

RESTATED COOPERATIVE AGREEMENT

This Restated Cooperative Agreement ("Agreement") is made and entered into this 17th day of June, 2009, by and between the City of Las Vegas, a municipal corporation in the State of Nevada ("City"), and Regional Transportation Commission of Southern Nevada, a political subdivision of the State of Nevada ("RTC"). City and RTC are individually or collectively are referred to herein as "Party" or "Parties."

RECITALS

WHEREAS, City and the RTC entered into that certain Cooperative Agreement dated October 17, 2007; and

WHEREAS, a Cooperative Agreement is defined as an agreement between two or more public agencies for the joint exercise of powers, privileges and authority; and

WHEREAS, pursuant to the provisions contained in Chapter 408 of the Nevada Revised Statutes, City may enter into agreements necessary to carry out the provisions of the Chapter; and

WHEREAS, NRS 277.110 authorizes any two or more public agencies to enter into agreements for joint or cooperative action; and

WHEREAS, the Parties to this Agreement are public agencies and authorized to enter into agreement in accordance with NRS 277.080 to 277.110; and

WHEREAS, CLV was issued Patent # 27-96-0031 with the United States Department of the Interior's Bureau of Land Management ("BLM") for public use of real property located near the intersection of Durango Drive and Westcliff Drive described as Assessor's Parcel Number 138-29-801-002 ("Site"); and

WHEREAS, the purpose of this agreement is to allow the RTC to build a park and ride and transit facility on a portion of the Site; and

WHEREAS, through this Agreement, City will grant the RTC an Occupancy Permit on the aforementioned portion of the Site for the proposed use; and

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, it is agreed as follows:

ARTICLE I RTC AGREES

1. To build a park and ride and transit facility ("Park & Ride") to serve the Las Vegas Valley's public transportation system, including, but not limited to, the Citizens Area Transit ("CAT") buses; express buses; rapid transit buses; Deuce double-deck buses; paratransit vehicles; and possible future fixed guideway systems such as the Regional Fixed Guideway rapid transit vehicles or light rail systems (collectively the "Project"), on the portion of the Site further detailed in Exhibit "A", attached hereto and incorporated herein by this reference.

2. To be responsible for one hundred percent (100%) of all design costs, on-site and off-site improvement costs and all construction costs related to the Project as shown on the conceptual site layout in Exhibit "A."
3. The RTC will reimburse City for the construction costs of the Commercial Driving License ("CDL") lot no later than July 30, 2010, not to exceed Five Hundred Thousand Dollars and No Cents (\$500,000.00). RTC can commence construction of the Park & Ride after December 31 2009.
4. To use the Site solely for transportation purposes and supportive joint development.
5. To obtain all necessary building permits and comply with all City building codes.
6. To notify CLV in writing if it is not able to develop the Project.
7. To be responsible for the ongoing management of the Project during the term of this Agreement.
8. To not sublease or demise any part of the Park & Ride to a third party without the prior written consent of the City.
9. To be responsible for maintenance of all facilities on Park & Ride Site during the term of this agreement.
10. To provide two (2) copies of the preliminary design plans and specifications for the Park & Ride to the City for review and comment. The purpose of the design review is to ensure that the Park & Ride is being developed for its intended purpose.

ARTICLE II CLV AGREES

1. To grant the RTC Occupancy Permits for the Park & Ride for the right to use the site for transportation purposes and for supportive joint development for a term as delineated in Article III, Paragraph 1 below.
2. To review and comment on the preliminary design plans and specifications provided by the RTC within thirty (30) days of receipt.
3. City will pave another parcel of property of equal size, at City's sole cost and expense, located at the City's West Service Center, as depicted in Exhibit "B", attached hereto and incorporated herein by this reference, as a replacement CDL lot.

