

**MEMORANDUM OF UNDERSTANDING**  
**Between the**  
**Las Vegas—Clark County Library District and City of Las Vegas**  
**For the Driveway and Retaining Wall at Las Vegas Library**

This Memorandum of Understanding (“MOU”) is made and entered into this 17<sup>TH</sup> day of December, 2008, between the Las Vegas—Clark County Library District, a political subdivision of the State of Nevada (the “District”), and the City of Las Vegas, a political subdivision of the State of Nevada (the “City”).

WHEREAS, the City is a governmental entity, which owns the real property located at 833 Las Vegas Boulevard North (APN 139-27-708-013), Las Vegas, Nevada(the “Property”); and

WHEREAS, the City leases the Property to the District, in an agreement that was entered into on February 19, 1986, and which expires on February 19, 2036; and

WHEREAS, the City desires to develop a relocated driveway and retaining wall for the Bunker Brothers Mortuary on a portion of the Property; and

WHEREAS, the City has agreed to enter into this MOU subject to the terms and conditions set forth herein; and

NOW THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

CITY agrees to:

1. City will provide for the construction and grading of the driveway and retaining wall, located on the Property as designated in Exhibit “A”.
2. Grant an ingress/egress easement to Carriage Cemetery Services for the adjacent property (APN 139-27-708-003), as designated in Exhibit “B”.
3. As part of the ingress/egress easement, Carriage Cemetery Services will provide for the maintenance of the driveway and retaining wall within the easement area, located on the Property as designated in Exhibit “A”.
4. Prior to construction of the driveway and retaining wall, the City and District shall meet on-site to assess the existing conditions and documentation shall be prepared that is acceptable to the City and District.
5. City will restore the grounds adjacent to driveway and retaining wall to existing or better condition after completion of construction of the driveway and retaining wall. This work shall include final grading, replacement and relocation of existing plant and rock ground cover materials and boulders, as well as required repairs and modifications to the existing irrigation system that may have been damaged as a result of construction of the driveway and retaining wall (the “Restoration Work.”).
6. City agrees to complete the Restoration Work subject to the satisfaction of District, which shall not be unreasonably withheld, conditioned or delayed. Upon completion of the Restoration Work, City shall provide written notice to District to that effect and the District shall have fifteen (15) business days to approve or object in writing to all or any portion of the Restoration Work. In the event

District fails to do so within said fifteen business day period, District shall be deemed to have approved City's Restoration Work. If District reasonably objects to any portion of the Restoration Work, within said fifteen business day period, then City shall have thirty (30) business days to cure such defects after receipt of the District's written objection. If it is not possible to cure such defects within said thirty (30) business day period, City shall nevertheless commence such cure work within said thirty (30) business day period and diligently prosecute same to completion.

7. City will assume all costs associated with the administering of the MOU. All costs incurred by the District are subject to prior approval by City, including reimbursement to District for the cost of work performed by its landscape architect.
8. City will defend and bear all costs of litigation which alleges an adverse interest to that of the District including the cost of any award stemming from said litigation.

District agrees to the following:

1. District will provide for the future operations, maintenance, and improvements of the grounds adjacent to the driveway and retaining wall, within the Property, as designated in Exhibit "A".

## **I. COMPLIANCE WITH LAWS AND LEGAL REQUIREMENTS**

City and District shall comply with and abide by all applicable statutes, ordinances, laws, and regulations affecting the Property, the improvements, or any activity or condition, on the Property.

This contract is made for the benefit of the parties to the contract, and not for any outside party. The parties agree that in the event of a dispute, each party will bear its own costs of litigation and attorney's fees.

## **II. INDEMNITY**

The parties shall be responsible for their own negligence subject to the limitations on liability provided under Nevada Revised Statutes, Chapter 41, and, to the same degree, shall hold harmless and indemnify the other party, its governing board, individual members thereof, and/or all employees for any and all losses, damages, harm, liability, cost, or expense, financial or otherwise, resulting or arising from, during, or as a result of any negligent or intentional action or inaction, error, and/or omission of its group members, agents, employees, volunteers, and/or activity participants in the activities involving this MOU. In addition, each agency shall defend the other party, its governing board, individual members thereof, and/or all employees and assume all costs, expenses, and liabilities of any nature to which the owner party may be subjected as a result of any claim, demand, action, or cause of action arising out of the activities involving this MOU.

**III. INSURANCE**

General Liability

Each party hereto shall carry commercial general liability insurance, or shall self-insure, in accordance with Nevada Revised Statutes. Such insurance shall be written by a company licensed by the state of Nevada, and shall respond in tort in accordance with NRS Chapter 41. Each party shall also maintain protection (insurance or approved self-insurance) for liability arising in other legal jurisdictions, including federal courts, in which the statutory tort caps of NRS Chapter 41 would not apply.

**IV. TERMINATION**

The parties shall have the right to terminate this MOU immediately upon written notice to the other party if: (i) the other party breaches any term of this MOU, which the other party has failed to cure within thirty days after the breaching party's receipt of written notice of such breach; or (ii) both parties mutually agree upon such termination of this MOU.

