



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Southern Nevada District Office
Las Vegas Field Office
4701 North Torrey Pines Dr
Las Vegas NV 89130
www.blm.gov/nv/



See 8/10/09

In Reply Refer to:
N-57555
2740/2912 (NVS0056)

AUG 10 2009

Robin Yoakum
City of Las Vegas
400 Stewart Avenue
Las Vegas, NV 89101

Dear Ms. Yoakum:

I am responding to your letter dated May 14, 2009, regarding a proposed agreement between the City of Las Vegas (City) and Imagine School in the Valle (Imagine) for a charter school on lands leased to the City under the authority of the Recreation and Public Purposes Act (Act), as amended.

Your letter requested that the Bureau of Land Management (BLM) make a determination as to whether Imagine is a qualified applicant under the authority of the Act. According to your letter, Imagine is considered a public entity under the Nevada Revised Statutes and as such is required to zero out its budget; however, Imagine does not have and is not pursuing 501(c)(3) status. Based on this information alone, my office is unable to make a determination if Imagine would be a considered to be a qualified applicant, or if the use would be a qualified use under the Act. Additional information and documentation would be needed.

Your letter indicated that the proposed agreement between the City and Imagine would be limited to the 2009-2010 and 2010-2011 school years and would therefore be a temporary use. You also indicated the term is limited, since Imagine has purchased land for a school and expects to be ready to occupy the new facility by the 2011-2012 school year. It has also been brought to our attention that Imagine operated their school at the location leased by the City during the 2008-2009 school year. Imagine has an expected enrollment of approximately 276 students for the 2009-2010 school year and students will be starting school on September 2, 2009.

Given that the school year is scheduled to begin in less than a month, my office would like to avoid disruption to the students. We would like to expeditiously bring the current activity into compliance under an authorization for the short-term, and only until Imagine can move to another facility. However, the options available are limited.

The lease issued to the City is for a water reclamation center, flood control detention basin, city park site, and other public and recreational facilities, with authorization to improve and manage the leased area in accordance with the plan of development approved on July 22, 1997. The aforementioned uses are consistent with the Notice of Realty Action (Notice) that was published prior to the lease issuance and required by regulation (43 CFR 2741.5(h)(1)). The agreement that the City proposes with Imagine for a charter school is a use that was not considered in the original Notice. Therefore, a new Notice may be required. Due to the mandatory public comment period requirements, the BLM

would be unable to process an amendment to the operation and management plan prior to the start of this school year. Additionally, the amendment to the operation and management plan to add a charter school would change the rental pricing category for the portion of the lease affected.

We believe that the only practical alternative at this late date to amending the operation and management plan would be a minimum impact land use permit issued for a term of up to three years. The permit would be issued directly to Imagine but would require concurrence from the City.

Land use permits are subject to cost recovery for processing of the application and payment of fair market value rental for the rights authorized in the permit. Given the unique circumstances of the current situation, and in the interest of accommodating the students, this option is being offered as a means to allow the school use on a limited basis.

A land use permit application has been enclosed for your convenience (Form 2920-1). The letter of concurrence from the City will need to be submitted with the application.

It has been brought to my attention that during the 2008-2009 school year Imagine made monthly payments to the Young Men's Christian Association (YMCA) for the use of the facilities located on the City's lease. These payments were not reviewed for conformance with the Act nor approved by the BLM. According to BLM policy, Lessees may make no more than a reasonable charge for the use of the facilities on the land (whether by concession or otherwise) and may charge no more for entrance to or use of the area than is charged at other comparable institutions managed by State and local agencies.

Therefore, if the school can be temporarily authorized using a land use permit, and if fees are to continue to be charged for Imagine's use of the YMCA facilities located on the City's lease, the BLM will need to review the fees to ensure that they are reasonable and in compliance with the Act and BLM policies. Any payment of fees by Imagine to the City or the YMCA for the use of facilities must be in addition to payment of fair market value for land use due to the BLM.

I am available to meet with you and the other parties to provide additional information and assistance. If you have any questions, or wish to arrange a meeting please contact me at (702) 515-5199.

Sincerely,

/s/ RR

Robert B. Ross, Jr.
Field Manager

Enclosure

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
LAND USE APPLICATION AND PERMIT
(Sec. 302(b) of P.L. 94-579, October 21, 1976, 43 U.S.C. 1732)

FORM APPROVED
OMB NO. 1004-0009
Expires: December 31, 2007

FOR BUREAU OF LAND MANAGEMENT (BLM) USE ONLY

Application Number

1. Name (first, middle initial, and last)	Address (include zip code)	Phone (include area code)
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2. Attach map or sketch showing public lands for which you are applying

3. Proposed date(s) of use: from to

4. Give legal basis for holding interest in lands in the State of

(Check appropriate box at right and explain.)

- | | |
|---|---|
| ☐ Resident | ☐ Partnership |
| ☐ Corporation | ☐ County |
| ☐ Local Government | ☐ State Government |
| ☐ Other | |

5. Are the lands now improved, occupied or used? ☐ Yes ☐ No (If "yes," describe improvements and purposes, identify users and occupants.)

