

ORIGINAL

**PARK/PLAZA PROPERTY EVENT  
PROGRAMMING AND USE AGREEMENT**

(Horton Plaza Urban Park)

dated as of February 3, 2014,

by and between

Horton Plaza Services, Inc., a Delaware corporation,

on the one hand, and

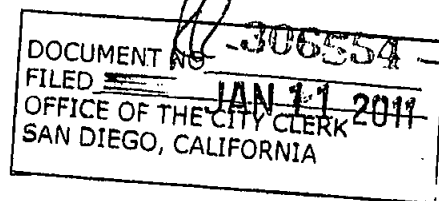
City of San Diego, a municipal corporation, and

City of San Diego Redevelopment Successor Agency,

on the other hand

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P-04599



## PARK/PLAZA PROPERTY EVENT PROGRAMMING AND USE AGREEMENT

THIS PARK/PLAZA PROPERTY EVENT PROGRAMMING AND USE AGREEMENT ("Agreement") is made as of this 3<sup>rd</sup> day of February, 2014, by and between HORTON PLAZA SERVICES, INC., a Delaware corporation ("Program Manager"), on the one hand, and the CITY OF SAN DIEGO, a municipal corporation ("City"), and CITY OF SAN DIEGO, 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 ("Successor Agency" or "Agency"), on the other hand. The City and the Successor Agency (collectively, the "Owner") and the Program Manager (collectively, the "Parties") enter into this Agreement to be effective when executed by the Parties and approved by the San Diego City Attorney ("Effective Date"), as follows:

### RECITALS

A. The City holds fee title to that certain real property consisting of a public park located in the City of San Diego, State of California and more particularly described in Exhibit "A": Description of Park Property; and more commonly known as Horton Plaza Mini-Park ("Park Property").

B. Pursuant to Assembly Bill x1 26, as of February 1, 2012, the Redevelopment Agency of the City of San Diego, a former public body, corporate and politic (the "Former RDA") dissolved by operation of State law, and Successor Agency became vested with all authority, rights, powers, duties, and obligations of the Former RDA under the California Community Redevelopment Law.

C. Prior to its dissolution, the Former RDA was engaged in activities necessary and appropriate to carry out the Redevelopment Plan for the Horton Plaza Redevelopment Project within the Horton Plaza Redevelopment Project Area ("Project Area") including but not limited to entering into the "OPA" as described below; the Project Area was approved and adopted by the City Council of the City of San Diego by Ordinance No. 10882[NS].

D. The Former RDA and HORTON LAND LLC, a Delaware limited liability company, HORTON PLAZA VENTURE LLC, a Delaware limited liability company, and HORTON PLAZA LP, a Delaware limited partnership formerly known as Horton Plaza LLC (collectively, the predecessor-in-interest to Horton Plaza LLC ("Horton")), entered into that certain Owner Participation Agreement dated January 19, 2011 (the "OPA"). Horton is an Affiliate of Program Manager. Pursuant to the OPA, the Successor Agency acquired that certain real property adjacent to the Park Property more particularly described in Exhibit "B": Description of Sales Parcel (the "Sales Parcel").

E. Pursuant to that certain Cooperation Agreement dated January 19, 2011 between the City and the Former RDA, the Former RDA agreed to design and develop the Sales Parcel as a public plaza, consistent with the Redevelopment Plan, as amended, for the Horton Plaza Property Redevelopment Project, and refurbish and renovate the Park Property and thereafter convey the Sales Parcel to the City, and the City agreed to cause the maintenance of both the Sales Parcel and the Park Property (collectively and together with the improvements thereon

defined below as the Plaza Improvements identified in Exhibit "C", such land and improvements are referred to collectively as the "**Plaza Property**"). The Plaza Property is more particularly described in Exhibit "C": Map of the Plaza Property; and

F. The plans for the improvements to be developed by Former RDA on the Plaza Property were developed and finalized by Successor Agency pursuant to the terms of the OPA (collectively, the "**Plaza Improvements**").

G. The activation and event programming of the Plaza Property pursuant this Agreement is of the utmost importance to both Horton and Owner. Owner acknowledges that but for the long term assurance of such activation and programming pursuant to this Agreement, Horton would not have entered into the OPA, which provided for the sale of the Sales Parcel to the Former RDA and the development of the Plaza Improvements by Former RDA, and would not have caused Program Manager to undertake the obligations under this Agreement or under the Maintenance Agreement (as defined in Section 1 below); and

H. Pursuant to the OPA and the Cooperation Agreement, the City and the Successor Agency will enter into this Agreement with respect to their current ownership of the Park Property and the Sales Parcel, respectively, and the Successor Agency will assign its rights and obligations under this Agreement to the City with respect to the Sales Parcel pursuant to an Assignment and Assumption Agreement substantially in the form attached to the Cooperation Agreement upon the Successor Agency's future transfer of the Sales Parcel to the City.

I. The Parties desire to enter into this Agreement for the purpose of obligating Program Manager to provide, and giving Program Manager the exclusive right to provide, all necessary and required event programming of the Plaza Property in accordance with the terms herein.

J. In the interests of encouraging regular public use of the Plaza Property and the Plaza Property becoming a well recognized and highly utilized public resource of the downtown San Diego community, Owner desires that the Plaza Property be actively programmed with recreational, cultural, educational and promotional events to the maximum degree possible to facilitate community use while still allowing for recreational passive public use of the Plaza Property.

K. Owner and Horton desire that the active uses of the Plaza Property generate sufficient revenue to fund the programming costs and expenses as generally described in Recital I above.

L. In as much as Owner desires that such programming costs not be funded from its general fund, or existing revenue sources, and does not require Program Manager or Horton to subsidize programming and/or event costs, Owner desires certain revenue generating activities to be conducted on the Plaza Property primarily for the purpose of generating revenue to offset Program Manager's Costs (as defined below and generally described in Recital I above).

M. Owner acknowledges that the achievement of such active event programming and use objectives and revenue generation will require (i) management of the Plaza Property to be performed by an entity with appropriate experience and expertise and a strong interest in the

success of such event programming and use, and (ii) the expenditure of funds in advance of Use Fees (as defined below) to plan, develop, market, schedule, manage, support, and coordinate such programs and uses.

