LOS ANGELES COUNTY

COUNTY OF LOS ANGELES
Internal Services Department
1100 North Eastern Avenue
Los Angeles, California 90063

Dave Lambertson
Director

To enrich lives through effective and caring service.

Telephone: (323) 267-2101
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September 21, 2005

Agenda Date: September 27, 2005

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

REQUEST FOR APPROVAL OF A LICENSE AGREEMENT FOR PARKING FOR THE MUSEUM OF CONTEMPORARY ART (FIRST DISTRICT – 3 VOTES)

JOINT RECOMMENDATION WITH THE CHIEF ADMINISTRATIVE OFFICER THAT YOUR BOARD:

1. Make a finding that a portion of the Walt Disney Concert Hall's Parking Facility is not required exclusively for County use.

2. Approve and instruct the Chair to sign the attached license agreement to permit approximately 100 Museum of Contemporary Art employees to park at the Walt Disney Concert Hall Parking Facility, at the rate of $120 per person, per month, for a five-year term commencing on date of full execution by both parties.

3. Find that this license agreement is exempt from the California Environmental Quality Act (CEQA) pursuant to Class 1, of the Environmental Document Reporting Procedures and Guidelines adopted by your Board on November 17, 1987, and Section 15301 of the State CEQA Guidelines.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The Internal Services Department (ISD) manages the Walt Disney Concert Hall Parking Facility at 111 South Grand Avenue, Los Angeles. This facility provides parking for various performing arts company tenants, jurors and the public. The 1,730-parking space facility currently operates at approximately 40 percent capacity during weekdays.

The Museum of Contemporary Art (MOCA) is a non-profit organization. In recent years, MOCA employees have been provided free parking at a privately owned parking garage through the donation of a generous benefactor. Effective September 30, 2005, the Museum's employees will no longer be able to use the parking facility due to the inability of the new ownership to offer the quantity of parking spaces needed by MOCA.

At the request of MOCA, and with the concurrence of the Chief Administrative Office, our office is recommending that a single bulk rate of $120.00 per parking space, per month for 100 spaces be made available to MOCA for its employees.

IMPLEMENTATION OF STRATEGIC GOALS

Approval of this rate recommendation is consistent with the County's Strategic Plan Goal of Fiscal Responsibility.

FISCAL IMPACT/FINANCING

The recommended single bulk license agreement with MOCA will generate approximately $129,600 in net annual revenue.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The five-year license agreement will generate a monthly rental income of $12,000, less 10 percent City tax. Either party may cancel the agreement upon giving the other party a 60-days prior written notice.

The attached license, which is authorized pursuant to Government Code Section 25536 has been executed by MOCA and approved as to form by County Counsel.

ENVIRONMNETAL DOCUMENTATION

This project is exempt from CEQA requirements as specified in Class 1, of the Environmental Document Reporting Procedures and Guidelines adopted by the Board on November 17, 1987, and Section 15301 of the State CEQA Guidelines.

IMPACT ON CURRENT SERVICES OR PROJECTS

There is no impact on current services or programs resulting from this proposal. A 60-day termination clause is included in the agreement to accommodate the potential reduction of available parking for County employees and jurors due to closure and re-development of existing Civic Center County parking lots.

CONCLUSION

It is requested that the Executive Officer, Board of Supervisors, return two originals of the executed license agreement and the adopted, stamped Board letter to the Chief Administrative Office, Real Estate Division at 222 South Hill Street, Third Floor, Los Angeles, CA 90012 for further processing.

Respectfully submitted,

Dave Lambertson
Director

David E. Janssen
Chief Administrative Officer

DL:DB:MVG:NC
Attachment

c: Chief Administrative Office
Executive Officer, Board of Supervisors
County Counsel
Auditor Controller

NON –EXCLUSIVE LICENSE AGREEMENT

THIS NON-EXCLUSIVE LICENSE AGREEMENT ("License"), made and entered into this _____ day of _____, 2005,

BY AND BETWEEN **COUNTY OF LOS ANGELES,** a body corporate and politic, hereinafter referred to as "County",

AND **THE MUSEUM OF CONTEMPORARY ART**, hereinafter referred to as "Licensee,"

