

Rio Grande Nature Center State Park Management Plan 2010

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Appendix A: Rules

Statutes, Rules, and Policies

The following statutes, rules, regulations, or policies may apply to the operations, management, and development of New Mexico state parks. This is only a listing of selected statutes, rules, and policies and not a comprehensive list of all statutes, rules, or policies that may apply to the Park.

Energy, Minerals and Natural Resources Department, [Policy and Procedures Manual](#)

New Mexico State Parks Division, [State Parks Policy and Procedures Manual](#)

State Rules

New Mexico statutes (NMSA 1978)

<<http://www.conwaygreene.com/nmsu/lpext.dll?f=templates&fn=main-hit-h.htm&2.0>>

Chapter 16, Article 2: State Parks Division

Chapter 18, Article 6: Cultural Properties Act

New Mexico Administrative Code (NMAC)

<<http://www.nmcpr.state.nm.us/nmac/>>

Title 4, Chapter 10: Cultural Properties and Historic Preservation

Title 19, Chapter 5: State Parks and Recreation

Federal Acts

National Environmental Policy Act of 1969

National Historic Preservation Act of 1966 (NHPA)

Native American Graves Protection and Repatriation Act (NAGPRA)

Appendix B: Excerpt from the “Middle Rio Grande Ecosystem: Bosque Biological Management Plan and Update”

Summary List of Recommendations

- 1: Coordinate Rio Grande water management activities to support and improve the bosque's riverine and terrestrial habitats, with special emphasis on mimicking typical natural hydrographs.
- 2: Implement measures to allow fluvial processes to occur within the river channel and the adjacent bosque to the extent possible
- 3: Reintroduce the dynamics of surface-water/ground-water exchange, manage ground-water withdrawal, and restrict contamination.
- 4: Protect, extend, and enhance the structure of aquatic habitat to the benefit of native communities.
- 5: Protect and enhance surface-water quality
- 6: Integrate management of nonnative and native fish species in all aquatic environments in the Middle Rio Grande riparian ecosystem including wetlands, canals, and drains.
- 7: Protect the geographic extent of the Rio Grande bosque and avoid further fragmentation of the riparian ecosystem and component habitats.
- 8: Protect, extend, and enhance riparian vegetation in noncontiguous areas in the floodplain.
- 9: Manage the buffer zone of the contiguous bosque to protect ecosystem processes, enhance wildlife habitat values, and maintain rural and semirural conditions.
- 10: Manage livestock grazing in a manner compatible with biological quality and ecosystem integrity.
- 11: Manage activities that remove dead wood in a manner compatible with biological quality and ecosystem integrity.
- 12: Manage recreational activities in the bosque in a manner compatible with biological quality and ecosystem integrity.
- 13: Prevent unmanaged fires in all reaches of the bosque.
- 14: Use native plant species and local genetic stock in vegetation establishment and management efforts throughout the bosque.
- 15: Protect, enhance, and extend (create) wetlands throughout the Middle Rio Grande riparian zone.
- 16: Sustain and enhance existing cottonwood communities, and create new native cottonwood communities wherever possible throughout the Middle Rio Grande riparian zone.
- 17: Contain the expansion of existing large stands of nonnative vegetation in the Middle Rio Grande riparian zone. At the same time, study the ecology of these stands and develop creative ways of maximizing their biological values.
- 18: Develop a coordinated program to monitor biological quality (with emphasis on the diversity and abundance of native species) and ecosystem integrity (with emphasis on restoring the functional connection between the river and riparian zone) of the Middle Rio Grande ecosystem.
- 19: Develop a coordinated research program to study the ecological processes and biotic communities that characterize the Middle Rio Grande riparian ecosystem.
- 20: Regularly review and update the Middle Rio Grande Ecosystem: Bosque Biological Management Plan.
- 21: Integrate resources management activities along the Rio Grande and within the contributing watersheds to protect and enhance biological quality and ecosystem integrity.
- 22: Develop outreach initiatives through public education programs and events, and community participation activities and projects, to broaden public understanding of and generate more active interest in bosque restoration and river ecosystem management in the Middle Rio Grande.

Appendix C: Species of Conservation Interest

Common Name	Scientific Name	Legal Status	Possibly in bosque?	Park mgmt. concern?
PLANTS				
Santa Fe milkvetch	Astragalus feensis	NM & Federal: species of concern	N	N
La Jolla prairie clover	Dalea scariosa	NM & Federal: species of concern	?	N
Sapello Canyon larkspur	Delphinium sapellonis	NM & Federal: species of concern	N	N
Sandia alumroot	Heuchera pulchella	NM & Federal: species of concern	N	N
Todilto stickleaf	Mentzelia todiltoensis	NM & Federal: species of concern	N	N
Plank's campion	Silene plankii	NM & Federal: species of concern	N	N
FISH				
Chub, Rio Grande	Gila pandora	State NM: Sensitive	Y	N
Minnow, Silvery, Rio Grande	Hybognathus amarus	Federal: Critical Hab. Designated NM & fFederal: Endangered	Y	<i>potentially</i>
BIRDS				
Black-Hawk, Common	Buteogallus anthracinus	Federal: FWS Species of Concern State NM: Threatened	rare vagrant	N
Cormorant, Neotropic	Phalacrocorax brasilianus	State NM: Threatened	rare transient	N
Cuckoo, Yellow-billed	Coccyzus americanus	Federal: Candidate State NM: Sensitive	transient occasional	<i>potentially</i>
Eagle, Bald	Haliaeetus leucocephalus	State NM: Threatened	uncommon transient	N
Falcon, Aplomado	Falco femoralis	NM & Federal: Endangered	N	N
Falcon, Peregrine	Falco peregrinus	Federal: FWS Species of Concern State NM: Threatened	rare transient	N
Flycatcher, Willow, SW.	Empidonax traillii extimus	Federal: Critical Hab. Designated NM & Federal: Endangered	breeds	<i>potentially</i>
Goshawk, Northern	Accipiter gentilis	Federal: FWS Species of Concern State NM: Sensitive	rare transient	N
Hummingbird, Broad-billed	Cynanthus latirostris	State NM: Threatened	N	N
Hummingbird, White-eared	Hylocharis leucotis	State NM: Threatened	N	N
Owl, Burrowing	Athene cunicularia	Federal: FWS Species of Concern	rare	N
Owl, Spotted, Mexican	Strix occidentalis lucida	Federal: Critical Hab. Designated Federal: Threatened State NM: Sensitive	?	N