FOR GOOD AND VALUABLE CONSIDERATION, the sufficiency of which is acknowledged, the Parties agree as follows:

1. Definitions. The following terms shall have the meaning given below:

"**Affiliate**" shall mean an entity under the control of or under common control with the Program Manager and/or its proposed assignee or the third party retained by the Program Manager to perform Program Manager's obligations under this Agreement or those of its managing members or managing partners having a collective controlling interest in Program Manager, the proposed assignee or the third party, as applicable, as of the date of the proposed assignment.

"**Annual Report**" is defined in Section 11.

"**Cart**" means a cart designed to be moveable in nature with only electrical hook ups for such use as permitted under this Agreement and of a size no greater than 30 square feet and within a total operational area of a size no greater than 125 square feet.

"**Cart Uses**" is defined in Section 2.

"**Completion Date**" means the date identified by the Agency pursuant to the OPA for the opening of the Plaza Improvements to the general public.

"**Event**" means an activity for which a permit has been issued by the Program Manager for a designated area(s) and for a time with a minimum duration of one hour.

(Zavillon) "**Kiosk**" means a permanent structure of no greater than 300 square feet and which is designed for electrical, water and other hook ups and is otherwise consistent with the Preliminary Design Guidelines and/or Basic Plans and Schematic Drawings as set forth in the OPA for such use as permitted under this Agreement.

"**Kiosk Uses**" is defined in Section 2.

"**Maintenance Agreement**" means that certain Maintenance and Operations Agreement entered into by Owner and Program Manager concurrently herewith under which Program Manager is responsible to maintain and operate the Plaza Property.

"**Operating Costs**" means the User's costs of conducting or arranging an Event or Retail Use on the Plaza Property.

"**Park Uses**" is defined in Section 2.

"**Plaza Improvements**" is defined in Recital E.

**"Program Manager's Costs"** means the wages and benefits of those full time or part time employees of Program Manager devoted to the performance of Program Manager's obligations hereunder, the Operating Costs, if any, paid for or reimbursed by Program Manager, plus an overhead charge of one hundred percent (100%) of said wages to cover the costs of fringe benefits and overhead, plus the costs of third party legal, marketing, advertising and other services reasonably required for (i) the development of resources designed to facilitate (x) Retail Uses and/or (y) Events and/or (ii) Project Manager to perform its duties under this Agreement. If only a portion of an employee's time is dedicated to the performance of Program Manager's obligations hereunder, only the allocable portion of such employee's wages and benefits shall be included in Program Manager's Costs.

**"Programming Budget"** is defined in Section 9.

**"Programming Fee"** is the fee payable to Program Manager for its services hereunder and is more particularly described in Section 10.

**"Programming Plan"** is defined in Section 9.

**"Property Capital Repairs and Replacements"** is defined in Section 10.

**"Property Capital Reserve Account"** means an interest bearing account established by Owner for the deposit of Capital Reserve Amounts and withdrawal of funds for the purpose of funding Property Capital Repairs and Replacements as further described in Section 10.

**"Property Capital Reserve Amount"** is defined in Section 10.

**"Property Plans"** means Agency's final plans for the Plaza Improvements prepared pursuant to the terms of the OPA.

**"Retail Center"** means the shopping center adjacent to the Plaza Property commonly known as Westfield Horton Plaza.

**"Retail Uses"** is defined in Section 2.

**"Use Fees"** means a schedule of rental and/or use fees mutually agreed to by Owner and Program Manager (such agreement not to be unreasonably withheld or delayed) required for each Event and for each type of Retail Use provided that Use Fees may be adjusted by Program Manager for particular Retail Uses and Events.

**"User"** means the licensee, lessee, permittee or sponsor of the subject Event or Retail Use, as applicable.

2. Use. The Plaza Property may be used only for:

(i) non-programmed passive and active public park recreational purposes ("**Park Uses**"),

(ii) temporary pre-scheduled Program Manager coordinated admission fee and/or non-admission fee singular Events on the Plaza Property including but not limited to one or more of the following categories of activity:

- Arts and Entertainment programs and events
- Promotional programs and events
- Concert and Performance programs and events
- Educational programs and events
- Fairs, Festival and Market programs and events
- Awareness and Fundraising programs and events
- Athletic, Recreation and Health programs and events
- Holiday Special programs and events
- Exhibits and Shows

Retail programs and events; provided, however, any onsite retail sales are ancillary to the retail program or event e.g., "sidewalk" sales are prohibited,

(iii) retail sales areas for the use and operation of Kiosks to conduct retail sales (the "**Kiosk Uses**") in areas occupying no more than a total of 1,200 square feet of the Plaza Property in the location(s) identified in the Property Plans or such other location on the Plaza Property of no greater size as Owner may reasonably approve from time to time (the "**Permanent Kiosk Areas**"); and

(iv) retail sales areas for the temporary use and operation of Carts to conduct retail sales during an Event (the "**Cart Uses**") in areas occupying no more than an aggregate total of 800 square feet of the Plaza Property. The Kiosk Uses and Cart Uses are collectively referred to herein as the "**Retail Uses.**"

3. Mutual Objectives. Without limitation of the Recitals, Program Manager and Owner acknowledge their mutual objective of (i) maximizing the activation of the Plaza Property with Events and (ii) that there be Retail Uses and Events that generate revenues sufficient to at least offset all Program Manager Costs and agree that the policies and procedures regarding planning, development, marketing, scheduling, managing, supporting, coordinating and programming the Plaza Property and setting of Use Fees will be established to serve that objective. Notwithstanding the above, any revenue generated as a result this Agreement shall not be used to offset the costs and expenses for which the Program Manager is otherwise obligated to pay under the Maintenance Agreement. In addition, the obligations created under this Agreement shall not diminish or impair the obligations of the Program Manager under the Maintenance Agreement.

