



**SANTA MARIA PUBLIC AIRPORT DISTRICT
BOARD OF DIRECTORS**

**Thursday
May 31, 2018**

**Administration Building
Airport Boardroom
4:30 P.M.**

**SPECIAL MEETING
A G E N D A**

This agenda is prepared and posted pursuant to the requirements of the California Government Code Section 54954.2. By listing a topic on this agenda, the Santa Maria Public Airport District has expressed its intent to discuss and act on each item. The Santa Maria Public Airport District welcomes orderly participation at its meetings from all members of the public. This includes assistance under the Americans with Disabilities Act to provide an equally effective opportunity for individuals with a disability to participate in and benefit from District activities. To request assistance with disability accommodation, please call (805) 922-1726. Notification at least 48 hours prior to the meeting would enable the Santa Maria Public Airport District to make reasonable arrangements to ensure accessibility to this meeting.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL: Engel, Rafferty, Adams, Baskett, Brown

- 1. COMMITTEE REPORT(S):**
 - a) AVIATION SUPPORT & PLANNING (Standing or Ad Hoc)
 - b) ADMINISTRATION & FINANCIAL (Standing or Ad Hoc)
 - c) MARKETING & PROMOTIONS (Standing or Ad Hoc)
 - d) CITY & COUNTY LIAISON
 - e) STATE & FEDERAL LIAISON
 - f) VANDENBERG LIAISON
 - g) BUSINESS PARK COMMITTEE (Ad Hoc)
- 2. GENERAL MANAGER'S REPORT**
- 3. DISTRICT COUNSEL'S REPORT. (Joshua George and Natalie Frye Laacke)**

4. **PUBLIC SESSION:** Statements from the floor will be heard during public session. Request to Speak forms are provided for those wishing to address the board. After completing the form, please give it to the Clerk. Requests requiring board action will be referred to staff and brought on the next appropriate agenda. Members of the public are cordially invited to speak on agenda items as they occur. Staff reports covering agenda items are available for review in the offices of the General Manager on the Tuesday prior to each meeting. The Board will establish time limit for receipt of testimony. The board reserves the right to establish further time limits for receipt of testimony.
5. **AUTHORIZATION FOR THE PRESIDENT AND SECRETARY TO EXECUTE A MEMORADUM OF UNDERSTANDING BETWEEN THE SANTA MARIA PUBLIC AIRPORT DISTRICT AND G3, LLC.**
6. **DIRECTORS' COMMENTS.**
7. **ADJOURNMENT.**

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (this “MOU”), dated as of May 31, 2018, sets forth certain nonbinding understandings and binding agreements between G3, LLC, a California limited liability company (hereinafter, “G3”), and SANTA MARIA PUBLIC AIRPORT DISTRICT, a public airport district of the State of California (hereinafter, “SMPAD”). G3 and SMPAD are sometimes referred to individually as a “Party” and collectively as the “Parties”.

RECITALS

A. SMPAD is the owner of that certain real property at the Santa Maria Public Airport (“Airport”), consisting of approximately 26 acres, located on parcels 85 through 89 and Detention Basin #9 of the Santa Maria Airport Business park, Santa Maria, California, a portion of Assessor’s Parcel Numbers: 111-231-11, as shown in the map attached hereto as **Exhibit A** (the “Property”).

B. G3 desires to develop and construct a commercial facility on a portion of the Property and sublease the remainder of the Property to subtenants (the “Project”). To develop and construct the Project, the Property will need to be rezoned.

C. In furtherance of the Project, G3 and SMPAD desire to negotiate a potential lease and development agreement or other agreement (the “Lease Agreement”). Prior to drafting the Lease Agreement, the Parties intend to set forth in this non-binding MOU the Parties’ understanding of the good faith negotiations.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Recitals. The Recitals set forth above are true and correct and are incorporated into this MOU as though expressly set forth herein.

2. MOU Non-Binding. This MOU is for discussion purposes only and is not intended to constitute a legally binding or enforceable agreement or commitment on either Party, except for Section 4 which shall be binding on the parties in accordance with its terms.

