

Item # 334
(R-2016-177)
Tues Oct. 20, 2015

RESOLUTION NUMBER R- 310034

DATE OF FINAL PASSAGE OCT 28 2015

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO FACILITATE THE EXECUTION OF LEASE AGREEMENTS BETWEEN THE CITY OF SAN DIEGO, ACTING BY AND THROUGH THE CITY'S AGENT HORTON PLAZA SERVICES, INC., AND TWO RETAIL TENANTS, HORTON FUN LAND, LLC, AND BRUXIE, LLC, FOR THE OCCUPANCY AND OPERATION OF RETAIL KIOSKS AT THE NEW HORTON PLAZA URBAN PARK, LOCATED AT THE SOUTHWEST CORNER OF 4TH AVENUE AND BROADWAY, IN DOWNTOWN SAN DIEGO.

WHEREAS, since 1984, the City of San Diego (the "City") has held fee title to certain real property, APN 533-610-17, located at the southwest corner of 4th Avenue and Broadway Street, adjacent to Horton Plaza Mall (the "City Property"); and

WHEREAS, prior to its dissolution, the Redevelopment Agency of the City of San Diego (the "former RDA") had been engaged in activities to carry out the Redevelopment Plan for the Horton Plaza Redevelopment Project Area (the "Plan"). The Plan provides for the development of parks, open public spaces and related facilities; and

WHEREAS, in anticipation of the former RDA acquiring certain property, specifically APN 533-610-09 (the "Sales Parcel"), located adjacent to the City Property, the former RDA and the City entered into a "Cooperation Agreement for the Design and Construction of the Plaza Improvements," (the "Cooperation Agreement") dated January 19, 2011, whereby the former RDA agreed to construct certain public improvements pursuant to the Cooperation Agreement. As of February 1, 2012, the former RDA dissolved, at which time the City, solely in its capacity as the designated successor agency to the Redevelopment Agency of the City of San Diego, a

former public body, corporate and politic (the “Successor Agency”) become vested with the former RDA’s authority, rights, powers, duties, and obligations under the California Community Redevelopment Law, and received all assets, properties, contracts, leases, books and records, buildings and equipment of the former RDA. In 2013, the Successor Agency acquired fee title to the Sales Parcel. As contemplated by the Cooperation Agreement, the Sales Parcel will be conveyed to the City at a future date. The City Property and the Sales Parcel are collectively referred to hereinafter as the “Plaza Property”; and

WHEREAS, on February 3, 2014, Horton Plaza Services, Inc. (as “Program Manager”), the Successor Agency, and the City entered into the “Park/Plaza Property Event Programming and Use Agreement (the “Programming Agreement”), which has a Term of twenty-five (25) years. The Programming Agreement sets forth objectives and policies related to event programming of the Plaza Property and authorizes the Program Manger to provide event programming (i.e., recreational, cultural, educational, and promotional events) at the Plaza Property, while still allowing for recreational passive public use of the Plaza Property; and

WHEREAS, the Programming Agreement authorizes the Program Manager to enter into agreements, on behalf of the City, with retail users for the kiosks, subject to applicable the City Charter, and City ordinances and policies, which currently require that the City Council approve said proposed leases; and

WHEREAS, pursuant to the Programming Agreement, revenues derived from leasing and events on the Plaza Property will be used to offset the Program Manager’s costs to perform its duties under the Programming Agreement; and

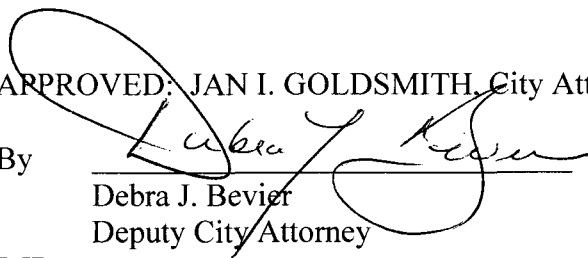
WHEREAS, City staff, Program Manager staff/agents, and proposed lessees Horton Fun Land, LLC, and Bruxie, LLC, have negotiated terms and conditions for their respective kiosk leases; and

WHEREAS, the market value of the Horton Fun Land, LLC, lease is approximately \$1,144,500, and the market value of the Bruxie, LLC, lease is approximately \$1,840,000; NOW, THEREFORE,

BE IT RESOLVED, that the Mayor, or his designee, is authorized and directed to facilitate the execution of two kiosk leases, specifically: (1) the kiosk lease between the City of San Diego, a California municipal corporation, acting by and through its agent, Horton Plaza Services, Inc., a Delaware corporation, and Horton Fun Land, LLC, for the occupancy and operation of a retail store at the new Horton Plaza Urban Park, the terms and conditions of which are more fully set forth in Document No. RR-310034-1, which is on file with the City Clerk; and (2) the kiosk lease between the City of San Diego, a California municipal corporation, acting by and through its agent, Horton Plaza Services, Inc., a Delaware corporation, and Bruxie, LLC, for the occupancy and operation of a retail store at the new Horton Plaza Urban Park, the terms and conditions of which are more fully set forth in Document No. RR-310034-2, which is on file with the City Clerk.

APPROVED: JAN I. GOLDSMITH, City Attorney

By


Debra J. Bevier
Deputy City Attorney

DJB:mcm

October 6, 2015

Or.Dept: Real Estate Assets Dept.

Doc. No.: 1145930

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of OCT 20 2015.

ELIZABETH S. MALAND
City Clerk

By *Aty Broad*
Deputy City Clerk

Approved: 10/26/15
(date)

Kevin L. Faulconer
KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on OCT 20 2015, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<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"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<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"/>

Date of final passage OCT 28 2015.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

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

(Seal)

By Sty Brady, Deputy

Office of the City Clerk, San Diego, California

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