4. Permitting. Program Manager will have the sole right and duty to plan, develop, market, schedule, manage, support, and coordinate all Events. Where applicable Events will be planned, developed, marketed, scheduled, managed, supported and coordinated in a manner consistent with policies, permitting procedures and requirements set out in the City of San Diego Special Event Planning Guide, as produced and administered by the Office of Special Events of the City of San Diego. Program Manager will also have the right, on behalf of Owner, to collect Use Fees and issue permits for all Events on the Plaza Property but such authority does not waive or alleviate any requirement for a City of San Diego Special Event Permit as determined by the Office of Special Events or the payment of the fees required to apply for and/or obtain a Special Event Permit.

5. Coordination and Scheduling. All inquiries for Events received by Owner shall be redirected to Program Manager. Program Manager will seek to identify potential Events, Retail Uses and Users and market the use of the Plaza Property for the purpose of regularly activating the Plaza Property with events and uses to facilitate the generation of revenues from Use Fees, the revenues from which would pay the costs of activating the Plaza Property as described above. Program Manager shall schedule all Events and Owner and Program Manager shall establish mutually acceptable protocols and procedures for the scheduling of Events and shall coordinate the Plaza Property Schedule of Events with the Citywide Calendar of Events as maintained by the City Office of Special Events. Not more than twenty five percent (25%) of the Events in any calendar year can have an admission fee unless consented to by Owner's representative. Program Manager shall meet the following programmatic goals:

- a. Year 1 – Not less than 75 Events totaling at least 180 hours in the aggregate;
- b. Year 2 – Not less than 125 Events totaling at least 300 hours in the aggregate;
- c. Year 3 – Not less than 175 Events totaling at least 420 hours in the aggregate; and
- d. Year 4 and for the balance of the Term of this Agreement – Not less than 208 Events totaling at least 500 hours in the aggregate.

6. Retail Uses. Program Manager and Owner acknowledge their mutual objective described in the Recitals and as set forth in Section 3 agree that revenues derived from the operation of Retail Uses and rules and procedures regarding marketing, leasing or licensing such uses and setting Use Fees for the same will be designed to serve the objective of generating sufficient revenue to at least offset the Program Manager Costs. Program Manager will have the sole right and duty to market to, select and negotiate with all potential licensees/lessees and enter into license/lease agreements for all Retail Uses on behalf of Owner. All inquiries for Retail Uses received by Owner shall be redirected to Program Manager. Program Manager will seek to identify potential Retail Uses and licenses/lessees and market the Plaza Property for the purpose of having regular retail sales from the Plaza Property and facilitate the supply of all third party services (e.g., supply of refuse removal and electrical supply) required by such lessees/licensees.

7. Marketing and Merchandising Plan. At least annually in October, Program Manager shall submit to Owner a marketing plan and a proposed licensee/lessee mix and merchandising plan reflecting Program Manager's recommended Retail Uses, proposed license/lease terms, Use Fees and actual and potential licensees/lessees and Program Manager's plans for marketing to such licensees/lessees.

8. Use Fees. Consideration of the standard fees charged by Owner for use of other public venues and the demand for and the cost of using comparable alternative venues, will be made in setting Use Fees for Events by Owner and Property Manager. Use Fees for the Retail Uses shall be set by Project Manager. To the extent possible, Owner and Project Manager desire that the Use Fees cover Program Manager's Costs to the maximum extent possible. The Use Fee schedule shall be updated at least annually in connection with the annual Programming Budget based on the above described factors, the prior year's experience and then market conditions and past and expected future demand for Events of the Plaza Property. Program Manager, on behalf of Owner, shall collect the Use Fees from the Users. Notwithstanding the foregoing, Use Fees for Events may be adjusted by Program Manager for a particular Event.

9. Programming Plan and Programming Budget. Within the times described below, Program Manager shall prepare and submit to Owner for Owner's approval, not unreasonably withheld or delayed, the following (in form, content and detail reasonably acceptable to Owner): (i) a plan describing the planning, development, marketing, scheduling, permitting, management, support, coordination and programming of Events of the Plaza Property in accordance with the terms of this Agreement, and (ii) a budget of the anticipated Program Manager's Costs for the same (as approved, such plan and budget are respectively referred to herein as the "**Programming Plan**" and the "**Programming Budget**"). Within eight (8) months prior to the anticipated Completion Date, Program Manager shall prepare and submit to Owner a proposed Programming Plan and a proposed Programming Budget for the period commencing six (6) months prior to the anticipated Completion Date and ending on the last day of the first full calendar year following the Completion Date (the "**Initial Period**"). Within sixty (60) days prior the end of each calendar year following the Completion Date, Program Manager shall prepare and submit to Owner a proposed Programming Plan and proposed Programming Budget for the upcoming calendar year. In order to be includable in Program Manager's Costs, costs and expenses incurred by Program Manager shall be incurred and accounted for in accordance with the then applicable Programming Budget. From time to time Program Manager may submit an updated proposed Programming Plan and/or proposed Programming Budget for the balance of the applicable period for Owner's review and approval as provided above.

10. Collection and Remittance of Revenues. Concurrent with the delivery of the Annual Report (as defined below), for the Initial Period and for each calendar year thereafter, the actual Use Fee revenue collected during the applicable period in excess of the actual Program Manager's Costs incurred during such period in conformance with the then applicable Programming Budget (the "**Excess Use Fees**") shall be allocated by Program Manager to Program Manager and Owner as follows: fifty (50%) percent to the Program Manager as Program Manager's fee for the performance of its services under this Agreement (the "**Programming Fee**") and, fifty (50%) percent to Owner (the "**Property Capital Reserve Amount**") to cover the cost of repairs and replacements of Major Capital Items and refurbishments pursuant to and in accordance with Section 12 of the Maintenance Agreement

(the "Property Capital Repairs and Replacements"). Concurrent with Program Manager's delivery of the Annual Report, Program Manager shall pay to Owner any sum owed to Owner based on the foregoing and any sum owed to Program Manager shall be retained out of the Excess Use Fees. Owner shall deposit all Property Capital Repair and Replacement Amounts into an account established and held by Owner for the restricted purpose of paying the cost of Property Capital Repairs and Replacements when needed as determined by Owner (the "Property Capital Reserves Account").