3. Nonbinding Understandings. This Section 3 sets forth the nonbinding understandings of the Parties with respect to the Lease Agreement and the Project. These terms are based upon information currently available. They do not reflect all of the material terms of the Lease Agreement but provide a basis for negotiating a formal written agreement.

a) Lease Obligations Contingent Upon Entitlements. The Lease Agreement shall be contingent upon G3 obtaining the necessary entitlements for development of the Project.

- b) Lease Term. The lease contemplated by the parties shall be a long-term lease.
- c) Rent. Rent shall be determined in accordance with the Santa Maria Public Airport District Long-Term Aviation Land Lease Policy, a copy of which is attached hereto as **Exhibit B** (the “Policy”).
- d) Due Diligence Materials. SMPAD shall make all relevant and necessary documents pertaining to the Property, including, but not limited to, surveys, engineering studies, cost estimates, and environmental documents available at G3’s request.
- e) Environmental Hazards Report. Within thirty (30) days after execution of this MOU, SMPAD shall provide G3 with documentation of the Property’s potential hazardous contaminants by way of a Phase I Environmental Hazards Report or other documentation of similar nature.
- f) G3 as Representative of SMPAD. SMPAD shall permit and authorize G3 to act as its representative on its behalf for all land use and zoning entitlements in connection with the Property and the Project, but G3 shall include SMPAD in conversations with government officials, as needed, and SMPAD shall have final decision making authority on all land use and zoning entitlements.
- g) Entitlement Cooperation. SMPAD will fully cooperate and support G3 in its discussions, interactions, and applications with the City of Santa Maria, the Santa Barbara County Airport Land Use Commission, and all other applicable agencies to accomplish the rezoning of the Property and the approval and completion of the Project.
- h) Fees and Costs of Entitlements. Excluding the costs of the Biological Assessments as provided below, G3 shall be responsible for all costs and expenses of the Project, including, but not limited to, permit fees, application fees, rezoning expenses, general plan amendment expenses, and costs associated with review of the Project by the Santa Barbara County Airport Land Use Commission, the City of Santa Maria and/or other governmental agencies.
- i) Biological Assessments/Issues. Unless otherwise agreed by the parties, SMPAD shall be responsible for all biological assessments, permitting, and mitigation measures necessary to achieve clearance from the appropriate agencies on all biological issues concerning the Property and the Project. SMPAD shall not pay for the costs of biological assessments, permitting, and mitigation measures until a lease has been entered into by the Parties. The Parties further agree and understand that if the investigation of biological issues reveals cost prohibitive mitigation measures or similar expenses, SMPAD shall be allowed to terminate the lease, unless G3 elects to assume these costs. The Parties understand that pursuant to the Policy, the rent shall be based on the fair market value of the land which is determined by appraisal, with the appropriate adjustments to rent as is

consistent with the Policy to reflect applicable discounts and respective cost outlays made by the parties for the development of the Project

j) On-Site Development/Construction Costs. G3 shall be responsible for all on-site development and construction costs in connection with the Project, with the exception of designing and constructing the area-wide storm water detention facilities designated in the Airport Area Specific Plan shown as Detention Basin #9 on Exhibit A. SMPAD shall be solely responsible for designing and constructing the Storm Water Detention Facilities and all costs related thereto, whether located on-site or off-site.

k) Off-Site Development Costs. SMPAD and G3 shall work cooperatively with the City of Santa Maria to minimize off-site and adjacent street and infrastructure improvements to the extent possible and to enable viable development of this parcel. SMPAD and G3 shall cooperate in fairly allocating required off-site development costs between the Parties and phase the off-site development to ensure financial viable and expedient development of the Project.

l) Development. Upon completion of the entitlement work, G3 shall have the exclusive right to develop and construct one or more commercial facilities on all or a portion of the Property, provided such facilities are consistent with FAA and SMPAD policies. Additionally, G3 shall have the exclusive right to sublease and/or sell its lease rights to third parties for development consistent with FAA and SMPAD policies on the remaining portion of the Property. In such event, the Parties shall engage the services of a surveyor to prepare legal descriptions for the sublease areas. SMPAD shall have final approval on all subleases and/or sale of lease rights, which approval shall not be unreasonably withheld, delayed or conditioned.

m) Customary Provisions. The Lease Agreement would contain such covenants, conditions, indemnities, representations and warranties as are customary for this type of transaction and as the Parties would mutually agree, including those terms set forth in the Policy.

