



FACILITIES SERVICES

BERKELEY, CALIFORNIA 94720-1528

October 8, 2009

DA 2231

Robert Hatheway
Assistant Vice Chancellor – Real Estate Services

RE: **Delegation of Authority 2231 – Negotiation, Approval and Execution of University-Related Property Rental Agreements (Leases)**

Effective immediately, I am re delegating to you in your position as Assistant Vice Chancellor – Real Estate Services the authority to negotiate, and within parameters, to approve and to execute Rental Agreements (including subleases and excluding ground leases). Further parameters are specified in DA 2231, which is attached along with a copy of the re delegation letter from Chancellor Birgeneau.

This delegation supersedes DA 2140 on the same subject which was issued on December 5, 2006 to the Assistant Vice Chancellor – Real Estate Services.

Please contact Campus Delegations of Authority Coordinator Cindy Major at 642-3115 or cmajor@berkeley.edu with any concerns you may have regarding this delegation of authority.



Edward J. Denton, A.I.A.
Vice Chancellor – Facilities Services

Attachments (2)

- cc: Vice President for Budget and Capital Resources
- Associate Vice President – Capital Resources Management
- Coordinator – Universitywide Policies N. Capell w/o attaches
- Associate Chancellor B. FitzPatrick w/o attaches
- Director W. Riley, Audit & Advisory Services w/o attaches
- Coordinator – Campus Delegations C. Major w/o attaches ✓



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September 3, 2009

CHANCELLORS

**INTERIM DIRECTOR – LAWRENCE BERKELEY NATIONAL LABORATORY
VICE PRESIDENT – AGRICULTURE AND NATURAL RESOURCES**

Delegation of Authority – Negotiation, Approval, and Execution of University-Related Real Property Rental Agreements (Leases)

Standing Orders of The Regents 100.4 (cc) and (ff) authorize the President to negotiate, approve and execute contracts, real property rental agreements, and other documents for the use of facilities for University-related purposes (Rental Agreements).

Effective immediately, subject to the Standing Orders and to policies, procedures and guidelines which may be established by the Office of the President (including the UC Lease Administration Manual and applicable Business and Finance Bulletins), you are delegated authority to negotiate, and within the following parameters, to approve and to execute, Rental Agreements (including subleases and excluding ground leases) subject to the following limitations:

1. The term of the Rental Agreement does not exceed 10 years, regardless of rent amount, excluding options when the University is the lessee, but including options granted by the University as lessor;
2. The Rental Agreement (1) is on a University standard form without material modifications, or (2) consideration for the initial year does not exceed \$500,000, or (3) consideration for the initial year exceeds \$500,000 and the Rental Agreement form has been reviewed and approved by the Office of General Counsel (OGC);
3. The Rental Agreement is not a capital lease, or a lease-purchase or similar transaction by which the University will ultimately take title to the property;
4. The Rental Agreement does not involve the assumption by the University of liability for the conduct of persons other than University officers, agents, employees, students, invitees, and guests, except that this restriction does not apply if, under the Rental Agreement, the University assumes responsibility for liability resulting from the condition of leased property that the University is obliged to maintain [(Standing Order 100.4(dd)(9)] or as otherwise authorized by The Regents;
5. The indemnity and insurance provisions of the Rental Agreement have been approved by the campus risk manager;

6. The Office of the President Real Estate Services Group (RESG) and OGC must review and approve first right of offer or refusal or any purchase option language, if included in a Rental Agreement; and
7. The campus lease practitioner shall complete and retain in the official lease file the attached checklist for Rental Agreements prepared pursuant to this delegated authority ("Lease/License Checklist"). The campus lease practitioner shall also send a copy of each fully executed Lease/License Checklist to RESG.

In cases in which the University is the tenant, you are delegated authority to exercise any option to extend the term of a Rental Agreement (Extension Option), provided that the terms of the option conform to the conditions set forth in paragraphs 1 through 6, above. An Extension Option is deemed to be a new Rental Agreement for purposes of determining whether the term of the option falls within your delegated authority. Exercise of Extension Options shall be executed on a form of lease amendment or other document approved by the OGC. The exercise of options in Rental Agreements approved by The Regents shall be governed by the terms of that approval.

You are further delegated the authority to approve and execute ancillary documents, amendments or other modifications to a Rental Agreement consistent with the authority granted herein. Real property Rental Agreements, ancillary documents and amendments that do not meet the conditions set out in this delegation must be submitted for approval and execution in accordance with the Standing Orders of The Regents.

RESG and OGC are available to consult on real property rental agreement negotiation, documentation matters and capital lease evaluations. Each campus shall be the office of record for original executed Rental Agreements and amendments thereto executed pursuant to this delegation.

