending the fundings by Primavera to build these homes. What is that deadline?

Mr. Gastelum: Gary, I'll refer to Gary on that. Is the timeline the end of the year? I thought all these funds needed to be secured. You can let me know if that's correct.

Mr. Hickey: Yes.

Mr. Serna: By the end of this, by the 31st?

Mr. Hickey: Yes.

Mr. Serna: I just want to make that point so if that has to be brought back in order to build the four homes.

Mayor Eckstrom: well, I mean the first item is obviously no. But if the members of the Council wish to table the second item, then we can do so.

The Council vote taken on Item #09, Rezoning #12-002, was passed and the rezoning case was approved by the Mayor and Council by a 3-2 majority vote.

ITEM #08 - RE-ZONING #12-003 – Motion by Vice-Mayor Tadeo to table the rezoning case. Seconded by Councilwoman Soltero. Councilman Diaz and Councilwoman Romero; nay. Motion passed.

ITEM #09 - REPORTS –

CITY MANAGER: Holiday Schedule Request – Mr. Serna stated this year's Christmas and New Year holiday fall on Tuesday. Since the City's budget has not been able to do anything for employees over the last three years, Mr. Serna requested the employees be given Christmas Eve off.

ITEM #10 – CALL TO THE AUDIENCE – No response.

ITEM #11 – ADJOURNMENT - Motion by Vice-Mayor Tadeo to adjourn the Special Meeting. Seconded by Councilwoman Soltero. Motion passed unanimously. The meeting adjourned at 5:10 p.m.

Jennifer Eckstrom, Mayor

ATTEST:

Veronica Moreno, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Special Meeting of the City Council of South Tucson, Arizona, held on the 10th day of December, 2012. I further certify the meeting was duly called and a quorum was present.

Dated this _____ day of _____, 2012.

Veronica Moreno, City Clerk

SPECIAL MEETING: DECEMBER 27, 2012

**AGENDA ITEM #06: PUBLIC HEARING AND DISCUSSION ON THE
PROPOSED ALTERNATIVE EXPENDITURE
LIMITATION (HOME RULE OPTION)**

BACKGROUND

**Presentation by Enrique Serna, City Manager and Ruben Villa, Asst. City
Manager/Finance Director.**

SUGGESTED MOTION:

**Upon conclusion of presentation and discussion of Home Rule
Option by Enrique Serna and Ruben Villa, Council will**

Move to open public hearing regardless of proposed Home Rule Option

Public comment, if any; after conclusion of public comment

Move to close the public hearing

SPECIAL MEETING: DECEMBER 27, 2012

AGENDA ITEM #07: RESOLUTION NO. 12-61 OF THE MAYOR AND COUNCIL OF THE CITY OF SOUTH TUCSON, ARIZONA, APPROVING THE INTERGOVERNMENTAL AGREEMENT [IGA] FOR ASSISTANCE IN THE PREPARATION AND CONDUCT OF PRIMARY AND GENERAL ELECTIONS BETWEEN THE CITY OF SOUTH TUCSON, ARIZONA [CITY] AND PIMA COUNTY RECORDER'S OFFICE THROUGH THE DIVISION OF ELECTIONS [COUNTY RECORDER] PURSUANT TO STATUTE AND AUTHORIZING EXECUTION OF THIS RESOLUTION, FOR THE PURPOSE OF AUTHORIZING THE MAYOR OF THE CITY OF SOUTH TUCSON TO EXECUTE SAID IGA AND DECLARING AN EMERGENCY TO EXIST.

BACKGROUND

Intergovernmental Agreement between the City of South Tucson and the Pima County Recorder's Office to prepare and conduct the Primary Election for March 12, 2013 and General Election for May 21, 2013.