Pelican, Brown	Pelecanus occidentalis	State NM: Endangered	?	N
Plover, Mountain	Charadrius montanus	Federal: FWS Species of Concern State NM: Sensitive	N	N
Shrike, Loggerhead	Lanius ludovicianus	State NM: Sensitive	uncommon	N
Sparrow, Baird's	Ammodramus bairdii	Federal: FWS Species of Concern State NM: Threatened	rare	N
Swift, Black	Cypseloides niger	State NM: Sensitive	rare	N
Tern, Black	Chlidonias niger	Federal: FWS Species of Concern	rare	N
Vireo, Bell's	Vireo bellii	Federal: FWS Species of Concern State NM: Threatened	rare accidental	<i>potentially</i>
Vireo, Gray	Vireo vicinior	State NM: Threatened	rare	N
MAMMALS				
Bat, Big-eared, Townsend's, Pale	Corynorhinus townsendii pallescens	Federal: FWS Species of Concern State NM: Sensitive	?	N
Bat, Myotis, Brn., Little, Occult	Myotis lucifugus occultus	State NM: Sensitive	?	N
Bat, Free-tailed, Big	Nyctinomops macrotis	State NM: Sensitive	?	N
Bat, Myotis, Fringed	Myotis thysanodes	State NM: Sensitive	?	N
Bat, Myotis, Long-legged	Myotis volans	State NM: Sensitive	?	N
Bat, Myotis, Small-footed, W.	Myotis ciliolabrum melanorhinus	State NM: Sensitive	?	N
Bat, Spotted	Euderma maculatum	State NM: Threatened	?	N
Bat, Myotis, Yuma	Myotis yumanensis	State NM: Sensitive	?	N
Prairie Dog, Gunnison's	Cynomys gunnisoni	State NM: Sensitive	?	N
Fox, Red	Vulpes vulpes	State NM: Sensitive	?	N
Mouse, Jumping, Meadow	Zapus hudsonius luteus	Federal: Candidate Federal: FWS Species of Concern State NM: Endangered	?	N
Ringtail	Bassariscus astutus	State NM: Sensitive	?	N
Skunk, Hog-nosed, Common	Conepatus leuconotus	State NM: Sensitive	?	N
Skunk, Spotted, Western	Spilogale gracilis	State NM: Sensitive	?	N
MOLLUSKS				
Mountainsnail, Socorro	Oreohelix neomexicana	State NM: Sensitive	N	N

New Mexico State Parks

PARK PROJECT REQUESTS

A Park Project Request (PPR) form must be submitted when new construction or physical alterations are made to the Park or its facilities. Projects meeting this criterion also include YCC, Inmate, or Grant (e.g. energy, Trails)

The PPR forms should be submitted for projects that are expected to be completed within a fiscal year or noted if otherwise.

The PPR forms are to be completed by the Park Manager or Superintendent and be submitted, wherever possible, **one month prior** to anticipated start date.

COMPLETE THE PPR FORM

Park Manager or Superintendent (PM/S) is responsible for the following areas:

1. **Date submitted** should reflect the day that the form is forwarded to the Regional Manager.
2. **Park name.**
3. **Project name.**
4. **Management Plan** page number of proposed project (if in effect).
5. **Project scope** must include plan details and drawings and site designation of planned project. (To avoid delay, be as complete as possible with all details.)
6. **Material and costs** must be complete – estimates are okay.
7. **Funding source** must include budget, center number, and line item.
8. **Estimated start date** should be at least one month from the date submitted to the Regional Manager (RM).
9. **Completion date** should be filled in at end of project and copy of form should be sent to the Park Projects Process Manager (PPPM) in Santa Fe.

Regional Manager must review form and insure project clarity and details; sign and forward to Santa Fe. Forward to Santa Fe only if all the above is complete and all needed drawings, site plans, and budget identification, etc. are attached. RM should verify with the Design and Development Bureau (D&D) capital improvement money. Otherwise inform or return to PM/S for correct and complete information. If disapproved return to Park with comments and initial.

Project Process Manager reviews PPR form and tracks it through the approval process until all signatures are recorded and approval or disapproval is noted along with comments. Copy of form is returned to Park if approved; original and attachments are returned to Park if not approved.

Park Projects Process Manager will:

1. **Record date** received in Santa Fe.
2. **Assign** project number if project is approved.
3. **Enter** project in database and tracks progress.
4. **Provide** quarterly reports to Field Operations Directors (FOD) and RM, and make requested changes and progress as reported.
5. **Record** date returned to Park – usually included with Friday mail.
6. **Record** project completion date.
7. **Maintain** files that contain original requests with signatures and attachments.

