

CITY OF SAN DIEGO
M E M O R A N D U M

CITY OF SAN DIEGO
PARK & RECREATION DEPT
METRO PARKS DIVISION

00 FEB 10 PM 12:21

DATE: February 8, 2000
TO: Honorable Mayor and City Council
FROM: William T. Griffith, Real Estate Assets Director
SUBJECT: World Beat Center in Balboa Park

The City Manager's office has been contacted by the director of the World Beat Center (the Center) in Balboa Park regarding assistance in funding internal tenant improvements to the Center. The Center is located at 2100 Park Boulevard in Balboa Park in what was an old water storage tank built in the 1940's. The Center is operating under a Right-of-Entry permit originally issued in June 1995. The goal of the Center as stated in reports to the Park and Recreation Board and the Balboa Park citizen groups prior to accepting the Right-of-Entry permit in 1995 was to renovate the underutilized water tank and create a functional cultural center. Construction of all interior tenant improvements is the responsibility of the Center. The Center specifically agreed to this as one of 24 stipulated conditions of the Right-of-Entry permit issued in June 1995. To date, the Center has not complied with the permit conditions dealing with facility improvements or approved uses. A copy of the original Right-of-Entry permit is attached.

Recent e-mail communications to my office have indicated that the Center is in the process of beginning construction on their restroom facilities required as a condition of the Right-of-Entry permit. In order to aid the Center in their pursuit of the required improvements, the City will be renovating and upgrading existing public restroom facilities located near the Center that will be available to Center staff while they construct a restroom within their facility. This comfort station is within 150 yards of the Center, adjacent to the Centro Cultural de la Raza. The existing restroom is open to the public daily from 9:00 am until dusk.



William T. Griffith

WTG/sd

Attachment: June 1995 Right-of-Entry permit

cc: Michael T. Uberuaga, City Manager
Penny Culbreth-Graft, Assistant City Manager, DPA
Marcia McLatchy, Park Recreation Director



THE CITY OF

SAN DIEGO

CENTRAL DIVISION • 2125 PARK BLVD. • SAN DIEGO, CALIFORNIA 92101 - 4792
PHONE (619) 235-1100 • FAX (619) 235-1160

June 1, 1995

PARK & RECREATION
DEPARTMENT

JACK KRASOVICH
Deputy Director

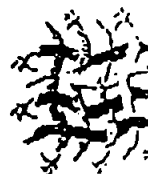
Ms. Makeda Cheatom, Executive Director
Worldbeat Productions, Inc.
938 Nolbey Street,
Cardiff-by-the-Sea, California 92007

RE: Right - of- Entry Permit - South Water Tank, Balboa Park

Dear Ms. Cheatom:

Permission is hereby granted by the City of San Diego ("City") to WorldBeat Productions, Inc. ("Permittee") to enter upon the above-referenced City-owned property, South Water Tank, Balboa Park ("Premises") as shown in red on the attachment "A", to occupy as staff offices, and to begin construction of improvements based upon the following terms and conditions:

1. The Permit is in effect from June 15, 1995 through December 31, 1995 or until Council approval of a Lease Agreement, whichever comes first.
2. Permittee shall occupy the space as staff offices only. No public assembly or public use will be allowed until such time as building improvements have been completed which meet all safety and occupancy codes.
3. Permittee shall be responsible for securing the necessary power from the San Diego Gas & Electric Company, telephone service from Pacific Bell. All utility installation costs (except water) are the responsibility of the Permittee.
4. Permittee shall be responsible for payment of all utility bills during the period of occupancy.
5. Maintenance and upkeep of the interior of the Premises shall be the sole responsibility of the Permittee during the terms of the agreement. City will assume responsibility for major exterior repair should the need arise.
6. Permittee will be responsible for all temporary or permanent interior improvements/demolitions to the Premises to make it habitable. All improvements shall remain as property of the City of San Diego. All improvements must be approved in advance by the City. Improvements must meet all City building/safety codes.
7. Permittee will provide a policy of public liability and property damage insurance, in which the "City of San Diego" is named as an additionally insured, and is secured in an amount not less than \$1 million combined single limit liability and that said policy shall be kept in force for the duration of this permit. A certificate of said insurance shall be filed with the San Diego Park and Recreation Department, Central Division upon execution of this permit.