4. Binding Agreements. This Section 4 shall constitute a legally binding and enforceable agreement between the Parties. In consideration of the significant expenses that the Parties will incur in drafting and negotiating the Lease Agreement, the Parties agree as follows:

a) Good Faith Negotiations. The Parties shall negotiate in good faith and use their best efforts to bring about the execution and delivery of the Lease Agreement at the earliest practicable time.

b) Due Diligence. Conclusion of the Lease Agreement is subject to completion of reasonable due diligence by G3. SMPAD agrees to provide representatives of G3 with reasonable access to such information and such individuals may reasonably request in order to carry out its due diligence investigation.

c) Costs and Expenses. Each Party shall be responsible for all of its costs and

expenses associated with pursuing the proposed Project, including without limitation (i) the performance of its obligations under this MOU, (ii) conducting its due diligence investigation, and (iii) and drafting and negotiating the Lease Agreement.

d) Term and Termination. The rights and obligations of the Parties contained in this MOU shall expire upon the execution of the Lease Agreement. Either Party may terminate this MOU after twelve (12) months from the date of this MOU without any obligation or liability to the other party.

e) Governing Law. This MOU shall be governed by and construed in accordance with the internal laws of the state of California, without giving effect to any choice or conflict of law provision or rule (whether of the state of California or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the state of California.

f) No Third-Party Beneficiaries. Nothing herein is intended or shall be construed to confer upon any person or entity other than the Parties and their successors or assigns, any rights or remedies under or by reason of this MOU.

g) No Assignment. Neither this MOU, nor any rights or obligations hereunder may be assigned, delegated or conveyed by either Party without the prior written consent of the other Party.

h) Counterparts. This MOU may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one agreement.

[SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, the parties hereto have executed the MOU as of the date set forth above.

Dated May 31, 2018

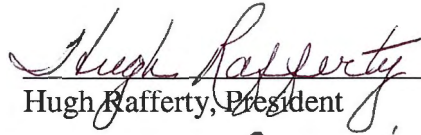
DISTRICT:

Approved as to content for
DISTRICT
District:

SANTA MARIA PUBLIC AIRPORT

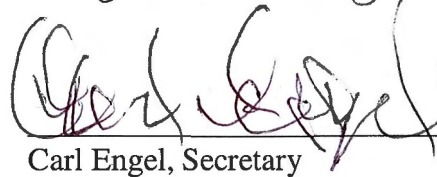


Chris Hastert, General Manager



Hugh Rafferty, President

Approved as to form for District:



Carl Engel, Secretary



Natalie F. Haacke
District Counsel

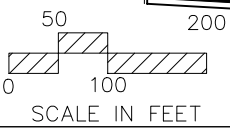
G3, LLC,
a California Limited Liability Company

Name:

Title:

EXHIBIT A
Property Map

G:\Drawings\AutoCad\PROPOSED LEASES\SOUTH SIDE 2 LOTS.dwg, 5/30/2018 11:15:51 AM, AutoCAD PDF (High Quality Print).pc3



3217 TERMINAL DR.
SANTA MARIA, CA
93455.
(805) 922-1726

REVISIONS	
DATE	BY:
8/3/16	RH

DRAWN BY:
RAY HEATH

EXHIBIT "A"

