

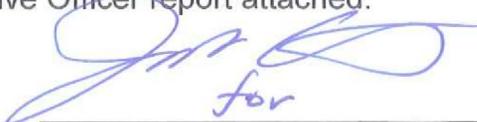
0150-06789-0005

TRANSMITTAL

TO The Council	DATE MAY 18 2011	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT 4	

**Amendment No. 3 to Agreement No. 245 between the
Department of Recreation and Parks and
Nederlander-Greek, Inc. relative to the Greek Theatre**

Transmitted for your consideration. The Council has 60 days from the date of receipt to act, otherwise the contract will be deemed approved pursuant to Administrative Code Section 10.5(a). See the City Administrative Officer report attached.


for _____ (Janelle Erickson)
MAYOR

MAS:VES:08110146t

Report From
OFFICE OF THE CITY ADMINISTRATIVE OFFICER
Analysis of Proposed Contract
(\$25,000 or Greater and Longer than Three Months)

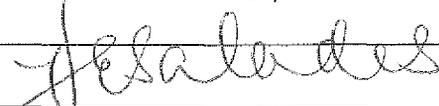
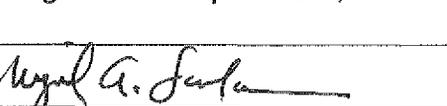
To: The Mayor	Date: 05-11-11	C.D. No. 4	CAO File No.: 0150-06789-0005
Contracting Department/Bureau: Department of Recreation and Parks		Contact: Desiree Guzetta	
Reference: Letter to the Mayor from the Board of Recreation and Park Commissioners dated February 23, 2011; referred by the Mayor on February 23, 2011			
Purpose of Contract: Operation of the Greek Theater			
Type of Contract: () New contract (x) Amendment		Contract Term Dates: Eleven years from November 1, 2001 through October 31, 2012 (one year extension)	
Contract/Amendment Amount:			
Proposed amount \$0 + Prior award(s) \$0 = Total \$0			
Source of funds: Not applicable			
Name of Contractor: Nederlander-Greek, Inc.			
Address: 2700 Vermont Avenue, Los Angeles, CA 90027			
	Yes	No	N/A*
1. Council has approved the purpose	X		
2. Appropriated funds are available			X
3. Charter Section 1022 findings completed	X		
4. Proposals have been requested	X		
5. Risk Management review completed	X		
6. Standard Provisions for City Contracts included	X		
7. Workforce that resides in the City: 67%			
		8. Contractor has complied with:	
	Yes	No	N/A*
a. Equal Employmt. Oppty./Affirm. Action	X		
b. Good Faith Effort Outreach**	X		
c. Equal Benefits Ordinance	X		
d. Contractor Responsibility Ordinance	X		
e. Slavery Disclosure Ordinance	X		
f. Bidder Certification CEC Form 50	X		
*N/A = not applicable ** Contracts over \$100,000			

COMMENTS

At its meeting of February 18, 2011, the Board of Recreation and Park Commissioners (Board) approved the third amendment to the concession agreement (Agreement No. 245) with Nederlander-Greek, Inc. (NGI) for the operation, maintenance and improvement of the Greek Theatre. The proposed amendment extends the term by one year from ten years to 11 years, terminating on October 31, 2012.

The City, through the Board and the Department of Recreation and Parks (Department), owns the Greek Theater located at 2700 Vermont Avenue within Griffith Park in Council District 4. On April 30, 2002, the Council approved Agreement No. 245 for a ten-year term expiring on October 31, 2011 (C.F. 99-1424-S2). On November 4, 2003 and September 29, 2006, the Council approved Amendment No. 1 and Amendment No. 2 to Agreement No. 245 respectively. Both amendments modified provisions relative to capital improvements.

The Department reports that the Greek Theater has been a recipient of the "Best Small Outdoor Venue" award every year since 2004 from Pollstar, the touring industry magazine and website. The Department further reports that Pollstar has named Rena Wasserman, the current General Manager of the Greek Theater, the 2009 Facility Director of the Year. According to the Department, NGI is

 VES	Analyst	08110146	 Assistant CAO	 City Administrative Officer
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actively involved with the Greek Theater community through newsletters, "Neighbor Nights" events and monthly "coffee hour" community gatherings. NGI also hosts the Greek Theater Advisory Committee monthly meetings from April through October. The Department reports that NGI addresses public concerns promptly and that public comments received to date have been positive.