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BRINGS US ALL TO

8. Permittee agrees to defend, indemnify, protect, and hold the City and its agents, officers, and employees harmless from and against any and all claims asserted, or liability established, or damages or injuries to any person or property, including injury to Permittee's employees, agents, or officers, which may arise from or are connected with or are caused or claimed to be caused by the acts or omissions of Permittee and its agents, officers, or employees in performing the work or services herein and all expenses of investigating and defending against same; provided, however, that Permittee's duty to indemnify and hold harmless shall not include any claims or liability arising from the established sole negligence or willful misconduct of the City, its agents, officers, or employees.
9. All risks in connection with Permittee's use of the Premises and any damages to the improvements thereon, thereunder, or in the vicinity thereof shall be borne in full by Permittee.
10. Permittee shall not use the Premises in any manner which, in the opinion of the City Manager, creates a nuisance or disturbs the peace of persons in the surrounding area.
11. Permittee shall not assign any rights granted by this permit nor any interest therein to any other organization or entity. Any assignment by operation of law shall automatically terminate this permit.
12. Permittee shall be responsible for daily removal of and refuse generated on the Premises.
13. No signs will be displayed on the Premises without the prior written consent of the City Manager or his designee. All signage of facility and other identification of the Premise shall also be subject to approval in advance by the City Manager or his designee.
14. Permittee agrees to secure the Premises daily during the term of this permit. Permittee is responsible for all security of the Premises.
15. City may enter the Premises for inspection and maintenance with advance notice to be given to the Permittee.
16. This permit is revocable at any time by the City or Permittee with 60 days written notice. It is mutually agreed that the City of San Diego shall not be obligated for any loss, financial or otherwise, which may be incurred by Permittee as a result of termination of this permit, and further, that Permittee expressly waives any claim for expense or loss which Permittee might incur as a result of termination of this permit. Revocation for the Permit will be for just cause due to a violation of terms of the permit, violation of City policies or procedures.
17. Further consideration for this permit is the promise and agreement by Permittee to undertake, at no expense to the City, improvements to the South water tank in Balboa Park to meet the requirements of all municipal, county, state and federal authorities relative to the intended use and the structure's historical designation, storage area and related improvements generally in accordance with the approval of the City Manager or designee.
18. Construction of improvements shall commence upon a date agreed upon and approved by the City Manager or his designee.
19. If the improvements are not completed within a reasonable period of time, as stipulated by the City, City shall have the right to terminate this permit, subject, however, to any extensions granted at the discretion of the City Manager and to reasonable delays caused by material and labor shortages, strikes, or other labor disputes, governmental actions, war, riots, insurrection, rebellion, act of God, fire, flood, storms or earthquakes or other similar causes beyond the reasonable control of the Permittee and its contractors.

20. Prior to commencement of any work that could constitute the basis for a mechanic's lien on the premises and before any materials are delivered to premises, Permittee shall furnish the City with a bond by a reasonable surety company licensed to do business in California, in a form satisfactory to City, in an amount of the estimated cost of the work to be done. Said bond shall remain in effect until the cost of the entire work shall have been fully paid. The bond shall secure completion by Permittee, or, on default, by the surety, of all work free from any and all liens of contractors, subcontractors, materialmen, laborers, or others, and shall provide for the defense and indemnification of City against any loss, cost, damage, or liability of any manner arising out of or connected with said work. In lieu of said bond, Permittee may deposit cash with the City or in a Federal or State of California bank or Savings and Loan Association in the name of the City, but with interest reserved to Permittee on terms and conditions approved by the City Attorney.

21. Permittee will save City free and harmless, indemnify it against all claims, caused by actions of Permittee, for labor and materials in connection with improvements, repair or alterations to the premises, and the cost defending against such claims, including reasonable attorney fees.

In the event that improvements, repairs, or alterations are constructed on the premises by other than City, Permittee shall file with City a bond, conditioned for the payment in full of the claims of all persons performing labor upon or furnishing materials to be used, in the amount of the estimated cost of the improvement, alteration, or repair as determined by the City Manager. The bond shall be acknowledged by Permittee as principal and by corporation licensed by the Insurance Commissioner of the State of California to transact the business of fidelity and surety insurance company as surety.

In the event that a lien is recorded under the California Code of Civil Procedure against the premises and the lien holder attempts to perfect such lien by a lawsuit and the Permittee has failed to comply with the requirements of this paragraph, this permit shall at City's option terminate five (5) days after service of summons in such lawsuit upon the City; provided, however, that the City Manager shall have the right to continue this permit in full force and effect by notifying the Permittee in writing of his or her election to do so.

22. As provided in the "authorized uses" provision of this agreement, the premises shall be exclusively for the purposes specified. The premises shall not be utilized for the purpose of working or campaigning for the nomination or election to any public office be it partisan or non-partisan. Provided, however, that the Permittee shall not be precluded from providing a forum for open public debate by candidates such as occurs at a "candidate forum" and similar events.