Annually, by July 31st, you shall certify and submit to RESG a report listing each Rental Agreement approved and executed pursuant to this delegated authority during the preceding fiscal year, including total leased space, total cost of leased space and average cost/square foot, and attest that all terms referenced in this delegation and the attached Lease/License Checklist have been satisfied.

The authority provided by this delegation is broad and should be exercised with discretion. Therefore, redelegation should be limited to appropriate levels of authority. Any redelegation shall be in writing with a copy to the Associate Vice President – Capital Resources Management.

This delegation supersedes Delegation of Authority 2140 issued on November 3, 2003 to Chancellors, Laboratory Directors, and the Vice President--Agriculture and Natural Resources on this same subject.



Mark G. Yudof
President

Attachment

cc: Members, President's Cabinet
Principal Officers of The Regents
General Counsel and Vice President for Legal Affairs
Vice President – Budget and Capital Resources
Associate Vice President – Capital Resources Management
Universitywide Policy Office

LEASE/LICENSE CHECKLIST

(Risk Mitigation and Policy Compliance)

All documentation relied upon to approve the transaction must be maintained in the campus project file. Authority to negotiate, approve and execute real estate related documents is subject to compliance with all UC policies and appropriate Delegations of Authority. Transaction authority and delegation links: http://www.ucop.edu/facil/resg/documents/authority_real_estate.pdf

CAMPUS: _____ USER DEPARTMENT/UNIT: _____

I. PREMISES/ADDRESS _____

II. THE REGENTS AS:

Tenant Subtenant Licensee Other (specify) _____
 Landlord Sublandlord Licensor

A. Initial Term _____

B. Option term(s) _____

C. Initial year consideration¹ _____

III. EVALUATION & AUTHORIZATION

Check Done	Not Appl.	Date ² (mo/day/yr)
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A. FINANCIAL

- | | | | |
|---|--------------------------|--------------------------|-------|
| 1. Confirmation of budgetary authority to lease/license space ³ | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| 2. Market evaluation/comparative property analysis prepared ⁴ | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| 3. Screen for capital lease; if required, analysis completed/approved by RESG/OP ⁵ | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| 4. Any first refusal right/purchase option reviewed & approved by RESG/OP & OGC | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| 5. Property tax exemption requested ⁶ | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| 6. Unrelated business income tax determination made and reported per BFB A-61. | <input type="checkbox"/> | <input type="checkbox"/> | _____ |

B. PHYSICAL

- | | | | |
|--|--------------------------|--------------------------|-------|
| 1. Federal/state/local code compliance (as applicable) confirmed (Facilities Manual) | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| 2. Due diligence inspections completed | | | |
| a. Campus Fire Marshal review completed if applicable ⁷ | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| b. EH&S review completed consistent with Facilities Manual | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| c. ADA review completed consistent with Facilities Manual | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| 3. Tenant Improvements (TIs): | | | |
| a. TI plans and specifications reviewed and approved per campus guidelines | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| b. Fixed/determinable cost estimate prepared and within approved budget | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| c. For new buildings, detailed definition of shell space reviewed and accepted | <input type="checkbox"/> | <input type="checkbox"/> | _____ |

C. UC POLICY

- | | | | |
|---|--------------------------|--------------------------|-------|
| 1. Seismic policy compliance determined consistent with Lease Manual ⁸ | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| 2. Campus Risk Management approval of form of indemnity and insurance | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| 3. Records retention requirements satisfied consistent with BFB RMP-2 | <input type="checkbox"/> | <input type="checkbox"/> | _____ |

D. LEGAL REQUIREMENT/REVIEW

- | | | | |
|--|--------------------------|--------------------------|-------|
| 1. If UC does TIs, Public Contract Code compliance confirmed per Facilities Manual | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| 2. Lease/License on standard form or approved as to legal form by OGC as required ⁹ | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| 3. CEQA compliance affirmed ¹⁰ | <input type="checkbox"/> | <input type="checkbox"/> | _____ |

 Certification of Campus Official
 (with delegated lease/license approval authority)

 Date

¹ The amount payable to the Lessor/Licensor including operating expenses and amortizing any landlord concessions as effective rent.
² The date on which the item has been determined in compliance (form completed as appropriate) or not applicable to this transaction.
³ Appropriate campus form/letter documenting internal approval and budget for user on file.
⁴ Market Comparison Analysis consistent with Lease Manual requirements on file.
⁵ Applicable analysis performed for transactions >=15 yrs. with extensive TIs, or with favorable renewal or purchase options.
⁶ Request to acknowledge UC exemption as lessee/licensee filed with applicable County.
⁷ Premises and tenant improvements determined to conform to Campus Fire Marshall review (see Facilities Manual).
⁸ Seismic evaluation consistent with policy has been completed (see Lease Manual).
⁹ Required for any lease/license with annual consideration greater than \$500,000 in the initial year (as effective rent).
¹⁰ All appropriate CEQA documentation completed, approved and filed.