DRAWING NUMBER

EXHIBIT B

Santa Maria Public Airport District Long-Term Aviation Land Lease Policy

SANTA MARIA PUBLIC AIRPORT DISTRICT
LONG-TERM AVIATION LAND LEASE POLICY

This policy applies to long term leases, defined as a lease of twenty (20) years or more, including options to extend. Leases of a shorter term may be subject to select provisions of this policy. The Santa Maria Public Airport District may lease land owned by the District, subject to the following conditions:

I. GENERAL

- a. Land which has been determined by the District as being not needed for public purposes may be leased.
- b. Prior to completing a lease transaction, the District shall obtain from the Federal Aviation Administration a release from surplus property deed restrictions and grant assurances when appropriate, along with its approval of the terms and conditions of the lease, when required by the FAA or otherwise appropriate.
- c. No lease, nor any of the terms and conditions thereof, shall be final or binding upon the District until approved by the Board of Directors at a properly noticed public meeting.

II. LEASE TERM AND RATES

- a. The annual rent for all long term leases shall be equal to an eight percent (8%) return on the Fair Market Value of the land as determined below. The rent shall increase every five years by the change in the all Urban Consumer Price Index (base year 1982-84=100) for Los Angeles-Anaheim-Riverside, California, of the United States Department of Labor, Bureau of Labor Statistics. , not to exceed a five percent (5%) CPI increase annually. Every tenth (10th) year in lieu of a CPI increase, the annual rent shall be set by appraisal.
- b. Fair Market Value shall be determined by appraisal. District shall select the appraiser, and shall pay the costs and expense of the appraisal; provided, if District has obtained an appraisal of comparable Airport property within the last six (6) months, District may use that appraisal instead. If the potential tenant disagrees with the appraisal, the tenant may, at the tenant's cost and expense, obtain another appraisal. District may rely on either or both appraisals, or any amount in between, or decide not to lease the property.

In the event of protracted negotiations or an appraisal over six months old, either party may, at its option and sole expense, have the appraisal updated by the appraiser.

Each appraiser shall certify that he/she has personally inspected the property and all properties used as comparison; that he/she has no past, present or contemplated future interest in the property or any part thereof; that the compensation to be received by him/her from any source for making the appraisal is solely in accordance with this policy; that he/she has determined the Fair Market Value of the property based on its highest and best use under applicable or comparable industrial or commercial zoning in the City of Santa Maria; that neither his/her employment to make the appraisal nor his/her compensation for the appraisal is contingent upon reporting a predetermined value or a value within a predetermined range of values; that he/she has had at least seven years' full time professional experience as a commercial and industrial real estate appraiser; that he/she is a member of the American Institute of Real Estate Appraisers or a successor thereto (if none is in existence, a disinterested real estate appraiser having otherwise appropriate qualifications to appraise commercial and industrial real estate) and that his/her appraisal was prepared in conformity with the standards of professional practice of the institute, society, successor, or otherwise.

- c. An "Option to Extend" a lease agreement may be negotiated in conjunction with the initial establishment of such lease agreement, but in no event shall the amount of the fixed term and the options combined exceed 40 years, with a possible 10 year option to lease the then District owned facility.
- d. Gross leasing of land consisting of five (5) or more acres may have a rental which is phased in over a five (5) year period.
- e. The District may discount rent determined in accordance with subparagraph 2.a for any or all of the following factors:
 - i. Aviation related business within the Airport Operating Area – up to thirty percent (30%). The rate after discount shall be compared and if necessary adjusted as set forth in the following sentence. The districts rate shall not be more than 10% higher than the highest rate in the range of the most current comparable rates at the airports below, or 10% less than the lowest of the range of the most current comparable rates of the airports below:

Camarillo Airport (CMA)
Monterey Peninsula Airport (MRV)
Oxnard Airport (OXR)
Salinas Airport (SNS)
San Luis Obispo Airport (SBP)
Santa Barbara Airport (SBA)

(example: Assume listed airports rates range from \$0.36-\$0.85 per square foot per year. If the rate after discount were to equal \$0.50 per square foot per year the rate shall not be adjusted as it falls within the range. If the rate after discount were to equal \$0.20 per square foot per year the rate shall be adjusted to \$0.324 per square foot per year, which is ten percent (10%) below the range. If the rate after discount were to equal \$1.00 per square foot per year the rate shall be adjusted to \$0.935 per square foot per year, which is ten percent (10%) above the range.