**V. NOTICES**

All notices regarding this MOU shall be given in writing and addressed to the following:

District: Office of Executive Director  
Las Vegas – Clark County Library District  
833 Las Vegas Boulevard North  
Las Vegas, Nevada 89101  
Phone: (702) 507-3611  
Fax: (702) 507-3609

City: Director of Public Works  
City of Las Vegas  
Department of Public Works  
400 Stewart Street  
Las Vegas, NV 89101  
Phone: (702) 229-6276  
Fax: (702) 382-0848

**VI. ENTIRE MOU**

This MOU sets forth the entire understanding and agreement between the Parties hereto and supersedes all previous communications, negotiations, and agreements, whether oral or written, with respect to the subject matter hereof. No addition to or modification of this MOU shall be binding on either party unless reduced to writing and duly executed by or on behalf of the parties hereto. No representation or statement not expressly contained in this MOU or in any written, properly executed amendment to the MOU shall be binding upon the CITY or the DISTRICT.

...  
...  
...  
...

[Signature page follows]

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

Date of Council Action:

12/17/08

Date of Board Action:

11/13/08 *aw*  
12/17/08

City of Las Vegas

Las Vegas—Clark County Library District

By: *Gary Reese*  
Oscar B. Goodman, Mayor

By: *Daniel L. Walters*  
Daniel L. Walters  
Executive Director

**Gary Reese, Mayor Pro-Tem**

ATTEST:

By: *Beverly K. Bridges*  
Beverly K. Bridges, CMC, City Clerk

ATTEST:

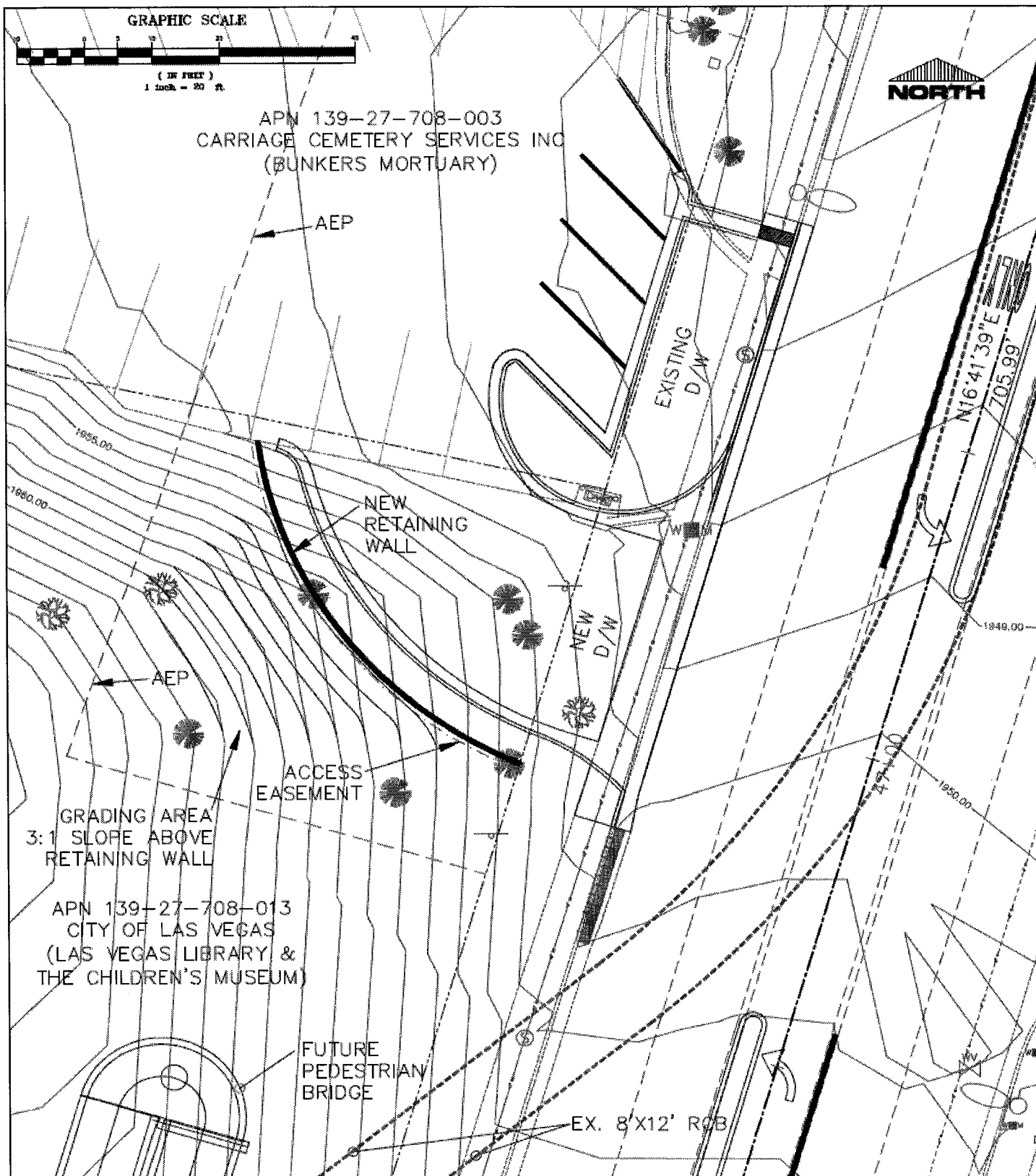
By: *[Signature]*  
*Carol Ann [unclear] 2008*

Approved as to form:

By: *John S. Richella* 11/05/08  
Date

Approved as to form:

By: *[Signature]*  
Date



## EXHIBIT "A"

MEMORANDUM OF UNDERSTANDING  
 DRIVEWAY AND RETAINING WALL AT LAS VEGAS LIBRARY