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# Board of Supervisors Memorandum

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April 20, 2021

## Tucson-Pima County Historical Commission as Two Jurisdictional Commissions

### Background

In response to the significant destruction of Tucson's historic urban core due to urban renewal in the 1960s, which displaced entire neighborhoods and demolished hundreds of historic buildings in and surrounding the Tucson Presidio, citizens demanded the establishment of an historical commission to review and advise the City and County regarding the preservation of the remaining historic fabric of Tucson and its historic neighborhoods.

Subsequently, in 1974, Pima County (Resolution No. 1974-70) and the City of Tucson (Resolution No. 9222) established a "Mutual Aid and Assistance Agreement Between Pima County, the City of Tucson, and the Town of South Tucson regarding Historical Matters." This intergovernmental agreement (IGA) formed a joint Historical Commission "for the purpose of preserving, protecting, restoring, and extending the historical architecture, character, and history of Pima County...."

The IGA was mutually amended in 1989 and again in 1995, and remains in effect today, as does the joint Tucson-Pima County Historical Commission, comprised of 23 members (12 appointees from the City of Tucson, 10 appointees from Pima County, and 1 appointee from the City of South Tucson). While the IGA and Pima County Ordinance No. 1995-90 amendment has worked reasonably well, the Ordinance pertaining the Historical Commission is in need of revision to bring it into compliance with the federal requirements for the Certified Local Government designation for Pima County and to clarify qualifications of Commission members, term limits, attendance, expenses, reporting, and function and purpose of the Commission.

### Certified Local Government Program

Authorized by the National Historic Preservation Act, the Certified Local Government Program is a preservation partnership focused on promoting historic preservation at the grass roots level. The program is jointly administered by the National Park Service and the SHPO in each state, with each local government working through a certification process to become recognized as a Certified Local Government (CLG). CLGs then become an active partner in the Federal Historic Preservation Program and the opportunities it provides. It is implemented through 36 CFR 61.6.

The City of Tucson became a CLG in 1990, and Pima County became the first County CLG in Arizona in 2012. Through a review of Pima County's Historic Preservation program by the Arizona State Historic Preservation Office, Pima County was approved to be designated a Certified Local Government in Historic Preservation and to participate as a local government partner in a nationwide program of financial and technical assistance established by the National Historic Preservation Act of 1966 and administered in Arizona by the Arizona State Parks Board.

Such designation gives official federal and state recognition to Pima County's Historic Preservation program and entitles Pima County to apply for Certified Local Government federal matching grants. These grants may be used to identify historic, archaeological, and architectural resources through surveys, nominate eligible properties and districts to the National Register of Historic Places, further community education on historic preservation, and preserve and rehabilitate these properties. As a CLG, Pima County has received numerous federal grants of \$20,000 to \$40,000 nearly each fiscal year.

To become a CLG, the certification process involves meeting specific federal requirements as codified in 36 CFR 61.6 to carry out the purposes of the National Historic Preservation Act. The key sections pertaining to CLG certification requirements including the establishment of an Historical Commission are highlighted in bold font below:

§ 61.6 Certified local government programs.

(a) Each approved State program must provide a mechanism for certification (by the State Historic Preservation Officer and the Secretary) of local governments to carry out the purposes of the Act.

(b) Each State Historic Preservation Officer (SHPO) must follow procedures that the Secretary approves for the certification of local governments....

(c) When a SHPO approves a local government certification request in accordance with the State program's National Park Service (NPS)-approved certification process, the SHPO must prepare a written certification agreement between the SHPO and the local government....

(d) Beyond the minimum responsibilities set out in the Act for all CLGs, the SHPO may make additional delegations of responsibility to individual CLGs....

(e) The SHPO must ensure that each local government satisfies the following minimum requirements as conditions for certification. Each CLG must:

(1) Enforce appropriate State or local legislation for the designation and protection of historic properties.

(2) Establish by State or local law and maintain an adequate and qualified historic preservation review commission (Commission). All Commission members must have a demonstrated interest, competence, or knowledge in historic preservation. Unless State or local legislation provides for a different method of appointment, the chief elected local official must appoint all Commission members.

(i) The State procedures must encourage certified local governments to include individuals who meet "the Secretary's (Historic Preservation) Professional Qualifications Standards" among the membership of the Commission, to the extent that such individuals are available in the community.

(ii) The State procedures may specify the minimum number of Commission members who must meet "the Secretary's (Historic Preservation) Professional Qualifications Standards." The State procedures may also specify which, if any, disciplines the Commission's membership must include from among those disciplines that the Standards describe. Membership requirements set by the State procedures for Commissions must be cognizant of the needs and functions of Commissions in the State and subject to the availability of such professionals in the community concerned.

(iii) Provided that the Commission is otherwise adequate and qualified to carry out the responsibilities delegated to it, the SHPO may certify a local government without the minimum number or types of disciplines established in State procedures, if the local government can demonstrate that it has made a reasonable effort to fill those positions, or that an alternative composition of the Commission best meets the needs of the Commission and of the local government.

(3) Maintain a system for the survey and inventory of historic properties. The SHPO must ensure that such systems and the data that they produce are capable of integration into and are compatible with statewide inventories and (when and as appropriate) with State and local planning processes.

(4) Provide for adequate public participation in the local historic preservation program as a whole. The SHPO must provide each CLG with appropriate guidance on mechanisms to ensure adequate public participation in the local historic preservation program including the process for evaluating properties for nomination to the National Register of Historic Places.

(5) Satisfactorily perform the responsibilities delegated to it under the Act. The SHPO must monitor and evaluate the performance of each CLG according to written standards and procedures that the SHPO establishes.

#### Creating Two Jurisdictional Historical Commissions

The current discussion regarding creating separate Historical Commissions derives from how the requirements for certification as a CLG is stated in 36 CFR 61.6(e)(2) that "Each CLG must Establish by State or local law and maintain an adequate and qualified historic preservation review commission (Commission).

The operative term here is "Each CLG must," but the need to establish separate Commissions was only brought to our attention and the City of Tucson just more than a year ago by the State Historic Preservation Office (SHPO). Although the County and City have been CLGs for many years, the SHPO itself was not aware of the specificity of this requirement until the National Park Service (NPS) notified them that each federally designated CLG is required to have separate commissions, not joint commissions. According to SHPO, Pima County's

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designation as a CLG is not in jeopardy, and the joint Historical Commission can continue to operate until there are two jurisdictional Commissions.

Recommendation

I therefore recommend initiating the process to establish the Pima County Historical Commission as required by the Certified Local Government program, to direct staff to develop a new and revised ordinance and articles of operation for the Pima County Historical Commission and its members, and to identify any necessary Code revisions.

Respectfully submitted,



C. H. Huckelberry  
County Administrator

C: Carmine DeBonis Jr., Deputy County Administrator for Public Works  
Linda Mayro, Director, Pima County Office of Sustainability and Conservation