

ORDINANCE NO. _____(N.S.)
**AN ORDINANCE AMENDING ARTICLE III OF THE SAN DIEGO COUNTY ADMINISTRATIVE
CODE, SECTIONS 73-73.2**

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. Section 73 of the San Diego County Administrative Code is hereby amended to read as follows:

SEC. 73. ACQUISITION OF INTERESTS IN REAL PROPERTY BY PURCHASE, GIFT, OR DEDICATION.

A board, commission, department, or administrative head of the office may direct, in writing, a request for the purchase or acceptance of a gift of real property or interest in real property to the Director of General Services, or designee ("Director").

(a) Acquisitions With a Valuation of \$51,000,000 or Less by Purchase or Gift.

1) Pursuant to the provisions of Government Code section 25350.60, the Director may perform any and all acts necessary to approve and accept for the County the acquisition of real property interests that do not exceed \$51,000,000 in value, if:

a. The acquisition of the real property interest is for a public structure, building, road or other public project, program or improvement (collectively "project") previously approved by the Board of Supervisors.

b. Funding for the project is budgeted and available.

c. The current market value of the real property interest to be purchased has been determined.

d. The acquisition of the real property interest will be in accordance with the County's Hazardous Materials Investigations Site Assessment and Mitigation Procedures.

e. Where required, the appropriate planning agency makes a finding of General Plan conformance prior to acquisition of the real property interest.

f. The acquisition complies with the California Environmental Quality Act (CEQA).

2) The Director may obtain options to acquire property providing that the option term does not exceed two years and the total option payments do not exceed \$250,000. An option to purchase pursuant to this subsection may only be obtained if:

a. A project requiring the acquisition of real property has been previously approved by the Board of Supervisors.

b. Funds have been budgeted and are available for the option.

3) If the Director accepts an offer of a gift of real property as the designee of the Board of Supervisors, the Director shall immediately notify the Auditor & Controller and add the real property in the County's capital assets inventory.

4) If requested by the Chief Administrative Officer or the Board of Supervisors, the Director shall provide a list of the real property interests acquired under the delegated authority of Section 73(a)(1).

5) Pursuant to Government Code section 25350.60(c), the authorization granted to the Director by this subsection shall be effective for five years from the effective date of this ordinance.

(b) Acquisition of Interests in Real Property With a Valuation of More Than \$51,000,000 by Purchase or Gift.

1) The Director shall attempt to locate property that most adequately meets the requirements of the County and may negotiate preliminarily for the acquisition of real property. The Director shall forward a recommendation on the acquisition of the real property to the Chief Administrative Officer.

2) The Chief Administrative Officer may prepare a summary of the proposed acquisition of real property and forward the summary along with a recommendation to the Board of Supervisors.

3) If Government Code section 25350 or other applicable statute requires giving notice of intent to consummate the proposed acquisition of real property, the Chief Administrative Officer shall provide the Board of Supervisors with the information required to be included in any such notice, including the date and time the Board of Supervisors will meet to consider, and, if approved, authorize the purchase.

(c) Executory Contracts of Purchase.

If any contract of purchase of real property entered into by the Board of Supervisors requires additional performance by the seller, or is executory in any respect by the seller, after payment by the County, the contract shall require that the executory performance by the seller be secured by a corporate surety bond, a deposit of sufficient money or retention by the County of an adequate amount of the purchase price.

(d) Acceptance of Interests in Real Property by Dedication.

The Director, ~~Department of General Services~~ may consent to irrevocable offers of dedication of real property pursuant to California Government Code section 7050 and may accept the dedication of real property interests that are conditions of a Board-approved Tentative Map or other similar action.

Section 2. Section 73.1 of the San Diego County Administrative Code is hereby amended to read as follows:

SEC. 73.1. ACQUISITION OF REAL PROPERTY BY LEASE OR LICENSE.

A board, commission, department, or administrative head of the office may direct, in writing, a request for the lease or license of real property to the Director of General Services, or designee ("Director"). Prior to initiating the lease negotiation process, the lease of real property for County use shall be approved in principle by the Chief Administrative Officer, or designee, for lease space anticipated to be 10,000 square feet

or less, or by the Board of Supervisors for lease space anticipated to be in excess of 10,000 square feet.

(a) Lease or License Not Exceeding Statutory Rent or Term

1) Pursuant to Government Code section 25350.51, the Director may approve, perform all acts necessary to consummate, and amend a lease or license of real property for use by the County, so long as the term and rental rate do not exceed the amounts specified in Government Code section 25350.51, provided that:

a. The rental rate has been determined by the Director to represent a reasonable rate;

b. For a lease, the lease will be in accordance with the County's Hazardous Materials Investigations Site Assessment and Mitigation Procedures;

c. The lease or license complies with the California Environmental Quality Act (CEQA);

d. The Director causes the notice required by Government Code section 25350.51(b) or other applicable statute to be given within the time required by law.

(b) Lease or License Exceeding Statutory Rent or Term

1) The Director may negotiate preliminarily for the lease or license and shall forward a recommendation on the lease or license to the Chief Administrative Officer.