SUGGESTED MOTION:

MOVE TO APPROVE AND ADOPT RESOLUTION NO. 12-61 OF THE MAYOR AND COUNCIL OF THE CITY OF SOUTH TUCSON, ARIZONA, APPROVING THE INTERGOVERNMENTAL AGREEMENT [IGA] FOR ASSISTANCE IN THE PREPARATION AND CONDUCT OF PRIMARY AND GENERAL ELECTIONS BETWEEN THE CITY OF SOUTH TUCSON, ARIZONA [CITY] AND PIMA COUNTY RECORDER'S OFFICE THROUGH THE DIVISION OF ELECTIONS [COUNTY RECORDER] PURSUANT TO STATUTE AND AUTHORIZING EXECUTION OF THIS RESOLUTION, FOR THE PURPOSE OF AUTHORIZING THE MAYOR OF THE CITY OF SOUTH TUCSON TO EXECUTE SAID IGA AND DECLARING AN EMERGENCY TO EXIST.

PIMA COUNTY RECORDER

**2013 ELECTION SERVICES WITH
THE CITY OF SOUTH TUCSON**

ESTIMATED INCOME: \$5,000.00*

FUNDING: The City of South Tucson

*** estimated for each election within this IGA**

(STAMP HERE)

INTERGOVERNMENTAL AGREEMENT

For Election Services

Among The City of South Tucson and Pima County

This Intergovernmental Agreement (IGA) is by and among THE CITY OF SOUTH TUCSON OF PIMA COUNTY, ARIZONA, a municipal subdivision of the State of Arizona ("the CITY") and PIMA COUNTY, a political subdivision of the State of Arizona ("the County"), on behalf of the PIMA COUNTY RECORDER ("the Recorder").

RECITALS

1. The CITY, pursuant to A.R.S. §9-231(A) will prepare for and conduct two elections: a Primary Election to be held on March 12, 2013; and a General Election to be held on May 21, 2013 if necessary for members of its common council.
2. A.R.S. §§16-205(C), 16-172, 11-251(3), 16-450, and 16-405 *et seq.* authorize the County to perform services for any political subdivision regarding elections.
3. A.R.S. §16-172 authorizes any political subdivision conducting elections to utilize the County registration rolls upon reimbursement to the Recorder for actual expenses in furnishing voter registration data to the subdivision.
4. A.R.S. §16-408(D) permits the governing body of any election district authorized to conduct an election to Agreement with the Board of Supervisors and Recorder for election services, with the contracted cost being a charge against the election district.
5. The parties are authorized to enter into an intergovernmental agreement pursuant to A.R.S. §11-952 *et. seq.*
6. The CITY desires to utilize the Pima County registration rolls and other election-related services provided by the Recorder for the Primary Election to be held on March 12, 2013 and a General Election to be held on May 21, 2013 for members of its common council.
7. The CITY, the County and the Recorder have determined that it is in the best interest of the public for the CITY to use the services of the Recorder in conducting the elections called for March 12, 2013 and May 21, 2013.

NOW, THEREFORE, the parties hereto agree as follows:

The purpose of this IGA is to set forth the duties and responsibilities of the Recorder and the CITY with respect to the March 12, 2013 and May 21, 2013 elections to be held by the City of South Tucson.

ARTICLE I - TERM AND EXTENSION/RENEWAL/CHANGES

The term of this IGA shall be from February 1, 2013 through completion of all obligations and activities associated with the March 12, 2013 and May 21, 2013 elections contemplated by this IGA, provided that the term shall continue through final resolution of any legal challenge to the election. Completion of this Agreement is anticipated to be not later than December 31, 2013. Any modifications or time extension of this IGA shall be by formal written amendment and executed by the parties.

Amendments to the Agreement must be approved by the Board of Supervisors as required by the Pima County Procurement code, before any work or deliveries under the Amendment commences.

ARTICLE II - SCOPE OF SERVICES

This Agreement establishes the agreement under which the County will provide the CITY with Election services in accordance with the following:

County Recorder Services: The Recorder shall:

- (1) Provide the official precinct registers and signature rosters, assembled into voting areas, and provide them to the County's Division of Elections no later than ten days prior to the Election, at a cost of \$18.00 per precinct; and provide the precinct registers for use by the Early Voting Board no later than 9:00 a.m. the day before the Election.
- (2) Provide services related to early balloting. These services include: providing and processing request forms, mailing ballots, all necessary materials and programming for on-site voting at the Pima County Recorder's Office, and verification of all early ballots voted for the elections. Verified early ballots will be delivered to the Early Ballot Board beginning ten (10) days prior to each election and continuing until the close of the polls on Election Day.
- (3) Provide Deputy County Recorders for team early voting when necessary and give the CITY notice of each request for team early voting.
- (4) Process Provisional Ballots and Conditional Provisional Ballots following the election within the statutory deadlines.
- (5) Prepare and deliver a single invoice to the CITY no later than 21 days after the final election date, containing a detailed breakdown of all Recorder costs for these elections.

