

LICENSE AGREEMENT

between

ORANGE COUNTY, FLORIDA

and

CITY OF ORLANDO, FLORIDA

for

PLACEMENT OF HISTORICAL DISPLAY ON ORANGE COUNTY HISTORY CENTER PROPERTY

This License Agreement for the placement of a specified historical display on a site designated herein upon the Orange County History Center property (hereinafter the “License Agreement” or “Agreement”) is entered into by and between Orange County, Florida, a charter county and political subdivision of the State of Florida whose mailing address is P.O. Box 1393, Orlando, Florida 32802-1393 (hereinafter the “County” or Licensor) and the City of Orlando, Florida, a municipal corporation organized and existing under the laws of the State of Florida whose address is 400 South Orange Avenue, Orlando, Florida 32801 (hereinafter the “City” or “Licensee”). City and County shall be individually referred to as “Party” and collectively as “Parties.”

RECITALS

WHEREAS, the Parties share an interest and goal of preserving and displaying the area’s rich history; and

WHEREAS, as part of the site work for the Dr. Phillips Center for the Performing Arts, a building, commonly known as “Orlando’s Round Building,” had to be removed; and

WHEREAS, the building had been designed by Architect Robert Murphy, a student of Walter Gropius who was the founder of the Bauhaus art school in the early twentieth century which sought to integrate the fields of architecture, craft work, and art; and

WHEREAS, the building was distinct and recognizable for its iconic twenty foot tall precast concrete lattice “Curtain Wall” made up of 120 separate pieces forming the brise soleil which wrapped around the building; and

WHEREAS, the City with support from the community was able to preserve the pieces that formed that “Curtain Wall”; and

WHEREAS, John Kaiser has designed a display structure, consisting generally of a concrete base and vertical steel support, and mounted one of the twenty foot tall concrete pieces owned by the City onto the structure (hereinafter collectively the “Display” or “Historical Display”) allowing for outdoor public display; and

WHEREAS, the County, as Licensor, has agreed to permit the installation of the Historical Display to be located within Heritage Square adjacent to the Orange County History Center located northwest of the intersection of Central Boulevard and Magnolia Avenue in Orlando (hereinafter the “Site”); and

WHEREAS, the City, as Licensee, in conjunction with John Kaiser, has agreed to organize and coordinate the design, placement, and maintenance of the Display in accordance with the terms and conditions as set forth in this License Agreement; and

WHEREAS, the Parties desire to set forth the terms and conditions under which the Display shall be allowed to be installed at the Site and maintained by City; and

WHEREAS, the County requires, and City agrees to facilitate, the execution of joinder and consent to this Agreement by the designer of the Display, John Kaiser, the signature page of which is attached to this License Agreement.

NOW THEREFORE, in consideration of the promises and covenants herein, the Parties agree as follows:

Section 1. Purpose of License. The purpose of this License Agreement shall be to allow the Licensee, through the Licensee’s employees and authorized agents, to enter the Site for the purposes of installing and maintaining the Display in accordance with the terms and conditions set forth herein.

Section 2. Creation of the License. This License Agreement is created solely for the purpose of installing and maintaining the Display on the Site in accordance with the terms and conditions set forth herein. The Site shall not be utilized by Licensee for any purpose other than that agreed upon in this License Agreement. The Licensee and its authorized agents shall be allowed ingress and egress over such portion of the Site, as is reasonably necessary, for the installation, maintenance and removal of the Display, provided specifically, however, that access to the site by motor vehicles or equipment used by Licensee for the installation, maintenance, relocation, re-installation, and removal shall only be authorized or permitted with the prior written permission of the County from the Authorized Agent designated in Section 12 or the County Administrator or his/her designee. Such access shall be during normal business hours or as otherwise authorized by the County. Licensee expressly acknowledges and agrees that neither this License Agreement nor the Licensee’s activities creates an ownership or possessory interest in the Site or any portion of the History Center’s property. The County and Licensee agree and

acknowledge that the placement of the Display on the Site does not provide any ownership or possessory interest to the County of the Display. As examples, this License Agreement has a specific term after which the Display may need to be removed; the County reserves the right in the License Agreement to require that the Display be relocated under certain circumstances; and the License Agreement could be terminated if either party fails to comply with requirements set forth in the License Agreement.