Under the terms of Agreement No. 245, NGI guarantees an annual minimum rental payment of \$1.2 million. From 2005 through 2009, NGI has paid the City annual rental payments in excess of the minimum guaranteed amount. Due to the current economic downturn, especially in the concert touring industry and the increased competition from surrounding venues, the total gross revenue for 2010 was \$15.3 million compared to the six-year high of \$24.9 million in 2007.

The proposed third amendment would extend the term by one year to allow the Department sufficient time to develop and issue a request for proposals, evaluate responses, select and execute a long-term agreement with the best proposer for the operation of the Greek Theater beginning in 2012. The one-year extension would ensure that the Greek Theater will be open for the 2011 season and that the Department receives a minimum of \$1.2 million rental revenue for the season.

The Board found that, in accordance with Charter Section 1022, the Department does not have personnel available in its employment with sufficient time and expertise to undertake these specialized professional tasks in a timely manner, and it is more feasible to secure the services by contract.

In accordance with Charter Section 371(e)(10) and the Los Angeles Administrative Code Section 10.15(a)(10), the Board found that the use of competitive bidding would be undesirable, impractical or otherwise excused by common law and the City Charter due to the current economic environment and that, in order to provide continuous service to the public and avoid a potential Department revenue shortfall, a competitive bidding process is not practicable or advantageous at this time.

In accordance with Los Angeles Administrative Code Section 10.5(a), Council approval of the proposed amendment is required because the term exceeds three years and, according to the City Attorney, the original agreement and prior amendments were approved by Council. To the best of our knowledge, NGI has complied with all standard provisions for City contracts, as well as City contracting requirements.

RECOMMENDATION

That the City Council approve, and authorize the President and the Secretary of the Board of Recreation and Park Commissioners to execute, the third amendment to Operating Concession Agreement No. 245 with Nederlander-Greek, Inc. for the operation, maintenance, and improvement of the Greek Theatre, subject to the review and approval of the City Attorney.

FISCAL IMPACT STATEMENT

Ninety percent of the revenues from the concession agreement will be deposited into the Department of Recreation and Parks Operating Fund. The remaining ten percent will be deposited into the Department of Recreation and Parks Fund, Concession Improvement Account. There is no impact on the General Fund. The recommendation above is in compliance with the City Financial Policies in that ongoing revenues will be used to support on-going expenditures.

BOARD OF RECREATION AND
PARK COMMISSIONERS

BARRY A. SANDERS
PRESIDENT

W. JEROME STANLEY
JILL T. WERNER
JOHNATHAN WILLIAMS

CITY OF LOS ANGELES
CALIFORNIA



ANTONIO R. VILLARAIGOSA
MAYOR

February 23, 2011

DEPARTMENT OF
RECREATION AND PARKS
221 N. FIGUEROA STREET
SUITE 1510
LOS ANGELES, CA 90012

(213) 202-2640
FAX: (213) 202-2610

JON KIRK MUKRI
GENERAL MANAGER

2011 FEB 23 PM 3:02
CITY ADMINISTRATIVE OFFICER

Hon. Antonio R. Villaraigosa, Mayor
City of Los Angeles
Room 303, City Hall

Attention: Ms. Pamela Finely

Dear Mayor Hahn:

Transmitted forthwith and in accordance with Executive Directive No. 3, there are attached three copies of a proposed Amendment No. 3 to Operating Concession Agreement No. 245 between the City of Los Angeles Department of Recreation and Parks and Nederlander-Greek, Inc. for operation of the Greek Theatre, to extend the term of the Agreement.

Also attached for the assistance of your Office in reviewing this proposed Amendment is Report No. 11-058 adopted by the Board of Recreation and Park Commissioners at its meeting of February 18, 2011. After review and recommendation by you, the proposed Amendment will be submitted to the Board for execution.

If you have any questions concerning this proposed Amendment, please contact Desiree Guzzetta, Management Analyst, at (213) 202-3291.

Very Truly Yours,

BOARD OF RECREATION AND
PARK COMMISSIONERS


MARY E. ALVAREZ
Commission Executive Assistant

Enclosures

cc: Noel Williams
Robert Morales

**THIRD AMENDMENT TO
CONCESSION AGREEMENT NO. 245
FOR THE OPERATION AND MAINTENANCE OF THE
GREEK THEATRE CONCESSION**

THIS THIRD AMENDMENT TO CONTRACT NO. 245 is made and entered into this _____ day of _____, 20____, by and between the City of Los Angeles, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners (hereinafter "CITY"), and NEDERLANDER-GREEK, INC. (hereinafter "CONCESSIONAIRE").

