

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF LAS VEGAS REDEVELOPMENT AGENCY AND THE CITY OF LAS
VEGAS TO PROVIDE FOR THE OPERATIONS AND MAINTENANCE OF
THE HISTORIC FIFTH STREET SCHOOL BY
THE CITY OF LAS VEGAS OFFICE OF CULTURAL AFFAIRS**

This Interlocal Agreement ("Agreement") is made and entered into this _____ day of _____, 2010, by and between the City of Las Vegas Redevelopment Agency ("RDA") as property owner, and the City of Las Vegas ("City") on behalf of the City of Las Vegas Office of Cultural Affairs ("OCA"), (formerly the City of Las Vegas Cultural Affairs Division); as facility manager. Each of the above is a "Party" and collectively they are "Parties" to this Agreement.

W I T N E S S E T H

WHEREAS, the RDA owns the real property and improvements located at 401 South 4th Street, Las Vegas, Nevada, commonly known as the Historic Fifth Street School ("Premises" or "Facility"); and

WHEREAS, the Parties entered into a Memorandum of Understanding on July 16, 2008, and one subsequent extension through June 30, 2010 (collectively, the "MOU"); and

WHEREAS, the Parties have agreed to terminate the MOU and operate under the terms and conditions herein; and

WHEREAS, NRS 277.180 provides that any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which any of the public agencies entering into the contract is authorized by law to perform;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, the Parties agree as follows:

Section 1 – TERM

Unless earlier terminated (per Section 9, Termination), this Interlocal Agreement shall be for a two (2) year period commencing upon the effective date of this Agreement, with a one (1) year option to renew by the parties. The effective date of this Agreement shall be the date the agreement has been executed by the parties.

Section 2 - RDA OBLIGATIONS

A. The RDA shall provide, at no cost to OCA, management and staff offices of approximately 1,783 square feet in exchange for daily on-site management, programming, operations and maintenance, and event staffing of the Premises.

B. The RDA shall provide funding for the following expenses associated with the Premises subject to a minimum annual appropriation \$419,029.00 for FY2011; estimated expense projection below:

EXPENSES	FY 11 7/1/10 - 6/30/11
Facilities Charges (includes Gas, Power Trash, Sewer, Maintenance/Liability, Janitorial)	\$ 338,000.00
Landscape	\$ 31,497.00
Terminix	\$ 184.00
Security	\$ 43,348.00
Cox	\$ 1,000.00
Misc.	\$ 5,000.00
TOTAL	\$ 419,029.00

- i. One (1) Facility Management Staff Position
- ii. Common Area Maintenance (CAM) charges – all Premises common areas (including OCA management and staff offices.
- iii. Internal facilities charges including: maintenance, liability and janitorial and utilities to include: gas, power, water, trash and sewer
- iv. Security and Alarm monitoring

- v. Landscape, fountains and paved surfaces maintenance
 - vi. Pest control
 - vii. Basic cable service
 - viii. Miscellaneous services (not to exceed Five Thousand Dollar (\$5,000) per fiscal year)
- C. The RDA shall provide management of:
- i. Facility Maintenance Capital Costs
 - ii. Parking Agreements with City of Las Vegas Department of Detention and Enforcement

Section 3 - OCA OBLIGATIONS:

- A. OCA shall provide oversight and management of:
- i. Tenant Leases
 - ii. Accounts Receivable for Real Estate
 - iii. Accounts Payable for Real Estate
 - iv. Third Party Contracts
- B. OCA shall provide daily on-site facility management of the following Operations and Maintenance Services:
- i. (a) Check operational status of HVAC system and program for special events as required;
 - (b) Inspect mechanical buildings and cooling tower operations; check for signs of in-operation.
 - (c) Oversight of daily landscape maintenance activity;
 - ii. Oversight of Centennial Plaza and facility common areas
 - iii. Coordinate with the Las Vegas Metropolitan Police Department, City of Las Vegas Marshal units, and contracted security service regarding law enforcement issues
- C. OCA shall provide the following Programming and Events Management:
- i. Calendar coordination for resident-tenants, city of Las Vegas, Redevelopment Agency, and third party special events requests
 - ii. Special Events setup/teardown

- iii. General cleanup as necessary
- iv. Programming and coordination with contracted alarm services for daily, evening, and weekend special events as needed.