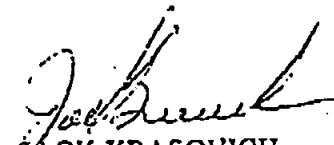
23. Permittee agrees, in the operation and promotion of its programs, shall not discriminate or permit discrimination against person(s) or class of persons by reason of race, color, gender, religion, national origin, age, mental or physical disability, or sexual orientation.

24. Permittee agrees to and shall use ordinary care for the preservation in good condition of the premises and the improvements constructed and to maintain said premises in a safe and sanitary manner.

Please acknowledge your agreement to the foregoing terms and conditions on the enclosed copy of this letter and return it to the Balboa Park Administration Building, together with your Insurance Certificate.

If you should require additional information or have questions, please call District Manager Penny Scott, 235-1106, or myself, at 235-1157.

Sincerely,


JACK KRASOVICH
Deputy Director

JJK:PS

THE ABOVE IS ACKNOWLEDGED AND ACCEPTED THIS June 22 DAY OF 22, 1995.

WORLDBEAT CENTER, INC.

By Makela Cheatom

By _____

Attachment

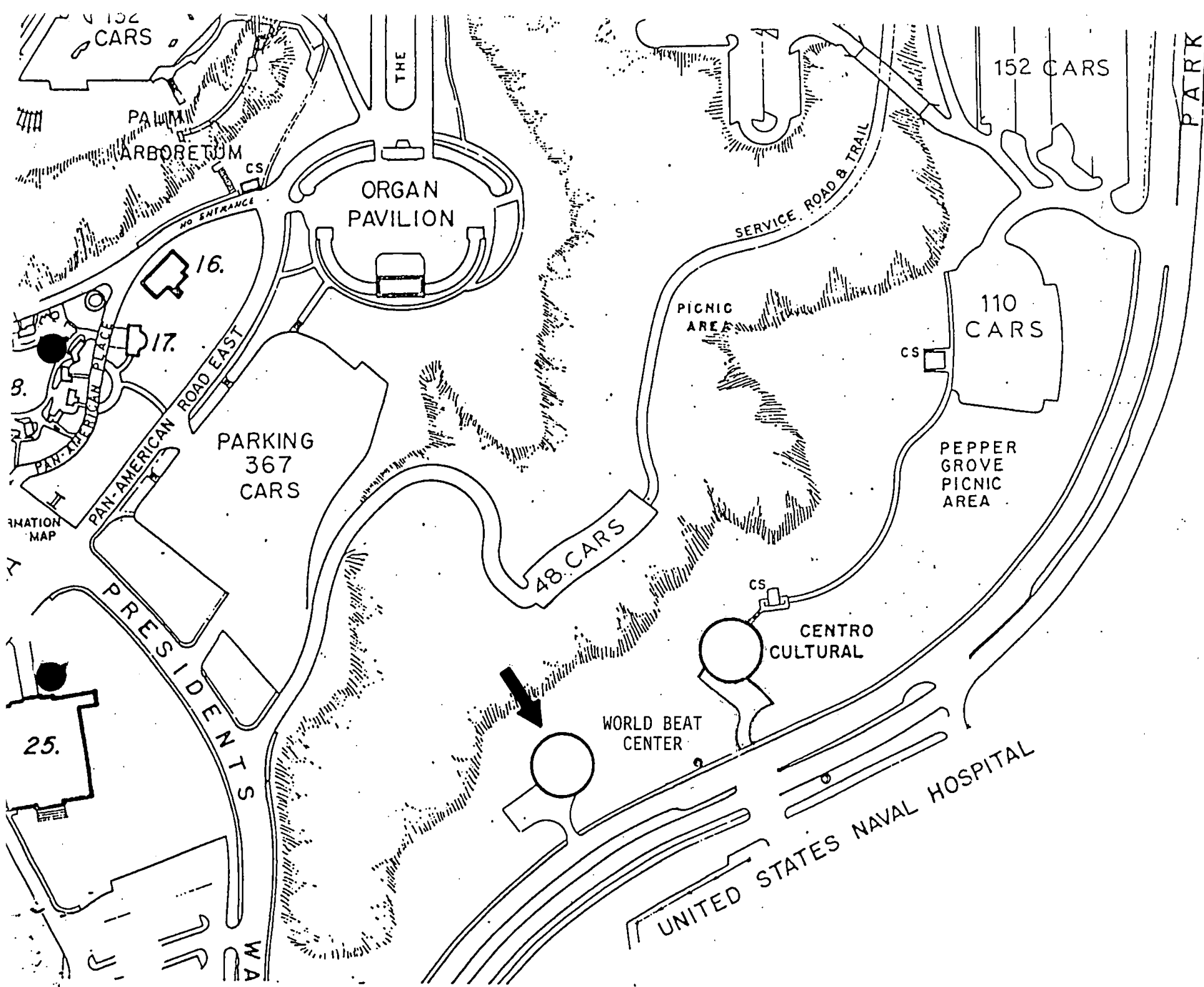


EXHIBIT A

**ARTICLES OF INCORPORATION
OF
PROPHET WORLD BEAT PRODUCTIONS**

ENCLOSURE
FILED
MAR 25 1965
APR 25 1965
MARCH 1965 E. J. [unclear]
Comptroller of the Treasury
Deputy

I

The name of this corporation is **PROPHET WORLD BEAT PRODUCTIONS**.

II

A. This corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for charitable purposes.

B. The specific purpose of this corporation is to promote the creative and performing arts and to provide education about different cultures throughout the world.

III

The name and address in the State of California of this corporation's initial agent for service of process is: Peter H. Karlen, 1295 Prospect Street, Suite C, La Jolla, California 92037.

IV

A. This corporation is organized and operated exclusively for charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code.

B. Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code or (b) by a corporation contributions to which are

C. No substantial part of the activities of this corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of any candidate for public office.

