



REAL ESTATE SERVICES

BERKELEY, CALIFORNIA 94720-1382

October 13, 2009

Helen Levay
Manager- Real Estate Services

RE: **Delegation of Authority 2232 – Negotiation, Approval and Execution of Licenses for Use of Real Property**

Effective immediately, I am redelegating to you in your position as Manager – Real Estate Services the authority to negotiate, and within parameters, to approve and to execute licenses of real property including facilities use agreements. Further parameters are specified in DA 2232, which is attached along with a copy of the redelegation letters from Chancellor Birgeneau and Vice Chancellor Denton, and are further limited to the following parameters:

- a. the License term does not exceed five years excluding options when UC is licensee and does not exceed ten years including options when UC is licensor;
- b. the base annual consideration does not exceed \$350,000 for the initial year, and the agreement must either be on (1) a University standard form license without material modification, or (2) a form license that has been reviewed and approved by the appropriate risk manager in the event it contains indemnity, waiver of subrogation, or insurance provisions, or (3) a form license that has been reviewed and approved by the Office of the President Real Estate Services Group (RESG) and the Office of General Counsel (OGC).

This delegation supersedes DA 2118 on the same subject which was issued on January 28, 2004 to the Manager – 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.

Robert Hatheway
Assistant Vice Chancellor – Real Estate 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
- Vice Chancellor – Facilities Services Edward J. Denton w/o attaches



1111 Franklin Street
Oakland, CA 94607-5200
Phone: (510) 987-9074
Fax: (510) 987-9086
<http://www.ucop.edu>

September 3, 2009

CHANCELLORS

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

Delegation of Authority – Negotiation, Approval, and Execution of Licenses for Use of Real Property

Standing Orders of The Regents 100.4(ff) and (jj) authorize the President to negotiate the sale, purchase, and receipt by gift or lease of real properties for University-related purposes, and to approve and execute licenses, easements and rights of way with respect to real property held or acquired for University-related purposes.

Effective immediately, subject to the terms of these 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 execute licenses of real property including facilities use agreements and other forms of agreement that are equivalent to licenses of real property (except those licenses relating to real property held as an investment of the Corporation), when such agreements:

1. Involve: (i) real property that is or will be used for University-related purposes, or (ii) University-related real property to be used by others, and (iii) are limited in the length of term and consideration as follows:
 - a. the License term does not exceed ten years excluding options when UC is licensee but including options when UC is licensor;
 - b. the base annual consideration:
 - (i) does not exceed \$500,000 for the initial year, and
 - (ii) if the initial year consideration exceeds \$500,000, the agreement must either be on (1) a University standard form license without material modification, or (2) a form license that has been reviewed and approved by the appropriate risk manager in the event it contains indemnity, waiver of subrogation, or insurance provisions, or (3) a form license that has been reviewed and approved by the Office of the President Real Estate Services Group (RESG) and the Office of General Counsel (OGC); or
2. Are revocable on not more than 180 days' notice; and

3. Do not involve the assumption by the University of liability for conduct of persons other than University officers, agents, employees, students, invitees, and guests, except that this restriction does not apply if under the agreement the University assumes responsibility for liability resulting from the condition of licensed property which the University is obliged to maintain [Standing Order 100.4(dd)(9)], or as otherwise authorized by The Regents.

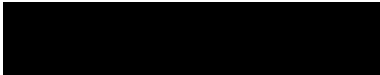
License agreements that do not meet these conditions must be submitted to the President or The Regents for approval and execution, in accordance with the Standing Orders of The Regents. The campus license practitioner shall complete and maintain in the official license file, the attached checklist for licenses prepared pursuant to this delegated authority ("Lease/License Checklist"). The RESG and OGC are available to consult on real property license agreement negotiation and documentation matters.

Each campus shall be the office of record for original executed licenses of real property, including facility use agreements, and amendments thereto executed pursuant to this delegation.

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

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 of authority to the Vice Chancellor level and above shall be in writing with copies provided to the Associate Vice President - Capital Resources Management.

This delegation supersedes Delegation of Authority 2118 on this same subject issued on April 5, 2000 to Chancellors, the Laboratory Directors, and the Vice President--Agriculture and Natural Resources.


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)
------------	-----------	-------------------------------

A. FINANCIAL

1. Confirmation of budgetary authority to lease/license space³
2. Market evaluation/comparative property analysis prepared⁴
3. Screen for capital lease; if required, analysis completed/approved by RESG/OP⁵
4. Any first refusal right/purchase option reviewed & approved by RESG/OP & OGC
5. Property tax exemption requested⁶
6. Unrelated business income tax determination made and reported per BFB A-61.

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

B. PHYSICAL

1. Federal/state/local code compliance (as applicable) confirmed (Facilities Manual)
2. Due diligence inspections completed
 - a. Campus Fire Marshal review completed if applicable⁷
 - b. EH&S review completed consistent with Facilities Manual
 - c. ADA review completed consistent with Facilities Manual
3. Tenant Improvements (TIs):
 - a. TI plans and specifications reviewed and approved per campus guidelines
 - b. Fixed/determinable cost estimate prepared and within approved budget
 - c. For new buildings, detailed definition of shell space reviewed and accepted

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

C. UC POLICY

1. Seismic policy compliance determined consistent with Lease Manual⁸
2. Campus Risk Management approval of form of indemnity and insurance
3. Records retention requirements satisfied consistent with BFB RMP-2

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

D. LEGAL REQUIREMENT/REVIEW

1. If UC does TIs, Public Contract Code compliance confirmed per Facilities Manual
2. Lease/License on standard form or approved as to legal form by OGC as required⁹
3. CEQA compliance affirmed¹⁰

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<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 Ties, 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.