

Amendment of the Whole
October 27, 2004.

FILE NO. 041352

ORDINANCE NO.

1 [Lease of City Property for Fair Market Value.]
2

3 **Ordinance amending San Francisco Administrative Code Sections 23.33 and 23.34 to**
4 **establishing establish a ~~Board of Supervisors'~~ City policy that City-owned property be**
5 **leased for fair market value, unless a finding of public policy supports a below-market**
6 **rate, and requiring all below-market rate leases to be reported to the Board of**
7 **Supervisors and posted on the City's website, and amending San Francisco**
8 **Administrative Code Section 23.32 to make certain clarifications.**

9 Note: Additions are *single-underline italics Times New Roman*;
10 deletions are *strikethrough italics Times New Roman*.
11 Board amendment additions are double underlined.
12 Board amendment deletions are ~~strikethrough normal~~.

12 Be it ordained by the People of the City and County of San Francisco:

13 Section 1. The San Francisco Administrative Code is hereby amended by amending
14 Section 23.33, to read as follows:

15 SEC. 23.33. COMPETITIVE BIDDING PROCEDURES.

16 To the extent that any ordinance, Code provision or Charter provision gives the City, or
17 any of its commissions, boards or departments, power to award Leases without competitive
18 bidding, it shall be City policy ~~the Board of Supervisors recommends~~ that, notwithstanding
19 such power, all such Leases that are expected to produce more than \$2,500 per month in
20 revenue be awarded in accordance with Competitive Bidding Procedures, unless such
21 Competitive Bidding Procedures are impractical or impossible. *It shall also be ~~the City policy of~~*
22 *~~the Board of Supervisors~~ that any and all Leases awarded without following the Competitive Bid*
23 *Procedures shall be in an amount not less than equal to the fair market value of the leased property;*
24 *~~as determined by the Director of Property.~~ If any City department wishes to award a Lease of City-*
25 *owned property for less than fair market value, it shall make a finding of the public purpose to be*

1 served by such Lease, and such Lease and finding shall be subject to the prior approval of the Mayor
2 and the department head, as well as the applicable commission. If there is no commission approval,
3 then such Lease and finding shall also be subject to the prior approval of the Board of Supervisors.
4 The Lease shall also require that the tenant will use the leased premises in accordance with
5 the stated public purpose for the entire lease term. The provisions of this Section shall not apply
6 to any leases awarded pursuant to San Francisco Administrative Code Chapter 23A, the Surplus City
7 Property Ordinance.

8 Section 2. The San Francisco Administrative Code is hereby amended by amending
9 Section 23.34, to read as follows:

10 SEC. 23.34. LEASE REPORTING.

11 Each commission, board and department that is empowered by the Charter, City
12 ordinance, this Code or State statute to Lease City-owned Real Property shall, within 10 days
13 after the close of each quarter of a fiscal year ("fiscal quarter"), file with the Budget Analyst for
14 the Board of Supervisors and post on the commission, board or department website a written report
15 of all Leases of City-owned Real Property awarded during the preceding fiscal quarter which
16 were less than fair market value and or which were not submitted for approval by the Board of
17 Supervisors.

18 The report shall contain the following information for each Lease:

- 19 1. Tenant's name.
- 20 2. Term of the Lease, including any extension options.
- 21 3. Rental amount, including, ~~if applicable,~~ any percentage rent and rent
22 escalation or adjustment provisions, and, if applicable, the finding of public purpose for why the
23 rent was set at less than fair market value.
- 24 4. Location of Leased Real Property.
- 25 5. If unimproved Real Property, dimensions and area of Real Property.

1 6. If improved Real Property, description of improvements and floor area of
2 Leased space.

3 7. Use to be made of premises by the tenant.

4 The Budget Analyst shall review each report and may report his or her comments and
5 recommendations to the Board of Supervisors, as the Budget Analyst deems appropriate.

6 Section 3. The San Francisco Administrative Code is hereby amended by amending
7 Section 23.32, to read as follows:

8 SEC. 23.32. ADVISORY REVIEW BY DIRECTOR OF PROPERTY.

9 Any commission, board or department that, under the Charter or this Code, is given
10 exclusive power to Lease Real Property under its control and management may submit any
11 proposed Lease to the Director of Property for review and advisory recommendations and
12 may request the Director of Property to determine fair market rental rates to aid and assist in
13 negotiating, extending or renewing such Leases. It is the City's policy ~~of the Board of~~
14 ~~Supervisors~~ that all commissions, boards and departments that negotiate and administer such
15 Leases submit all proposed Leases which have a term, including extension options, of five
16 years or more, or which would produce more than \$500,000 in revenue over such term, to the
17 Director of Property for review and advisory recommendations before final approval of any
18 such Lease and, as to such Leases, request the Director of Property to determine fair market
19 rental rates to aid and assist in negotiating, extending or renewing such Leases. The purpose
20 of this policy is to achieve greater consistency and coordination in the City's Leasing
21 practices, to increase the financial return to the City from its Leases and to avoid unnecessary
22 duplication of effort and expense in the Leasing of City Real Property.

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1 APPROVED AS TO FORM:
2 DENNIS J. HERRERA, City Attorney

3 By: _____
4 Charles R. Sullivan
5 Deputy City Attorney

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