

RESOLUTION NUMBER R- 315461
DATE OF FINAL PASSAGE APR 22 2024

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING A TWENTY-YEAR LEASE WITH THE FEDERAL AVIATION ADMINISTRATION FOR AN APPROXIMATELY 1.956-ACRE MAN-MADE ISLAND LOCATED IN MISSION BAY; WAIVING THE APPLICATION OF COUNCIL POLICY 700-10 WITH RESPECT TO THE PAYMENT OF FAIR MARKET RENT; AND WAIVING THE APPLICATION OF COUNCIL POLICY 900-03.

WHEREAS, the City of San Diego (City) owns a certain approximately 1.956-acre man-made island in Mission Bay (Property) on which the United States of America, acting by and through the Federal Aviation Administration (FAA), operates and maintains a Very High Frequency Omni-Directional Range Facility (VOR Facility) for the benefit of local air traffic by providing azimuth information for high and low altitude routes and airport approaches; and

WHEREAS, the FAA initially installed the VOR Facility on the Property in 1961 and has leased and occupied the Property continuously and exclusively since that time; and

WHEREAS, most recently, on October 1, 2001, the City entered into a four-year lease with 16 one-year options to extend for a total term of 20 years with the FAA, on file with the San Diego City Clerk as Document No. RR-300368 (Prior Lease); and

WHEREAS, the Prior Lease expired on September 30, 2021, and the FAA has occupied and used the Property on a holdover basis under the Prior Lease; and

WHEREAS, because of the valid public purpose performed by the FAA on the Property, the City has allowed the FAA to lease the Property for no monetary consideration; and

WHEREAS, the City desires to enter into a new lease with the FAA for the Property for continued operation of the VOR Facility; and

WHEREAS, the City and the FAA have negotiated a proposed lease for the Property

(Lease) with a 20-year term and for no monetary consideration, and a copy of the Lease is included in the docket materials accompanying this Resolution; and

WHEREAS, under Council Policy 700-10, the City obtained a fair market value fee interest appraisal of the Property of \$2,500; and

WHEREAS, City staff recommends waiving strict compliance with Council Policy 700-10 with respect to a lessee's payment of fair market rent, in light of the public benefit provided by the FAA on the Property; and

WHEREAS, City staff recommends waiving compliance with Council Policy 900-03 (CP 900-03), which requires, among other things, that all new leases of City-owned buildings or land with an effective date of January 1, 2024, or later, incorporate CP 900-03's requirements to achieve net-zero emissions from New Construction, Major Renovation, and Energy Retrofit (as those terms are defined in the policy) projects on City-owned property; and

WHEREAS, waiver of CP 900-03 in this limited circumstance is justified for three reasons: (1) because the Lease is based on the FAA's federal form, requiring the FAA to incorporate the requirements of CP 900-03 into the Lease would cause significant delay; (2) the replacement of navigational equipment installed or to be installed on the Property would be prohibitively expensive and require significant research and planning by the federal government; and (3) the FAA has provided written assurance that its equipment on the Property does not consume gas or other fossil fuels or create greenhouse gas emissions; and

WHEREAS, the State Department of Housing and Community Development determined that the Lease is not subject to the Surplus Land Act, Government Code sections 54220 through 54234 (as amended, SLA) because it does not involve any development or demolition and is therefore not a "disposition" under the SLA; and

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

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

1. The Council finds that the Lease serves a valid public purpose because it will continue to provide information for high and low altitude routes and airport approaches for the benefit of the City's citizens.
2. The Council approves the City's lease of the Property to the FAA under the terms and conditions of the Lease.
3. The Mayor or designee is authorized, on behalf of the City, to sign and deliver the Lease and all documents necessary or appropriate to perform the City's obligations under the Lease. A copy of the Lease, when fully signed, shall be placed on file in the Office of the City Clerk as Document No. RR- 315461.
4. The Council waives the requirement in Council Policy 700-10 that the City receive fair market rent for the Lease.
5. The Council waives the requirement in Council Policy 900-03 that the policy's provisions be incorporated into the Lease.

APPROVED: MARA W. ELLIOTT, City Attorney

By Kevin Reisch / for
Brian W. Byun
Deputy City Attorney

BWB:nja
02/28/2024
Or. Dept: DREAM
Doc. No. 3577272

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of APR 09 2024.

DIANA J.S. FUENTES
City Clerk

By Kristell Medina
Deputy City Clerk

Approved: 4/22/24
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on APR 09 2024, 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"/> |
| Henry L. Foster III | <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 APR 22 2024.

(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 Kristell Medina, Deputy

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| Office of the City Clerk, San Diego, California |
| 315461 |
| Resolution Number R-_____ |