D. OCA shall use its best efforts to attain the Outside Rental Revenue Targets per fiscal year:

Monthly event rentals (based on 2 events per month)		
Auditorium/Gallery	\$2,000.00 per event	\$48,000.00
Courtyard rental	\$250.00 per event	\$ 6,000.00
Conference Room	\$250.00 per event	\$ 6,000.00
Total Annual Revenue Target:		<u>\$60,000.00 annual*</u>

***Total annual revenue targets to be increased by 10% per year, over a two (2) year period.**

OCA shall develop and implement a Facility Programming Marketing Plan in order to maximize Facility use and rental revenues.

E. OCA shall maintain a User Production Expense (Cost Analysis) by analyzing the user-cost of Facility rentals (gross rental income/expenses, staffing, and misc.).

Section 4 - PARTIES AGREE:

A. Budget Development - Parties agree to develop an annual budget of projected facility expenses. The budget shall be reviewed by parties on a semi-annual basis.

C. Parties agree to review and acknowledge the Fee Waiver Policy No. CM400, Office of the City Manager, approved May 30, 2008, herein attached as Exhibit A, regarding the City's facility rentals.

Section 5 - REPAIRS AND MAINTENANCE:

A. **RDA's Obligations for Repairs and Modifications**

(1) RDA shall keep the Premises, interior and exterior walls, roof, common areas and equipment in good condition and repair; through the city-owned assets, Internal Service Fund, implemented through the City's Department of Field Operations.

(2) If the RDA provides furniture, fixtures, equipment, finishes or other items of personal property ("RDA's FF&E") to the Premises for use by OCA, the RDA's FF&E shall remain the property of the RDA upon the termination and surrender of the Premises by OCA.

B. OCA's Obligations for Repairs and Maintenance

(1) Notwithstanding RDA's obligation to keep the Premises in good condition and repair, OCA shall be responsible for payment of the cost thereof to RDA for any maintenance and repair of the Premises, or any equipment (wherever located) that serves only OCA in the Premises, to the extent such cost is attributable to causes beyond normal wear and tear. OCA shall be responsible for the cost of painting, repairing or replacing wall coverings, and to repair or replace any Premises improvements that are not ordinarily a part of the Premises. OCA shall not make any alterations, additions or improvements without the prior consent of the RDA.

Section 6 - CONDITION OF PREMISES:

The Premises are provided to OCA in an "as-is" condition. The RDA makes no warranty concerning the Premises and shall have no obligation to construct any improvements other than those that currently exist.

Section 7 - DAMAGE OR DESTRUCTION:

OCA shall give prompt notice to the RDA in case of fire or accidents in or near the Premises or in any area of the facility.

a) If the Premises are partially damaged by fire or other casualty, the RDA and OCA shall work with City Department of Field Operations, Facilities Management Division to secure the Premises; inform insurance services, and proceed to repair such damages.

b) If the Premises or common areas are substantially or totally destroyed, or if the Premises are damaged so extensively that it cannot, in the RDA's opinion, be repaired within sixty (60) days after commencement of such repairs, or if the RDA shall decide to rebuild

the Premises or common areas so that they will be substantially different structurally or architecturally, then the RDA may, at its option, within thirty (30) days after such damage or destruction, give OCA written notice thereof and this Agreement shall thereupon be terminated effective as of the date of the occurrence of such damage or destruction.

Section 8 – PARKING:

OCA shall coordinate the daily and special events parking for the on-site facility parking lot and the overflow lot located at the southeast corner of 4th Street and Clark Avenue for resident tenants and invited guests.

Section 9 – TERMINATION:

The RDA shall have the right at any time to terminate this Agreement, in whole or in part, for any reason whatsoever. Such termination shall be effective with ninety (90) days written notice from the RDA to the Parties, specifying the extent and effective date of the termination.

OCA shall surrender the Premises and RDA's FF&E to RDA in the same condition as received, ordinary wear and tear excepted, clean and free of debris. Any damage or deterioration of the Premises and RDA's FF&E shall not be deemed ordinary wear and tear if the same could have been prevented by good maintenance practices by OCA. OCA shall repair any damage to the Premises or RDA's FF&E occasioned by the installation or removal of OCA's trade fixtures, alterations, furnishings and equipment. Except as otherwise stated in this Agreement, OCA shall leave the HVAC, power panels, electrical distribution systems, lighting fixtures, air conditioning, window coverings, wall coverings, carpets, wall paneling, ceilings and plumbing on the Premises in good operating condition.