WITNESSETH

WHEREAS, CITY has chosen to serve the public by providing entertainment at the Greek Theatre in Griffith Park through a concession operator; and

WHEREAS, the CITY previously selected CONCESSIONAIRE to operate the Greek Theatre (hereinafter "CONCESSION") in accordance with the terms and conditions of a 10-year Concession Agreement No. 245 (hereinafter "AGREEMENT"); and

WHEREAS, the AGREEMENT was executed on May 21, 2002, and encompassed all rights and duties of the parties; and

WHEREAS, the contract will expire on October 31, 2011; and

WHEREAS, it is in CITY's best interest to continue services with the CONCESSIONAIRE, who has demonstrated its capability to perform these services; and

WHEREAS, the principal purpose of CITY in entering into this AGREEMENT is to serve the public by providing continuous quality entertainment services; and

WHEREAS, in accordance with Charter Section 371(e)(10) and Los Angeles Administrative Code Section 10.15(a)(10), a competitive bidding process would be undesirable, impractical or impossible due to the current economic climate, the downturn in the concert touring industry—including a decline in audiences—and competition in the surrounding area;

THEREFORE, the parties to Concession Agreement No. 245 hereby mutually agree to amend the AGREEMENT as follows:

1. SECTION 5. TERM OF CONCESSION AGREEMENT

Delete the Section in its entirety and replace with:

"The term of this AGREEMENT is eleven (11) years, terminating October 31, 2012."

All other terms and conditions of the AGREEMENT shall remain unchanged.

IN WITNESS WHEREOF, the parties hereto have caused this Third Amendment to Contract No. 245 to be executed by their duly authorized representatives.

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners.

BY: _____
President

DATE: _____

BY: _____
Secretary

DATE: _____

NEDERLANDER-GREEK, INC.

BY: _____
President

DATE: _____

BY: _____
Secretary

DATE: _____

APPROVED AS TO FORM:
CARMEN A. TRUTANICH, City Attorney

BY: _____
Deputy City Attorney

DATE: _____

REPORT OF GENERAL MANAGER

APPROVED

NO. 11-058

DATE February 16, 2011

FEB 18 2011

C.D. 4

**BOARD OF RECREATION
and PARK COMMISSIONERS**

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: GRIFFITH PARK GREEK THEATRE - THIRD AMENDMENT TO CONCESSION AGREEMENT NO. 245

R. Adams _____
H. Fujita _____
S. Huntley _____
V. Israel _____

*F. Mok NDW
K. Regan _____
M. Shull _____



General Manager

Approved _____

Disapproved _____

Withdrawn _____

RECOMMENDATIONS:

That the Board:

1. Approve a proposed Third Amendment to Concession Agreement No. 245, substantially in the form on file in the Board Office, between the City of Los Angeles Department of Recreation and Parks and Nederlander-Greek, Inc., for the operation and maintenance of the Greek Theatre Concession, to extend the term of the Concession Agreement from ten (10) years to eleven (11) years, subject to approval of the Mayor, the City Council, and the City Attorney as to form;
2. Find, in accordance with Charter Section 1022, that the Department does not have personnel available in its employ with sufficient expertise to undertake these specialized professional tasks and that it is more feasible to secure these services by contract;
3. Find, in accordance with Charter Section 371(e)(10) and Los Angeles Administrative Code Section 10.15(a)(10), that obtaining proposals would not be reasonably practicable or desirable and would not be advantageous to the City due to the current economic environment, and that in order to provide continuous service to the public and avoid a potential revenue shortfall to the Department, a competitive bidding process is not practicable or advantageous at this time;
4. Direct the Board Secretary to transmit forthwith the proposed Third Amendment, concurrently, to the Mayor in accordance with Executive Directive No. 3 and to the City Attorney for review and approval as to form; and,
5. Authorize the Board President and Secretary to execute the Third Amendment upon receipt of the necessary approvals.

REPORT OF GENERAL MANAGER

PG. 2

NO. 11-058

SUMMARY:

The Greek Theatre is located at 2700 North Vermont Avenue in Griffith Park and has provided entertainment and cultural events to the public since it was officially dedicated in 1929.

Since beginning operations, the open-air amphitheatre has been host to a number of top musical acts such as Ray Charles, B. B. King, Tony Bennett, Bruce Springsteen, Sting, and Michael Bubl . The venue also hosts the annual "Bach, Rock & Shakespeare" event, which allows students from the John Marshall High School Performing Arts Academy to showcase their talent, and has recently been the location for the "Scream" movie awards which honor the best in science fiction, fantasy, and horror films.

The Greek Theatre Concession has been operated by Nederlander-Greek, Inc. (Concessionaire) under Concession Agreement Number 245 since May 21, 2002, and is due to expire on October 31, 2011.

