

SHULER AUDITORIUM USE AGREEMENT

This Agreement is made in duplicate originals by and between the CITY OF RATON, a New Mexico Corporation, owner of the Shuler Auditorium (hereinafter, "CITY") and _____ whose representative is _____, and whose address is _____ and whose telephone number is _____ (hereinafter, "USER").

Performance/Proposed Use

If checked, User qualifies for the "Not for Profit" fees and has provided the City with applicable proof of non-profit status.

1. DATES AND TIMES OF USE

SCHEDULED USE DATES	SCHEDULED USE TIMES	REHEARSAL	PERFORMANCE	MEETING	FEES
_____	_____	()	()	()	\$ _____
_____	_____	()	()	()	\$ _____
_____	_____	()	()	()	\$ _____
_____	_____	()	()	()	\$ _____
_____	_____	()	()	()	\$ _____
_____	_____	()	()	()	\$ _____
_____	_____	()	()	()	\$ _____
_____	_____	()	()	()	\$ _____
_____	_____	()	()	()	\$ _____

Refundable damage Deposit \$ _____

Total Fees Due and owing \$ _____

All rehearsals shall be concluded by 10:00 o'clock PM.

ALL USERS MUST PROVIDE THE CITY WITH PROOF OF LIABILITY INSURANCE IN ACCORDANCE WITH THE PROVISIONS SET FORTH IN THE ATTACHED CONTRACT.

CONTACT BILL DONATI AT 445-3652. HE IS THE TECHNICAL CONTACT AND WILL LE YOU KNOW WHAT YOU NEED FOR YOUR EVENT. HE WILL ALSO ADVISE BILL FEGAN OF THE DATE AND TIME OF YOUR EVENT.

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1 LICENSE FOR USE

1.1 The City herewith agrees to allow the User to use the Shuler Auditorium upon the dates and during the times hereinafter stated, subject to the terms and conditions stated in this Agreement.

1.1 Upon signing and execution of this Agreement, and before it shall become binding, the User shall pay to the City the following fees for the dates and purposes set forth above, unless otherwise waived by the City;

<u>PURPOSE</u>	<u>PROFIT GROUPS</u>	<u>NON-PROFIT GROUPS</u>
Presentations		
First Day of Performance	\$200.00	\$ 125.00
Second Day of Performance	\$100.00	\$ 75.00
Third Day of Performance	\$ 75.00	\$ 35.00
Rehearsal Days Prior to or Between Performances	\$ 20.00	\$ 15.00
Meeting Rate		
If meeting does not last all day	\$ 50.00	

Additional Fees to Base Rate

15% of gross concession sales for any group(s) selling concessions, i.e.:
Tapes, CD's, T-shirts, Memorabilia, etc.

Raton Public School

\$500.00 per year

Deposit

All groups shall remit a damage deposit of \$200.00.

2. TECHNICAL DIRECTOR

2.1 The City agrees to provide a Technical Director, who will be present at each rehearsal and performance, who will have the authority to supervise load in, set up and load out of each production, and who will provide user information as to location of all facilities in the Shuler Auditorium together with the availability and limitations upon lighting and sound support. Any of the User's questions regarding the available facilities should be directed to the Technical Director. The Technical Director shall have the authority to supervise the use of the in-house lighting and the use of the lighting console during the rehearsal and performance.

3. TECHNICAL RIDER

3.1 The parties agree that they have attached to this Agreement a technical rider, marked Exhibit "A" and incorporated by reference herein, specifying technical requirements to the User to which the City has agreed. Technical requirements not attached or omitted shall not be obligatory upon the City unless the City subsequently agrees in writing by amendment of this Agreement.

