

RESOLUTION NUMBER R- 315489
DATE OF FINAL PASSAGE APR 22 2024

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING A RETROACTIVE FOUR-YEAR, FOUR-MONTH STANDARD SPACE LEASE WITH THE FEDERAL AVIATION ADMINISTRATION FOR 7,736 SQUARE FEET OF OFFICE SPACE LOCATED AT 8525 GIBBS DRIVE, SUITE 120, AND WAIVING APPLICATION OF COUNCIL POLICY 700-10 RELATED TO SECURITY DEPOSITS, LEASEHOLD IMPROVEMENTS, AND MAINTENANCE COSTS, AND COUNCIL POLICY 300-11 RELATED TO THE EMPLOYMENT OF FORMER CITY EMPLOYEES.

WHEREAS, the City of San Diego and Montgomery Field Two, LP (Master Lessee) entered into a Flat Rate Lease dated July 31, 1979, on file with the San Diego City Clerk as Document No. RR-766982 (Master Lease), for approximately 2.16 acres of land located at 8525 Gibbs Drive (Property); and

WHEREAS, the Master Lessee constructed an office building on the Property, and on October 1, 1988, subleased approximately 7,736 square feet of office space (Suite 120) to the United States of America Department of Transportation, Federal Aviation Administration (FAA); and

WHEREAS, the Master Lessee defaulted on the Master Lease in 2019 and the City terminated the Master Lease and all subleases on the Property, including the sublease with the FAA for Suite 120; and

WHEREAS, after the City terminated the Master Lease and subleases, City staff began negotiating a new short-term lease with the FAA to allow it to continue to occupy Suite 120 while the FAA looked for office space in another location; and

WHEREAS, the lease negotiations extended while the City and the FAA addressed issues related to the length of the proposed lease, the use of the FAA's standard lease form, environmental testing required by the FAA, and the City's compliance with various federal requirements; and

WHEREAS, shortly after concluding lease negotiations with the City, the FAA vacated Suite 120 on January 31, 2024; and

WHEREAS, federal rules require the FAA to have a lease with the City before the FAA can pay the rent it owes for its prior occupancy of Suite 120; and

WHEREAS, the City and the FAA propose a retroactive four-year, four-month Standard Space Lease (Lease) for Suite 120, with a term from August 7, 2019, through January 31, 2024, to compensate the City for the FAA's prior occupancy; and

WHEREAS, under Council Policy 700-10, the City obtained an appraisal of the Property to determine its fair market rent, and the rent negotiated by the City for the Lease is equal to or higher than the appraised fair market rent for Suite 120; and

WHEREAS, as specified in the proposed Lease (included in the docket materials accompanying this Resolution), the monthly rent will be \$18,812.29, for a total amount of \$1,011,474 owed during the term of the Lease; and

WHEREAS, Council Policy 700-10 requires City lessees to provide security deposits, remove leasehold improvements at the termination of a lease, and pay for maintenance and utilities on leased premises, and the Lease does not include these requirements; and

WHEREAS, Council Policy 300-11 requires City leases to require termination if the lessee employs a former City employee who in the prior twelve months participated in

negotiations with the lessee or otherwise influenced any lease recommendations, and the Lease does not include this requirement; and

WHEREAS, City staff recommends waiving the requirements in Council Policies 700-10 and 300-11 specified above because the FAA required the use of its standard lease form which does not include the City's standard language, the Lease term will have expired as of January 31, 2024, and approval of the Lease will allow the FAA to pay the City \$1,011,474 in rent it owes for its prior occupancy of Suite 120; and

WHEREAS, the Lease is not subject to the Surplus Land Act, Government Code sections 54220 through 54234, because it (a) is not for a term longer than 15 years, including renewal options; and (b) does not involve any development or demolition; 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,

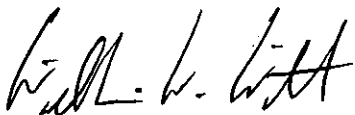
BE IT RESOLVED, by the Council of the City of San Diego, as follows:

1. The City Council waives the requirements in Council Policy 700-10, Part N on page 13 relating to leasehold improvements, Part O on page 14 relating to maintenance and utilities responsibility, and Part T on page 15 relating to security deposits.
2. The City Council waives the requirement in Council Policy 300-11 for lease language addressing the employment of former City employees.
3. The City Council approves the Lease and authorizes the Mayor or designee, 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. The City Council further ratifies any City actions taken to date in accordance with the Lease. A copy of the Lease, once fully executed, shall be placed on file in the Office of the City Clerk as Document No. RR- 315489.

4. The Chief Financial Officer is authorized and directed to accept the rent payable to the City under the Lease and deposit such rent into the Airport Enterprise Fund 700033.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
William W. Witt
Senior Deputy City Attorney

WWW:jdf
03/21/2024
Or.Dept: DREAM
Doc. No.: 3598522

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 
Deputy City Clerk

Approved: 4/22/24
(date)


TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

APR 09 2024

Passed by the Council of The City of San Diego on _____, 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

Office of the City Clerk, San Diego, California
315489
Resolution Number R-_____