

## GENERAL RULES

### ORDINANCE NO. 9981 (NEW SERIES)

#### AN ORDINANCE AMENDING ARTICLE III, GENERAL RULES, SECTIONS 73 THROUGH 73.13 OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES RELATING TO ACQUISITION OF REAL PROPERTY BY LEASE, PURCHASE OR GIFT.

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

**Section 1.** The Board of Supervisors finds and determines that it needs to amend Article III, General Rules, Section 73 through Section 73.13 of the San Diego County Code of Administrative Ordinances relating to Acquisition of Real Property by Lease, Purchase or Gift.

**Section 2.** Section 73 of the San Diego County Code of Administrative Ordinances is hereby amended to read as follows:

SEC. 73. ACQUISITION OF REAL PROPERTY BY PURCHASE, ACCEPTANCE OF A GIFT, OR LEASE.

(a) Acquisition of Interests in Real Property With Valuation of More Than \$150,000 by Purchase or Gift. Whenever it is necessary or desirable that an interest in real property valued at more than \$150,000 be acquired by purchase or gift, or the provisions of Section 73(b) have not been met, the procedure hereinafter set forth, in Sections 73 through 73.6 of this Code, shall be followed.

Acquisitions of real property interests pursuant to this subsection shall comply with the notice requirements of Government Code section 25350, except for:

- (1) Acquisition of rights of way or the acquisition or leasing of rock quarries, gravel pits, or borrow pits for County highway purposes; or
- (2) Acquisitions for which the Board of Supervisors determines that emergency conditions required more immediate action by the County.

(b) Acquisition of Interests in Real Property With a Valuation of \$150,000 or Less by Purchase or Gift. Pursuant to the provisions of Government Code section 25350.60, the Director of General Services, or designee, (“Director”) may perform any and all acts necessary to approve and accept for the County the acquisition of real property interests which do not exceed \$150,000 in value, if:

- (1) The acquisition of the real property interest is for a public structure, building, road or other public improvement (collectively “project”) previously approved by the Board of Supervisors.
- (2) Funding for the project is budgeted and available.
- (3) The fair market value of the real property interest to be acquired has been determined by an appraisal.
- (4) The acquisition of the real property interest will be in accordance with the County’s Hazardous Materials Assessments Policy and Procedure.
- (5) Where required, the appropriate planning agency makes a finding of General Plan conformance prior to acquisition of the real property interest.
- (6) The acquisition complies with the California Environmental Quality Act (CEQA).

On an annual basis, unless otherwise requested by the Chief Administrative Officer or the Board of Supervisors, the Director shall provide the Board of Supervisors a list of the real property interests acquired under the delegated authority of Section 73(b)(1).

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. Pursuant to Government Code section 25350, acquisition of real property pursuant to the subsection is exempt from the notice of intent requirements of that statute.

(c) Acquisition of Real Property by Lease or License.

- (1) Whenever it is necessary to lease or license real property for more than a five-year term or a rental rate exceeding \$7,500.00 per month, the procedures set forth in Sections 73.1, 73.2, 73.4, 73.5, and 73.6 shall be followed.
- (2) Pursuant to Government Code section 25350.51, the Director may approve and perform all acts necessary to consummate a lease or license of

real property for use by the County, so long as the term is for five years or less and the rental rate is \$7,500.00 or less per month, provided that:

- (A) The lease or license was approved in principle by the Board of Supervisors or the Chief Administrative Officer pursuant to Section 73.2(b);
- (B) The rental rate has been determined by the Director to represent a fair and reasonable rate;
- (C) The lease or license will be in accordance with the County's Hazardous Materials Assessment Policy and Procedure;
- (D) The lease or license complies with CEQA; and
- (E) 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.