4. DAMAGE DEPOSIT

- 4.1** Upon the signing and execution of this Agreement, and before it shall become binding, the User shall also deposit with the City a damage deposit in the amount of \$200.00 unless otherwise waived by the City.
- 4.2** During and following User's occupancy of the Shuler Auditorium for the purpose stated herein, User shall maintain and render the Shuler auditorium in the same condition and order as exists upon the commencement of the use, including a clean sweeping and removal of all garbage and refuse, together with removal of all of User's props, supplies and equipment. The User agrees to walk through the Shuler Auditorium with the Technical Director upon the completion of use for the purpose of identifying needed cleaning and damage repair.
- 4.3** The damage deposit may be applied by the City to the payment and the amount of damages, including any unpaid fees, which the City has suffered, if any, by the reason of the User's non-compliance with this Agreement. The balance of the deposit, if any and a written itemization of the deductions from the deposit and the reasons therefore, shall be delivered or mailed to the User within sixty days of the termination of the use at the User's address stated above. Such remedy of the City shall not be deemed to limit or restrict the right of recovery from the User for damage, loss or sums due in excess of such deposit.
- 4.4** User shall be liable to the City for any damage resulting from user's use of the Shuler Auditorium and its equipment in excess of the amount of the damage deposit.
- 4.5** In the event of any malfunction of the Shuler Auditorium equipment or in the Shuler Auditorium itself, User agrees to report to the Technical Director such malfunction immediately upon discovery.
- 4.6** User agrees to pay the City for any damage resulting from User's misuse of the Facility or any of its equipment, including but not limited to lighting, audio equipment, set pieces and flats.

5. USE OF EQUIPMENT

- 5.1** Equipment in the Shuler Auditorium shall not be used by User except under the direct supervision of the Technical Director.
- 5.2** User's presentation shall be limited to a maximum sound level of 90 decibels, unless a higher level is authorized by the Technical Director.

6. ALTERATIONS

- 6.1** User shall make no changes or alterations to existing equipment, sets, flats, state or the Shuler Auditorium itself without the prior written approval of the Technical Director.

7. COMPLIANCE WITH APPLICABLE LAW AND SECURITY

- 7.1 User agrees to abide by all applicable Federal, State and City laws governing use of the premises.
- 7.2 User agrees not to permit the capacity for persons designated for the Shuler Auditorium to be exceeded at any time.
- 7.3 User agrees that it will provide sufficient security for the control and of activities taking place at the Shuler Auditorium and individuals in attendance at such activities during User's use pursuant to this Agreement. Without limiting the foregoing, User will monitor use of the balcony and keep patrons, especially children, out of any area which may be unsafe, the City reserves the right to require User to provide uniformed Raton Police Officers in the facility at the User's expense.

8. PROHIBITION OF USES

- 8.1 The User shall not use or permit use of any controlled substances, alcoholic beverages, smoking, flammable substance (including, but not limited to pyrotechnics and fire), food or drink in the Shuler Auditorium.

9. NON-LIABILITY OF LESSOR:INDEMNIFICATION:INSURANCE

- 9.1 User accepts the Shuler Auditorium in its present condition "as is", waives any claim for User, User's employees, agents, participants and invitee and agrees that the City shall not be liable for any injury or damage to any property or to any person during User's use of the Shuler Auditorium.
- 9.2 User Shall forever protect, indemnify, defend, hold and save the City free and harmless from and against any and all claims, demands, liability, causes of action, loss or damage of any nature whatsoever on account of any loss or damage, including property damage, personal injury or wrongful death arising directly or indirectly out of or caused by any accident, negligence or other acts on or in connection with the Shuler Auditorium or any part thereof, any nuisance made or suffered thereon, any use or occupancy of the Shuler Auditorium by User or any person claiming by, through User, and User shall reimburse the City for any attorneys' fees or other costs and expenses in connection with the defense of any claim relating thereto.
- 9.3 It is understood that the City shall carry fire insurance coverage on the principal improvements on the Shuler Auditorium but shall not carry any contents, fire or casualty insurance upon the personal property placed thereon or allowed thereon by the User, and that the City shall not because of such insurance or lack of insurance or otherwise be liable for any damage to persons or property arising from any cause whatsoever as effects said property.
- 9.4 The User shall carry liability insurance upon the above described on the premises in the amount of One Million Dollars, with One Million Dollars personal injury and Three Hundred Thousand Dollars for property damage.

10. RESPONSIBILITY FOR TICKET SALES AND RELATED MATTERS

10.1 The City shall have no responsibility for promotions, ticket sales, or box office personnel and money, all of which shall be the responsibility of the User.

