

RESOLUTION NUMBER R- 314828

DATE OF FINAL PASSAGE MAY 25 2023

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING A SECOND AMENDMENT TO GROUND LEASE BETWEEN THE CITY OF SAN DIEGO AND MG STONEWOOD GARDEN APARTMENTS, L.P. FOR THE POINTE LUXE APARTMENTS LOCATED AT 3889 MIDWAY DRIVE IN SAN DIEGO, AND MAKING A RELATED FINDING THAT THE SECOND AMENDMENT SERVES A VALID PUBLIC PURPOSE.

WHEREAS, the City of San Diego (City) owns approximately 8.06 acres of real property located at 3889 Midway Drive, San Diego, California (Property); and

WHEREAS, since 2016, the City has leased the Property to MG Stonewood Garden Apartments, L.P., a California limited partnership (Lessee), under a lease on file with the San Diego City Clerk as Document No. RR-310427, as amended on March 7, 2017, on file with the San Diego City Clerk as Document No. RR-310969 (collectively, Current Lease), for the construction and operation of 255 residential rental units, commonly known as Pointe Luxe Apartments (formerly, Stonewood Garden Apartments); and

WHEREAS, the Current Lease is for a 40-year term expiring March 31, 2057; and

WHEREAS, the City and Lessee now propose entering into a Second Amendment to the Current Lease (Second Amendment), a copy of which is included in the docket materials accompanying this Resolution; and

WHEREAS, the Second Amendment will extend the Current Lease for an additional 20 years, expiring on March 31, 2077; and

WHEREAS, the Current Lease requires 20 percent of the residential units on the Property to be made available for rent and occupied by households whose aggregate gross annual income does not exceed 80 percent of local area median income (51 units), and the Second

Amendment requires an additional 10 percent of the residential units on the Property, for an additional 26 units, to be subject to the same affordable rent restrictions; and

WHEREAS, Paragraph S on page 15 of Council Policy 700-10 (Paragraph S) provides that, when the City grants a lease extension during the last 20 percent of the remaining lease term, the City shall receive compensation from the lessee equal to the change in present value attributable to the City's deferral of its reversionary interest in the leasehold improvements; and

WHEREAS, the Current Lease is not in the last 20 percent of the remaining term, so Paragraph S does not apply to the Second Amendment transaction; and

WHEREAS, in addition to the City receiving adequate consideration in the Second Amendment transaction, the Council will make a finding in this Resolution that the Second Amendment serves a valid public purpose by continuing the effectiveness of the existing affordable rent restrictions governing 20 percent of the residential units (51 units) on the Property and imposing affordable rent restrictions with respect to an additional 10 percent of the residential units (26 units) on the Property, all of which restrictions will apply for the entire term of the Second Amendment, expiring March 31, 2077; and

WHEREAS, Lessee recently invested \$20.7 million in improvements on the Property to meet the demand for higher quality apartments in the area; and

WHEREAS, the Second Amendment adjusts the percentage rent (of all gross income) payable to the City from 8.4 percent (the current rate) to 7.25 percent (the new rate), which reflects current market rent, as explained in the docket materials accompanying this Resolution; and

WHEREAS, as amended by Assembly Bill 1486 effective January 1, 2020, the Surplus Land Act (SLA), California Government Code sections 54220-54234, is generally intended to

make a local agency's surplus land (i.e., land not needed for the local agency's use) available for potential acquisition by affordable housing sponsors or other local public entities; and

WHEREAS, in April 2021, the California Department of Housing and Community Development (HCD) issued the final SLA Guidelines to assist with implementation of the SLA, as amended by Assembly Bill 1486; and

WHEREAS, Section 102(h) of the SLA Guidelines states HCD's view that the SLA process applies to lease transactions, except for (1) any lease of land on which no development or demolition will occur and (2) any lease which has a term that is less than five years, including any extensions, amendments, or options; and

WHEREAS, HCD has confirmed that, under clause (1) above, the SLA process does not apply to lease transactions that involve renovation or rehabilitation activities, with no demolition or consolidation of existing residential units; and

WHEREAS, the Second Amendment involves renovations and upgrades to the existing facilities on the Property and will not result in the demolition or consolidation of any existing residential units, and therefore, the Second Amendment is not subject to the SLA process; and

WHEREAS, the Office of the City Attorney has drafted this Resolution based on the information provided by City staff (including information provided by affected third parties and verified by City staff), with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, as follows:

1. The Council finds that the Second Amendment serves the valid public purpose of continuing the effectiveness of the existing affordable rent restrictions governing 20 percent of the residential units (51 units) on the Property and imposing affordable rent restrictions with

respect to an additional 10 percent of the residential units (26 units) on the Property, all of which restrictions will apply for the entire term of the Second Amendment.

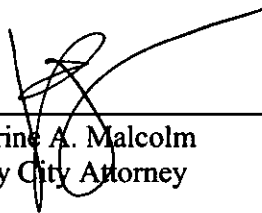
2. The Council approves the Second Amendment.

3. The Mayor or designee is authorized and directed, on the City's behalf, to sign the Second Amendment. A copy of the Second Amendment, when fully signed, shall be placed on file in the Office of the City Clerk as Document No. RR- 314828.

4. The Mayor or designee is authorized, on the City's behalf, to sign all additional documents necessary to implement the terms and conditions of the Second Amendment.

APPROVED: MARA W. ELLIOTT, City Attorney

By


Katherine A. Malcolm
Deputy City Attorney

KAM:cc

4/11/2023

Or.Dept: Dept of Real Estate and Airport Management

Doc. No.: 3275241

Companion to R-2023-612

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego at this meeting of MAY 16 2023.

DIANA J.S. FUENTES
City Clerk

By Connie Patterson
Deputy City Clerk

Approved: 5/24/23
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on MAY 16 2023, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 25 2023.

(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:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By Connie Patterson Deputy

Office of the City Clerk, San Diego, California

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