

STAFF REPORT



ITEM NO. 7
CITY OF OCEANSIDE

DATE: May 13, 2009

TO: Honorable Mayor and City Councilmember

FROM: Economic & Community Development Department

SUBJECT: **APPROVAL OF A LEASE AGREEMENT WITH THE ASSEMBLY RULES COMMITTEE, CALIFORNIA LEGISLATURE, FOR THE PREMISES AT 302 NORTH COAST HIGHWAY, EFFECTIVE APRIL 1, 2009, THROUGH MARCH 31, 2011**

SYNOPSIS

Staff recommends that the City Council approve the lease agreement with the Assembly Rules Committee, California Legislature ("Lessee"), for Assembly Member Diane Harkey's legislative office located at 302 North Coast Highway, effective April 1, 2009 through March 31, 2011, for a minimum total revenue of \$4,377.60, and authorize the City Manager to execute the lease agreement.

BACKGROUND

On January 1, 1997, the City entered into a lease agreement with the Lessee for the premises at 302 North Coast Highway. Subsequently, the City executed an Addendum to the lease dated January 20, 1999, a letter agreement dated December 28, 2000, First Amendment to the lease dated March 1, 2001, Amendment 2 to the lease dated December 17, 2003, Amendment 3 to the lease dated January 5, 2005, and a lease agreement dated June 11, 2007 with a termination date of March 31, 2009.

ANALYSIS

Assembly Member Diane Harkey has requested to lease 128 square feet of office space from the City. The new lease commences retroactively on April 1, 2009, terminating on March 31, 2011. The new lease increases the rent to \$1.50 per square foot for 128 square foot premises, with a five percent (5%) discount if Lessee pays the rent in a lump sum. In the event the Assembly Rules Committee chooses to pay monthly, the total revenue would be \$4,608.00.

FISCAL IMPACT

The lease agreement will result in a minimum total rental income for the premises of \$4,377.60, over the two-year term, including a five percent (5%) discount for rent received in a lump sum. The revenue will be recorded in account number 8510.4351.

INSURANCE REQUIREMENTS

The City's standard insurance requirements have been met.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

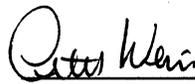
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PREPARED BY:

SUBMITTED BY:



Julie Cook
Program Specialist



Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager



Jane McVey, Economic & Community Development Director



Douglas E. Eddow, Real Property Manager



Teri Ferro, Financial Services Director



CALIFORNIA LEGISLATURE (REV. 2/28/09)
ASSEMBLY LEASE NO. ASM _____

ALL INFORMATION REQUESTED IN THIS LEASE MUST BE COMPLETED PRIOR TO SIGNATURE OF THE ASSEMBLY RULES COMMITTEE

THIS LEASE, made and entered into this April 30, 2009 by and between THE CITY OF OCEANSIDE, (hereinafter "Lessor") and the ASSEMBLY RULES COMMITTEE, CALIFORNIA LEGISLATURE, (hereinafter "Lessee").

WITNESSETH

The parties hereto mutually agree as follows:

1. Lessor hereby leases unto and Lessee hereby hires from Lessor those certain premises situated in the City of Oceanside, County of San Diego, State of California located at **302 NORTH COAST HWY., OCEANSIDE, CALIFORNIA 92054**, and more particularly described as **128 square feet of office space as shown on a sketch thereof marked Exhibit "A-3" attached hereto and incorporated by this reference.**

2. **LESSOR LEASES SAID PREMISES TO LESSEE TO HAVE AND TO HOLD**, together with associated appurtenances, rights, privileges and easements, for a term commencing on April 1, 2009, and ending on March 31, 2011 with such rights of termination as are hereinafter set forth, with rental payable by Lessee on or before the 10th of each month in the term, unless sufficient funds have not been made available in the annual budget act for the purpose of funding Assembly Rules Committee lease agreements, in an amount as follows:

One Dollar and Fifty Cents (\$1.50) PER SQUARE FOOT for One Hundred Twenty Eight (128) SQUARE FEET.