11. Programming Management and Scheduling Meetings; Annual Report. Within ninety (90) days prior to the anticipated Completion Date and at a regularly scheduled meeting of Owner and Program Manager thereafter, which shall occurring no later than within thirty (30) days prior to the commencement of each calendar quarter, Program Manager shall deliver to Owner a schedule describing the Events booked during the preceding calendar quarter (as applicable), the then booked Events, the then anticipated to be booked Program Uses and target/potential Program Uses, and the applicable permits, for at least the upcoming calendar quarter. Within ninety (90) days after the end of each calendar year, Program Manager shall deliver to Owner a report (the "Annual Report") containing each of the following: (i) a detailed statement audited by an independent certified public accountant reasonably acceptable to Owner of the User Fees collected and Program Manager's Costs for such year, (ii) a calendar or listing of the prior year's actual Events and Users which specifically identifies the Events requiring payment for admission and the Events for which there is no admission fee, and (iii) an estimate of the number of attendees at each Event.

12. License and Use Agreements. Twelve (12) months prior to the anticipated Completion Date, Owner shall provide Program Manager with Owner's preferred or required form(s) of license or use agreement for Events and Program Manager shall provide Owner with the form of license and/or lease agreement for the Retail Uses which, in Program Manager's judgment, reflects standard commercial terms and conditions. Program Manager and Owner shall work together to create mutually acceptable forms and documents for use in connection with the Events and the Retail Uses so the same are finalized at least six (6) months prior to the time needed in connection with the first such uses following the Completion Date. Such agreements shall, as applicable, require the User to be responsible for the following specifically related to the subject Event or Retail Use, as applicable: damage, refuse removal, cleaning, signage, crowd control, event security and maintenance. In addition, such agreements shall require the User to carry insurance and post a security deposit in accordance with requirements to be mutually established by Owner and Program Manager. Program Manager shall have the authority to grant licenses and enter into license agreements, on forms approved by Owner, for Retail Uses (Kiosk Uses and Cart Uses) and Events. The approval of any lease agreements for Kiosk Uses will be subject to applicable City ordinances and policies.

13. Assignment. Prior to the assignment of this Agreement to the City by the Agency pursuant to the Cooperation Agreement, any assignment of this Agreement by the Program Manager shall be governed by the provisions of the OPA. After Assignment of the Agreement to the City, the following shall apply:

a. Program Manager covenants that both it and Property Manager under the Maintenance Agreement must be the same entity as the owner of the adjacent property

commonly referred to as Westfield Horton Plaza (the "Retail Center") or (an) Affiliate(s) of such owner. Owner shall have the right to assign this Agreement to any other City entity or other public entity. Program Manager shall have the right to assign this Agreement to an Affiliate of Program Manager. Other assignments by Program Manager shall be subject to Owner's reasonable consent; provided, however the proposed assignee of the Maintenance Agreement and this Agreement must be the same entity as the owner of the Retail Center or (an) Affiliate(s) of such owner, and such assignee, together with its Affiliates, must, in the reasonable judgment of Owner, have reasonably acceptable programming expertise, or must have entered into a contract with a third party which, together with such third party's Affiliates, has reasonably acceptable expertise programming public plazas and open spaces comparable to the Plaza Improvements (which by way of example shall include Pioneer Square in Portland, Union Square in San Francisco and Bryant Park in New York) or experience in special event programming of other venues which experience could reasonably be extended to the Plaza Improvements, which reasonably acceptable expertise includes not less than five (5) years experience. Nothing contained in this subsection 13.a shall create any right of approval of the Agency, the Owner or the City as to, or any restriction on, any sale or transfer of the Retail Center.

b. The following terms and conditions shall apply during the first five (5) years from the Completion of the Plaza Improvements:

(1) Program Manager shall timely provide the Agency Executive Director or designee with a copy of all formal notices and all items (including quarterly reports, budgets, schedules and plans) required by the terms of this Agreement;

(2) That the Agency Executive Director or designee shall have reasonable approval over the following:

- (i) Amendments or formal waivers of any term of this Agreement;
- (ii) Any audits required under this Agreement;
- (iii) Changes in quantity, square footage or scope of design to the Kiosks located on the Plaza Property; and
- (iv) Increase in the limit on paid admission Events so as to allow the same to exceed over twenty five percent (25%) of the total Events.

14. Defaults. If either party breaches its obligations under this Agreement, the non-breaching party shall serve written notice of such breach upon the breaching party. If the breach is not cured within ten (10) days after service of the notice of breach if pertaining to the payment of money, or within thirty (30) days after receipt of the notice of breach otherwise, or if such breach (other than the payment of money) is of a type which is not capable of being cured within thirty (30) days, then if the breach is not commenced to be cured within thirty (30) days after service of the notice of breach and cured promptly in a continuous and diligent manner within a reasonable period of time after commencement, the breaching party shall be in default

and shall be liable to the non-breaching party for any damages caused by such default, and the non-defaulting party may thereafter commence an action for damages against the defaulting party with respect to such default; provided, however, in no event shall the non-defaulting party be precluded from exercising remedies if the event of default is not cured within ninety (90) days, or the non-defaulting party's rights under this Agreement or otherwise becomes or is about to become materially jeopardized by any failure to cure a default.

Failure or delay in giving such notice shall not constitute a waiver of any breach, nor shall it change the time of breach or act as a waiver of any rights or remedies. Delays by either party in asserting any of its rights and remedies shall not deprive either party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

The rights and remedies of the Parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party. In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Agreement. Such legal actions must be instituted in the Superior Court of the County of San Diego, State of California, in any other appropriate court of that county, or in the Federal District Court in the Southern District of California.

15. Representatives. Each of Program Manager and Owner shall select a representative, which may be changed from time to time upon prior notice by the represented party to the other party, for the purpose of implementing their respective duties under this Agreement.

a. Owner. After assignment of this Agreement to the City pursuant to the Cooperation Agreement as described in Recital H above, this Section 15.a shall apply. Owner's initial designated representative and contract administrator for this Agreement shall be the City of San Diego Parks and Recreation Director, who can be contacted at the address listed below. The Owner's designated representative will communicate with Program Manager on all matters related to the administration of this Agreement and Program Manager's performance of the services rendered hereunder. When this Agreement refers to communications to or with Owner, those communications will be made to or with the Owner's designated representative, unless the Owner's designated representative or this Agreement specifies otherwise. However, when this Agreement refers to an act or approval to be performed by the Owner, that act or approval shall be performed by the person authorized by law.

b. Program Manager. The general manager of Westfield Horton Shopping Center is Program Manager's initial designated representative and contract administrator for this Agreement, who can be contacted at the copy notice address for Program Manager set forth below. Such representative will communicate with Owner on all matters related to the administration of this Agreement. When this Agreement refers to communications to or with Program Manager, those communications will be made to or with such representative, unless the Program Manager or the Agreement specify otherwise.