**Section 3.** Section 73.1 of the San Diego County Code of Administrative Ordinances is hereby amended to read as follows:

**SEC. 73.1. INITIATING ACQUISITION OF REAL PROPERTY.**

(a) A single board, commission, office, department, or institution may request the lease, purchase or acceptance of a gift of real property for its primary use or occupancy. The board, commission or the administrative head of the office, department, or institution shall direct the request, in writing, to the Chief Administrative Officer describing the following:

- (1) space and general location requirements;
- (2) the use to which it will be put; and
- (3) the basis for the need.

(b) Upon receipt of a request pursuant to Section 73.1(a), the Chief Administrative Office shall evaluate the request and the reasons therefore.

(c) The Chief Administrative Officer or the Board of Supervisors may initiate the leasing, acquisition or acceptance of a gift of real property following the procedures set forth in Sections 73.2 through 73.4.

**Section 4.** Section 73.2 of the San Diego County Code of Administrative Ordinances is hereby repealed.

**Section 5.** Section 73.3 through 73.13 of the San Diego County Code of Administrative Ordinances is hereby renumbered and amended to read as follows:

**SEC. 73.2. PROPOSED LEASE OR PURCHASE OF REAL PROPERTY;  
NEGOTIATION.**

(a) Purchase of Real Property. In accordance with Section 73.1, if the Chief Administrative Officer agrees that the County needs to purchase real property, the Chief Administrative Officer shall direct the Director of General Services (“Director”) to attempt to locate property which most adequately meets the requirements of the County.

(1) The Director may negotiate preliminarily for the purchase of real property and may obtain options to acquire such property. Any option to purchase authorized directly by the Director pursuant to this subsection shall not exceed \$150,000 per year, with an option period of no more than two years. Further, an option to purchase pursuant to this subsection may only be obtained if a specific project requiring the acquisition of real property has been previously approved by the Board of Supervisors, and funds have been budgeted and are available for the purchase and/or option.

(2) Upon negotiation of the purchase of real property, the Director shall do the following:

(A) If the proposed real property interest to be acquired is subject to Section 73(a), the Director shall submit a report to the Chief Administrative Officer with the following information:

- (i) a description of the property;
- (ii) comparative data on costs of properties considered;
- (iii) a statement as to the agreement or disagreement with the findings of the report by the County officers for whose use the property is to be acquired; and
- (iv) a recommendation to acquire a specific site or to further investigate certain selected sites.

(B) If the proposed real property interest to be acquired meets the requirements of Section 73(b), the Director shall complete

negotiations for the purchase, including such escrow arrangements as the Director deems desirable, and with the assistance of County Counsel, prepare and execute an appropriate form of purchase contract and related documents.

(b) Lease or License of Real Property.

(1) Prior to initiating the lease negotiation process, the lease of real property for County use shall be approved in principle by:

(A) the Chief Administrative Officer, or designee, for lease space of 10,000 square feet or less; or

(B) the Board of Supervisors, for lease space in excess of 10,000 square feet.

(2) Following an approval in principle, the Director shall attempt to locate property which most adequately meets the requirements of the County and negotiate for its lease.

(A) If the proposed lease is subject to Section 73(c)(1), after negotiating a lease pursuant to this section, the Director shall submit a report to the Chief Administrative Officer with a comparative analysis of the best available properties that have been located and a recommendation of a specific site to pursue, if any.

(B) If the proposed lease meets the requirements of Section 73(c)(2), the Director shall complete the negotiations for the lease or license of real property, and with the assistance of County Counsel, prepare and execute an appropriate form of lease agreement and related documents.

SEC. 73.3. GIFTS OF REAL PROPERTY.

(a) When real property is offered to the County as a gift, the Chief Administrative Officer shall request the Director of General Services (“Director”) to investigate and report back upon the desirability of acceptance thereof.

(b) Upon receipt of the report prepared in accordance with Section 73.3(a), the Chief Administrative Officer shall prepare a summary of the report and the original request and submit the summary along with a recommendation to the Board of Supervisors if the real property meets the requirements of Section 73(a). If the real property meets the requirements of Section 73(b), the Chief Administrative Officer shall

submit a recommendation to the Director as to the desirability of accepting the proposed gift.