CITY Obligations. CITY shall:

- (1) Notify the Recorder in writing, at least 120 days or at such other time as the parties may agree before any consolidated election date on which the CITY wants services pursuant to this IGA, detailing the election-related services pursuant to this IGA.
- (2) Make all submissions required under Section 5 of the Voting Rights Act to the Department of Justice and provide timely notice to County of any pre-clearances required under Section 5 of the Voting Rights Act.
- (3) Prepare and distribute any requisite translation, printing, and mailing of all publicity pamphlets.

- (4) Should the election be challenged or questioned for any reason whatsoever, then the CITY shall be solely responsible for defending, legally or otherwise, said elections. This duty shall survive the expiration of the IGA, provided that the County shall cooperate with the CITY in making relevant information and witnesses available upon reasonable request.
- (5) Within 30 days of the date of each invoice, the CITY shall reimburse the County, in full, for invoiced costs of election materials, supplies and equipment, and personnel required in direct support of the CITY election, as set forth below.
- (6) Be responsible for the security of all ballots tabulated by officials and vendors other than Pima County's agents or employees and ensure that any functions performed by CITY or its outside vendors comply with applicable law and procedures of the Secretary of State.
- (7) Arrange for and publish any and all notices of this election as required by law.

ARTICLE III – COMPENSATION AND PAYMENT

Within thirty (30) days of the date of invoice, CITY will pay the Pima County Recorder:

- (1) \$5.75 for each Early Ballot mailed;
- (2) \$3.00 for each ballot mailed to a voter on the Permanent Early Voting List.
- (3) \$0.75 for signature checking on each returned ballot;
- (4) \$3.00 for each replacement ballot issued by mail, \$1.50 for each replacement ballot issued at a satellite voting location;
- (5) Special Ballot Inserts: 2 cents per ballot for single page or 5 cents per ballot for multiple pages. Inserts may be no larger than 8½ inches by 4½ inches in size. Larger materials may be used, but must be folded prior to delivery to the Recorder's Office so that the final size does not exceed 8½ by 4½ inches. The CITY shall be responsible for any additional postage costs resulting from including a special insert.
- (6) \$60.00 per request for Team Voting;
- (7) Computer programming as required for additional voter data at \$50.00 per hour, one hour minimum;
- (8) If required, \$400.00 for remote site computer linked to Recorder's system.
- (9) Actual cost of all necessary materials and programming for on-site early voting, if required; and,
- (10) Any other costs associated with services provided for the conduct of the Election(s), as set forth in Pima County Fee Ordinance 2011-44, which is attached hereto as Exhibit A.
- (11) Invoices not paid within 30 days of billing date will accrue interest at the rate of 10% per annum.

ARTICLE IV – INSURANCE

All parties to this agreement are government entities. Neither entity is required to procure special insurance coverage for their obligations under this IGA.

ARTICLE V - INDEMNIFICATION

The CITY shall indemnify, defend, and hold harmless, the County, the Recorder, their officers, employees and agents from and against any and all suits, actions, legal administrative proceedings, claims or demands or damages of any kind or nature arising out of this IGA which are attributed to any action or omission of the CITY, its agents, employees, or anyone acting under its direction, control or on its behalf, unless such actions are due solely to the negligence of the County or County Recorder. The CITY's obligations pursuant to this section shall survive the termination, cancellation or expiration of this IGA.

ARTICLE VI - COMPLIANCE WITH LAWS

The parties shall comply with all federal, state and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this Agreement. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this Agreement and any disputes hereunder. Any action relating to this Agreement shall be brought in an Arizona court in Pima County. Any changes in the governing laws, rules and regulations during the terms of this Agreement shall apply but do not require an amendment.