16. Notification. Program Manager shall immediately notify the Owner in writing if Program Manager experiences or anticipates experiencing a delay in performing any of its services required by this Agreement within the time frames required. The written notice shall include an explanation of the cause for, and a reasonable estimate of the length of the delay. Subject to the terms of Section 38, if in the opinion of the Owner, the delay affects a material part of the Owner's requirements for the services required by this Agreement, such delay shall not excuse Program Manager's performance obligation and Program Manager's non-performance will remain grounds for a Program Manager default and in the case of such a default the Owner may exercise its rights and remedies under this Agreement or as provided at law or in equity.

17. Maintenance of Records. Program Manager shall maintain books, records, schedules, logs, documents and other evidence sufficient to record all actions taken with respect to the planning, development, marketing, management, coordination or programming of the Plaza Property pursuant to this Agreement and keep in its files the original or a copy of such records for a period of three (3) years following the calendar year in which such services were performed. Program Manager further agree to allow the Owner, on reasonable advance notice to Program Manager, to inspect, copy, and audit such books, records, documents and other evidence at all reasonable times.

18. Term; Termination. The term of this Agreement shall be for twenty-five (25) years commencing upon the completion of the Plaza Improvements, as evidenced by the acceptance of such completion by the Owner, however, if the Maintenance Agreement is terminated for cause as a result of a Program Manager default thereunder, then, within sixty (60) days thereafter, Owner shall have the right exercisable by notice to Program Manager to terminate this Agreement. If the Maintenance Agreement shall be terminated prior to the expiration of the term thereof for any reason other than a Program Manager default thereunder, within sixty (60) days thereafter, the Program Manager shall have the right exercisable by notice to Owner to terminate this Agreement.

In addition, Owner may terminate this Agreement upon Program Manager's failure to timely cure any default of this Agreement in accordance with the notice and cure provisions herein. Otherwise, Program Manager shall have the duty and the right to perform its obligations under this Agreement until the earlier of (a) termination as a result of Program Manager's uncured default as provided herein or (b) the expiration of the Term.

a. Costs. In the event Owner terminates this Agreement as a result of an uncured Program Manager default, Program Manager shall pay all costs and expenses incurred by Owner prior to the date of termination in obtaining performance of the obligation(s) breached by Program Manager, including costs of suit and reasonable attorney's fees.

b. No Liability. Owner shall not be obligated for any loss, financial or otherwise, which Program Manager may incur as a result of the termination of this Agreement in accordance with its terms. Program Manager expressly waives any claim against Owner for expense or loss which Program Manager might incur as a result of the termination of this Agreement as a result of Program Manager's uncured default.

19. Governmental Approvals. By entering into this Agreement, neither Owner nor the City Council is obligating itself to any other governmental agent, board, commission, or agency with regard to any other discretionary action relating to this Agreement or Program Manager's obligations pursuant to this Agreement. Discretionary actions include, but are not limited to any other governmental agency approvals which may be required.

20. Hazardous Substances. Except for the use of commonly used cleaning supplies used in the ordinary course of maintenance and in compliance with all applicable laws, Program Manager shall not give permission to any person to use or release hazardous substances in, on, under, or from the Plaza Property. Except for the use of commonly used cleaning supplies used in the ordinary course of maintenance and in compliance with all applicable laws, neither Program Manager nor Program Manager's employees, agents, contractors, subcontractors, invitees, permittees or guests shall store, utilize, or sell any hazardous substance on the Plaza Property without Owner's prior written consent. For the purposes of this provision, a release shall include, but not be limited to, any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, or otherwise disposing of hazardous substances. "Hazardous substances" shall mean those hazardous substances listed by the Environmental Protection Agency in regularly released reports and any other substances incorporated into the State of California's list of hazardous substances. A copy of the presently effective EPA and the State lists is on file in the Office of the City Clerk as Document 769704 and by this reference is hereby incorporated into this Agreement.

a. Remediation. If Program Manager specifically consents to the use, or specifically grants permission to use, any hazardous substance on the Plaza Property (other than commonly used cleaning supplies used in the ordinary course of maintenance and in compliance with all applicable laws) without Owner's prior written consent, and such use results in a release of a hazardous substance, Program Manager shall pay all costs of assessment, remediation and removal of the hazardous substance in accordance with all applicable laws, rules, and regulations of governmental authorities.

b. Indemnity. Program Manager shall protect, defend, indemnify, and hold Owner, the Agency and their agents, employees, contractors, officers, and officials harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from Program Manager's breach of this Section 20, including, but not limited to, costs of environmental assessments, costs of remediation and removal, any necessary response costs, damages for injury to natural resources or the public, and costs of any health assessment or health effect studies.

c. Notice of Release. If Program Manager knows or has reasonable cause to believe that a hazardous substance has been released on or beneath the Plaza Property, Program Manager shall immediately notify Owner and deliver a written report thereof to Owner within three (3) calendar days of receipt of the knowledge or cause for belief. Program Manager shall notify Owner immediately of any notice of violation received or initiation of environmental actions or private suits related to the Plaza Property. If it is determined that the release was not caused by any action of Program Manager, Owner, upon notice of the release by Program Manager, will take remedial action or reimburse Program Manager for all expenses reasonably incurred in connection with remedial action taken by Program Manager.

d. Environmental Assessment. At its election and provided Owner has reason to believe that a hazardous substance has been released on or under the Plaza Property, Owner may cause an environmental assessment of all or a portion of the Plaza Property to be performed by a professional environmental consultant registered with the State of California as a Professional Engineer, Certified Engineering Geologist, or Registered Civil Engineer. If any such hazardous substances exist in quantities greater than allowed by City, county, state, or federal laws, statutes, ordinances, or regulations, then the environmental assessment shall include a discussion of such substances with recommendations for remediation and removal necessary to effect compliance with those laws or statutes, and estimates of the cost of such remediation or removal.