11. LIMITATION OF USE

11.1 The use of the Shuler Auditorium includes the lobby, restrooms and the Auditorium space east of the lobby, including the seating section, stage and dressing rooms. The use permitted by this Agreement does not extend to or above the lobby or the building, including, but not limited to, the offices adjacent to or above the lobby or the telephones, copy machines, computers and other office equipment contained therein.

12. TERMINATION

12.1 The Agreement shall cease, terminate and come to an end at the option of the City immediately after notice in writing shall be mailed to the User of the happenings of any one of the following.

12.2 The User fails or omits to perform or violates any of the covenants or conditions of this Agreement, including the failure to pay rental fees, by the User to be performed or observed;

12.3 The use of the premises for any purpose but the hereinabove authorized.

12.4 In any of the events of default or termination as is set forth in this paragraph, the City shall have the right and option to terminate the Agreement, to remove all persons from the premises with or without process of law, and to distain for any rent, damages or other sums that may be due hereunder, any property belonging to the User and located on the premises. Whereupon the User shall quit and surrender peacefully the premises to the City and all of User's rights, herein and to the premises, shall be deemed forfeited.

12.5 A waiver by the City of any breach or breaches by the User of any one or more of the covenants and conditions hereof shall not constitute a waiver of, nor shall the same affect the right of the City hereunder to declare default for any such or other covenants or conditions.

12.6 The City, shall without limitation as above set forth, have the right to any and all other legal remedies allowable by laws of the State of New Mexico, together with costs and reasonable attorneys' fees in enforcing the terms and provisions of this Agreement or in terminating the same.

13. EFFECT OF AGREEMENT

13.1 The parties agree that this Agreement shall not constitute a lease, but shall be deemed to be a license. The parties further agree that the relationship between the City and the User is not one of partnership or joint venture, and that the User is an independent contractor relative to the City.

14. MISCELLANEOUS

14.2 This Agreement shall be governed by Laws of the State of New Mexico.

14.3 Time is of the essence of each and every one of the conditions and terms of this Agreement.

14.4. This Agreement constitutes the entire contract between the parties hereunto, and the City is not liable or bound in any manner by expressed or implied warranties, guarantees, promises, statements, representations or information pertaining to said premises, the condition thereof, or any matter whatsoever made or furnished by any person, the City or otherwise unless such warranties, guarantees, promised, statements, representations or information are expressly and specifically set forth in this Agreement.

14.5 The date of this Agreement shall be deemed to be the date upon which it is last signed by the parties hereto as indicated by the dates appearing adjacent to their signatures below. This Agreement shall nevertheless be deemed to be effective at such date as the User takes possession hereunder.

14.6 User's failure to comply with this Agreement or any damage resulting from the acts or omissions of User shall constitute grounds for immediate cessation of this Agreement by the City and for permanent forfeiture of User's privilege of use of the Auditorium.

15. BINDING EFFECT

15.1 The terms hereof shall extend to, and be binding upon, the heirs, administrators, executors, successors and assigns of the parties.

IN WITNESS WHEREOF, the parties have hereunto affixed their signatures on the day and year indicated below.

USER:

_____ Date: _____

CITY OF RATON

BY: _____ Date _____

ITS: _____

SHULER DAMAGE INSPECTION

USER: _____

DATE OF USE: _____

USER PHONE: _____

USER ADDRESS: _____

Check For	Damage	Amount	Director's Initials
Broken Windows			
Interior Graffiti			
Exterior Graffiti			
Broken mirrors, faucets, fixtures, etc.			
Carpet or Floors			
Vandalism or damage to equipment			
Broken or damaged tables and chairs			
Damage to any exterior/interior or any fixed or portable assets belonging to the City of Raton			
Other:			

TOTAL DAMAGES \$ _____

I agree to the above damages.

Signature of User

Shuler/City personnel

Date:

RELEASE OF DAMAGE DEPOSIT

Deposit Amount: \$ _____

Shuler/City Approval _____

Deposit Released to \$ _____

Print name

Date: _____

Signature of User: _____

Deposit Mailed to: _____

Date: _____

Address: _____

Deposit Released By: _____