WHEREAS, County is the owner of certain real property which is not required exclusively for County use; and

WHEREAS, Licensee is desirous of using on a nonexclusive basis, a portion only of said real property;

WHEREAS, County is willing to provide a license in accordance with the terms and conditions prescribed therefor;

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions set forth herein, the parties hereto and each of them do agree as follows:

1. **LICENSED AREA**

1.01 County hereby provides a non-exclusive License to Licensee and Licensee hereby agrees to the use upon the terms and conditions hereinafter set forth for the use of one hundred (100) parking spaces in the parking structure (the "Parking Structure") located at 111 South Grand Avenue, Los Angeles, also known as the Walt Disney Concert Hall Parking Structure (the "Licensed Area").

1.02 The Licensed Area shall be used only by the Licensee for the purpose of employee parking during the Parking Structure's normal operating schedule and such other purposes as are related thereto.

1.03 Licensee shall make no alterations or improvements to the Licensed Area.

1.04 Licensee acknowledges personal inspection of the Licensed Area and the surrounding area and evaluation of the extent to which the physical condition thereof will affect the License. Licensee accepts the Licensed Area in its present physical condition and agrees to make no demands upon County for any improvements or alterations thereof.

1.05 Licensee hereby acknowledges the title of County and/or any other public agencies having jurisdiction thereover, in and to the Licensed Area and covenants and agrees never to assail, contest or resist said title.

2. TERM

2.01 The term of the License shall be for a period of five (5) years commencing upon full execution of this License and expiring five (5) years thereafter.

2.02 Either party shall have the option of terminating this License at will upon giving sixty (60) days advanced written notice. Notwithstanding the foregoing provision, this license may be immediately cancelled in the event of an emergency or unsafe condition.

3. PAYMENT

Licensee shall pay County for the use granted herein the rate of One Hundred Twenty Dollars ($120) per month per space payable in advance for a total of Twelve Thousand Dollars ($12,000) per month. Payments shall be payable on the tenth (10th) day of each and every month of the term hereof and shall be made by check or draft issued and payable to the County of Los Angeles, and mailed or otherwise delivered to the County of Los Angeles, Auditor-Controller, Administrative Services, Room 410, 500 West Temple Street, Los Angeles, CA 90012, Attention: Franchise/Concessions Section.

4. OPERATING RESPONSIBILITIES

4.01 Compliance with Law. Licensee's operations in and use of the Licensed Area shall conform to and abide by all County ordinances and all State and Federal laws and regulations insofar as the same or any of them are applicable; and where permits and/or licenses are required for Licensee's specific use of the Licensed Area, the same must be first obtained from the regulatory agency having jurisdiction thereover. County shall maintain the Licensed Area in compliance with all applicable County ordinances and State and Federal laws and regulations.

4.02 Signs. Licensee shall not post signs or advertising matter upon the Licensed Area or improvements thereon unless prior approval therefor is obtained from the County, whose approval shall not be unreasonably withheld.

4.03 Sanitation. No offensive matter or refuse or substance constituting an unnecessary, unreasonable, or unlawful fire hazard, or material detrimental to the public health, shall be permitted or remain on the Licensed Area, and Licensee shall prevent any accumulation thereof from occurring. Licensee shall pay all charges which may be made for the removal thereof.

4.04 Maintenance. The County shall be responsible for maintaining the Licensed Area in a clean and sanitary condition.

4.05 Utilities. The County shall be responsible for payment of all utilities necessary for the operation of the Licensed Area.

4.06 Parking Access. County may require Licensee and its employees and agents to enter the parking structure using an access card and to display an identification tag while parked. Requirements for Licensee's access shall be at the discretion of the County and are subject to change. County shall provide prior notification for changes in access requirements. All requirements shall be strictly followed by Licensee.

4.07 Assigned/Designated Spaces. County shall have the right to assign or designate parking areas of the Licensed Area to be used by Licensee. Said parking areas may be changed at the County's discretion during the term of the License. Licensee shall park in only those areas that are designated by the County. County shall provide prior notice to Licensee for changes in the designated parking areas. Vehicles parked in unauthorized areas or spaces will be cited.