Section 10 – NOTICES:

Any notice, demand, request, or other instrument which may be or is required to be given under this Agreement shall be delivered in person or sent by certified mail, return receipt requested, and shall be sent to the following address or to such other addresses as the parties may from time to time designate in writing:

If to the RDA: City of Las Vegas Redevelopment Agency
400 Stewart Avenue, 2nd Floor
Las Vegas, Nevada 89101
Attention: Operations Manager

If to the City: City of Las Vegas
Office of Business Development
400 Stewart Avenue, 2nd Floor
Las Vegas, NV 89101
Attention: Bill Arent, Director

With a copy to: City of Las Vegas
Office of Cultural Affairs
Historic Fifth Street School
401 S. 4th Street
Las Vegas, NV 89101
Attention: Nancy Deaner, Director

Section 11 –TERMINATION OF MOU:

By approval and execution of this Agreement by the Parties, the Parties agree to terminate the MOU effective the date of this Agreement.

IN WITNESS WHEREOF, the Parties caused this Agreement to be executed on the day and year first written above.

CITY OF LAS VEGAS
REDEVELOPMENT AGENCY

CITY OF LAS VEGAS

Elizabeth N. Fretwell, Executive Director

Oscar B. Goodman, Mayor

ATTEST

ATTEST

Beverly K. Bridges, MMC
Secretary

Beverly K. Bridges, MMC
City Clerk

Approved as to Form:

J. Ponticello
4/22/10 Date

EXHIBIT A

Service Fee Waiver Policy

No:	CM400	Type:	Policy
Department:	Office of the City Manager		
Approval Date:	05/30/2008	Approval:	

Purpose

To establish guidelines for Departments receiving requests to waive fees for outside organizations. This policy does not pertain to requests received from other City of Las Vegas Departments or other Southern Nevada governmental organizations.

Scope

All Employees.

Policy

It is the policy of the City of Las Vegas that requests for fee waivers shall be denied.

In rare occasions when a requesting organization meets certain criteria, the Department Director, or designee, may decide to make a recommendation to the City Manager to waive a fee. The following conditions must be met in order for a fee waiver to be considered:

The services provided for a charge are not regulated by State Statute, Resolution, Agreement, or City Ordinance¹; and

The organization requesting a fee waiver is a non-profit organization, which is defined as any organization that is exempt from federal income tax; and

It can be documented that the fee waiver is in the best interest of the City¹ as determined by the City Manager or designee; and

It can be documented that the fee waiver meets the Public Purpose Doctrine² as determined by the City Attorney or designee; and

¹ The City Manager may use any of the following guidelines to determine if a fee waiver is in the best interest of the City:

- In the absence of the non-profit organization, the City would provide the services.
- The services support any of the priorities of the City Council.
- The services rendered to the community provide a financial incentive for the City.

² Public Purpose Doctrine Defined – Definition given by the Nevada State Attorney General

"The "public purpose doctrine" prohibits the use of public property for private purposes. The essence of the [public purpose] doctrine, that public funds may be expended only for public purpose, rests on the theory that governmental power should be used for the benefit of the entire community. A "public purpose" is an action on the part of the

- The requesting organization has properly completed and submitted the proper forms to request a fee waiver.

Department staff who receive requests to waive fees for any fee-related service should forward the request to their respective Department Director or designee.

In those instances when there is a recognizable public benefit and the waived fee is in the best interest of the City and its residents, and all of the above criteria are met, the Department Director should work with the requesting organization to document the public purpose of the fee waiver and present the results to their respective Deputy City Manager with a recommendation. The City Manager, or designee, will determine if the fee waiver is appropriate and will inform the Department Director of the decision.

Fees charged that are covered by Municipal Code 13.36.138 will not be eligible for waiver.

All records of fees that are waived should be forwarded to the Department of Finance & Business Services to be recorded in a separate contra-revenue account. In this way, the accountability for the waived fee is maintained.

References

City of Las Vegas, *Parade Policy* CM104

City of Las Vegas, *Parade Procedure* CM104a

ⁱ The Municipal Code Provides:

13.36.138 Additional costs to be paid in advance.

Any person who is issued a permit pursuant to LVMC 13.36.134 [Special events at City parks or other City facilities] shall pay all of the additional costs that the City incurs, in excess of those that it incurs in connection with its normal maintenance of the park or facility in which the special event is held, as the direct result of the special event for which such permit is issued, and no permit may be issued hereunder until the amount of the City's estimate of such additional costs has been paid in advance. The additional costs for which the permittee shall be responsible shall include without limitation the City's expenditures that are associated with the personnel and equipment that it uses in preparing for, supervising and cleaning up after such event. Any of such additional costs that exceeds the City's estimate thereof shall be enumerated in writing, and an invoice therefore will be forwarded to the permittee for payment.

(Ord. 3372 §§ 1 (part), 15, 1988)

federal, state, or local government that benefits the community as a whole and is directly related to the function of the government.