(c) If the Board of Supervisors accepts an offer of a gift of real property, the Clerk of the Board shall immediately notify: (1) the Director, who shall appraise the property for inclusion of its value in the County records and perform all acts necessary to transfer ownership of the real property to the County, and (2) the Auditor. 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.

#### SEC. 73.4. CHIEF ADMINISTRATIVE OFFICER RECOMMENDATION TO BOARD; NOTICE OF INTENT.

The following provisions apply to acquisitions of real property interests pursuant to Section 73(a) and (c)(1):

(a) Upon receipt of the report from the Director of General Services (“Director”) under Section 73.2, the Chief Administrative Officer shall prepare a summary of the report and forward the summary along with a recommendation to the Board of Supervisors.

(b)(1) If the Chief Administrative Officer recommends the purchase of a specific site and Government Code section 25350 or other applicable statute requires giving notice of intent to consummate a proposed purchase of real property, the Chief Administrative Officer shall provide the Board of Supervisors with the following information to include in any required notice:

- (A) a description of the property;
- (B) the purchase price;
- (C) the name of the seller; and
- (D) the date and time the Board of Supervisors will meet to consider, and, if approved, authorize the purchase.

(2) If the Chief Administrative Officer recommends the lease or license of a specific site and Government Code section 25350.51 or other applicable statute requires the giving of notice of intent to consummate a proposed lease or license of real property, the Chief Administrative Officer shall provide the Board of Supervisors with the following information to include in any required notice:

- (A) a description of the property;

- (B) the monthly rental rate and term;
- (C) the name of the lessor/licensor; and
- (D) the date and time the Board of Supervisors will meet to consider, and, if approved, authorize the lease or license.

(c) If the Board of Supervisors accepts the Chief Administrative Officer's recommendation pursuant to Section 73.4(a), then the Clerk of the Board shall cause the notice required by Government Code sections 25350 (purchase) or 25350.51 (lease or license), or any other applicable statute or ordinance, to be given.

#### SEC. 73.5. PROCEDURE FOR PURCHASE OR LEASE OF REAL PROPERTY BY COUNTY.

If the Board of Supervisors accepts the Chief Administrative Officer's recommendation pursuant to Section 73.4 and schedules a meeting to consummate the purchase or lease of real property in compliance with Government Code sections 25350 (purchase) or 25350.51 (lease or license), the Director of General Services ("Director"), shall complete negotiations for the lease or purchase, including such escrow arrangements as the Director deems desirable, and with the assistance of County Counsel, prepare and forward to the Board of Supervisors for final action an appropriate form of lease agreement or contract of purchase.

#### SEC. 73.6. CHANGES TO EXISTING LEASES.

(a) Except as set forth in Section 73.6(b), a lease termination, extension, amendment or renewal shall be submitted to the Board for approval by and with the recommendation of the Director of General Services ("Director").

(b) The Director may amend real property leases to provide for improvements or alterations, or both in accordance with Government Code section 25350.51.

#### SEC. 73.7. 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.

SEC. 73.8. COUNTY-OWNED OR LEASED REAL PROPERTY NOT PRESENTLY REQUIRED FOR PUBLIC USE.

(a) Whenever a County officer, board or commission occupying or supervising the use of County-owned or leased real property finds that all or any portion of that property is not presently needed by it for public purposes, it shall advise the Director of General Services (“Director”), in writing, describing the property, its condition, reasons for the lack of need, and the estimated date of vacating or releasing the premises.

(b) If the Director can determine no present use for the property by the County, the Director shall make a preliminary investigation concerning probable sale or rental value of the property, or settlement costs in the case of lease termination other than expiration of a specified term, and submit to the Board of Supervisors the results of such investigation and a recommendation concerning the property, including, but not limited to, whether the property should be held for future use, offered for lease, license or sublease, or declared surplus and offered for sale.

