

RESOLUTION NUMBER R- 310359

DATE OF FINAL PASSAGE APR 14 2016

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE MAYOR, OR DESIGNEE, TO FACILITATE THE EXECUTION OF A LEASE AGREEMENT BETWEEN THE CITY OF SAN DIEGO, ACTING BY AND THROUGH THE CITY'S AGENT, HORTON PLAZA SERVICES, INC., AND SAN DIEGO PERFORMING ARTS LEAGUE, A 501(c)3 NON-PROFIT CORPORATION DOING BUSINESS AS ARTSTIX, FOR THE OCCUPANCY AND OPERATION OF A KIOSK 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 the 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 the proposed lessee, ArtsTix, have negotiated terms and conditions for the kiosk lease; and

WHEREAS, ArtsTix has requested a less-than-fair-market-value lease; and

WHEREAS, ArtsTix will annually pay the City \$3,450.00, adjusted annually for Consumer Price Index increases, reflecting the City's annual administrative costs involved with the lease; and

WHEREAS, Council Policy 700-12 provides that fair market value shall be obtained for leases of City-owned property to non-profit organizations when it is deemed by Council that appropriate public benefit will be derived and that the only discount in the rental rate should be for direct offsets to otherwise-required City expenditures; and

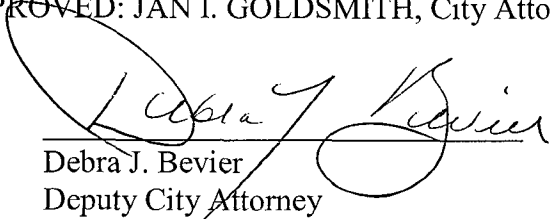
WHEREAS, the market value of the ArtsTix kiosk lease is \$396,000; NOW,  
THEREFORE,

BE IT RESOLVED, that the Mayor, or designee, is authorized and directed to facilitate the execution of 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 San Diego Performing Arts League, a 501(c)3 non-profit corporation doing business as ArtsTix, for the occupancy and operation of a kiosk at the new Horton Plaza Urban Park, the terms and conditions of which are more fully set forth in Document No. 310359, which is on file with the City Clerk.

BE IT FURTHER RESOLVED, that given the cultural, recreational, educational enrichment, and other public services to be afforded by ArtsTix' use and occupancy of the premises, Council Policy 700-12 is waived to the extent that the City property shall be leased at less than fair market value.

APPROVED: JAN I. GOLDSMITH, City Attorney

By

  
Debra J. Bevier  
Deputy City Attorney

DJB:als  
03/23/2016  
Or.Dept: Real Estate Assets Dept.  
Doc. No.:1251446

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of APR 12 2016.

ELIZABETH S. MALAND  
City Clerk

By *Stacy Beady*  
Deputy City Clerk

Approved: 4/14/16  
(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 APR 12 2016, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherr 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Date of final passage APR 14 2016

(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 *City Clerk*, Deputy

Office of the City Clerk, San Diego, California

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