V

The property of this corporation is irrevocably dedicated to charitable and educational purposes and no part of the net income or assets of this corporation shall ever inure to the benefit of any director, officer or member thereof or to the benefit of any private person. Upon the dissolution or winding up of the corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of this corporation shall be distributed to a nonprofit fund, foundation or corporation which is organized and operated exclusively for charitable or educational purposes and which has established its tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

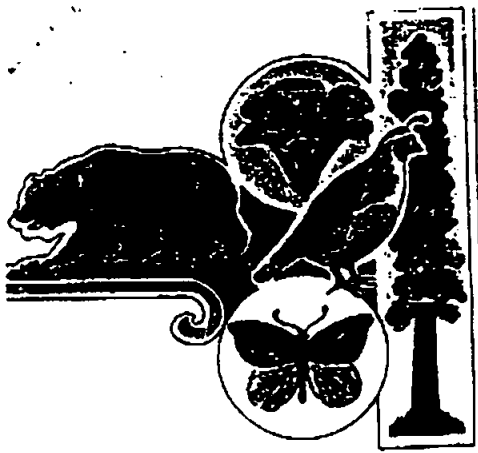
Dated: March 7, 1955

Connie Lee Jeung-Mills
CONNIE LEE JEUNG-MILLS

I hereby declare that I am the person who executed the foregoing Articles of Incorporation, which execution is my act and deed.

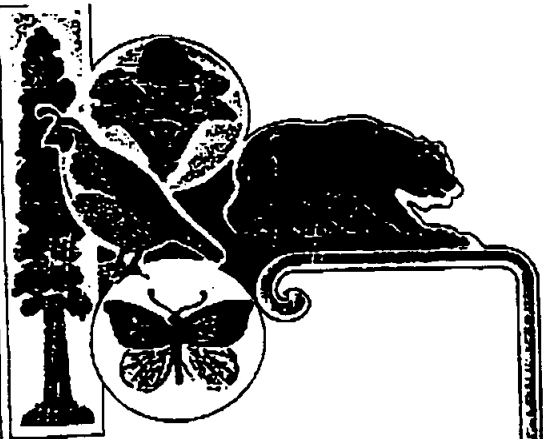
Dated: March 7, 1955

Connie Lee Jeung-Mills
CONNIE LEE JEUNG-MILLS



State of California

OFFICE OF THE SECRETARY OF STATE



CERTIFICATE OF STATUS DOMESTIC CORPORATION

I, MARCH FONG EU, Secretary of State of the State of California, hereby certify:

That on the 25th day of April, 19 85

PROPHET WORLD BEAT PRODUCTIONS

became incorporated under the laws of the State of California by filing its Articles of Incorporation in this office; and

That no record exists in this office of a certificate of dissolution of said corporation nor of a court order declaring dissolution thereof, nor of a merger or consolidation which terminated its existence; and

That said corporation's corporate powers, rights and privileges are not suspended on the records of this office; and

That according to the records of this office, the said corporation is authorized to exercise all its corporate powers, rights and privileges and is in good legal standing in the State of California; and

That no information is available in this office on the financial condition, business activity or practices of this corporation.



IN WITNESS WHEREOF, I execute this
certificate and affix the Great Seal
of the State of California this
4th day of January, 1994

March Fong Eu

Secretary of State