Design and Development Bureau (D&D) reviews project for adherence to management plan, master plan, architectural and design components, and ADA compliance. D&D also evaluates project as part of overall park development. Projects involving boating facilities or boating budget will also be forwarded to the Boating Bureau.

Boating Bureau will review for adherence to management plans, five-year plans, and budget.

Cultural Resources staff reviews all projects to assure compliance with federal and state cultural resource laws.

Natural Resources staff reviews projects to minimize adverse impacts to the natural resources.

Field Operations Director I reviews all projects for accuracy and for its relation to the management plan for the park or to review as a project necessary for the improved operation of the park and visitor services.

Field Operations Director II has final approval for projects in each park assuring that the goals and policies of the Division are maintained as changes are made to facilities management and construction.

All reviewers may make comments relating to the projects in the comment section and these are all forwarded to the park manager. Any reviewer may also call the park directly for clarification or additional information on the project.

Information concerning the status of the park project approval process should be directed to the PPM.

Modifications made by any park manager or division staff must be submitted on a project request form and processed in the above manner.

RIO GRANDE NATURE CENTER STATE PARK LEASE AGREEMENT

This Lease Agreement ("Agreement") is made and entered into by and between the City of Albuquerque, New Mexico, a municipal corporation (hereinafter "City") and the New Mexico Energy, Minerals and Natural Resources Department, State Parks Division (hereinafter "Lessee").

WHEREAS, the City and the Lessee seek to foster a collaborative partnership for the purpose of conducting a wide range of environmental awareness and natural resource educational programs in accordance with the Rio Grande Nature Center State Park Management Plan; and

WHEREAS, the City and the Lessee intend to work closely together to ensure mutual access, teamwork, and productive communications to create an urban, natural laboratory where the public can experience the natural world and be educated in modern methods of protection, conservation, and management; and

WHEREAS, the Lessee constructed certain improvements at Rio Grande Nature Center State Park starting in 1981 and has leased the land beneath those facilities from the City since 1980 pursuant to EMNRD Lease No. 80-521-0500-0301; and

WHEREAS, the City and the Lessee have agreed to supersede and replace EMNRD Lease No. 80-521-0500-0301 with a new Lease Agreement clarifying and setting forth in more detail the respective duties and rights of the parties;

NOW, THEREFORE, the City and the Lessee hereby agree as follows:

1. **LEASE OF PREMISES.** The City is the owner of, and hereby leases to the Lessee, without warranty of title, express or implied, the following described real estate ("Premises") depicted on Exhibit A attached hereto and more particularly described as follows within the municipal limits of the City of Albuquerque, Bernalillo County, New Mexico, for the uses and purposes described in this Agreement and subject to the terms, conditions and covenants set forth in this Agreement:

A CERTAIN PARCEL OF LAND SITUATED WITHIN THE MUNICIPAL LIMITS OF THE CITY OF ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, SECTION 1, T 10 N, R 2 E, AND SECTION 36, T 11 N, R 2 E, N.M.P.M. SAID PARCEL COMPRISING PORTIONS OF TRACTS A-1, A-2, AND B-1 OF THE CANDELARIA FARM AREA, AN ASSESSMENT PLAT OF WHICH HAS BEEN FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO ON DECEMBER 29, 1967 IN VOLUME D3, FOLIO 181. SAID

PARCEL OF LAND MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE INTERSECTION OF VERANDA ROAD, N.W., AND TRELIS DRIVE, N.W.; THENCE, S 24° 31' W ALONG SAID WESTERLY RIGHT-OF-WAY OF TRELIS DRIVE, N.W., 300.00 FEET; THENCE, N 65° 29' W ALONG THE SOUTHERLY BOUNDARY OF TRACT "A-1," 500.00 FEET; THENCE, S 24°31' W ALONG THE EASTERLY BOUNDARY OF TRACT "A-1," 230.00 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF CANDELARIA ROAD, N.W.; THENCE, N 65° 29' W ALONG SAID NORTHERLY RIGHT-OF-WAY OF CANDELARIA ROAD, N.W., 719.35 FEET; THENCE, S 11° 34' W 61.57 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID CANDELARIA ROAD, N.W.; THENCE S 65° 29' E ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF CANDELARIA ROAD, N.W. (THE NORTHERLY BOUNDARY LINE OF TRACT "B-1" OF SAID CANDELARIA FARM AREA), 300.00 FEET; THENCE, S 24° 31' W, 500.00 FEET; THENCE, N 65° 29' W, 246.60 FEET TO THE SOUTHWEST CORNER OF SAID TRACT "B-1"; THENCE, N 11° 34' E, 574.62 FEET TO THE NORTHWEST CORNER OF SAID TRACT "B-1," A POINT COMMON TO THE SOUTHWEST CORNER OF TRACT "A-1"; THENCE, N 11° 34' E ALONG THE WESTERLY BOUNDARY LINE OF SAID TRACT "A-1," 69.06 FEET; THENCE, N 28° 57' E, 391.60 FEET; THENCE, N 40° 05' E, 1040.95 FEET; THENCE, N 39° 03' E, 301.75 FEET; THENCE, N 30° 56' E, 197.40 FEET; THENCE, N 23° 40' E, 209.90 FEET; THENCE, N 14° 35' E, ALONG SAID WESTERLY BOUNDARY LINE OF TRACT "A-1," 318.60 FEET, TO A FOUND RIGHT-OF-WAY MARKER, THE NORTHWEST CORNER OF SAID TRACT "A-1"; THENCE, S 74° 32' 36" E 100.00 FEET; THENCE, S 14° 11' 37" W, 955.28 FEET; THENCE, S 79° 41' 49" E, 126.55 FEET; THENCE, S 13° 04' 36" W, 426.92 FEET; THENCE, S 85° 23' 50" E, 148.08 FEET; THENCE, S 11° 19' 30" W, 419.28 FEET; THENCE, S 79° 28' 50" E, 169.32 FEET; THENCE, S 11° 51' 17" W, 322.01 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED CONTAINING 38.802 ACRES MORE OR LESS.

