



REDEVELOPMENT AGENCY OF
THE CITY OF SAN DIEGO

RESOLUTION NUMBER R- 04567

DATE OF FINAL PASSAGE SEP 22 2010

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO APPROVING AN AMENDMENT TO THE COOPERATION AGREEMENT WITH SAN DIEGO THEATRES, INC. IN CONNECTION WITH THE MAINTENANCE, OPERATION, AND USE OF CERTAIN PROPERTY, THAT INCLUDES THE BALBOA THEATRE, LOCATED WITHIN THE HORTON PLAZA REDEVELOPMENT PROJECT.

WHEREAS, the Redevelopment Agency of the City of San Diego (Agency) is involved in activities necessary to carry out and implement the Redevelopment Plan for the Horton Plaza Redevelopment Project (Project Area); and

WHEREAS, in order to carry out and implement the Redevelopment Plan for the Project Area, the Agency entered into a Lease Agreement (Lease) with San Diego Theatres, Inc. (Tenant) dated October 18, 2007, pursuant to which the Agency leased to Tenant certain real property and building (Leased Premises) that includes the Balboa Theatre; and

WHEREAS, the Agency and Tenant also entered into a Cooperation Agreement (Cooperation Agreement) dated October 18, 2007, providing for the rehabilitation, operation, use and maintenance of the Leased Premises in accordance with both the Lease and Cooperation Agreement; and

WHEREAS, as part of the maintenance and operation obligations of the Tenant under the Lease, the Tenant is obligated to pay for all charges relating to the utility usage required for the operation of the Leased Premises, including all charges imposed on the Tenant as the "Customer" pursuant to that certain "Chilled Water Supply Agreement" (NRG Agreement)

entered into by and between the Agency and NRG Energy Center (NRG), which NRG Agreement is attached as Exhibit "C" to the Lease; and

WHEREAS, the charges imposed on the Tenant under the NRG Agreement include the Usage Charge, the Energy Charge, and the Franchise Fee Charge, all of which relate to the ongoing usage of services under the NRG Agreement, and further include the Capacity Reservation Charge, which relates to reimbursement to NRG for the Leased Premises' share of certain capital improvements to NRG facilities which make possible the delivery of chilled water to the Leased Premises; and

WHEREAS, since the Agency is generally responsible for the costs of capital improvements under the Lease, the Agency, prior to this proposed action, will consider a First Amendment to the Lease between the Agency and Tenant in order to clarify the terms of the Lease and provide for the Agency's payment of the Capacity Reservation Charge during the term of the Lease as said charge is imposed under the NRG Agreement, including the Agency's reimbursement to the Tenant for the amount of the Capacity Reservation Charge paid by Tenant since March 2008, estimated in the amount of \$65,965 through June 2010; and

WHEREAS, the Agency and Tenant desire to enter into the proposed Amendment to the Cooperation Agreement in order to make applicable the Cooperation Agreement to the terms of the First Amendment to the Lease; and

WHEREAS, the Agency has duly considered all terms and conditions of the Amendment to the Cooperation Agreement and determines that said Amendment is in the best interests of the City and the Project Area, and the health, safety, morals and welfare of its residents, and is in accord with the public purposes and provisions of applicable state and local law and requirements; NOW, THEREFORE,


BE IT RESOLVED, by the Redevelopment Agency of the City of San Diego (Agency) as follows:

1. That the Agency hereby approves the Amendment to the Cooperation Agreement with San Diego Theatres, Inc. dated October 18, 2007 in connection with the maintenance, operation, and use of certain property, that includes the Balboa Theatre, located within the Horton Plaza Redevelopment Project.

2. That the Agency hereby authorizes the Executive Director or designee to execute the Amendment to the Cooperation Agreement, a copy of which when executed by the Agency, shall be placed on file in the office of the Secretary of the Agency as Document No. 04567

3. That the Agency hereby authorizes the Executive Director or designee, on behalf of the Agency, to sign all documents necessary and appropriate to carry out and implement the Cooperation Agreement as amended by the Amendment and to administer the Agency's obligations, responsibilities and duties to be performed thereunder in accordance with this Resolution.

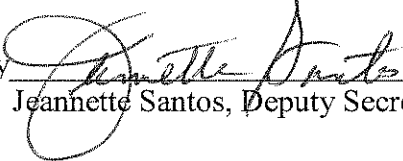
APPROVED: JAN I. GOLDSMITH, General Counsel

By 
Kendall D. Berkey
Deputy General Counsel

KDB:nja
08/30/10
Or.Dept:CCDC
RA-2011-14
PL#2010-01440
Comp. RA-2010-15

I hereby certify that the foregoing Resolution was passed by the Redevelopment Agency of the City of San Diego, at this meeting of SEP 14 2010.

REDEVELOPMENT AGENCY

By 
Jeannette Santos, Deputy Secretary

Approved: 9.22.10
(date)


JERRY SANDERS, Executive Director

Vetoed: _____
(date)

JERRY SANDERS, Executive Director

Passed by the Redevelopment Agency of The City of San Diego on SEP 14 2010, by the following vote:

Agency Members	Yeas	Nays	Not Present	Recused
Sherrri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Carl DeMaio	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

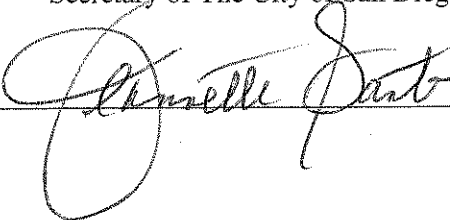
Date of final passage SEP 22 2010

AUTHENTICATED BY:

JERRY SANDERS
Executive Director of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
Secretary of The City of San Diego, California.

By , Deputy

Office of the Redevelopment Agency, San Diego, California

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