21. Property Damage. Program Manager shall pay for all damage to the Plaza Property, Owner's personal property on the Plaza Property, and the personal property of third parties on the Plaza Property resulting from a default of this Agreement by Program Manager or from the gross negligence or willful misconduct of Program Manager. Program Manager shall promptly repair and restore to its original condition all such property at Program Manager's sole cost and expense and to Owner's satisfaction. If it is reasonably determined by the Owner that the damage was not caused by such action of the Program Manager, Owner, upon notice of such damage by Program Manager will take remedial action or reimburse Program Manager for all expenses reasonably incurred in connection with remedial action taken by Program Manager, subject to appropriations having been made for that purpose.

22. Indemnification.

a. Indemnification and Hold Harmless. Program Manager shall defend (with legal counsel reasonably acceptable to the Owner), indemnify, protect, and hold harmless Owner, and its agents, officers, officials, departments, contractors and employees ("**Owner Indemnified Parties**") from and against all claims, losses, costs, damages, injuries to any property or person (including, without limitation, injury to or death of an employee, agent, representative, officer, official, contractor, invitee or guest of Program Manager or their subcontractors), expense and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, attorney's fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) to the extent that the foregoing arise out of, or are caused by, claimed to be caused by, or relate to, directly or indirectly, any services or operations performed under this Agreement, including acts or omissions to act by the gross negligence or willful misconduct of Program Manager and/or its officers, officials, agents, contractors, representative, employees, subcontractors, anyone directly or indirectly employed by them, or anyone whom they control.

b. Subject to the terms of Section 22.a. above, Owner shall defend (with legal counsel reasonably acceptable to Program Manager), indemnify, protect, and hold harmless Program Manager and its agents, officers, officials, contractors and employees ("**Program Manager Indemnified Parties**") from and against all claims, losses, costs, damages, injuries to any property or person (including, without limitation, injury to or death of an employee, agent, representative, officer, contractor, invitee or guest of Owner or their subcontractors), expense and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, attorney's fees, litigation expenses and fees of expert

consultants or expert witnesses incurred in connection therewith and costs of investigation) that arise out of the use, operation, maintenance or repair of or performance of any work on the Plaza Property. Owner's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities described in Section 22.a above.

c. Insurance. The provisions of this Section are not limited by the requirements of Section 26 of this Agreement relating to insurance.

d. Enforcement Costs. Program Manager agree to pay any and all costs the Owner incurs due to enforcing the indemnity and defense provisions set forth in Section 22.a and Owner agrees to pay any and all costs Program Manager incurs due to enforcing the indemnity and defense provisions set forth in Section 22.b.

23. Encumbrances. Program Manager shall keep the Plaza Property free from all encumbrances and liens of any nature which arise out of or are in any manner directly or indirectly connected with any work performed by a contractor or materialman hired by Program Manager (or any subcontractor of such contractor or materialman) (including, without limitation Program Manager's failure or the failure of any contractor or subcontractor hired by Program Manager to pay any person or persons referred to in Section 3181 of the California Civil Code or other applicable sections thereof) or any lien or encumbrance created or expressly permitted by Program Manager. Program Manager shall defend, indemnify, protect, and hold harmless the Owner Indemnified Parties from and against any and all such encumbrances and/or liens, and from and against any claim, liability, cost or expense related to such encumbrances and liens, including without limitation all attorney fees and costs, relating to or charged against the Plaza Property.

24. No Discrimination. Program Manager herein covenants by and for itself, its successors and assigns and all persons or entities claiming under or through Program Manager, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement, nor shall Program Manager or any person or entity claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to its performance of this Agreement. The foregoing covenants shall run with the land and shall be binding upon and shall obligate the Program Manager, its successors and assigns and all persons or entities claiming under or through them.

25. Program Manager's Risk. Program Manager shall bear all risks and liability arising out of or in any manner directly or indirectly connected with Program Manager's gross negligence or willful misconduct.

26. Insurance. On or before the Completion Date, Program Manager shall deliver to Owner current certificate(s) of insurance for:

a. Commercial General Liability Insurance, providing coverage for bodily injury, including death, personal injury, and property damage, with limits of at least Two Million Dollars (\$2,000,000) per occurrence, subject to an annual aggregate of Four Million Dollars (\$4,000,000); and

b. Automobile Liability Insurance, providing coverage for all bodily injury and property damage, with a limit of not less than Two Million Dollars (\$2,000,000) per occurrence. Such insurance shall cover liability arising out of any vehicle (including owned, hired, and non-owned vehicles). Coverage shall be written on ISO form CA 00 01 12 90, or a substitute form providing equivalent liability coverage; and

c. Workers' Compensation Insurance, as required by the laws of the State of California for all of Program Manager's employees who are subject to this Agreement, with Employers' Liability coverage with limits not less than One Million Dollars (\$1,000,000). A waiver of subrogation shall be provided to the Owner.

d. Additional Insureds. Pursuant to a separate endorsement CG2010 (11/85) or equivalent form, "The City of San Diego, and the City of San Diego, 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, and their respective officials, officers, representatives, agents, departments, contractors and employees" shall be named as additional insureds in all policies.

e. Primary & Non-Contributory. Insurance policies shall be endorsed such that the coverage is primary and non-contributory to any coverage carried or maintained by Owner. The policies shall be kept in force for the duration of this Agreement and any extended use. The certificate(s) of insurance shall be filed with Owner upon execution of this Agreement.

f. Qualified Insurer(s). All insurance required by the terms of this Agreement must be provided by insurers licensed to do business in the State of California which are rated at least "A-, VI" by the current AM Best Ratings Guide and which are acceptable to Owner. Non-admitted surplus lines insurers may be accepted provided they are included on the most recent list of California eligible surplus lines insurers (LESLI list) and otherwise meet Owner's requirements.

g. Deductibles/Retentions. All deductibles and self-insured retentions on any insurance policy are the sole responsibility of Program Manager and must be disclosed and acceptable to Owner at the time evidence of insurance is provided.