Section 3. Display. The design of the Display to be installed at the Site is more particularly described and depicted on Exhibit “A” to this Agreement, which is attached hereto and incorporated herein by this reference. Licensee shall not make any material change to the design of the Display without the prior approval of the Manager of the Orange County History Center (hereinafter “Manager”) or such other authorized person as the County may designate from time to time pursuant to Section 12, which approval shall not be unreasonably withheld.

Section 4. Term. The term of this License Agreement shall be for a period of twenty-five (25) years from the effective date unless otherwise terminated in accordance with the terms of this License Agreement. This License Agreement may be renewed for three additional five (5) year intervals upon approval of the Orange County Board of County Commissioners and the City.

Section 5. Maintenance and Security. Throughout the term of this License Agreement, the Licensee shall be solely responsible for the maintenance of the Display at no cost to the County. The Licensee shall maintain the Display and Site in a good, safe and clean condition.

Section 6. Location of Art Work.

(a) The initial location of the Display shall be as shown on the attached site map of the Orange County History Center, which map is marked Attachment “B.” The Parties agree that the site for the Display shall be on an area not to exceed a base ground area 4.5 feet by 4.5 feet and a height of 20 feet (the “License Area”).

(b) Notwithstanding any provision herein to the contrary, in the event that Licensor elects to erect any structure, as that termed is defined in Section 66.200 of the Orlando City Code, excluding fences and signs, in the License Area, Licensor, at its election and upon ninety (90) days prior written notice to Licensee, shall have the right to either require Licensee to relocate all or a portion of the Display to another location within the Site or, if reasonably necessary, to terminate this Agreement and require Licensee to remove the Display from the License Area and restore the License Area in the manner described in Section 7 below.

Section 7. Restoration of Site. In the event of removal or relocation of the Display, the Licensee shall be solely responsible for restoring the Site to its prior condition. Such restoration shall be at the sole cost of the Licensee and to the reasonable satisfaction of the County.

Section 8. Termination.

(a) This License Agreement may be terminated at any time by either party upon ninety (90) days written notice to the other party.

(b) This License Agreement may be terminated by either party for a breach of any covenant or condition of this License Agreement. Either party may put the other party on notice of a violation of any provision of this Agreement in writing directed to the persons designated in Section 13 of this Agreement. The entity put on notice of a violation of this Agreement shall have a forty-five (45) day period to cure any alleged breach of a condition of this Agreement, except and unless the alleged breach presents an imminent threat to the public health and safety of History Center users, County on-site History Center personnel, or the public. Such a breach relating to an imminent threat or danger, as defined by the County, must be cured within five (5) days. In the event of a breach of this License Agreement that is not timely cured, the sole legal remedies of the parties to this Agreement are: (i) specific performance of this License Agreement, or (ii) termination of the License Agreement.

Section 9. Insurance. Without waiving its sovereign immunity, as provided in Section 768.28, Florida Statutes, the Licensee acknowledges to be self-insured for General Liability and Automobile Liability with coverage limits as set forth in Section 768.28, Florida Statutes. The Licensee agrees to maintain commercial insurance or to be self-insured for Workers' Compensation & Employers' Liability in accordance with Chapter 440, Florida Statutes. Upon request, the Licensee shall provide an affidavit or Certificate of Insurance evidencing self-insurance or commercial insurance up to the sovereign immunity limits, which the County agrees to find acceptable for the coverage mentioned herein. The County's failure to request proof of insurance or to identify any deficiency in coverage or compliance with the foregoing requirements shall not relieve the Licensee of its liability and obligations under this License Agreement. The Licensee shall require all contractors performing work on the Site on behalf of the Licensee to procure and maintain workers' compensation, commercial general liability, business auto liability and contractor's pollution liability insurance coverage. The County and Licensee shall be identified as additional insureds on all general liability policies.

