

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING ("MOU") is entered into by and between the City of Las Vegas, a municipal corporation in the State of Nevada ("City") and the Nevada State Historic Preservation Office, an agency of the State of Nevada ("Nevada SHPO"). The City and Nevada SHPO are individually or collectively referred to herein as "Party" or "Parties."

RECITALS

WHEREAS, the Parties desire to enter this MOU to set forth procedures for administration of the program relevant to regulations affecting historic preservation; and

WHEREAS, the City proposes to administer and fund projects and programs in the City with funds from the U.S. Department of Energy ("DOE") under the American Recovery and Reinvestment Act of 2009 ("ARRA"). The DOE funds are subject to Section 106 of the National Historic Preservation Act (16 U.S.C. & 470f) (hereinafter collectively referred to as the "Programs"), and

WHEREAS, the DOE requires grantees to consult with the Nevada SHPO to assist in identifying sites of historic significance and effects of new construction, acquisition and rehabilitation activities upon potential historic sites, and

WHEREAS, the City has determined that there may be projects that are administered and funded under the Programs which may have an effect on properties included in, or eligible for inclusion, in the National Register of Historic Places ("Historic Properties") and has, in making this determination, consulted with the Nevada SHPO.

NOW THEREFORE, it is mutually agreed that in order to satisfy the City's responsibilities under Section 106 of the National Historic Preservation Act, the City will administer each of the Programs in accordance with the following provisions and stipulations and take into account the effect that grant purchases, new construction, acquisition and rehabilitation activities may have on Historic Properties or potentially Historic Properties located within the City of Las Vegas, Nevada.

DEFINITIONS

I. **Area of Potential Effect.** For purposes of this Agreement, the Area of Potential Effect ("APE") will be limited to the individual building when a proposed project involves the acquisition of real property and/or rehabilitation of its existing interior or exterior features.

AGREEMENT

I. Identifying Historic Properties

A. City staff, or other persons/agencies designated with the responsibility of conducting environmental reviews on behalf of the City, will determine the age of all properties eligible for rehabilitation by consulting appropriate public documents such as documents on file with the Clark County Assessor's Office, Clark County, Nevada. In addition, due to its designation as a

Certified Local Unit of Government, the City will also consult with the City's employee designated to be the certifying Historic Preservation Officer ("HPO") for the City.

B. If public records indicate that a property which is to be acquired or rehabilitated by the City is less than fifty (50) years of age, and it does not appear to be of extraordinary historic or architectural importance, no further consultation with Nevada SHPO is required and the project may proceed as determined by the City's or other designated entity.

C. If public records indicate that a property which is to be acquired or rehabilitated by the City is fifty (50) years of age or older, it must be evaluated for potential historic or architectural significance by the HPO, or a consultant meeting the Secretary of Interior's Professional Qualification Standards per 36 CFR 800 ("Qualified Designee"), unless the property is exempt from further consultation with the Nevada SHPO as specified in Section II, below.

D. If the HPO or qualified designee and the City determine that the property is eligible for inclusion in the National Register, the HPO or Qualified Designee will apply the seven aspects of integrity to determine whether or not the property retains sufficient integrity for listing in the National Register. If the HPO or Qualified Designee determines that a property lacks integrity, the property will not be considered eligible for inclusion in the National Register of Historic Places and the property will be exempt from further consultation.

E. If the project affecting a property fifty (50) years of age or older is not exempt as provided from further consultation with Nevada SHPO, and it maintains integrity as determined by the HPO or its qualified designee, the following documentation shall be submitted to the Nevada SHPO for review, after the City has consulted with the HPO or Qualified Designee and received his/her comments:

1. Age of the property as listed on the Clark County Assessor Records and Maps at the following website: <http://www.co.clark.nv.us/assessor/disclaim.htm>
2. Original or digital photograph(s) of the property showing all four elevations or as many sides as possible.
3. Map indicating property location.
4. Brief description of the property, which will also include the address and APN.
5. Description of rehabilitation work to be completed on the property.

F. If the Nevada SHPO, HPO and City agree that the property is not eligible for inclusion in the National Register, no further consultation is required and the project may proceed.

G. If the Nevada SHPO and City disagree regarding the potential eligibility of the property, the HPO or Qualified Designee will inventory the property and make a determination of National Register eligibility to the City and Nevada SHPO.

H. If, after such determination, the City and the Nevada SHPO still disagree regarding the eligibility of the property for the National Register, appropriate documentation shall be forwarded to the Keeper of the National Register ("Keeper") for an official determination. Failure of the Keeper to respond to the City of Las Vegas within forty-five (45) days of submission of documentation to the Keeper shall not preclude the City from proceeding with a project.

I. If a property is determined eligible for inclusion in the National Register, either through consensus between the City of Las Vegas and the Nevada SHPO, or through formal determination from the Keeper, and the project does not qualify as an exempt activity as defined in this Section II or Section III, the City will consult with the Nevada SHPO as required per 36 CFR 800.

II. Projects Not Requiring Review By the Nevada SHPO or the Advisory Council on Historic Preservation Council

Project activities not requiring review by the Nevada SHPO or the Advisory Council on Historic Preservation Council ("Council") are enumerated in this Section II. A project consisting of activities in this Section II as well as activities not listed in this Section II shall be reviewed pursuant to the terms of this Agreement.