- ii. Lease of more than ten (10) gross acres – discount up to five percent (5%);
 - iii. Value of off-site, on-airport public improvements – discount negotiated, amount not to exceed the total cost of improvements;
 - iv. Other benefit to the District from the proposed lease – negotiated;
 - v. Difficulty in development due to pre-existing conditions on-site – negotiated;
- f. District may, at its option, after every five (5) years of the lease, eliminate, reduce or increase discounts given for factor 2.e.i to equal then current District policy.
 - g. District shall receive from the tenant a lease transfer fee in the amount of one (1) month's rent at the time of transfer of the leased premises.

III. REAL ESTATE BROKER PARTICIPATION

- a. The District will allow a licensed real estate broker to participate in the leasing of District land and shall pay a commission to such broker, subject to the following conditions:
 - 1. To be eligible to receive a commission, a real estate broker must certify that he/she has represented the District's interest in the leasing transaction.
 - 2. To be eligible to receive a commission, a real estate broker must also certify that he/she is not the tenant, an employee of the tenant, and does not own an interest in or have any control over or in the tenant's business.
- b. The District has the sole right to accept or reject any offers to lease and no commissions will be paid on a transaction which the District has rejected.

- c. No rental rates will be lowered solely due to the absence of broker involvement.
- d. The commission shall be no more than the first year rent on the subject lease, subject to receipt of rental payments by District.
- e. Commission payments deemed by the District to be incurred and payable shall be paid only after scheduled lease payments have been received by the District, and in accordance with a formula which provides that twelve and one-half percent (12 ½%) of the total commission due is payable at the end of each three months period during the first twenty-four months of the lease term.
- f. The District will pay commissions for transactions involving present tenants only if the tenant acquires an additional site(s), provided the real estate broker meets the requirements outlined in Paragraph (a). No commission will be paid for a present tenant relocating on District property.
- g. The District shall not pay commission on any break-out (divided) leases or subleases. Also, the District shall not pay commissions on any "First Right of Refusal" or "Option to Lease" transactions.
- h. Leasing commissions shall be established at lease onset and no adjustments shall be made in the established commission due to changes in the lease rental rates.
- i. In the event more than one broker is involved in any one lease transaction, the District will only pay a single commission, which will be determined from the certification of the tenant establishing the procuring broker.

IV. PERMITTED USES

- a. Land leased by the District may only be used for purposes which are fully compatible with the Airport and the aviation activity conducted thereon.
- b. The use of land leased by the District shall be limited to those uses allowed by the applicable zoning as set forth in the City of Santa Maria's General Plan.
- c. The use of land leased by the District shall be subject to any covenants, restrictions, or conditions which may be set forth within a lease for such land or of record.
- d. In the event there is a conflict or difference among the provisions of (a), (b), or (c) above, the provision deemed by the District to be most limiting or restrictive shall apply.

V. DEVELOPMENT STANDARDS

- a. Land leased from the District shall be improved by construction of a suitable building or buildings thereon with a total ground floor area at least equal to twenty percent (20%) of the lot size, but not greater than fifty percent (50%) of the lot size.
- b. A minimum initial capital investment of \$20,000 per acre, per year of lease, shall be required.
- c. Construction of the building or buildings, which at least equals the minimum amount of ground floor area just noted, must commence within one (1) year following the effective date of said lease and must generally be completed within two (2) years thereafter.
- d. In addition to compliance with all applicable City of Santa Maria codes and requirements, the Airport District shall have the right to review and approve all plans for improvements upon land leased by the District, such approval not to be unreasonably withheld. However, in order to maintain a high quality of development upon land in the vicinity of the Airport, the Airport District desires architectural design and landscaping that is both complimentary to and consistent with existing development.