4.08 Examination of Licensed Area. Licensee shall permit authorized representatives of the County to enter the Licensed Area for the purpose of determining whether the authorized activities are being conducted in compliance with the terms of this License, or for any other purpose incidental to the performance of the duties required by the Los Angeles County Code.

5. HOLD HARMLESS AND INDEMNIFICATION

Licensee agrees to indemnify, defend, save and hold harmless County and its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, expense (including defense costs and legal fees), and claims for damages of any nature whatsoever, including, but not limited to, bodily injury, death, personal injury, or property damage arising from or connected with Licensee's, and its members, agents and invitees', operations on and use of the Licensed Area and the attraction caused by their operations on and use of the Licensed Area which attracts third parties and members of the general public to the Licensed Area, including any Workers' Compensation suit, liability, or expense, arising from or connected with services performed on behalf of Licensee by any person pursuant to this License.

6. INSURANCE

6.01 Without limiting Licensee's indemnification of County and during the Term of this License, Licensee shall provide and maintain the following insurance. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by County, and such coverage shall be provided and maintained at Licensee's own expense.

(a) General Liability insurance (written on ISO policy form CG 00 01 or its equivalent) and endorsed to name County as an additional insured, with limits of not less than the following:

General Aggregate:	$2 million
Products/Completed Operations Aggregate:	$1 million
Personal and Advertising Injury:	$1 million
Fire Legal Liability	$100,000
Each Occurrence:	$1 million

(b) Automobile Liability insurance (written on ISO form CA 00 01 or its equivalent) with a limit of liability of not less than $1 million for each accident, and providing coverage for all "owned," "hired" and "non-owned" vehicles, or coverage for "any auto," used in Licensee's business operations.

(c) Workers Compensation and Employers' Liability insurance providing workers compensation benefits, as required by the Labor Code of the State of California and for which Licensee is responsible, and including Employers' Liability coverage with limits of not less than the following:

Each Accident:	$1 million
Disease - policy limit:	$1 million
Disease - each employee:	$1 million

6.02 Evidence of Insurance. Certificate(s) or other evidence of coverage satisfactory to County shall be delivered to the Chief Administrative Office, Real Estate Division, County prior to the Commencement Date. Such certificates or other evidence shall: (a) specifically identify this License, (b) clearly evidence all coverages required in this License, (c) contain the express condition that County its to be given written notice by mail to County at least thirty (30) days in advance of cancellation for all policies evidenced on the certificate of insurance, and (d) identify any deductibles or self-insured retentions for County's approval.

6.03 Insurer Financial Ratings. Insurance is to be provided by an insurance company acceptable to County with an A.M. Best rating of not less than A:VII, unless otherwise approved by County.

6.04 Failure to Maintain Coverage. Failure by Licensee to maintain the required insurance, or to provide evidence of insurance coverage acceptable to County, shall constitute a material breach of this License.

6.05 Notification of Incidents, Claims or Suits. Licensee shall report to County any accident or incident relating to activities performed under this License which involves injury or property damage which might reasonably be thought to result in the filing of a claim or lawsuit against Licensee and/or County. Such report shall be made in writing within 72 hours of Licensee's knowledge of such occurrence.

6.06 Compensation for County Costs. In the event that Licensee fails to comply with any of the indemnification or insurance requirements of this License, and such failure to comply results in any costs to County, Licensee shall pay full compensation for all reasonable costs incurred by County.

7. FAILURE TO PROCURE INSURANCE

7.01 Failure on the part of Licensee to procure or maintain required insurance shall constitute a material breach of contract upon which County may immediately terminate this License or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, and all monies so paid by County shall be repaid by Licensee to County upon demand.

7.02 Use of the Licensed Area shall not commence until Licensee has complied with the aforementioned insurance requirements, and shall be suspended during any period that Licensee fails to maintain said policies in full force and effect.

8. TRANSFERS

Licensee acknowledges that the rights conferred herein are personal to Licensee and do not operate to confer on or vest in Licensee any title, interest, or estate in the Licensed Area or any part thereof, and therefore, Licensee shall not assign, hypothecate or mortgage the Licensed Area or any portion thereof, by, through, or pursuant to this License.