ARTICLE III IT IS MUTUALLY AGREED:

1. The term of this Agreement shall be for a primary term of thirty (30) years beginning October 17, 2007, plus the option to renew for five (5) extended terms of five (5) years each, the first of such extended terms to begin on the expiration of the initial term and each successive extended term to begin on the expiration of the term immediately preceding.
2. This Agreement may be terminated by either party, provided that a termination shall not be effective until one hundred and twenty (120) days after a party has served written notice upon the other Party. This Agreement may be terminated by mutual consent of both Parties or unilaterally by either Party

without cause. The Parties expressly agree that this Agreement shall be terminated immediately if for any reason Federal and/or State funding to satisfy this Agreement is withdrawn, limited or impaired.

3. All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile or electronic mail with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other Party at the address set forth below:

For City: Field Operations
Attn: Real Estate and Utilities Administrator
City of Las Vegas
400 Stewart Avenue, 4th Floor
Las Vegas, Nevada 89101
Phone: (702) 229-1021
Fax: (702) 464-2522

For RTC: Jacob L. Snow, General Manager
Attn: Brij Gulati
Regional Transportation Commission of Southern Nevada
600 S. Grand Central Parkway, Suite 350
Las Vegas, NV 89106-4512
Phone: (702) 676-1734
Fax: (702) 676-1713
E-mail: GulatiB@rtcsonv.com

4. RTC will ensure that any reports, materials, studies, photographs, negatives, drawings or other documents prepared in the performance obligations under this Agreement shall be the exclusive property of the RTC and CLV. RTC will ensure any consultant will not use, willingly allow or cause to have such documents used for any purpose other than performance of obligations under this Agreement without the written consent of the RTC and the CLV. RTC shall not utilize (and shall ensure any consultant will not utilize) any materials, information or data obtained as a result of performance of this Agreement in any commercial or academic publication or presentation without the express written permission of the CLV. The RTC (and any consultant) shall not reference an opinion of an employee or agent of the CLV obtained as a result of performance of this Agreement in any publication or presentation without the written permission of the employee or agent to whom the opinion is attributed, in addition to the permission of the CLV.

5. To the fullest extent of NRS Chapter 41 liability limitations, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorneys' fees and costs, caused by the negligence, errors, omissions, recklessness or intentional misconduct of its own officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity that would otherwise exist as to any party or person described herein. This indemnification obligation is conditioned upon the performance of the duty of the party seeking indemnification (indemnified party), to serve the other party (indemnifying party) with written notice of actual or pending claim, within 30 days of the indemnified party's notice of actual or pending claim or cause of action. The indemnifying party shall not be liable for reimbursement of any attorney's fees and costs incurred by the indemnified party due to said party exercising its right to participate with legal counsel.

6. The parties do not waive and intend to assert available NRS Chapter 41 liability limitations in all cases. Agreement liability of both parties shall not be subject to punitive damages. Actual damages for any breach shall never exceed the amount of funds that have been appropriated for payment under this Agreement, but not yet paid, for the fiscal year budget in existence at the time of the breach.

7. Prior to the use of the Park & Ride, the RTC shall, at its sole cost and expense, obtain and thereafter, at all times during which this Agreement is in force and effect, maintain bodily liability insurance covering the Premises and any and all improvements thereon in the amount of One Million Dollars and No Cents (\$1,000,000.00) for the injury to or the death of any one person and/or property damage combined single limit and One Million Dollars and No Cents (\$1,000,000.00), for injury to or the death of any number of persons and/or property damage as a result of any one occurrence. RTC shall submit to City a certificate of insurance which evidences the above required coverages and names the City as an additional insured. The policies with respect to such insurance coverages shall be so endorsed as to create the same liability on the part of the insurer as though separate policies had been written for City and RTC. The insurance coverages shall be with an insurance carrier which is licensed to do business with the State of Nevada and which is acceptable to the City.

8. Failure to declare a breach or the actual waiver of any particular breach of the Agreement or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

9. An alteration ordered by CLV which substantially changes the services provided for by the expressed intent of this Agreement will be considered extra work, and shall be specified in an Amendment which will set forth the nature and scope thereof. The method of payment for extra work shall be specified at the time the amendment is written.

