

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

SUBJECT: LEASING CITY PROPERTY TO NONPROFIT ORGANIZATIONS
POLICY NO.: 700-12
EFFECTIVE DATE: TBD

BACKGROUND:

The City often leases City-owned real property, both improved and unimproved, to nonprofit organizations at less than fair market rents to provide recreational, educational, and cultural enrichment and other public services to the citizens and visitors of San Diego.

DEFINITIONS:

“*CDBG-restricted property*” (or “*CDBG-restricted properties*”) means any *City property* initially acquired or improved by the City, using *CDBG funds*, for the purpose of providing services to economically deprived and blighted areas of San Diego and primarily to low-income persons.

“*City property*” (or “*City properties*”) means real property owned by the City.

“*CDBG funds*” means federal Community Development Block Grant funds.

“*Consumer Price Index*” means the Consumer Price Index for All Urban Consumers (CPI-U) for Los Angeles-Long Beach-Anaheim, California, with a base year reflecting the average of 1982-1984, published by the U.S. Bureau of Labor Statistics, or if that index is no longer published, a similar index typically used in real property lease transactions as determined by the *Department*.

“*Department*” means the City’s department primarily responsible for overseeing the City’s real estate portfolio, municipal property assets, redevelopment successor entity properties, and airport management functions.

“*Nonprofit organization*” (or “*nonprofit organizations*”) means an organization exhibiting one or more of the following characteristics, as verified by the *Department*: (a) designated, or in the process of seeking designation, as a nonprofit entity by the California State Board of Equalization; (b) holds tax-exempt status from the Internal Revenue Service; or (c) is a public or quasi-public agency.

“*Public services*” means services intended to foster cultural, recreational, or educational enrichment or carry out charitable or philanthropic purposes benefiting the local community or visitors to San Diego.

PURPOSE:

This policy establishes general guidelines for leasing *City properties* to *nonprofit organizations* for the provision of *public services* in areas other than Balboa Park and Mission Bay Park. This policy also provides specific directions for leasing *CDBG-restricted properties*.

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POLICY:

This policy allows the City to negotiate directly with *nonprofit organizations* for the lease of any *City property* to provide *public services*. Based on a review of all pertinent documents, the *Department* will verify a prospective lessee's claimed status as a *nonprofit organization* and confirm that the lessee is in good standing with the California Secretary of State. When the City leases a *City property* to a *nonprofit organization* for the provision of *public services*, the *Department* will comply with the following guidelines where applicable:

1. Except as otherwise specified in this policy or Council Policy 700-10, leasing of each *City property* will follow the customary leasing process outlined in Council Policy 700-10, including the applicability of the California Surplus Land Act (California Government Code sections 54220-54234).
2. The City may lease any *City property* to a *nonprofit organization* through exclusive negotiations if deemed appropriate by the City Council. However, the City will not lease any *CDBG-restricted property* unless expressly permitted under the conditions imposed on the City by the federal funding source.
3. When the City Council determines that a proposed lease transaction will confer public benefits, the City may charge the lessee one of the following amounts, in lieu of market rent: (a) a nominal fee, in an amount determined by the *Department*, commensurate with the public benefit of the *public services* provided; or (b) an administrative cost recovery fee based on City staff's administrative resources, to be paid annually based on percentage increases in the *Consumer Price Index*, with respect to any other *City property* leased to a *nonprofit organization* for the provision of *public services*.
4. If a proposed lease requires the lessee to develop any *City property*, the proposed lessee must provide a general development plan and detailed financial statement evidencing its ability to successfully finance the construction and operation of the proposed development.
5. This policy does not apply to short-term leases of any *City property* (i.e., lease term of three years or less) that the City may negotiate and sign under the authority provided to the Mayor in Municipal Code section 22.0901.
6. Development on parkland will be in conformance with applicable City park development plans, and all construction will comply with City park design criteria.
7. Consistent with Municipal Code section 22.3501, each lessee will provide desired services and facilities to the general public without discrimination as to race, gender, gender

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expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability.

8. When a lease authorizes the lessee to conduct revenue-producing ancillary uses on a *City property*, the City may (at its option) negotiate with the lessee for payment of rent to the City, which may include a specified percentage of the lessee's gross revenue.
9. Any *nonprofit organization* leasing a *City property* for *public services* must obtain the advance written consent of the Mayor or designee, acting in their sole discretion, before subleasing or licensing the use of any portion of the *City property* to another entity or collecting rent or other charges for use or occupancy of any portion of the *City property*. The lessee will be required to pay to the City at least 50 percent of all revenue resulting from any permitted sublease or license of the *City property*.
10. With respect to any *CDBG-restricted property*, the Mayor or designee will consider proposed subleases based on their individual merits and consistency with conditions imposed on the City by the federal funding source. Revenue and fees generated from subleasing or licensing the use of any *CDBG-restricted property* will belong to the City and be deposited with the City Treasurer upon receipt by the *nonprofit organization*.

When City Council approval of an item is required under this policy, the *Department* will follow procedural protocols established by the Council President and set forth in the Rules of Council (San Diego Municipal Code section 22.0101) on how to docket the item for the applicable Council Committee or direct docket the item for the full City Council. The *Department* will clearly identify the reasons supporting approval of the proposed item in the written staff report.

OTHER INFORMATION:

This policy is not intended to waive the application of any other Council Policies imposing additional requirements for the use of specific *City properties*, including: (a) Council Policy 700-03, Use of City-owned Land by Youth Sports Organizations; (b) Council Policy 700-04, Balboa Park Uses and Occupancy; and (c) Council Policy 700-08, Mission Bay Park Policies.

CROSS REFERENCE:

Municipal Code section 22.0901

Municipal Code section 22.3501

Council Policy 700-10 - Disposition of City-owned Real Property

Council Policy 700-41 - Use of the RFP Process for Lease of City-owned Land

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HISTORY:

“Lease Negotiation”

Adopted by Resolution R-169955 - 03/15/1962

Repealed by Resolution R-212957 - 04/04/1975

“Leases to Nonprofit Organizations Outside of Balboa Park”

Adopted by Resolution R-251957 - 06/30/1980

Amended by Resolution R-254651 - 07/20/1981

Amended by Resolution R-262834 - 04/08/1985