Total yearly rent is Two Thousand, Three Hundred Four Dollars (\$2,304.00) due in monthly payments of One Hundred Ninety-Two Dollars (\$192.00). Any rental payments that are not paid under this paragraph due to budgetary constraints shall be paid by the Lessee as soon as funds are made available under the annual budget act.

3. The Lessee shall have the right during the term of this agreement to prepay rent to Lessor in a lump sum payment for any portion of the lease term. In exchange for this prepayment, Lessor shall discount by five percent (5%) the amount of the rent determined pursuant to the lease for that portion of the lease term and Lessor shall accept this prepaid discounted rent as the Lessee's rent for that portion of the lease term. If this Agreement is terminated for any reason authorized herein prior to the end of the period for which the Lessee has made a prepayment of rent, the Lessor shall refund to the Lessee that portion of the Lessee's prepaid rent attributable to the period

that commences on the effective date of the earlier termination and ends on the expiration date of the period covered by the prepaid rent.

4. Lessee agrees to pay the aforesaid rent to Lessor at the address specified in Paragraph 5, or to such other address as the Lessor may designate by a notice in writing, upon the submission by Lessor of invoices therefore at least fifteen (15) days prior to the due date, to the Assembly Rules Committee, State Capitol, Room 3016, Sacramento, CA 95814.

5. All notices herein provided to be given, or which may be given, by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States mail certified and postage prepaid, and addressed as follows: To the Lessor at:

City of Oceanside
Property Management
300 North Coast Highway
Oceanside, CA 92054
(760) 435-5166
TAX I.D. #800-9817-1

And to Lessee at the address indicated in Paragraph 4. Nothing herein contained shall preclude the giving of any such written notice by personal service.

6. Except as otherwise provided by this paragraph, either party may terminate this lease by giving notice to the other party at least sixty (60) days prior to the date when such termination shall become effective. At the option of Lessee this lease shall terminate within thirty (30) days immediately following the death, resignation, failure to be elected, or other removal from office of **Diane Harkey** as a Member of the Assembly.

7. Lessor shall furnish to Lessee during the lease term, at Lessor's sole cost, the following services and utilities:

- A. Janitorial services, including but not limited to, regular cleaning of office areas and restrooms, toilet supplies and waste disposal.
- B. Certain Utilities including lighting, air conditioning, heating, water, and trash services. Lessor shall not provide telephone services, cable, or any Internet Service, including high speed Internet Service.

8. During the lease term Lessor shall maintain the leased premises together with appurtenances, rights, privileges, and easements belonging or appertaining thereto, in good repair and tenantable condition, except in case of damages arising from the negligence of Lessee's invitees or employees.

9. Lessor reserves the right to enter and inspect the leased premises, at reasonable times, and to make any necessary repairs to the premises.

10. Lessor agrees that Lessee, keeping and performing the covenants and agreements herein contained on the part of Lessee to be kept and performed, shall at all times during the existence of this lease peaceably and quietly, have, hold and enjoy the leased premises, without suit, trouble or hindrance from Lessor, or any person claiming under Lessor.

11. In the event the leased premises or any essential part thereof shall be destroyed by fire or other casualty, this lease shall, in the case of total destruction of the leased premises, immediately terminate and, in case of partial destruction or damage shall terminate at the option of the Lessee upon giving notice in writing to the Lessor within fifteen (15) days after such fire or casualty, and no rent shall accrue or be payable to the Lessor after such termination. In the event of any such destruction where the Lessee remains in possession of said premises, the rental as herein provided shall be reduced by the same ratio as the floor space Lessee is thus precluded from occupying bears to the total floor space of the leased premises.

12. Rent payable hereunder for any period of time less than that for which periodic rent is paid shall be determined by prorating the rent herein specified for the applicable period.

13. To the extent authorized by any fire and extended coverage insurance issued to Lessor on the herein demised premises, Lessor releases Lessee from liability for loss or damage covered by said insurance and waives subrogation rights of the insurer.