SEC. 73.9. LEASING OR SUBLEASING OF COUNTY-OWNED OR LEASED REAL PROPERTY.

Whenever the Board of Supervisors has determined that County-owned or leased real property is available for lease or sublease, the following procedures shall apply subject to the exceptions set forth in Section 398.5(d) of the Administrative Code:

- (a) The Director of General Services shall be responsible for:
- (1) negotiating such lease or sublease;
  - (2) renewing or terminating such lease or sublease when directed;
  - (3) drafting the lease or sublease;
  - (4) obtaining County Counsel’s approval of the form thereof; and
  - (5) forwarding it to the Board of Supervisors for final action, if required.

Where any statute authorizes the designation by ordinance of a County officer to lease property on behalf of the County, the Director is hereby so authorized and designated to lease County property in compliance with all requirements of such statute. Pursuant to Government Code section 25537(c)(2), the Director’s delegated authority to execute leases or licenses of County-owned or leased property shall be effective for five years from the effective date of this ordinance.

(b) Leases or subleases of airport, park and other property described in Government Code sections 25536 and 25536.5 shall be prepared and negotiated pursuant to said section unless otherwise directed by the Board of Supervisors.

(c) Leases of any real property acquired by the County for highway purposes may be leased by the Director of General Services, with the consent of the Director of Public Works and without competitive bidding, subject to the requirements of Streets and Highways Code section 960.6. Proceeds from such leases shall be paid into the Road Fund. A notice of intention to lease real property shall be posted on the property to be leased and shall be filed as Communications Received for Board of Supervisors Official Records at least 10 days prior to execution of any lease of real property acquired for highway purposes.

(d) Leases of County-owned or leased real property for the purposes of cultural, residential, commercial or industrial lease or development, as described in Government Code section 25515, for property acquired by the County prior to January 1, 1987, shall be negotiated and executed pursuant to the procedure prescribed in Sections 25515 through 25515.5 of the Government Code.

(e) Leases or subleases for all other County-owned or leased real property shall, in accordance with Section 25537 of the Government Code, be negotiated and executed pursuant to the procedure prescribed in Section 73.10, unless other express statutory authority is applicable.

#### SEC. 73.10. PROCEDURE FOR LEASING OR SUBLEASING COUNTY-OWNED OR LEASED REAL PROPERTY.

(a) Bidding Procedure. Except for leases entered into in accordance with Section 73.10(b), all leases to which this section applies 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, briefly specify the terms upon which it shall be leased, and fix a time and place at which the Board of Supervisors shall receive written bids for such leasing. 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 and for the full detail of the terms and conditions of the proposed lease. 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.

(b) Leases Excluded from Bidding Procedure. The Director of General Services may, without any advertised call for bids, negotiate and execute any lease or subleases of a duration not exceeding 10 years and having an estimated monthly rental not exceeding \$10,000; provided, however, that if a lease is so excluded from the bidding procedure, the actual monthly rental in the executed lease shall not exceed \$10,000, the term of the executed lease shall not exceed ten (10) years, and the lease shall not be renewed. Notice of any such proposed lease shall be given as required by Government Code sections 25537 (b) and (c).

Pursuant to Government Code section 25537(c)(2), the authorization granted to the Director of the Department of General Services or his designee by this subsection shall be effective for five years from the effective date of this ordinance.

#### SEC. 73.11. DEPOSIT OF PUBLICATION COSTS PRIOR TO SALE OF PROPERTY.

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.

#### SEC. 73.12. ALTERNATIVE PROCEDURES FOR SALE OF COUNTY REAL PROPERTY.

Real property owned by the County may be sold pursuant to the general procedure specified at Government Code section 25526 and following, pursuant to the alternative procedures specified at Government Code section 25538 or 25539, or pursuant to any other applicable statutory authority. The Director of General Services is hereby designated as the County officer to conduct sales pursuant to Government Code sections 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.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of San Diego this 21<sup>st</sup> day April, 2009.