A. Projects affecting properties that are less than fifty years of age do not require review pursuant to the terms of this Agreement.

B. Projects which are limited to the rehabilitation of interior spaces within single family structures where such work will not be visible from the exterior of the structure do not require review pursuant to the terms of this Agreement.

C. The following activities, whether undertaken separately or cumulatively do not require further consultation with the Nevada SHPO:

1. Electrical work.
2. Installing of mechanical equipment that does not affect the exterior of the building.
3. Repair or partial replacement of doors when the replacement is done in-kind to match as close as possible the original material and form.
4. Replacement of windowpanes in-kind or with double or triple glazing so long as glazing is clear and not colored, and replacement does not alter existing window material and form.
5. Caulking and weather-stripping with compatible colored materials.
6. Roof repair or replacement if replacement is in-kind to match the original as close as possible.
7. Replaced or added insulation.
8. Repair or replacement of bathroom or kitchen fixtures.
9. Re-roofing of flat, not readily visible roofs, and re-roofing that does not alter existing roof material and form.
10. Professional services and administrative costs of any of these programs.

III. Nevada SHPO Review Time

In accordance with Nevada SHPO's "Guidelines for Section 106 Submissions to the Nevada State Historic Preservation Office," Nevada SHPO shall have thirty (30) days upon receipt of documentation from the City to offer comments. The failure of Nevada SHPO to respond within this time period shall not preclude the City of Las Vegas from proceeding with a project.

IV. Other Considerations

A. The HPO must meet the Secretary of Interior's Professional Qualifications for an Architectural Historian as per Appendix A of 36 CFR 61.

B. If the HPO terminates employment with the City, the City must notify the Nevada SHPO immediately. The City shall not proceed under this MOU until a copy of the new HPO's curriculum vitae is provided to Nevada SHPO for review to determine if the new HPO meets the Secretary of Interior's Professional Qualifications as an architectural historian.

V. Resolution of Disagreement

Any disagreement between the City of Las Vegas and the Nevada SHPO arising from the adverse affects of rehabilitation on historic properties will be addressed by requesting comments from the Council requested in accordance with 36 CFR 800.6.

VI. Duration, Amendments and Termination

A. Duration. This MOU will become effective upon signature by the City and the Nevada SHPO and automatically terminate in three years after the date of the last signature unless it is extended by written agreement of both Parties.

B. Amendment. Amendments to this MOU may be requested of either Party for consideration of inclusion in this MOU. No amendment or addendum to this MOU will be effective without signed concurrence of the both Parties.

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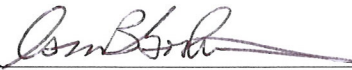
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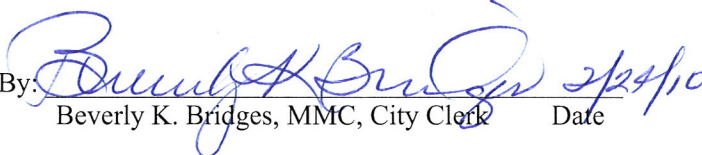
C. Termination. This MOU may be terminated at any time by the City or the Nevada SHPO upon thirty (30) days written notice. If the MOU is terminated, the City shall consult as per 36 CFR 800.3-7 for all projects described in this MOU.

IN WITNESS WHEREOF, the undersigned have executed this MOU as of the date first written above.

CITY OF LAS VEGAS

By: 
Oscar B. Goodman, Mayor

ATTEST:

By: 
Beverly K. Bridges, MMC, City Clerk Date

APPROVED AS TO FORM:

By:  1/20/10
Deputy City Attorney Date

NEVADA STATE HISTORIC PRESERVATION OFFICE

By: 
Alice Baldrice
Nevada State Historic Preservation Officer

APPROVED AS TO FORM:

By: _____
Date



JIM GIBBONS
Governor

MICHAEL E. FISCHER
Department Director

STATE OF NEVADA
DEPARTMENT OF CULTURAL AFFAIRS

State Historic Preservation Office
100 N. Stewart Street
Carson City, Nevada 89701
(775) 684-3448 • Fax (775) 684-3442
www.nvshpo.org

March 11, 2010

RONALD M. JAMES
State Historic Preservation Officer

Marco N. Velotta
City of Las Vegas
Office of the City Manager
Office of Sustainability
400 Stewart Ave.
Las Vegas, NV 89101

RE: SHPO undertaking #2010-262

Dear Mr. Velotta:

Thank you for responding to our comments on the memorandum of understanding (MOU) between the City of Las Vegas and the Nevada State Historic Preservation Office for the City administration of the Energy Efficiency and Conservation Block Grant (EECBG) program. I have signed all three copies and am returning two to you for your files. We do not sign off on "approved as to form." Signature by the deputy SHPO or SHPO is sufficient for our purposes.

Thank you for your cooperation and that of your staff. We look forward to working with you on these and other projects in the future.

Sincerely,

ALICE M. BALDRICA, Deputy
State Historic Preservation Officer

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CITY CLERK