2) The Chief Administrative Officer shall prepare a summary of the proposed lease or license and forward the summary along with a recommendation to the Board of Supervisors.

3) If State law requires giving notice of intent to consummate the proposed lease or license, the Chief Administrative Officer shall provide the Board of Supervisors with the information required to be included in any such notice, including the date and time the Board of Supervisors will meet to consider, and, if approved, authorize the lease or license.

4) The Director may amend real property leases or licenses to provide for improvements, alterations, or both in accordance with Government Code section 25350.51. The Director shall submit all other lease or license amendments to the Board of Supervisors for approval.

Section 3. Section 73.2 of the San Diego County Administrative Code is hereby amended to read as follows:

SEC. 73.2. DISPOSITION OF COUNTY-OWNED REAL PROPERTY.

Whenever a County officer, board, or commission finds that County-owned or leased real property that it is occupying or managing is available, it shall advise the Director of General Services, or designee ("Director"), in writing, describing the property, its condition, reasons for the availability, and the estimated date of vacating or releasing the property.

The Director shall determine whether the property should be held for County use or offered for sale or lease, taking into account probable sale or rental value of the property, and, if applicable, any lease termination costs.

(a) Sale of County-Owned Property.

1) If the Director determines that the real property owned or leased by the County should be sold, it may be sold pursuant to the general procedure specified at Government Code section 25526 and following, pursuant to the minimum mandatory requirements specified in Government Code section 25538 or section 25539, or pursuant to any other applicable statutory authority. The Director is hereby designated as the County officer to conduct sales pursuant to Government Code section 25538 and 25539, and to execute sales and convey real property or interests therein as authorized by sections 25526.5 and 25526.6 or other applicable statute. Sales pursuant to said sections shall comply with all requirements stated therein.

2) As a condition precedent to the adoption or publication of a resolution of intention to sell real property, the Board of Supervisors may require that the requesting department, board or commission deposit with the Director of General Services the estimated costs of publishing said resolution of intention and notice of adoption thereof, plus the estimated Department of General Services staff costs related to the proposed sale. If the property is sold pursuant to said resolution of intention such deposit shall be refunded. If the property is not sold pursuant to such resolution of intention, the cost of publication and related staff costs shall be deducted from the deposit and paid into the County General Fund and the balance, if any, refunded to the depositor.

3) If the real property is sold, the Director shall notify Auditor & Controller and provide supporting documentation to remove the real property from the County's inventory.

(b) Lease or License of County-Owned Property.

If the Director determines that the real property owned or leased by the County should be made available for lease or license, it may be leased or licensed in accordance with the procedures specified in Section 73.2(b)(1) or 73.2(b)(2) below or pursuant to any other applicable statutory authority or County ordinance. Where any statute authorizes the designation by ordinance of a County officer to lease or license property on behalf of the County, the Director is hereby so authorized and designated to lease or license County property in compliance with all requirements of such statute.

1) Leases and licenses shall be awarded to the person submitting the highest proposal in response to a call for bids, which shall briefly describe or identify the property proposed to be leased or licensed, briefly specify the terms upon which it shall be leased or licensed, and fix a time and place at which the Board of Supervisors shall receive written bids for such lease or license. The call for bids shall be posted in at least three public places in the County of San Diego for not less than 15 days prior to the time fixed for receipt of bids and shall be published once each week for not less than two weeks prior to such time in a newspaper of general circulation published in the County of San Diego. The call for bids may refer to documents on file in the office of the Clerk of the Board for the exact description of the property to be leased or licensed and for the full detail of the terms and conditions of the proposed lease or license. At the discretion of the Board of Supervisors, the call for bids may include a statement of minimum rental, may offer to pay a commission to a licensed real estate broker who is instrumental in obtaining any proposal, and may authorize oral bidding at the time and place fixed for

the receipt of written bids under the procedure specified in Government Code sections 25531 or 25537. The Board of Supervisors must either accept the highest proposal submitted in accordance with these procedures or reject all bids.

2) The Director may, without any advertised call for bids, negotiate and execute any lease or license of a duration not exceeding ten years, including any options to extend the term, and having an estimated monthly rental not exceeding \$25,000; provided, however, that if a lease or license is so excluded from the bidding procedure, the actual monthly rental in the executed lease or license shall not exceed \$25,000, the term of the executed lease or license shall not exceed ten years, and the lease or license shall not be renewed. The Director may amend any lease or license entered into pursuant to this Section 73.2(b)(2) provided that such amendment does not extend the term of the lease beyond ten years or license or increase the monthly rental above \$25,000. Notice of any such proposed lease or license shall be given as required by Government Code sections 25537(b), ~~and (c)~~, and (d). Pursuant to Government Code section 25537(c)(2), the authorization granted to the Director by this subsection shall be effective for five years from the effective date of this ordinance.

Section 4. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in a newspaper of general circulation published in the County of San Diego.

APPROVED AS TO FORM AND LEGALITY
DAVID J. SMITH
ACTING COUNTY COUNSEL

By: Inna Zazulevskaya, Senior Deputy County Counsel