Pollstar, the touring industry magazine and website, has awarded the Greek Theatre "Best Small Outdoor Venue" every year since 2004 and named Rena Wasserman, the General Manager for the Greek Theatre, the 2009 "Facility Director of the Year".

The Concessionaire has actively been involved with the community by maintaining a newsletter, having "Neighbor Nights" events, and hosting monthly "coffee hour" community gatherings. The Concessionaire also hosts the Greek Theatre Advisory Committee monthly meetings during the season, which begins in April and ends in October, to discuss event activities in an open forum. Comments from the public have been positive and concerns have been addressed in a prompt manner.

In 2009, the Greek Theatre generated \$16,498,713.00 in gross receipts, paid \$1,214,442.48 in rent to the Department, and has consistently been the highest revenue-producing non-golf concession.

Over the past several years, revenue for the Greek Theatre has declined due to the current economic environment, the downturn in the concert touring industry, including a decline in audiences, and competition in the surrounding area. Between 2007 and 2010, gross revenue has declined by 38.58%, from \$24,948,267 to \$15,322,303 (Attachment A).

In 2004, the average attendance for the Greek Theatre was 4,609 patrons per show. In 2008, the average attendance decreased by 8.4% to 4,224 patrons per show. The Concessionaire has been working on attracting more events to the venue, but competition nationwide, and particularly in the surrounding area, is making this task increasingly difficult.

REPORT OF GENERAL MANAGER

PG. 3

NO. 11-058

According to Pollstar, gross revenues for the top 100 tours in North America have dropped seventeen percent (17%) during the first half of 2010, compared to revenues in the same time period in 2009. Ticket sales have declined nine percent (9%) from the same time period last year, resulting in the cancellation of several concerts by such top audience-draws as Cristina Aguilera, The Eagles, and Liza Minnelli.

Pollstar also reports that promoters have experienced a significant decline in sales for ancillary items such as food, beverages (alcoholic and non-alcoholic), and merchandise. Such sales have also affected the Greek Theatre, where food and beverages sales have dropped from \$3,757,345 in 2007 to \$2,019,247 in 2010, a decline of 46.26%.

In October 2007, the Nokia Theatre opened at the L.A. Live complex, which also houses music venues such as Staples Center, Club Nokia, and The Conga Room. The Nokia Theatre has a seating capacity of 7,100 patrons versus the Greek Theatre's capacity of 5,801 seats. Between November 2007 and November 2008, the Nokia Theatre grossed \$31,319,346 in revenue and had 444,425 patrons.

The new music venue has successfully drawn business away from other similar venues such as the Greek Theatre, the Hollywood Bowl, the Gibson Amphitheatre, and numerous smaller venues at a time when the public is attending fewer concerts and spending less money at those concerts.

Staff recommends approval of the proposed Third Amendment to Concession Agreement No. 245 with Nederlander-Greek, Inc. to extend the term for one year while a Request for Proposals (RFP) process is performed in order to receive the best possible proposals so the Department can enter into a long term agreement with an experienced and responsible operator, to ensure that a high level of continued service is provided to the public while the RFP process is performed, and to avoid a potential revenue shortfall to the Department.

Charter Section 1022

Los Angeles City Charter Section 1022 prohibits contracting out work that could be done by City employees unless the Board determines it is more economical and/or feasible to contract out the service.

On October 12, 2010, the Personnel Department completed a Charter Section 1022 review (Attachment B) and determined that there are no City classifications with the expertise to perform essential aspects of the work, including the booking of musical and cultural acts and the ability to provide food and beverage services. It is, therefore, more feasible to secure these services through an independent contractor.

REPORT OF GENERAL MANAGER

PG. 4

NO. 11-058

Charter Section 371

As stated previously, due to the current economic environment, the downturn in the concert touring industry, including a decline in audiences, and competition in the surrounding area, a competitive bidding process is not practicable or advantageous to the City at this time.

During the period of the contract extension, staff will identify an economic consultant with music-industry experience to assist in the development of a Request for Proposals (RFP), which will include input from industry experts, the community, and the Greek Theatre Advisory Committee.