9. NONDISCRIMINATION

Licensee certifies and agrees that all persons employed by Licensee and/or by the affiliates, subsidiaries, or holding companies thereof are and shall be treated equally without regard to or because of race, ancestry, national origin, or sex, and in compliance with all Federal and State laws prohibiting discrimination in employment, including but not limited to the Federal Civil Rights Act of 1964; the Unruh Civil Rights Act; the Cartwright Act; and the State Fair Employment Practices Act.

10. DEFAULT

Licensee agrees that if default shall be made in any of the covenants and agreements herein contained to be kept by Licensee, County may forthwith revoke and terminate this License.

11. WAIVER

11.01 Any waiver by either party of any breach of any one or more of the covenants, conditions, terms and agreements herein contained shall not be construed to be a waiver of any subsequent or other breach of the same or of any other covenant, condition, term or agreement herein contained, nor shall failure on the part of either party to require exact, full and complete compliance with any of the covenants, conditions, terms or agreements herein contained be construed as in any manner changing the terms of this License or stopping either party from enforcing the full provisions hereof.

11. WAIVER

11.01 Any waiver by either party of any breach of any one or more of the covenants, conditions, terms and agreements herein contained shall not be construed to be a waiver of any subsequent or other breach of the same or of any other covenant, condition, term or agreement herein contained, nor shall failure on the part of either party to require exact, full and complete compliance with any of the covenants, conditions, terms or agreements herein contained be construed as in any manner changing the terms of this License or stopping either party from enforcing the full provisions hereof.

11.02 No option, right, power, remedy, or privilege of either party shall be construed as being exhausted by the exercise thereof in one or more instances. The rights, powers, options and remedies given either party by this License shall be cumulative.

12. SURRENDER

Upon expiration of the term hereof or cancellation thereof as herein provided, Licensee shall peaceably vacate the premises and deliver the Licensed Area to County in reasonably good condition.

13. ENFORCEMENT

The County's Chief Administrative Officer shall be responsible for the enforcement of this License on behalf of County and shall be assisted therein by those officers, employees, or committees of County having duties in connection with the administration thereof.

14. COUNTY LOBBYIST ORDINANCE

Licensee is aware of the requirements of Chapter 2.160 of the Los Angeles County Code with respect to County Lobbyists as such are defined in Section 2.160.010 of said Code, and certifies full compliance therewith. Failure to fully comply shall constitute a material breach upon which County may terminate or suspend this License.

15. NOTICES

Any notice required to be given under the terms of this License or any law applicable thereto may be placed in a sealed envelope, with postage paid, addressed to the person on whom it is to be served, and deposited in a post office, mailbox, sub post office, substation or mail chute, or other like facility regularly maintained by the United States Postal Service. The address to be used for any notice served by mail upon Licensee shall be:

Randall O. Murphy, Director of Administration
Museum of Contemporary Art
250 South Grand Avenue
Los Angeles, CA 90012

or such other place as may hereinafter be designated in writing to the County by Licensee. Notice served by mail upon County shall be addressed to:

Chief Administrative Officer
Real Estate Division - Property Management
222 South Hill Street, 3rd Floor
Los Angeles, CA 90012

or such other place as may hereinafter be designated in writing to Licensee by the Chief Administrative Officer. Service by mail shall be deemed complete upon deposit in the above-mentioned manner.

16. **REPAIR OF DAMAGE**

Licensee shall, at Licensee's sole expense, be responsible for the cost of repairing any area damaged by Licensee or Licensee's agents, employees, invitees and visitors. All repairs and replacements shall: (a) be made and performed by contractors or mechanics approved by County, which consent shall not be unreasonably withheld or delayed, (b) be at least equal in quality, value and utility to the original work or installation, and (c) be in accordance with all laws.

17. **DAMAGE OR DESTRUCTION**

Should the Licensed Area or the building in which the Licensed Area is located, be damaged by fire, incidents of war, earthquake, or other violent action of the elements, the County shall have the option to terminate this License.

18. **SOLICITATION OF CONSIDERATION**

18.01 It is improper for any County officer, employee or agent to solicit consideration, in any form, from a licensee with the implication, suggestion or statement that the licensee's provision of consideration may secure more favorable treatment for the licensee in the award of the license or that the licensee's failure to provide such consideration may negatively affect the County's consideration of the licensee's submission. A licensee shall not offer to or give, either, directly or through an intermediary, consideration, in any form, to a County officer, employee or agent for the purpose of securing favorable treatment with respect to the issuance of a license.