h. Continuity of Coverage. All policies shall be in effect on or before the Completion Date. At least thirty (30) calendar days prior to the expiration of each insurance policy, Program Manager shall furnish to Owner a certificate(s) showing that a new or extended policy has been obtained which meets the requirements of this Agreement. Immediately upon receipt of notice that a policy is being or may be terminated or cancelled, Program Manager shall notify Owner in each instance.

i. Modification. The Owner may, at its discretion, require an increase of amounts and coverage at any time by giving Program Manager thirty (30) calendar days prior written notice, provided that such change is consistent with amounts and coverage applicable to other Owner or City agreements for similar services.

j. Accident Reports. Program Manager shall endeavor to immediately report to Owner any accident causing property damage or injury to persons on the Plaza Property, or

related in any way to this Agreement. Program Manager will use its good faith efforts to include in such report the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses, and other pertinent information.

k. Failure to Comply. If Program Manager fails or refuses to obtain and maintain the required insurance, or fails to provide proof of coverage, Owner may obtain the insurance. Owner shall notify Program Manager of such payment of premiums stating the amount paid and the name(s) of the insurer(s). Program Manager shall reimburse Owner with interest thereon commencing on the date of default at the greater of the maximum allowable non-usurious legal rate then in effect in California or three percent (3%) over the then prime rate charged by Bank of America from the date of expenditure until repaid within thirty (30) calendar days after demand therefore.

27. Compliance with Law. Program Manager shall, at its sole cost and expense, comply with all laws and the requirements of all municipal, state, and federal authorities now in effect or which may hereafter be in effect, which pertain to the performance of Program Manager's services hereunder.

28. Possessory Interest Tax. Program Manager acknowledges that this Agreement may create a possessory interest subject to property taxation, and that Program Manager may be subject to the payment of taxes levied on that interest. Program Manager shall pay all such possessory interest taxes. Program Manager's payment for such taxes, fees, and assessments shall be deducted from any Use Fee revenue prior to allocation of the revenue pursuant to Section 10.

29. Rights and Remedies. The rights and remedies of the Parties enumerated in this Agreement are cumulative and shall not limit the Parties' rights under any other provision of this Agreement or otherwise waive or deny any right or remedy at law or in equity, existing as of the date of this Agreement or enacted or established at a later date, that may be available to the Parties.

30. Waiver. Owner's failure to insist upon the strict performance of any of Program Manager's obligations under this Agreement, in one or more instance, shall not be construed as a waiver of any such obligation, and the same shall remain in full force and effect. The property constituting the Plaza Property is publicly-owned and held in trust for the benefit of Owner's citizens. Owner's failure to discover a breach of any obligation of this Agreement or to take prompt action to require the cure of any such breach shall not result in an equitable estoppel, but Owner may at any and all times require the cure of any such breach.

31. Survival. Any obligation which accrues under this Agreement prior to its expiration or termination shall survive such expiration or termination.

32. Entire Agreement. This Agreement, including exhibits, contains the entire agreement between the Parties relating to the rights granted hereby and the obligations assumed herein. No modification of this Agreement shall be valid unless in writing and signed by all Parties.

33. Successors and Assigns. This Agreement shall bind and inure to the benefit of the respective successors and assigns of the Parties hereto.

34. Legal Proceedings. In the event of any controversy, claim, or dispute relating to this Agreement, the prevailing Party shall be entitled to recover from the non-prevailing party all reasonable costs and expenses thereof, including without limitation attorney's fees and costs.

35. Jurisdiction and Venue. The venue for any suit or proceeding concerning this Agreement, the interpretation or application of any of its terms, or any related disputes shall be in the County of San Diego, State of California.

36. Governing Law. The laws of the State of California shall govern and control the terms and conditions of this Agreement.

37. Municipal Powers. Nothing contained in this Agreement shall be construed as a limitation on any powers of the Owner as a chartered city of the State of California.

38. Force Majeure Delays.

(a) Performance by either party hereunder (except for any obligation to pay money) shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, Acts of God, acts of the public enemy, terrorism, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, third party litigation, unusually severe weather, inability to secure necessary labor, materials or tools, delays of any contractor, subcontractor or supplies, acts of the other party, acts or failure to act of the City or any other public or governmental agency or entity (other than that act or failure to act of Owner shall not excuse performance by Owner) moratoria, or any other causes beyond the control or without the fault of the party claiming an extension of time to perform.

(b) An extension of time for any such cause ("**Force Majeure Delay**") shall be for the period of the delay and shall commence to run from the time of the commencement of the cause; provided, however, that if notice by the party claiming such extension is sent to the other party more than thirty (30) days after the commencement of the cause, the period shall commence to run only upon the giving of such notice.

39. Notices. Any notice, request, payment, demand, or other communication required or permitted to be given under this Agreement shall be in writing and deemed received upon personal service, delivery by a reputable overnight service, or delivery by United States registered or certified mail, return receipt requested, postage prepaid, and addressed to the parties as shown below. Commencing upon the date of the Agency's assignment of this Agreement to the City as described in Recital H above, the Project Manager shall not be required to provide a copy of any notices under this Agreement to the Agency.

**Owner:**

**CITY OF SAN DIEGO AS SUCCESSOR AGENCY**

c/o Civic San Diego  
Attention: President  
401 B Street, Suite 400  
San Diego, CA 92101  
Telephone: (619) 235-2200  
Fax: (619) 236-9148

**CITY OF SAN DIEGO**

Attention: Park and Recreation Director  
202 C Street, MS 37C  
San Diego, CA 92101  
Telephone: (619) 236-6643  
Fax: (619) 525-8220

With a copy by First Class mail to:

**SAN DIEGO CITY ATTORNEY**

Attention: Real Property Section  
1200 Third Avenue, Suite 1600  
San Diego, California 92101-4106  
Telephone: (619) 236-6220

**Program Manager:**

**HORTON PLAZA SERVICES, INC.**

c/o Westfield, LLC  
2049 Century Park East  
41st Floor  
Century City, CA 90067  
Attention: General Counsel

With a copy to:

Westfield Horton

c/o Westfield, LLC  
225 Broadway, Suite 1700  
San Diego, CA 92101  
Attention: Senior Vice President, Development  
Telephone: 619-544-8100

40. Authority. Each individual executing this Agreement on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this Agreement on behalf of such person or entity in accordance with duly adopted resolutions or

other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing Agreement, and that this Agreement is binding upon such person or entity in accordance with its terms. Each person executing this Agreement on behalf of another person or legal entity shall provide Owner with evidence, satisfactory to Owner, that such authority is valid and that such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.