6. Do you need access to the land? ☐ Yes ☐ No (Describe needed or existing access)

7a. What do you propose to use the lands for?

b. What improvements and/or land development do you propose? (To complete application processing, engineering and construction drawings may be required)

c. What is the estimated capital cost?

\$

d. What is the source of water for the proposed use?

I CERTIFY That the information given by me in this application is true, complete, and correct to the best of my knowledge and belief and is given in good faith.

(Signature of Applicant)

(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

(Continued on page 2)

PERMIT

Permission is hereby granted to
of
to use the following described lands:

Permit Number

TOWNSHIP	RANGE	SECTION	SUBDIVISION
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Meridian	State	County	Acres (number)
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for the purpose of

and subject to the following conditions:

- | | |
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| <ol style="list-style-type: none"> 1. This permit is issued for the period specified below. It is revocable at the discretion of the BLM, at any time upon notice. This permit is subject to valid adverse claims heretofore or hereafter acquired. 2. This permit is subject to all applicable provisions of the regulations (43 CFR 2920) which are made a part hereof. 3. This permit may not be assigned without prior approval of the BLM. 4. Permittee must not enclose roads or trails commonly in public use. 5. Authorized representatives of the Department of the Interior, other Federal agencies, and State and local law officials will at all times have the right to enter the premises on official business. 6. Permittee must pay the United States for any damage to its property resulting from the use. 7. Permittee must notify the BLM of address change immediately. 8. Permittee must observe all Federal, State, and local laws and regulations applicable to the premises and to erection or maintenance of signs or advertising displays including the regulations for the protection of game birds and game animals, and must keep the premises in a neat, orderly, and sanitary condition. 9. Permittee must pay the BLM, in advance, the lump sum 16. Special conditions (attach additional sheets, if necessary) | <p>of \$ _____ for the period of use authorized by this permit or \$ _____, annually, as rental or such other sum as may be required if a rental adjustment is made.</p> <ol style="list-style-type: none"> 10. Use or occupancy of land under this permit will commence within _____ months from date hereof and must be exercised at least _____ days each year. 11. Permittee must take all reasonable precautions to prevent and suppress forest, brush, and grass fires and prevent pollution of waters on or in the vicinity of the lands. 12. Permittee must not cut any timber on the lands or remove other resources from the land without prior written permission from the BLM. Such permission may be conditioned by a requirement to pay fair market value for the timber or other resources. 13. Permittee agrees to have the serial number of this permit marked or painted on each advertising display or other facility erected or maintained under the authority of such permit. 14. This permit is subject to the provisions of Executive Order No. 11246 of September 24, 1965, as amended, which sets forth the Equal Opportunity clauses. A copy of this order may be obtained from the BLM. 15. Permittee acknowledges, by signing below, that he/she knows, understands and accepts the terms and conditions under which this permit is issued. |
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Permit issued for period

From _____

To _____

(Permittee)

(BLM)

(Title)

(Date)

INSTRUCTIONS

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. Submit, in duplicate, to any local office of the Bureau of Land Management having jurisdiction of the lands. 2. Applications for Land Use Permits will not be accepted unless a notification of the availability of the land for non-BLM use (<i>Notice of Realty Action</i>) has been published in the Federal Register and for 3 weeks thereafter in a newspaper of general circulation. This provision does not apply in those situations where the publication of | <p>a (<i>Notice of Realty Action</i>) has been waived by the BLM.</p> <ol style="list-style-type: none"> 3. If the annual rental exceeds \$250 dollars per year, costs of processing the application must be paid by the applicant in advance. 4. The BLM may require additional information to process an application. Processing will be deferred until the required information is furnished by the applicant. |
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NOTICES

The Privacy Act of 1974 and the regulation in 43 CFR 2.48(d) provide that you be furnished the following information in connection with information required by this application for a Land Use Permit.

AUTHORITY: 43 U.S.C. 1201; 43 CFR Part 2920

PRINCIPAL PURPOSE: The information is to be used to process your application.

ROUTINE USES: (1) The adjudication of the applicant's request for a Land Use Permit. (2) Documentation for public information. (3) Transfer to appropriate Federal agencies when concurrence is required prior to granting a right in public lands or resources. (4)(5) Information from the record and/or the record will be transferred to appropriate Federal, State, local or foreign agencies, when relevant to civil, criminal or regulatory investigations or prosecutions.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of the information is voluntary. If all the information is not provided, the application may be rejected.

The Paperwork Reduction Act of 1995 requires us to inform you that:

Information is needed to process application for land use authorizations, pursuant to 43 CFR Section 2920.

Information shows if the applicant and proposed user meet the requirements of 43 CFR Section 2920.1.

Applicant must respond before he/she can be granted an authorization to use public lands.

BLM would like you to know that you do not have to respond to this or any other Federal agency-sponsored information collection unless it displays a currently valid OMB control number.

BURDEN HOURS STATEMENT: Public reporting burden for this form is estimated to average 1 hour per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to U.S. Department of the Interior, Bureau of Land Management (1004-0009), Bureau Information Collection Clearance Officer (WO-630), 1849 C Street, N.W., Mail Stop 401 LS, Washington, D.C. 20240.