Additionally, a certain parcel of adjacent land comprised of Tract 95 of the replat of Alvarado Gardens," Unit Number Three, is owned by the Lessee. Although this parcel is considered to be part of the Rio Grande Nature Center State Park, it is understood that ownership resides with the Lessee.

The City and Lessee agree that they may by mutual consent revise Exhibit A at a future date to more clearly delineate and identify features located within the Premises.

2. **TERM OF AGREEMENT.** The term of this Agreement ("Term") shall commence on the date of execution by the City's Chief Administrative Officer. Such execution shall occur only after approval of this Agreement by the Albuquerque City Council, and shall remain in effect for a period of twenty (20) years from that date, unless the parties agree to extend or renew this Agreement by an amendment thereto.
3. **ANNUAL REVIEW.** The City (represented by the Superintendent of the Open Space Division) and the Lessee (represented by the Superintendent of the Rio Grande Nature Center State Park) shall review terms, conditions, and performance of this Agreement on the anniversary date of the Agreement and on at least an annual basis thereafter. Such annual review may result in minor revisions to operations or recommendations for subsequent amendments to this Agreement. Changes in the terms of the Agreement shall require approval of the Albuquerque City Council, the City's Chief Administrative Officer, and the Lessee.
4. **RENT.** There shall be no charge by the City to the Lessee for the rental of the Premises.
5. **QUIET ENJOYMENT.** During the performance of all terms, conditions, and covenants required by the Agreement, the Lessee shall at all times during the Term be allowed to peaceably and quietly enjoy the Premises without any disturbance from the City.
6. **USE OF PREMISES.** This Agreement acknowledges the role of the Lessee as the "operating party" for management of the Rio Grande Nature Center State Park and the City as the owner of the Premises and Open Space lands adjacent to the Agreement area. In accordance with those roles and management functions, the City agrees that its activities on the Premises shall be consistent with the official Open Space mission statement and purpose: "to acquire, protect, maintain, and manage significant natural landscapes and cultural resources for present and future generations. Open Space enhances the urban environment and provides wildlife habitat while offering opportunities for public enjoyment through outdoor education and low-impact recreation."

All activities on the Premises by the Lessee shall be consistent with the mission and purpose of the Rio Grande Nature Center State Park: "to educate the public about the Rio Grande ecosystems and to foster positive human interactions with those systems. The overall goal is to continue offering a high quality of services in a safe and efficient manner, while making improvements to broaden the recreational and educational experience of our visitors." (Rio Grande Nature Center State Park Management Plan 2005: page 6).

(A) In accordance with the stated mission purpose, the Lessee shall:

- 1) At its sole expense, use its best efforts to operate and maintain the Rio Grande Nature Center State Park for the use and benefit of the citizens of the State of New Mexico and the general public.
- 2) Comply with all applicable federal, state, county, municipal and other governmental statutes, ordinances, laws, and regulations, now or hereafter enacted or amended, affecting the Premises or any activity or condition on or in the Premises.

(B) Lessee shall not:

- 1) Modify, change or enlarge the Premises or any make any substantial changes, but not to include the HVAC system components, to the exterior of any permanent improvements occupied by it and existing on the Premises on the effective date of this Agreement without the prior written consent of the City;
- 2) Use or occupy or permit the Premises or any improvements located thereon occupied by it to be used or occupied for any unlawful purpose; or
- 3) Cause or permit the unlawful release upon or from the Premises any hazardous materials or permit any environmentally hazardous conditions to exist on the Premises. The term "hazardous materials" includes, but is not limited to, petroleum products and substances defined as hazardous substances, hazardous materials or toxic substances under the laws of the State of New Mexico or in the regulations adopted in publications promulgated pursuant to the laws; or
- 4) Allow any part of the Premises or any improvements located thereon occupied by it to be used or occupied, or permit anything to be done, which would void any insurance then in force; nor to cause structural damage to any permanent improvements occupied by it located on the Premises or any part thereof; or constitute waste or a public or private nuisance.

7. ACCEPTANCE OF PREMISES. Lessee acknowledges and agrees that it has examined the Premises, the zoning designation for the Premises, and any applicable easements, licenses, and covenants of record, and has determined that the Premises are suitable for the purposes, uses, and activities intended by Lessee. Further, Lessee acknowledges that the City has made no

representation, warranty, or guarantee, express or implied, as to the suitability of the Premises.

8. LESSEE'S GENERAL OBLIGATIONS.

- (A) Lessee shall provide at its own expense all labor, equipment, materials and supplies necessary to perform Lessee's obligations and operations under this lease.
- (B) Lessee shall provide and pay for all utilities used on the Premises.
- (C) Lessee shall pay all bills, debts, and obligations promptly when due and payable that are incurred by Lessee in performing its operations on the Premises or under the terms of this Agreement.
- (D) All matters pertaining to personnel employment, supervision, promotion and discharge at the Rio Grande Nature Center State Park shall be the sole responsibility of Lessee during the Term of this Agreement. During that Term, Lessee shall be responsible for hiring, promotion, discharge and supervision of all state employees performing services on the premises of the Rio Grande Nature Center State Park. Such employees shall be in the employ of the Lessee, and, as such, Lessee shall be solely liable to such employees for their wages, compensation, and employee benefits, if any. All such employee benefits shall be set, determined and paid solely by the Lessee. For the purposes of this Agreement, "employee benefits" includes, but is not limited to, the employer's compensation to FICA, unemployment compensation, and other employment taxes, pension plan contributions, workers' compensation, group life and accident and health insurance premiums, retirement, disability and other similar benefits applicable to employees which accrue during the Term of this Agreement.

