

COTTONWOOD HEIGHTS

RESOLUTION NO. 2014-67

A RESOLUTION ADOPTING A POLICY AND MAKING CERTIFICATIONS CONCERNING THE BUTLER MIDDLE SCHOOL AUDITORIUM

WHEREAS, pursuant to an “Interlocal Cooperative Agreement (New Butler Middle School)” (the “*CSD Agreement*”) dated effective 4 December 2012 between the city of Cottonwood Heights (“*City*”) and the Board of Education of the Canyons School District (“*District*”), City contributed up to \$1.0 Million in public monies (the “*Contribution*”) to increase the seating, and to enhance the attributes, of the auditorium (the “*Auditorium*”) of the Butler Middle School (the “*School*”), and received in return the right to use the Auditorium for City-sponsored events such as plays and performances as specified in the CSD Agreement; and

WHEREAS, pursuant to an “Interlocal Cooperation Agreement” (the “*Grant Agreement*”) dated effective on or about 8 July 2014 between City and Salt Lake County for its Department of Community Services (“*County*”), County agreed to contribute \$315,000 (the “*Grant*”) of funds (“*TRCC Funds*”) received by County pursuant to the Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act (UTAH CODE ANN. sections 59-12-601 *et seq.*), which provides that TRCC Funds may be used for, *inter alia*, the development, operation, and maintenance of publicly owned or operated cultural facilities; and

WHEREAS, the Grant is conditioned, however, on City’s certification to County that City has (a) paid the Contribution (less the amount of the Grant) to District for use in enlarging and enhancing the Auditorium; and (b) established policies and procedures distinct from the District’s policies and procedures that appropriately protect/preserve the right of the public to free speech during City’s use of the Auditorium; and

WHEREAS, City’s city council (the “*Council*”) met on 14 October 2014 to consider, among other things, (a) certifying to County that City has paid the Contribution to District for use in enlarging and enhancing the Auditorium; and (b) adopting the attached policy (the “*Policy*”) to protect/preserve the right of the public to free speech during City’s use of the Auditorium; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to (a) certify to County that City has paid the Contribution to District for use in enlarging and enhancing the Auditorium; and (b) adopt the Policy, all as proposed;

NOW, THEREFORE, BE IT RESOLVED by the city council of Cottonwood Heights that the Council hereby (a) certifies to County that City has paid the Contribution to District for use in enlarging and enhancing the Auditorium; and (b) adopts the Policy that is attached to this resolution to protect/preserve the right of the public to free speech during City’s use of the Auditorium.

This Resolution, assigned no. 2014-67, shall take effect immediately upon passage.

PASSED AND APPROVED this 14th day of October 2014.

COTTONWOOD HEIGHTS CITY COUNCIL



ATTEST:

Kory Solorio
Kory Solorio, Recorder

By Kelvyn H. Cullimore, Jr.
Kelvyn H. Cullimore, Jr., Mayor

VOTING:

Kelvyn H. Cullimore, Jr.	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Michael L. Shelton	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
J. Scott Bracken <i>Absent</i>	Yea <input type="checkbox"/>	Nay <input type="checkbox"/>
Michael J. Peterson	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Tee W. Tyler	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

DEPOSITED in the office of the City Recorder this 14th day of October 2014.

RECORDED this 15 day of October 2014.

Cottonwood Heights Co-Use of Butler Middle School Auditorium Free Speech Policy

BACKGROUND: Pursuant to an “Interlocal Cooperative Agreement (New Butler Middle School)” (the “*CSD Agreement*”) dated effective 4 December 2012 between the city of Cottonwood Heights (“*City*”) and the Board of Education of the Canyons School District (“*District*”), City contributed up to \$1.0 Million in public monies (the “*Contribution*”) to increase the seating, and to enhance the attributes, of the auditorium (the “*Auditorium*”) of the Butler Middle School (the “*School*”), and received in return the right to use the Auditorium for City-sponsored events such as plays and performances as specified in the CSD Agreement. Such use is authorized by UTAH CODE ANN. section 53A-3-413, which provides as follows:

53A-3-413. Use of public school buildings and grounds as civic centers.