14. Lessee represents that it is self insured against damages, injury, and other forms of liability for its motor vehicle and general liability exposures through a general liability program administered by the California State Attorney General.

15. This lease is subject to the provisions of the California Fair Employment and Housing Act (Section 12900, et seq., Government Code) and in its performance Lessor will not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age or sexual orientation. Such action shall include but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

* See Sections 12900-12994 of the Government Code for further details.

The Lessor will permit access to its records of employment, employment advertisements, and application forms, and other pertinent data and records by the State Fair Employment and Housing Commission, and any other agency of the State of

California designated by the Department of General Services, for the purpose of investigation to ascertain compliance with this section.

The Lessee may determine a willful violation of the fair employment practices provision to have occurred upon receipt of a final judgment having the effect from a court in an action to which Lessor was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that the Lessor has violated the Fair Employment and Housing Act and has issued an order, under Section 12970 of the Government Code, which has become final, or obtained an injunction under Section 12973 of the Government Code.

In the event of willful violation of the foregoing provision in the performance of this lease, and if Lessor, within thirty (30) days after receipt of a written notice thereof from Lessee, fails to cure such breach the Lessee shall have the right, immediately, to terminate this lease, and any other necessary additional expense incurred by the Lessee in securing space equivalent to the leased premises, including the additional rental, if any, shall be borne by the Lessor.

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IN WITNESS WHEREOF, this lease has been executed by the parties hereto as of the date first above written.

LESSOR:

THE CITY OF OCEANSIDE
A Municipal Corporation

APPROVED AS TO FORM

By: _____
City Manager

BY: *Andrew S. Hamilton, ASSI.*
City Attorney

LESSEE:

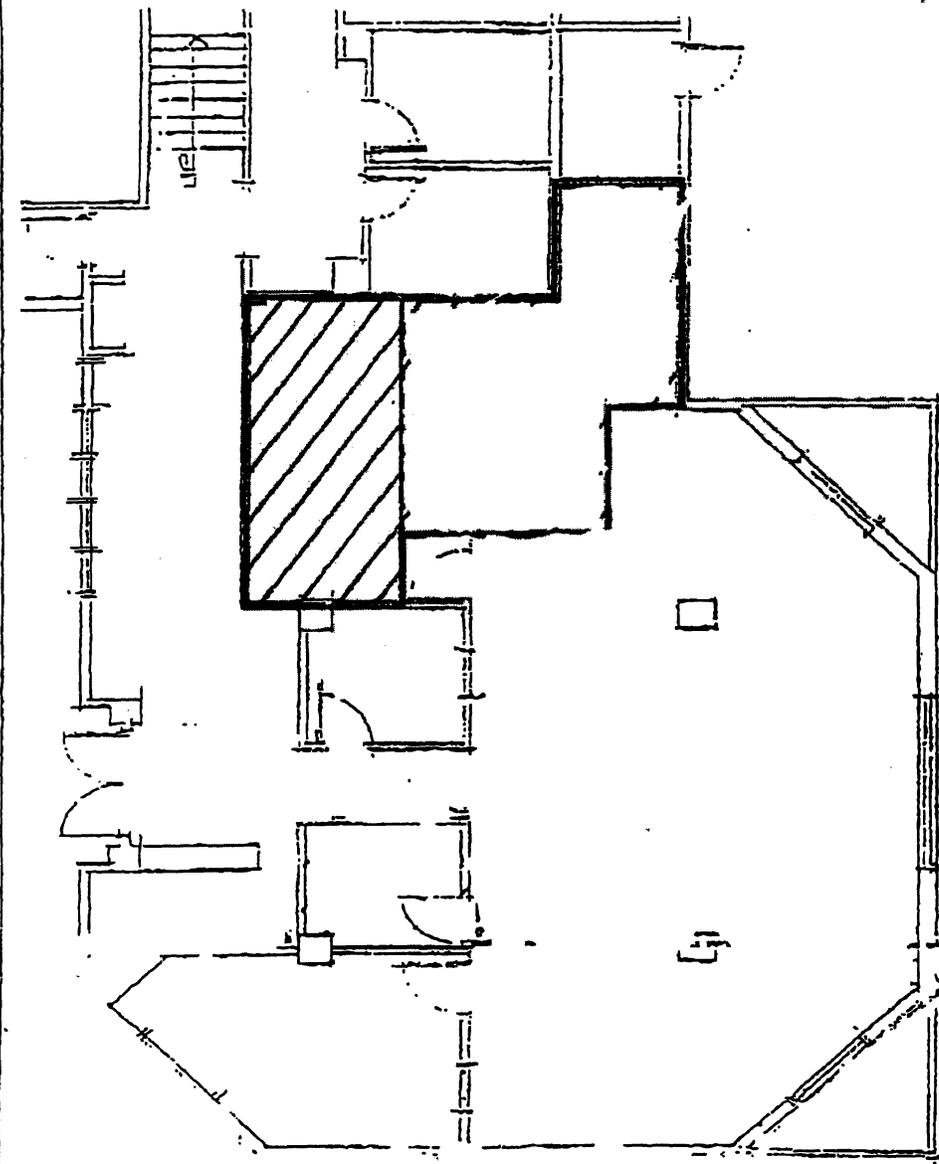
ASSEMBLY RULES COMMITTEE OF
THE CALIFORNIA LEGISLATURE

By: *[Signature]*

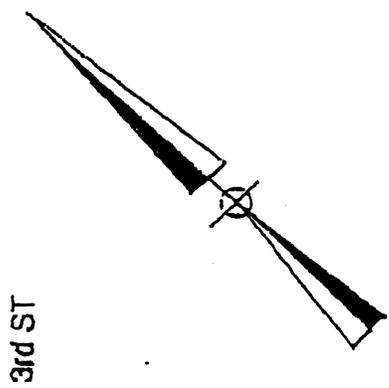
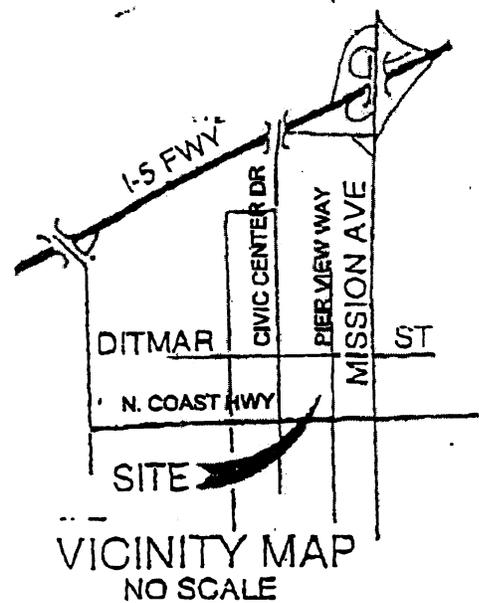
Name: *Madison Waldie*

Title: *CTO - STATE ASSEMBLY*

NOTARY ACKNOWLEDGMENT OF LESSEE'S SIGNATURE(S) MUST BE ATTACHED



CITY HALL-SOUTH
 PORTION OF FIRST FLOOR PLAN
 NO SCALE



LEGEND
 BOUNDARY OF
 LEASED PREMISES
 128 SQ FT ±

Revision	By	Approved	Date

CITY OF OCEANSIDE
 SKETCH SHOWING LEASED PREMISES
 302 N. COAST HIGHWAY

EXHIBIT "A-3"

California Acknowledgment Form

State of California }
County of Sacramento } ss.

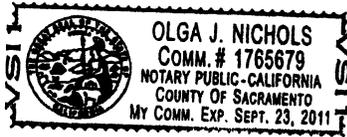
On April 30, 2009 before me, Olga J. Nichols, notary public,
personally appeared Jonathan J. Waldee

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Seal



Olga J. Nichols, notary public
Signature of Notary

Notes

Please provide information about the document that this form is attached to.
This is not required under California State notary public law.

Lease between City of Oceanside, Assembly
Rules Committee, California Legislature, Jonathan J
Waldee