18.02 Licensee shall immediately report any attempt by a County officer, employee or agent to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller Employee Fraud Hotline at (213) 974-0914 or (800) 544-6861. Failure to report such solicitation may result in the License being terminated.

19. CONFLICT OF INTEREST

No County employee whose position in County service enables him/her to influence obtaining or awarding any lease, license or permit, and no spouse or economic dependent of such employee, shall be employed in any capacity by the Licensee herein, or have any other direct or indirect financial interest resulting from this License.

20. ACKNOWLEDGMENT OF INELIGIBILITY FOR RELOCATION ASSISTANCE

Licensee hereby disclaims any status as a "displaced person" as such is defined in Government Code Section 7260 and hereby acknowledges his ineligibility for relocation assistance as provided in Government Code Section 7260 through 7276, inclusive, as interpreted in Title 25, Chapter 6, Section 6034(b) (1) of the California Administrative Code upon the future cancellation or termination of this License.

21. SIGNATURE AUTHENTICITY CLAUSE

Licensee hereby personally covenants, guarantees and warrants that he/she has the power and authority to obligate the Licensee to the terms and conditions in this License. Licensee shall sign this License before a Notary Public and return it to County for approval. Upon approval, a signed original will be mailed to Licensee.

22. TAXATION OF LICENSED AREA

22.01 The interest (as defined in California Revenue and Taxation Code Section 107) in the Licensed Area created by this License may be subject to property taxation if created. The party in whom the property interest is vested may be subject to the payment of the property taxes levied on the interest.

22.02 Licensee shall pay before delinquency all lawful taxes, assessments, fees or charges which at any time may be levied by the Federal, State, County, City, or any other tax or assessment-levying body upon the Licensed Area and any improvements located thereon.

22.03 If Licensee fails to pay any lawful taxes or assessments upon the Licensed Area which Licensee is obligated to pay, Licensee will be in default of the License.

22.04 County reserves the right to pay any such tax, assessment, fees or charges, and all monies so paid by County shall be repaid by Licensee to County upon demand. Licensee and County agree that this is a license and not a lease and no real estate interest is being conveyed herein.

23. INTERPRETATION

Unless the context of this License clearly requires otherwise: (i) the plural and singular numbers shall be deemed to include the other; (ii) the masculine, feminine and neuter genders shall be deemed to include the others; (iii) "or" is not exclusive; and (iv) "includes" and "including" are not limiting.

24. **ENTIRE AGREEMENT**

This License contains the entire agreement between the parties hereto, and no addition or modification of any terms or provisions shall be effective unless set forth in writing, signed by both County and Licensee.

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IN WITNESS WHEREOF, Licensee has executed this License or caused it to be duly executed and County of Los Angeles, by Order of the Board of Supervisors, has caused this License to be executed on its behalf by the Chair of said Board, the day, month and year first above written.

LICENSEE

By_____
Randall O. Murphy

Title: Director of Administration

ATTEST:

VIOLET VARONA-LUKENS
Executive Officer, the Board of Supervisors

By_____
Deputy

COUNTY OF LOS ANGELES

By_____
Chair, Board of Supervisors

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.
County Counsel

By_____
Senior Associate County Counsel

License 2005

IN WITNESS WHEREOF, Licensee has executed this License or caused it to be duly executed and County of Los Angeles, by Order of the Board of Supervisors, has caused this License to be executed on its behalf by the Chair of said Board, the day, month and year first above written.

LICENSEE

By_____
Randall O. Murphy

Title: Director of Administration

ATTEST:

VIOLET VARONA-LUKENS
Executive Officer, the Board of Supervisors

By_____
Deputy

KIMBERLY LOUISE VOLLSTEDT
COMM. #1534132
Notary Public-California
LOS ANGELES COUNTY
My Comm. Exp. Dec 12, 2008

COUNTY OF LOS ANGELES

By_____
Chair, Board of Supervisors

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.
County Counsel

By_____
Senior Associate County Counsel

LicenseMOCA2005