Section 10. Indemnification. Each party agrees to defend, indemnify and hold harmless the other party, its official and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorney's fees) attributable to its negligent acts or omissions, or those of its officials and employees acting within the scope of their employment, or arising out of or resulting from the indemnifying party's negligent performance under this License Agreement. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability for the acts, omissions and/or negligence of the other party.

Section 11. Assignment. Licensee shall not assign or transfer any interest, rights, or duties under this License Agreement to any other party.

Section 12. Authorized Agent. For purposes of Sections 2 and 3, the Authorized County Agent shall be:

Michael Perkins
Manager, Historical Museum
Orange County Regional History Center
65 E. Central Boulevard
Orlando, FL 32801

In the absence of the County Authorized Agent, the County Administrator or his/her designee may serve in this capacity.

Section 13. Notices. Any notice required or permitted hereunder shall be delivered by hand delivery, express courier, or certified mail, return receipt requested, and shall be effective upon receipt of the same. Notices shall be delivered to each of the parties at the following addresses or at such other addresses as specified by written notice in compliance with the terms of this paragraph. Either party may change the person or address for notices under this agreement by providing the other party notice of the change, in writing, at least five (5) days prior to such change.

County: County Administrator
Orange County Administration Building
201 S. Rosalind Avenue, 5th Floor
Orlando, FL 32801

With a copy to: Manager, Orange County Real Estate Management
400 E. South Street, 5th Floor
Orlando, FL 32802

City: City of Orlando
Attention: Thomas Chatmon, CRA Executive Director
400 South Orange Avenue, 6th Floor
Orlando, FL 32801

Section 14. Effective Date. The effective date of this License Agreement shall be the date upon which it is executed by the County.

Section 15. Venue. All claims, controversies, or disputes arising out of this License Agreement shall be settled as required by the License Agreement or by the law in the Ninth Judicial Circuit, Orange County, Florida.

Section 16. Attorney's Fees. In the event legal action is required under this Agreement, each party and those acknowledging this Agreement shall be responsible for their own attorney's fees and costs at trial and on appeal.

Section 17. Severability. If any sentence, phrase, paragraph, provision or portion of this License Agreement is held to be invalid or unconstitutional by a court of competent

jurisdiction, such portion shall be considered an independent provision and the finding shall have no effect on the validity of the balance of this License Agreement.

Section 18. Applicable Law. This License Agreement and the provisions contained herein shall be construed, controlled and interpreted according to the laws of the State of Florida.

Section 19. Entire Agreement. This written License Agreement constitutes the entire agreement between the parties and shall supersede and replace all prior agreements or understandings, written or oral, relating to the matters set forth herein. Any changes to this License Agreement shall be made in writing and approved by all parties.

Section 20. Third Parties. There are no Third Party Beneficiaries to this Agreement.

IN WITNESS WHEREOF, the Parties have executed this License Agreement on the date(s) indicated below.

LICENSOR:

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: _____

Teresa Jacobs

County Mayor

Date: _____

ATTEST: Phil Diamond, CPA, Orange County Comptroller
As Clerk of the Board of County Commissioners

By: _____

Deputy Clerk

Date: _____

LICENSEE:

CITY OF ORLANDO

By: _____

Buddy Dyer
Mayor

Date: _____

ATTEST:

Denise Aldridge, City Clerk

Date: _____

APPROVED AS TO FORM AND LEGALITY

For the use and reliance of the City of Orlando, Florida only.

Assistant City Attorney

Date: _____

Joinder and Consent of Artist:

I, _____, have read and fully understand the terms and conditions set forth in this License Agreement and have no objections with same.

By: _____
(signature)

Printed Named: _____

Date: _____

State of _____
County of _____

The foregoing instrument was acknowledged before me on this _____ day of _____, 20__ by _____, who is personally known to me or who has produced _____, as identification.

(Seal)

By: _____
Notary Public
Date: _____
My Commission Expires: _____

Exhibit “A”

Design of Historical Display

Exhibit “B”

Location of the Historical Display on the Site