41. No Benefit to Third Parties. The Parties acknowledge and agree that the provisions of this Agreement are for the sole benefit of the Owner, the Agency and Program Manager and not for the benefit, directly or indirectly, of any other person or entity, except as otherwise expressly provided herein.

42. Relationship of the Parties. Program Manager is providing its services under this Agreement as an independent contractor and nothing contained in this Agreement shall be deemed or construed as creating a partnership, joint venture, principal-agent, or employer-employee relationship between Owner and any other person or entity (including, without limitation, Program Manager).

43. Severability. In the event that any provision of this Agreement is found to be invalid, unenforceable, or illegal, it shall be deemed deleted from this Agreement, and the balance of the provisions of this Agreement shall be valid and enforceable as to the parties as if the deleted portion were never a part hereof.

44. Counterparts. This Agreement may be executed in counterparts, which when taken together shall constitute a single signed original as though all Parties had executed the same page.

45. Exhibits Incorporated. The following exhibits are attached and are incorporated herein by reference:

- A: Description of Park Property
- B: Description of Sales Parcel
- C: Map of Plaza Property

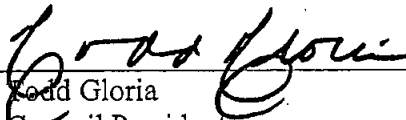
[Signatures follow on next page]

IN WITNESS WHEREOF, this Agreement is executed by the Parties to be effective as of the Effective Date.

Owner:

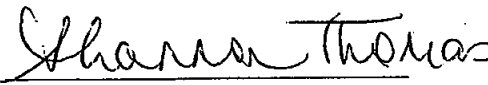
CITY OF SAN DIEGO, a municipal corporation

Dated: 1/23/14

By:   
Todd Gloria  
Council President

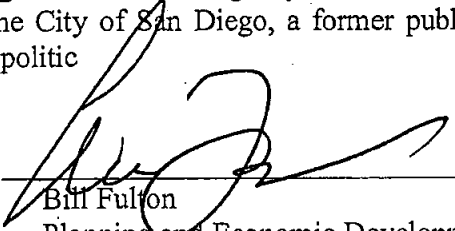
APPROVED AS TO FORM AND LEGALITY:

JAN I. GOLDSMITH  
City Attorney

By:   
Shannon Thomas  
Deputy City Attorney

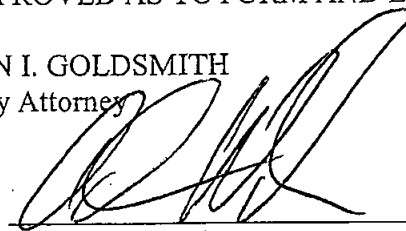
CITY OF SAN DIEGO, solely in its capacity as the designated successor agency to the Redevelopment Agency of the City of San Diego, a former public body, corporate and politic

Dated: 1/26/14

By:   
Bill Fulton  
Planning and Economic Development Director

APPROVED AS TO FORM AND LEGALITY:

JAN I. GOLDSMITH  
City Attorney

By:   
Adam Wander  
Deputy City Attorney

[signatures continue on next page]

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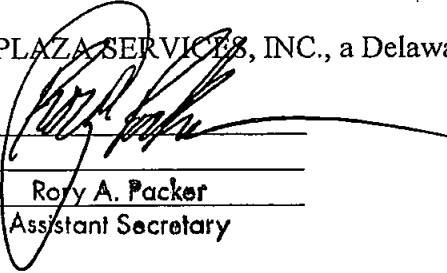
Program Manager:

HORTON PLAZA SERVICES, INC., a Delaware corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

  
Rory A. Packer

Assistant Secretary

\* All signatures must be notarized

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

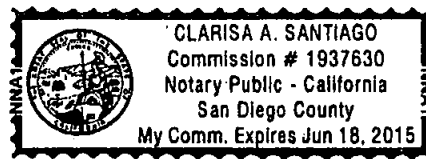
As of January 1, 2008

State of California  
County of San Diego

On January 23, 2014, before me, Clarisa A. Santiago, a Notary Public, in and for State, personally appeared, Todd Rex Gloria, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~-subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(s) on the instrument the person(s); or the entity upon behalf of which the person(s)-acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature CA (Seal)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

As of January 1, 2008

State of California  
County of San Diego

On Jan. 28, 2014, before me, VIVIAN M. GIES, a Notary Public, in and for State, personally appeared, BILL FULTON, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same in his/~~her~~/~~their~~ authorized capacity(ies); and that by his/~~her~~/~~their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Vivian M. Gies (Seal)

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

As of January 1, 2008

State of California

County of ~~San Diego~~ *Los Angeles*

On January 15, 2014, before me, Lisa M. Shelley, a Notary Public, in and for State, personally appeared, Rory A. Packer, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Lisa M. Shelley* (Seal)



**EXHIBIT "A"**

**LEGAL DESCRIPTION OF PARK PROPERTY**

All that certain real property designated as the "Plaza" on the map of Horton's Addition made by L.L. Lockling, filed in the Office of the County Recorder of San Diego County on June 21, 1871 in Book 13, Page 522 of Deeds.

Together with the Northerly 27 feet of Plaza Street, lying contiguous to said Plaza and closed to public use by City of San Diego Council Resolution 257247 recorded on October 11, 1982 File/Page 82-311788 and as shown on Map 18604-D.

**EXHIBIT "B"**

**LEGAL DESCRIPTION OF SALES PARCEL**

Parcel 2 of Parcel Map No. 21100, in the City of San Diego, County of San Diego, State of California, according to map thereof filed in the office of the County Recorder of San Diego County, December 11, 2013 as File No. 2013-0715890 of Official Records.

EXHIBIT "C"

MAP OF PLAZA PROPERTY