FISCAL IMPACT STATEMENT:

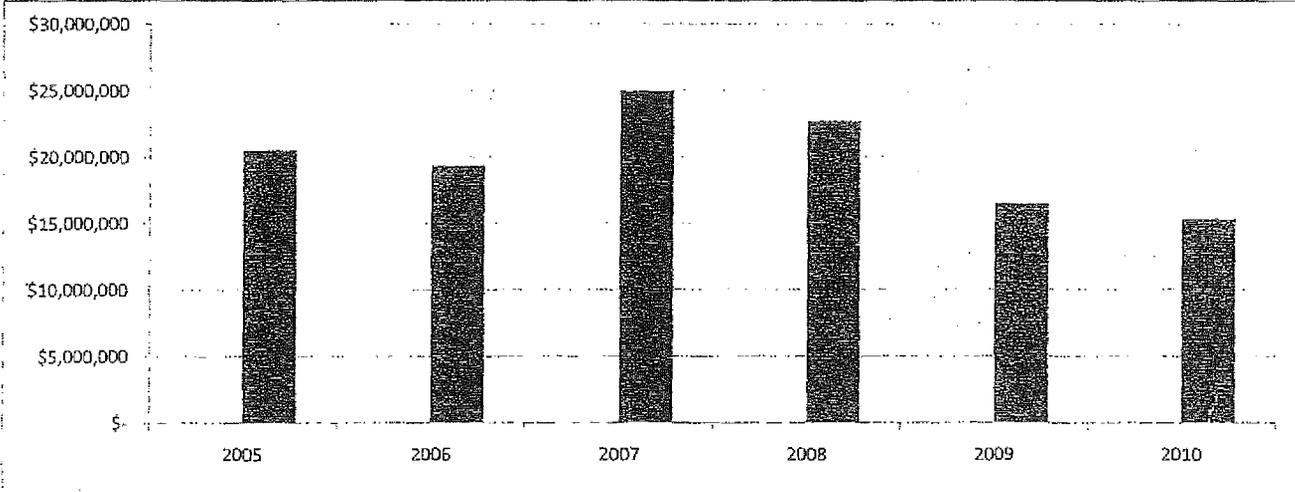
Approving the Third Amendment to extend the Concession Agreement will guarantee that the Department continues to receive a minimum of \$1.2 million in rent from the Greek Theatre Concession, of which 90% (\$1,080,000) will go to the Department's General Fund and 10% (\$120,000) to the Concession Improvement Account.

Report prepared by Désirée Guzzetta, Management Analyst II, Concessions Unit, Finance Division

THE GREEK THEATRE CONCESSION

Concession Operator: Nederlander-Greek, Inc.
 Concession Agreement No: 245
 Term of Agreement: May 21, 2002 through October 31, 2011
 No. of Extensions: None
 Council District: 4
 Minimum Annual Rent Guarantee: \$1,200,000

GROSS REVENUE	2005	2006	2007	2008	2009	2010
Gate	\$ 13,728,982	\$ 12,815,764	\$ 14,982,326	\$ 14,205,951	\$ 11,225,985	\$ 9,999,296
Parking	\$ 897,232	\$ 842,636	\$ 1,478,510	\$ 1,211,210	\$ 950,463	\$ 938,216
Sponsorship	\$ 667,500	\$ 720,000	\$ 814,400	\$ 739,687	\$ 131,000	\$ 184,908
Food/Beverage	\$ 2,407,259	\$ 2,301,033	\$ 3,757,345	\$ 2,591,989	\$ 2,125,063	\$ 2,019,247
Merchandise	\$ 976,176	\$ 704,675	\$ -	\$ 633,358	\$ 484,301	\$ 449,469
Other	\$ 1,896,336	\$ 1,959,335	\$ 3,915,686	\$ 3,323,012	\$ 1,581,901	\$ 1,731,167
TOTAL	\$ 20,573,485	\$ 19,343,443	\$ 24,948,267	\$ 22,705,207	\$ 16,498,713	\$ 15,322,303



RENT TO CITY	2005	2006	2007	2008	2009	2010
Gate	\$ 1,098,319	\$ 1,025,261	\$ 1,198,586	\$ 1,136,476	\$ 898,079	\$ 799,944
Parking	\$ 53,834	\$ 50,558	\$ 88,711	\$ 72,673	\$ 57,028	\$ 56,293
Sponsorship	\$ 40,050	\$ 43,200	\$ 48,864	\$ 44,381	\$ 7,860	\$ 11,094
Food/Beverage	\$ 144,436	\$ 138,062	\$ 225,441	\$ 155,519	\$ 127,504	\$ 121,155
Merchandise	\$ 58,571	\$ 42,281	\$ -	\$ 38,001	\$ 29,058	\$ 26,968
Other	\$ 113,780	\$ 117,560	\$ 279,442	\$ 199,381	\$ 94,914	\$ 103,870
TOTAL	\$ 1,508,989	\$ 1,416,922	\$ 1,841,044	\$ 1,646,431	\$ 1,214,442	\$ 1,119,324