10. This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. The parties consent to the jurisdiction of the Nevada district courts for enforcement of this Agreement.

11. The illegality or invalidity of any provision or portion of this Agreement shall not affect the validity of the remainder of the Agreement and this Agreement shall be construed as if such provision did not exist. The unenforceability of such provision shall not be held to render any other provision or provisions of this Agreement unenforceable.

12. All or any property presently owned by either party shall remain in such possession upon termination of this Agreement, and there shall be no transfer of property between the parties during the course of this Agreement.

13. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public or any member thereof a third party beneficiary status hereunder, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.

14. Each party agrees to keep and maintain under generally accepted accounting principles full, true and complete records and documents pertaining to this Agreement and present, at any reasonable time, such information for inspection, examination, review, audit and copying at any office where such records and documentation is maintained. Such records and documentation shall be maintained for three (3) years after final payment is made for any work to be performed hereunder.

15. The parties are associated with each other only for the purposes and to the extent set forth in this Agreement. Each party is and shall be a public agency separate and distinct from the other party and shall have the right to supervise, manage, operate, control and direct performance of the details incident to its duties under this Agreement. Nothing contained in this Agreement shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one agency whatsoever with respect to the indebtedness, liabilities, and obligations of the other agency or any other party.

16. In connection with the performance of work under this Agreement, the parties agree not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation or age, including, without limitation, with regard to 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, without limitation, apprenticeship. The parties further agree to insert this provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

17. Neither party shall assign, transfer or delegate any rights, obligations or duties under this Agreement without the prior written consent of the other party.

18. The parties hereto represent and warrant that the person executing this Agreement on behalf of each party has full power and authority to enter into this Agreement and that the parties are authorized by law to engage in the cooperative action set forth herein.

19. Pursuant to NRS 239.010, information or documents may be open to public inspection and copying. The parties will have the duty to disclose unless a particular record is confidential by law or a common law balancing of interests.

20. Each party shall keep confidential all information, in whatever form, produced, prepared, observed or received by that party to the extent that such information is confidential by law or otherwise required by this Agreement.

21. This Agreement shall not become effective until and unless approved by appropriate official action of the governing body of each party.

22. This Agreement constitutes the entire agreement of the parties and such is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Agreement specifically displays a mutual intent to amend a particular part of this Agreement, general conflicts in language between any such attachment and this Agreement shall be construed consistent with the terms of this Agreement. Unless otherwise expressly authorized by the terms of this Agreement, no modification or amendment to this Agreement shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Attorney General.

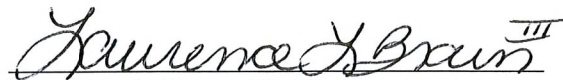
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23. Counterparts. This Agreement may be executed in one or more counterparts, any one of which if originally executed, shall be binding upon each of the parties signing thereon and all of which taken together shall constitute one and the same instrument.

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

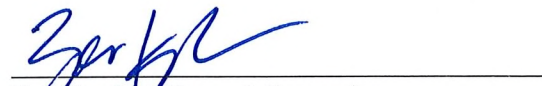
**Regional Transportation Commission of
Southern Nevada**


Lawrence L. Brown III, Chairman

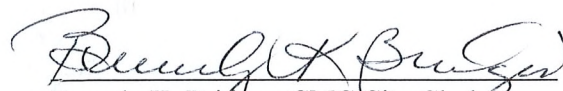
City of Las Vegas


Oscar B. Goodman, Mayor

Approved as to Form:


Zey Kaplan, General Counsel

Attest To:

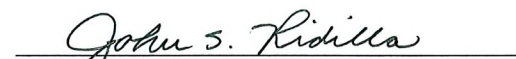

Beverly K. Bridges, CMC City Clerk

Attest to:


Name


Title

Approved as to Form:

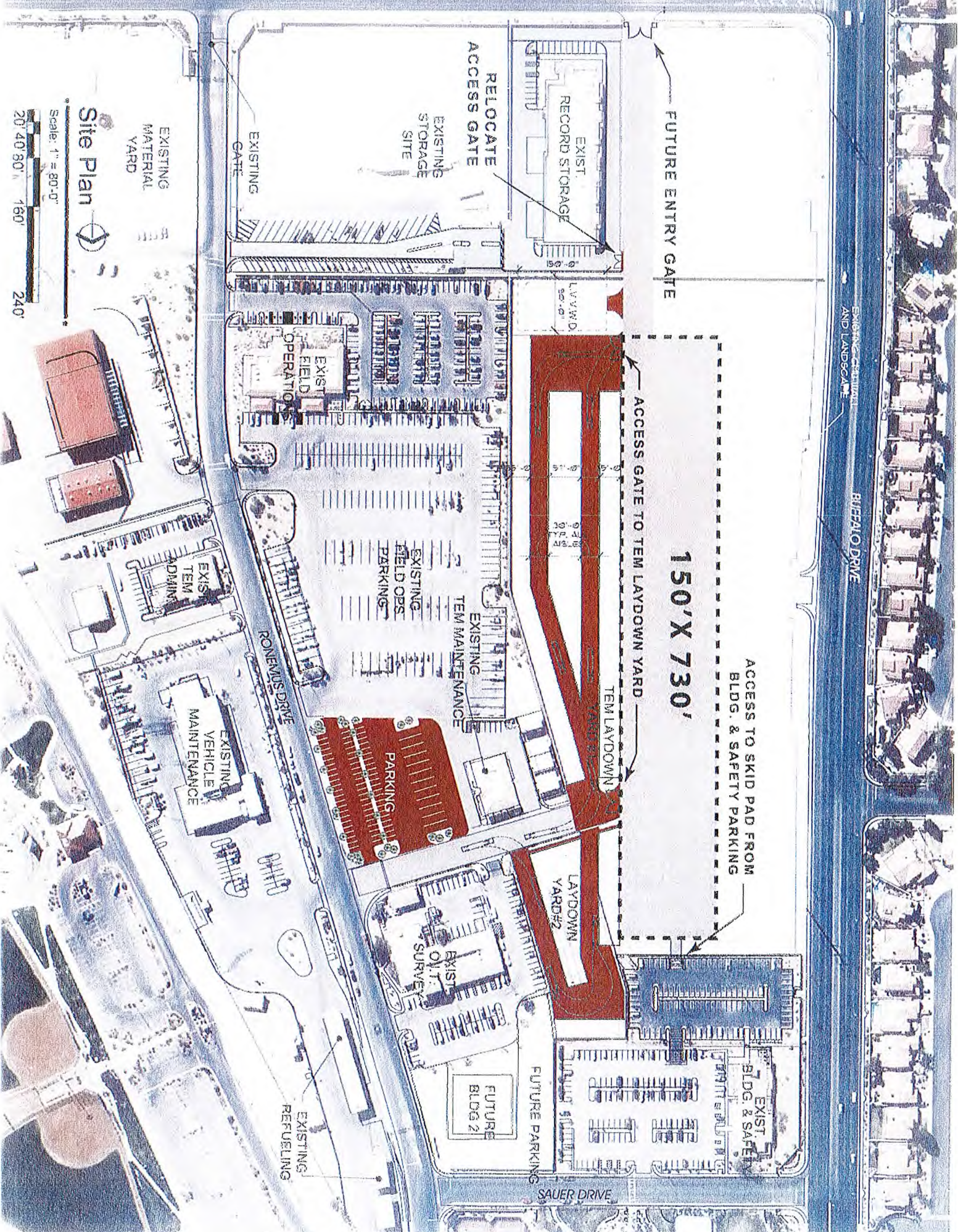

Deputy City Attorney



SITE MAP



Prepared by the City of Las Vegas
Real Estate & Utilities Section
5/7/09



Site Plan

Scale: 1" = 80'-0"