9. EXISTING AND FUTURE IMPROVEMENTS. All permanent existing improvements (structures) made by the Lessee to the Premises shall be deemed permanent fixtures to the Premises. In the event of early termination of this Agreement by the City, the City and the Lessee shall determine appropriate compensation to the Lessee for its loss of use of permanent improvements made to the Premises by the Lessee. Such determination shall be based on, but not be limited to, costs and expenses incurred by Lessee for renovating, refurbishing or updating existing capital improvements during the term of this Agreement, together with the then current depreciated value of existing improvements based upon Generally Accepted Accounting Practices. (The parties agree that the existing Rio Grande Nature Center Visitor's Center Building is fully depreciated.) All temporary or portable improvements shall remain the property of the Lessee.

In the event the Agreement is terminated, the City shall allow the Lessee reasonable time to remove any materials it may wish to retain.

Any future proposed improvements made to the Premises by the Lessee shall be in accordance with an approved plan, such as the Rio Grande Nature Center State Park Management Plan (2005), including revisions and updates thereto. Prior to Lessee making such improvements, the City and the Lessee shall determine the manner in which title to such improvements shall be held, and if held by the City, the City and the Lessee shall determine appropriate compensation to the Lessee for Lessee's loss of use of said improvements if the City terminates this Agreement before the expiration of its Term. Future permanent improvements are required to have review as an "Extraordinary Facility on Open Space" by the Open Space Advisory Board and subsequent approval by the City Environmental Planning Commission.

- (A) Lessee shall not construct, erect or place any permanent improvements on the Premises without the prior written consent of the City and the prior approval by the City of the plans and specifications for the permanent improvements in each instance.
- (B) Except as the parties may otherwise agree, future permanent improvements, which Lessee may be authorized to place on the Premises, shall be constructed, repaired, maintained and operated at the Lessee's sole cost, expense and risk.
- (C) All improvements shall be constructed in compliance with any minimum standards and specifications that are prescribed by applicable statutes, ordinances, codes, and regulations.

10. ALLOWED ACTIVITIES AND PERMITTABLE ACTIVITIES. The Lessee shall be allowed to conduct such activities as are within the mission and purpose defined in Paragraph 6 above. The Lessee shall notify the City's Special Events Office of the Cultural Services Department at (505) 768-3555 of special events outside the customary scope of operations for the Rio Grande Nature Center State Park.
11. SPECIAL MANAGEMENT AREAS (SMAs). This Agreement shall establish the following areas for Special Management purposes (see Exhibit A):
- (A) Candelaria Wetland.
 - (B) Candelaria Farm Access Roads
 - (C) Fraternal Order of Police (FOP) Property.

SMAs are those lands within or adjacent to the Premises with unique characteristics which require close coordination between staff of the City and the

Lessee for managing the natural resources and public access. The intent of creating these SMAs is to encourage mutual access by City and the Lessee's staff to closely monitor site conditions, and to review those conditions on a regular basis to ensure management is conducted in coordination. Immediately upon establishment of this Agreement, City Open Space and Rio Grande Nature Center State Park staff shall create a detailed description of each SMA to identify natural resources, public access guidelines, maintenance, other needs, and cost-sharing responsibilities. Any additional responsibilities beyond those in this Agreement shall require an Amendment to this Agreement.

12. **FEES AND REVENUES.** Lessee may charge fees to the members of the public for use of the Premises. In addition, the Lessee is allowed to provide space on the Premises to such groups as it deems fit or necessary for executing its functions, mission, and purpose. Charging a fee shall not release Lessee from, or otherwise affect in any manner, any of Lessee's obligations under this Agreement.

This Agreement acknowledges the existence and operation of a Nature Shop, currently operated by the Friends of Rio Grande Nature Center State Park. Any revenues generated through such operation shall be allowed to support the Rio Grande Nature Center State Park's mission and purpose as stated in Paragraph 6 above.

13. **SUB-LEASES.** Lessee shall be allowed to rent a portion of the Premises if such rental is deemed by the Lessee to be consistent with the mission and purpose of the Rio Grande Nature Center State Park as stated in Paragraph 6 above. The making of any sub-lease shall not release Lessee from, or otherwise affect in any manner, any of Lessee's obligations under this Agreement. Each sub-lease shall be subject and subordinate to rights of the City under this Agreement and to any Amendment or modification of this Agreement.
14. **ASSIGNMENT.** Lessee shall not assign, transfer, or grant security interests in this Agreement or any interest in this Agreement, without the prior written consent of the City. The City's consent to an assignment transfer or security interest shall not be deemed to be a consent of any subsequent assignment, transfer, or security interest. Any assignment, transfer or grant of security interest, without the written consent of the City shall be void, and shall, at the option of the City, terminate this Agreement. Furthermore, the parties acknowledge the obligation of the state constitution anti-donation clause.
15. **REPAIRS AND MAINTENANCE.** Lessee shall, at its sole cost, expense and risk, keep and maintain the Premises, and any improvements located thereon in good condition, order and repair, and generally in a clean, sanitary and safe condition. Lessee shall make all repairs and replacements promptly as and when necessary. All repairs and replacements shall be at least equal in quality of materials and workmanship to the original work.

