

January 23, 2019

130 South Scott Avenue, Tucson, Arizona 85701
TELEPHONE: 520.901.8500 FAX: 520.670.5530

MEMORANDUM FOR: Prof. Eric Eberhard
Chair, Udall Foundation Board of Trustees

SUBJECT: Certification of The Government In The Sunshine Act Compliance,
Electronic (Telephonic) Board of Trustees Meeting, February 12, 2019

As required by the Sunshine in Government Act, 5 USC § 552b, the Board of Trustees of the Udall Foundation (the Board) will shortly publish a notice of its intent to hold a special meeting of the full Board of Trustees on February 12, 2019. (This meeting notice will be published on the Udall Foundation website initially, due to the closure of portions of the U.S. Government, including the publication of the Federal Register, due to a lapse in funding. The notice will be provided to the Federal Register as well as soon as it is re-opened.) The matters to be considered at the meeting are: (1) Vote to go into Executive Session to discuss matters 2-4; (2) Create the position of Acting Executive Director of the Morris K. Udall and Stewart L. Udall Foundation; (3) Discuss candidates for and select the Acting Executive Director; and (4) Establish the entire Board of Trustees as the final Interview and Selection Panel for the Morris K. Udall and Stewart L. Udall Foundation Executive Director Search.

As required by 5 USC § 552b (f)(1), the Board has asked for a formal legal opinion to determine whether it may legally close this meeting to the public, other than the vote to close the meeting. The Board is proposing, as required by 5 USC § 552b (d)(1), to vote to hold a closed session that will solely consider matters 2-4 as described above. The vote of each voting member will be recorded and, should the motion pass, the remainder of the meeting will be closed to the public. The entire meeting, including both the open session and the closed session, will be electronically recorded. The vote of each voting member will be made publicly available along with a list of all persons attending the closed session. (5 USC § 552b (d)(3) and 5 USC § 552b (f)). The recording of the closed portion of the meeting shall be available as required by 5 USC § 552b (f)(2), and subject to other restrictions such as the 5 USC § 552 (the Privacy Act).

I hereby certify that in my opinion the Board may legally restrict attendance at the closed portion of the Board Meeting under 5 USC § 552b(c)(2) as the subject matter of this meeting is likely to “relate solely to the internal personnel rules and practices of an agency”, and to “disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy” (5 USC § 552b (c)(f)) .

This opinion shall be maintained with the records of the February 12, 2019 Meeting of the Udall Foundation Board of Trustees and shall also be made publicly available upon request.

MARC J. ROSEN
General Counsel