



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Board of Supervisors



Date: August 30, 2012
Board Meeting Date: September 11, 2012
Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: John L. Maltbie, County Manager

Subject: Ordinance amending Section 2.51.080 of Chapter 2.51 of the San Mateo County Code establishing new requirements for entering into leases of County property without competitive bidding in compliance with California State law

RECOMMENDATION:

Introduction of an ordinance amending Section 2.51.080 of Chapter 2.51 of the San Mateo County Ordinance Code to revise the requirements for entering into leases of County property without competitive bidding if the lease is limited to \$100,000 per month and a term not to exceed ten years, with the ordinance taking effect 30 days after passage and waiver of reading the ordinance in its entirety.

BACKGROUND:

Articles 1 and 8 of Title 3 of Division 2 of the California Government Code (i.e., Sections 25350 *et seq.* and Section 25520 *et seq.*) provide general procedures for the sale or lease of County-owned real property. Subject to certain exceptions, those procedures generally call for a public bidding process. Government Code Section 25537 sets forth an alternate procedure that allows counties to lease county-owned real property to other parties without a bid process for a maximum term of ten years and allows counties to determine an appropriate maximum rental amount.

Pursuant to the authority contained in Government Code Section 25537, San Mateo County Ordinance Code section 2.51.080 sets limits on the leasing of real property owned by the County to other parties without bidding. The current limits are a maximum term of five (5) years and a maximum monthly rental amount of \$2,000. A review of other Counties has revealed monthly rental limits ranging from \$2,000 (Napa County) to \$100,000 (Marin County), with maximum terms that are usually either five (5) or ten (10) years.

Because of these limitations in the current ordinance, on May 22, 2012 this Board adopted an uncodified ordinance to permit the use of the alternative procedure for the leasing of the Circle Star Plaza property in an amount up to \$300,000 per month for a period of ten years. In lieu of adopting ad hoc uncodified ordinances to permit the County to use the alternative procedure in special circumstances, the County can amend Section 2.51.080 to increase the rental limit to \$100,000 per month and the time limit to ten years for all leases. This would permit the County to use the alternative procedure to lease surplus County property.

DISCUSSION:

The opportunity to enter into a short term lease of 555 Marshall Street in Redwood City which is known as the First American Title building has recently arisen. A short term lease of this property would generate income for the County while we evaluate future uses for the Marshall Street block. However, because rental rates could exceed \$2,000 per month and/or a term of 5 years, the County cannot apply the alternative procedures set forth in the current Section 2.51.080 to this opportunity.

The existing bid process limits the ability of County staff to respond to prospective tenants interested in County assets that are under-utilized. Delaying the approval of tenant leases is a hardship on prospective tenants and reduces the likelihood of successful lease negotiations. In addition, the bid process limits the pool of potential tenants.

Amending Section 2.51.80 will allow the County to better utilize County-owned facilities and space. The alternative procedure could get a lease in place in a month or two, depending on the market interest whereas a bid process, plus negotiations, can take six months or longer to complete. The proposed ordinance would also better position the County to take advantage of current market conditions.

To establish a starting point for lease negotiations, and to assure a fair process, the County of San Mateo will advertise property for lease at specific market lease rates and terms. The Board will have the opportunity to provide direction to staff and guide staff's responses to lease proposals. The proposed ordinance also requires that the negotiated leases and amendments be brought to the Board for approval prior to their execution. This proposed ordinance will be effective 30 days from the date of final passage

County Counsel has reviewed and approved the Ordinance as to form.

The proposed amendment of the San Mateo County Ordinance Code contributes to the Shared Vision 2025 outcome of a Livable Community by promoting affordable, livable, and connected communities.

FISCAL IMPACT:

This action expedites the collection of potential General Fund revenue from future leases.