16. **UTILITIES.** Lessee shall bear all operational costs of the Rio Grande Nature Center State Park including those of electric, gas, telephone, water and sewer utility charges. This Agreement recognizes that existing created wetlands are vital to the purposes and function of the Rio Grande Nature Center State Park, and that access to water is critical for the long-term existence of those wildlife habitat features. Both parties shall make provisions to ensure access to water, including the ability to pump replenishment water as necessary.
17. **CITY'S RIGHT OF ENTRY.** The City, its employees and representatives, shall have the right to enter the Premises for the purpose of inspecting the Premises for health and safety purposes and for inspecting improvements, or to perform repairs or maintenance. Such entry must be with prior Notice to the Superintendent of Rio Grande Nature Center State Park; provided, however, that the City, its employees and representatives may enter the Premises without providing such prior Notice to the Superintendent if such entry is for the purpose of supporting the collaborative relationship between the City and Lessee in furthering the mission and purpose of the Rio Grande Nature Center State Park as stated in Paragraph 6 above.
18. **STATE'S RIGHT OF ENTRY.** The Agreement shall provide for free right of entry for any and all state entities, employees, agents, or assigns within the Premises to perform activities consistent with the Rio Grande Nature Center State Park's mission and purpose as stated in Paragraph 6 above. This Agreement also grants to Lessee and its officers, employees, agents, invitees, contractors or assigns right of entry to adjacent Open Space property outside the Premises as defined in the "Special Management Areas" (Paragraph 11).

This Agreement recognizes the existence and activities of support organizations such as the Friends of Rio Grande Nature Center State Park and Wildlife Rescue of New Mexico. Other support organizations may be recognized by the parties to this Agreement, if their activities contribute to the Park's mission and purpose.

19. **INFORMATION, SIGNS, AND PUBLICATIONS.** The Lessee shall acknowledge City ownership of the Premises and cooperative management on all major signs at the entrance to Rio Grande Nature Center State Park and along trails within the Premises. All information, signs, and publications concerning the Premises and originating with either party shall bear the dual logos of the City and the State Parks Division wherever possible. Limitations of sign size and mass production shall be considered in the applicability of this provision. To the degree practicable, press releases and media events involving the Premises shall include the mention of the City, and the Lessee shall notify the City's Special Events Office of the Cultural Services Department at (505) 768-3555 at least twenty-four (24) hours in advance of any previously scheduled media events. Similarly, the City shall include the mention of the Lessee and shall

notify the Superintendent of the Rio Grande Nature Center State Park at least twenty-four (24) hours in advance of any previously scheduled media events.

20. **TERMINATION BY LESSEE.** If Lessee is not in default under this Agreement, Lessee may terminate this Agreement by providing written notice to the City at least ninety (90) calendar days in advance of the anticipated last date of occupation on the Premises; provided, however, that Lessee's occupation under this Agreement is contingent upon sufficient appropriation and authorization being granted by the New Mexico Legislature. If sufficient appropriation and authorization is not granted, this Agreement shall terminate upon written notice by Lessee to the City. Lessee's decision as to whether sufficient appropriations are available shall be final, binding and accepted by the City.
21. **TERMINATION BY CITY.** The City may terminate this Agreement by the following process:
- (A) If the City finds the Lessee to be in default or substantial deficiency in the performance of any term, condition or covenant of this Agreement, the City shall notify the Lessee in writing of any perceived non-compliance or alleged default and demand an immediate cure or remedy.
 - (B) The Lessee shall be provided at least ninety (90) calendar days to remedy any deficiencies in their performance of Terms for the Agreement. If the Lessee has made diligent progress towards curing any deficiencies, but finds that it cannot completely remedy them, the Lessee may ask for an extension of time to correct any remaining deficiencies.
 - (C) If, after required notice and reasonable time extensions thereafter, the Lessee does not correct any deficiency in Terms that would lead to termination of the Agreement, the City shall notify Lessee in writing that it must vacate the Premises.
 - (D) Lessee shall be granted one hundred twenty (120) calendar days after final notice of Termination to remove any desired property from the Premises and to determine with the City appropriate compensation for Lessee's loss of use of Lessee's permanent improvements to the Premises. Any property left on the Premises thereafter shall, at the election of the City, become City property.
 - (E) The City may, upon inspection of the Premises following Termination, require the Lessee to clean the Premises of any debris, unwanted material, or former property.

21.1 TERMINATION BY CITY WITHOUT CAUSE. The City may terminate this Agreement without cause as follows:

- (A) The Lessee shall be provided written notice of the City's intent to terminate this Agreement no less than one hundred eighty (180) calendar days prior to the date of intended termination.
- (B) The Lessee may appeal the City's notice of intent to terminate this Agreement to the City Mayor and the City Council, or either at the discretion of Lessee, and such appeal shall include an opportunity for Lessee to file written documents and make oral presentations at public hearings before the City. The decision of the City shall be final and binding upon Lessee. During the pendency of any such appeal by Lessee, the one hundred eighty (180) calendar day period described in (A) above shall be tolled.
- (C) Upon final action by the City denying Lessee's appeal, or if Lessee does not appeal the City's notice of intent to terminate this Agreement, then upon expiration of the one hundred eighty (180) calendar day period described in (A) above, Lessee shall be afforded no less than an additional one hundred eighty (180) calendar days to vacate the Premises and to remove all Lessee's items of tangible personal property and other property not constituting permanent fixtures to the Premises.