ARTICLE VII - INDEPENDENT CONTRACTOR

Each party shall comply with the notice of A.R.S. § 23-1022(E). For purposes of A.R.S. § 23-1022, each party shall be considered the primary employer of all personnel currently or hereafter employed by that party, irrespective of the operations of protocol in place, and such party shall have the sole responsibility of the payment of Worker's Compensation benefits or other fringe benefits of said employees.

ARTICLE VIII - ASSIGNMENT

The CITY shall not assign its rights to this Agreement, in whole or in part, without prior written approval of the COUNTY. Approval may be withheld at the sole discretion of COUNTY, provided that such approval shall not be unreasonably withheld.

ARTICLE IX - NON-DISCRIMINATION

The CITY shall not discriminate against any County employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin in the course of carrying out duties pursuant to this IGA. The CITY shall comply with the provisions of Executive Order 2009-09, including flow down of all provisions and requirements to any subcontractors. Executive Order 2009-09 supersedes Executive order 99-4 and amends Executive Order 75-5 and may be viewed and downloaded at the Governor or the State of Arizona's website: http://www.azgovernor.gov/dms/upload/EO_2990_90.pdf which is hereby incorporated into this Agreement by reference, as if set forth in full herein.

ARTICLE X - AMERICANS WITH DISABILITIES ACT

The parties shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

ARTICLE XI - AUTHORITY TO CONTRACT

No party warrants to any other party its legal authority to enter into this IGA. If a court, at the request of a third person, should declare that any party lacks authority to enter into this IGA, or any part of it, then the IGA, or parts of it affected by such order, shall be null and void, and no recovery may be had by any party against the other for lack of performance or otherwise.

ARTICLE XII - FULL AND COMPLETE PERFORMANCE

The failure of either party to insist on one or more instances upon the full and complete performance with any of the terms or conditions of this Agreement to be performed on the part of the other, or to take any action permitted as a result thereof, shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other covenant or condition, either in the past or in the future. The acceptance by either party of sums less than may be due and owing it at any time shall not be construed as an accord and satisfaction.

ARTICLE XIII - CANCELLATION FOR CONFLICT OF INTEREST

This Agreement is subject to cancellation for conflict of interest pursuant to ARS § 38-511, the pertinent provisions of which are incorporated into this Agreement by reference.

ARTICLE XIV - TERMINATION FOR CONVENIENCE

Notwithstanding any other provision in this IGA, this IGA may be terminated if for any reason the County Board of Supervisors does not appropriate sufficient monies for the purpose of maintaining this IGA. In the event of such cancellation, neither the County, nor the County Recorder shall have any further obligation to CITY.

ARTICLE XV - NOTICE

Any notice required or permitted to be given under this Agreement shall be in writing and shall be served by personal delivery or by certified mail upon the other party as follows:

COUNTY:

F. Ann Rodriguez
Pima County Recorder
115 N Church Avenue
Tucson, AZ 85701
(520) 724-4356
Fax: (520) 623-1785

CITY OF SOUTH TUCSON:

Veronica Moreno
City Clerk
1601 South 6th Avenue
South Tucson, AZ 85713
(520) 792-2424 Ext 339
Fax: (520) 628-9619

ARTICLE XVI - NON-EXCLUSIVE AGREEMENT

Nothing in the provisions of this IGA is intended to create duties or obligations to or rights in third parties not parties to this IGA, or affect the legal liability of any party to the IGA by imposing any standard of care different from the standard of care imposed by law.

This IGA is not intended to, and this IGA shall not be construed to, create any partnership, joint venture or employment relationship between the parties or create any employer-employee relationship between County or Recorder and any CITY employees, or between the CITY and any County employees. No party shall be liable for any debts, accounts, obligations nor other liabilities whatsoever of any other party, including (without limitation) any other party's obligation to withhold Social Security and income taxes for itself or any of its employees.

ARTICLE XVII - REMEDIES

Either party may pursue any remedies provided by law for the breach of this Agreement. No right or remedy is intended to be exclusive of any other right or remedy and each shall be cumulative and in addition to any other right or remedy existing at law or at equity or by virtue of this Agreement.