(1) *As used in this section, “civic center” means a public school building or ground that is established and maintained as a limited public forum to district residents for supervised recreational activities and meetings.*

(2) *Except as provided in Subsection (3), all public school buildings and grounds shall be civic centers.*

(3) *The use of school property for a civic center purpose:*

(a) *may not interfere with a school function or purpose; and*

(b) *is considered a permit for governmental immunity purposes for a governmental entity under Subsection 63G-7-301(5)(c).*

Pursuant to an “Interlocal Cooperation Agreement” (the “*Grant Agreement*”) dated effective on or about 8 July 2014 between City and Salt Lake County for its Department of Community Services (“*County*”), County agreed to contribute \$315,000 (the “*Grant*”) of funds (“*TRCC Funds*”) received by County pursuant to the Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act (UTAH CODE ANN. sections 59-12-601 *et seq.*), which provides that TRCC Funds may be used for, *inter alia*, the development, operation, and maintenance of publicly owned or operated cultural facilities. The Grant is conditioned, however, on (a) City’s certification to County that City has paid the Contribution (less the amount of the Grant) to District for use in enlarging and enhancing the Auditorium; and (b) City’s certification to County that City has established policies and procedures distinct from the District’s policies and procedures that appropriately protect/preserve the right of the public for free speech during City’s use of the Auditorium.

As required by the Grant Agreement, City heretofore has certified that City has paid the required Contribution to District, and has adopted by resolution of its city council the following policies and procedures distinct from the District’s policies and procedures that protect/preserve the public’s right to free speech during City’s use of the Auditorium.

POLICIES AND PROCEDURES: At all times during its use of the Auditorium, City shall protect and preserve the public’s right to free speech, as determined and defined by all applicable law, including, without limitation, the constitutions of the United States and the state of Utah, all applicable federal and Utah state statutes, and all applicable judicial decisions. Such protections shall extend through all phases of City’s use of the Auditorium, including, without limitation, booking, advertising and presenting activities at the Auditorium. Such protections shall not be limited by the CSD Agreement nor by any procedures and policies adopted by District for its

own use of the Auditorium. The free speech protection policy adopted herein does not, however, affect the following requirements for use of the Auditorium:

Scheduling: All activities sponsored by City or arranged through City will be scheduled through City's Events Coordinator, who will be responsible for coordination of such use and rental.

Fees. In connection with use of the Auditorium scheduled through City, the user will reimburse the City for the actual cost of services incurred with such use, such as janitorial services, ticket-taking, IT services, technical services.

Equipment. Those renting the Auditorium who request to use the stage lighting and sound equipment must also pay an equipment fee (see below). District's trained technicians must also be hired to operate the equipment.

Supervision. A City employee shall be present and accessible during any use of the Auditorium by an outside group, in which event the renter shall pay the fee for a City monitor specified below.

Insurance. All renters using the Auditorium must provide evidence of liability insurance showing District and City as additional insureds.

Forms. City's Events Coordinator will insure that all rental applications are complete and that proof of insurance is included with each application. The appropriate people will be notified of the use as necessary.

Payment. Fees will be charged for use of the Auditorium and equipment according to the approved fee schedule. All fees must be collected by City's Events Coordinator prior to the activity.

Advertising/Publicity. City shall have the right to co-use of the on-site marquee or electronic signage to publicize upcoming events in the Auditorium.

Damages: The user shall pay for any damages beyond normal wear and tear that occur as a result of use of the Auditorium.

Alcohol; Smoking; Food. Alcoholic beverages and controlled substances are not permitted in or on school property and smoking is prohibited. Food and drink may not be consumed in the Auditorium.

Rental Fee Schedule. The following fee schedule is current as of September 2014, but may be reasonably increased hereafter:

Auditorium Rental	\$30 per hour
Custodian/Monitor	\$30 per hour/person
Technicians	\$30 per hour/person