22. SURRENDER UPON TERMINATION. At the expiration of the Term of this Agreement, Lessee shall surrender the Premises to the City in as good condition as it was in at the beginning of the Term, reasonable use, wear and tear excepted, and remove Lessee's personal property from the Premises. Any of Lessee's personal property left by Lessee at the expiration of the Term of this Agreement shall, at the option of the City, become the property of the City, and the City shall be entitled to use, sell or otherwise dispose of such personal property.

23. NOTICE. For purposes of administration for this Agreement, or other notification, except as otherwise noted in this Agreement, the following individuals are primary points of contact:

For the City:
Chief Administrative Officer
1 Civic Plaza
Albuquerque, NM 87102

Director, Parks and Recreation Department
P.O. Box 1293
Albuquerque, NM 87103

Superintendent, Open Space Division
P.O. Box 1293
Albuquerque, NM 87103

For the Lessee:

Director, New Mexico State Parks Division
Energy, Minerals and Natural Resources Department
P.O. Box 1147
Santa Fe, NM 87504-1147

Superintendent, Rio Grande Nature Center State Park
2901 Candelaria Rd., NW
Albuquerque, NM 87107

24. **DISCRIMINATION PROHIBITED.** In performing the services allowed in the use of the Premises, the Lessee shall not discriminate against any person on the basis of race, color, religion, sex, national origin or ancestry, age, physical handicap, or disability as defined in the Americans With Disabilities Act of 1990, as now enacted or hereafter amended.
- (A) The Lessee shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity, age, disability, or national origin. The Lessee shall take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, religion, color, sex, sexual orientation, gender identity, age, disability, or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Department of Labor setting forth the provisions of this Equal Opportunity clause. The Lessee shall comply with all provisions of Presidential Executive Order No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the U.S. Secretary of Labor.
 - (B) The Lessee shall furnish all information and reports required by said amended Executive Order, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and shall permit access to its books, records, and accounts by the contracting officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations,

and order. In the event of the Lessee's noncompliance with the Nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Lessee may be declared ineligible for further Agreements in accordance with procedures authorized in said Executive Order, and such other sanctions as may be imposed and remedies invoked as provided in said Executive Order or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- (C) The Lessee shall include the provisions of this Paragraph 24 in every sub-lease or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor.

25. AMERICANS WITH DISABILITIES ACT (ADA). The parties mutually agree to comply with all requirements of the Americans with Disabilities Act (Public Law 101-336 (July 26, 1990), as amended from time to time, applicable to the Premises. Lessee is responsible for all ADA compliance and upgrades within the Premises. No provision in the Agreement should be construed in any manner as permitting, consenting to or authorizing either party to violate requirements under the ADA and any provision of this Agreement which could arguably be construed as authorizing a violation of the ADA shall be interpreted in a manner which permits compliance with the ADA and is hereby amended to permit such compliance. The parties shall cooperate fully with each other to timely comply with the provisions of the ADA. Both City and Lessee agree to inform each other immediately of any notice City or Lessee receives regarding inquiries or claims by anyone alleging a violation of the ADA.
26. FIRE OR OTHER CASUALTY LOSS TO PERSONAL PROPERTY. Lessee shall repair and maintain the exterior of Lessee's improvements, including but not limited to, roof, windows, grounds, parking lots, sidewalks, doors and lighting in safe condition and in good repair and condition. Lessee shall also repair and maintain the interior of Lessee's improvements, including, but not limited to, cooling system, heating system, plumbing, lighting, doors, flooring, and wall finishes. Lessee shall be solely responsible for obtaining and paying for insurance covering Lessee's property in the Premises, operations losses and liability insurance. Lessee shall not be insured for such losses by the City and shall not be entitled to make loss claims under the insurance coverage of the City; provided, however, the City shall be responsible for fire or other property and casualty loss to permanent structures and Premises improvements occupied by Lessee within the bounds of Rio Grande Nature Center State Park and the land area described in Paragraph 1., Lease of Premises
27. LIABILITY. As between the parties, each party shall be solely responsible for liability arising from personal injury or damage to persons or property occasioned by its own agents or employees, contractors or sub-contractors. The liability of

the parties shall be subject in all cases to the immunities and limitations of the Tort Claims Act (NMSA 1978, Section 41-4-1, *et seq.*) and any amendments thereto. This paragraph is not intended to modify in any way the liabilities of the parties as governed by the common law regarding landlord/tenant responsibilities.

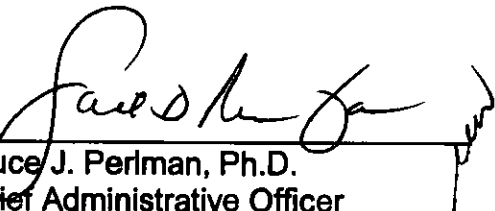
28. **NO PARTNERSHIP OR AGENCY.** Nothing contained in this Agreement is intended or shall be construed in any respect to create or establish any formal relationship other than that of lessor and lessee, and nothing herein shall be construed to establish any partnership, joint venture or association or to make Lessee the general representative or agent of City for any purpose whatsoever.
29. **GOVERNMENTAL RIGHT AND POWERS.** Nothing in this Agreement shall be construed or interpreted as limiting, relinquishing, or waiving any rights of ownership enjoyed by the City in the Rio Grande Nature Center State Park. The City's control over the management, operations or maintenance of the Rio Grande Nature Center State Park shall be subject to the terms of this Agreement; provided that this Agreement shall be interpreted as not impairing, exercising or defining governmental rights and the police powers of the City.
30. **SUCCESSORS BOUND.** The Agreement shall be binding on the parties hereto, their assigns, successors and transferees.
31. **EXHIBITS.** All certificates, documents, exhibits, attachments, riders, and addenda referred to in this Agreement, including but not limited to the exhibits referred to in this Agreement, are hereby incorporated into this Agreement by reference and are made a part hereof as though set forth in full in this Agreement to the extent they are consistent with the terms and conditions of this Agreement.
32. **CHOICE OF LAWS.** This Agreement shall be governed by the laws of the State of New Mexico without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New Mexico or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of New Mexico. The venue for any action or proceeding arising out of or relating to this Agreement shall be as provided in NMSA 1978, Section 38-3-1(G) (1988).
33. **SEVERABILITY.** If any term of this Agreement is found to be void, voidable or invalid, such finding shall not affect the remaining terms of this Agreement, which shall continue in full force and effect. The parties agree that if any provisions of this Agreement are found to be not enforceable, they shall be deemed modified to the extent necessary to make them enforceable consistent with the true intent hereof.
34. **COUNTERPARTS.** This Agreement may be executed in counterparts or with detachable signature pages, but in either or both circumstances shall constitute

one instrument, binding upon all parties thereto as if all parties signed the same document

35. HEADINGS. The headings used in this Agreement are for convenience only, and shall not be construed as modifying text.
36. FURTHER ACTIONS. At any time and from time to time, each party agrees, without further consideration, to take such actions and to execute and deliver such documents as may be reasonably necessary to effectuate the purposes of this Agreement.
37. WHOLE AGREEMENT; AMENDMENT. This Agreement contains the entire Agreement between the parties with respect to the transactions contemplated hereby. Neither this Agreement nor any provision hereof may be waived, modified or amended except by a written instrument executed by all parties hereto, and then only to the extent set forth in such instrument. This Agreement constitutes the full and final Agreement of the parties on all subjects contained within it. All prior negotiations and agreements are merged into this Agreement. No subsequent Agreement may modify this Agreement unless it is in writing and signed by the parties or their authorized agents.
38. ETHICS AND CAMPAIGN PRACTICES BOARD. The Lessee agrees to provide the Board of Ethics and Campaign Practices of the City of Albuquerque or its investigator (the "Board") with any records or information pertaining in any manner to this Agreement whenever such records or information are within the Lessee's custody, are germane to an investigation authorized by the Board, are requested by the Board, and are within the specific authorized documents covered by the New Mexico Inspection of Public Records Act (IPRA).

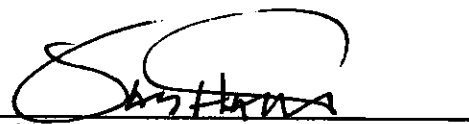
IN WITNESS WHEREOF, the parties have set their hands and seals on the dates indicated, effective upon the signature of the City's Chief Administrative Officer, which signature shall be affixed only upon the approval of the Albuquerque City Council.

CITY OF ALBUQUERQUE
A New Mexico Municipal Corporation

By 
Bruce J. Perlman, Ph.D.
Chief Administrative Officer

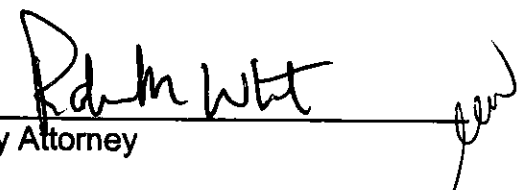
Date: 8/30/06

RECOMMENDED

By 
Jay Hart, Director
Parks and Recreation Department

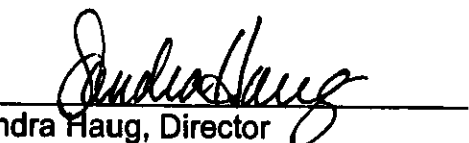
Date: 8/11/06

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By 
City Attorney

Date: 8-23-06

STATE OF NEW MEXICO
ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

By 
Sandra Haug, Director
Administrative Services Division

Date: 6/12/06

CITY OF ALBUQUERQUE

Parks and Recreation Department



August 31, 2009

Mr. David J. Simon, Director
New Mexico State Parks
1220 South St. Francis Drive
Santa Fe, NM 87505

Dear Mr. ~~Simon~~: *Dave,*

By this instrument, I approve and authorize the substitution of the proposed revised "Exhibit A" to the Rio Grande Nature Center State Park Lease Agreement (2006) between the City of Albuquerque and the New Mexico Energy, Minerals, and Natural Resources Department/State Park Division.

It is my understanding that the proposed revisions to Exhibit A is no way changes the boundaries of the leased area identified in the legal description on pages 1 and 2 of the Lease Agreement or any other terms of the Lease Agreement.

PO Box 1293

Thank you.

Albuquerque

Sincerely,

NM 87103

Jay Lee Evans
Jay Lee Evans, Director
Parks and Recreation Department

www.cabq.gov

c: Ed Adams, P.E., Chief Administrative Officer
Matthew Schmader, Superintendent, Open Space Division, PRD
Beth Dillingham, Superintendent, Rio Grande Nature Center State Park
Rebecca Wardlaw, City Attorney, Legal Department
Scott Howell, Real Property Division
File

JLE99



Rio Grande Nature Center State Park

City Owned Parcels

State Parks Division Leased Land

State Parks Division Owned Land

Special Management Areas

1:6,000

