



# Board Agenda Item 38

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DATE: January 8, 2019

TO: Board of Supervisors

SUBMITTED BY: Robert W. Bash, Director of Internal Services/Chief Information Officer

SUBJECT: Adoption of Ordinance to Amend Chapter 13.28 to Exempt Certain Leases, Licenses or Subleases of County Real Property from Formal and Informal Bidding, and Reauthorize the County Administrative Officer or his designee to Execute Certain Leases and Licenses of Real Property

RECOMMENDED ACTION(S):

**Conduct second hearing on and adopt an Ordinance to amend Chapter 13.28 of Title 13 of the County of Fresno Ordinance Code (the "Ordinance Amendment"), renaming that Chapter and setting out alternative procedures for leasing and licensing of any real property belonging to, leased by, or licensed by the County ("County Real Property"), and waive the reading of the proposed Ordinance Amendment in its entirety. The proposed amendment to Section 13.28.040 within Chapter 13.28 would reauthorize the County Administrative Officer or his designee to approve and execute leases and licenses not exceeding five years and \$5,000 per month. The proposed addition of Section 13.28.030(C) Chapter 13.28 would exclude from formal and informal bidding procedures a lease, sublease or license of County Real Property not exceeding 10 years and with a rental amount up to \$35,000 per month, as long as the lessee or licensee provides a service to or for the benefit of the County, the State, or any local public agency.**

On December 4, 2018, your Board conducted the first hearing to amend and expand County Ordinance Chapter 13.28, to establish alternative procedures for leasing or licensing of County Real Property. County Ordinance Section 13.28.030 will be amended to add Subsection (C), allowing for the lease, sublease, or license of County Real Property with a term not exceeding ten (10) years and having an estimated monthly rental not exceeding thirty-five thousand dollars (\$35,000) to be excluded from the formal bidding procedures of the Government Code, as well as the informal bidding procedures set forth in Section 13.28.020, so long as the County is entering into the lease or license to enable the lessee or licensee to provide a service to, or for the benefit of, the County, the State, or any local public agency. This amendment would, for example, enable the County to pursue a lease for a new Emergency Medical Services (EMS) building, and would allow the County to sublease that building to the County's EMS provider, since the EMS provider would provide a service for the benefit of the County, which may include services benefiting other local public agencies. At your Board's request, language has been added to the Ordinance requiring that unless partnering with a governmental agency, there shall be a demonstration that rates the County is charging are market rates, and if the County is leasing, there shall be a demonstration that the market can support the agreed upon lease based upon the area and condition of the building.

The recommended action will also amend Section 13.28.040(A) to reauthorize the County Administrative Officer, or his/her designee, to approve and execute leases or licenses not exceeding five years and \$5,000 per month for the period of February 1, 2019 through December 31, 2023.

ALTERNATIVE ACTION(S):

If the Recommended Action is not approved by your Board, all leases and licenses of County Real Property will come to your Board for approval and execution. If the recommended action is not approved by your Board, the County will not be able to pursue a potential lease for a new EMS building under the proposed lease-sublease mechanism, and would need to find a different legal mechanism.

FISCAL IMPACT:

There is no fiscal impact as a result of the recommended action.

DISCUSSION:

The recommended action will rename County Ordinance Code Chapter 13.28 "Leasing or Licensing of Any Real Property Belonging to, Leased by, or Licensed by the County," to better reflect the expanded content of the chapter.

The recommended action amends Section 13.28.040(A) to reauthorize the County Administrative Officer, or his/her designee, in his or her discretion, to approve and execute leases or licenses of a duration not exceeding five years and having an estimated monthly rental not exceeding five thousand dollars (\$5,000). The current authority granted to the County Administrative Officer expires December 31, 2018. The County Administrative Officer, or his/her designee, must provide written notice to the Supervisor for the district in which the County Real Property proposed to be leased or licensed is located, as required by Government Code Section 25537(c)(3), prior to approving and executing a lease or license pursuant to Sections 13.28.030(A) or (B). If the Supervisor objects in writing to the proposed lease or license within fifteen working days of receipt of the notice, the lease or license shall be submitted for approval by the Board of Supervisors at a regular meeting.

The recommended action also adds Section 13.28.030(C), allowing for the lease, sublease, or license of County Real Property not exceeding ten (10) years and having an estimated monthly rental not exceeding thirty-five thousand dollars (\$35,000) to be excluded from the formal bidding procedures of Government Code Sections 25526 et seq. and Section 25537(a), as well as the informal bidding procedures set forth in Section 13.28.020, so long as the County is entering into the lease or license to enable the lessee or licensee to provide a service to, or for the benefit of, the County, the state, or any local public agency. A lease, license, or sublease entered into pursuant to this provision must be approved and executed by the Board. At your Board's request, language has been added to the Ordinance requiring that unless partnering with a governmental agency, there shall be a demonstration that rates the County is charging are market rates, and if the County is leasing, there shall be a demonstration that the market can support the agreed upon lease based upon the area and condition of the building. Notice of the letting of the lease, license or sublease pursuant to this provision must be provided pursuant to Government Code Section 25537(b), which requires that notice shall be posted one time in the office of the Clerk of the Board of Supervisors. Such notice must describe the County Real Property proposed to be leased or licensed, the terms of the lease or license, the location where offers to lease or license the County Real Property will be accepted, the location where leases or licenses will be executed, and any county officer authorized to execute the lease or license. The notice must also be mailed or delivered at least 15 days prior to accepting offers to lease or license pursuant to this section to any person who has filed a written request for notice with either the Clerk of the Board or with any other person designated by the Board to receive these requests.

The addition of this provision will, for example, facilitate the leasing of County Real Property for a new potential EMS building, which may be subleased to the County's EMS provider, as that provider will be providing a service for the benefit of the County, which may include services benefiting other local public agencies. Although the County has not entered into any commitment for a monthly lease/sublease, or approved any lease or sublease rates, for a potential new EMS building, the cap of \$35,000 rent per month allows for the lease/sublease of a site, provided that it is satisfactory to the County.

REFERENCE MATERIAL:

BAI #10, December 4, 2018

ATTACHMENTS INCLUDED AND/OR ON FILE:

Ordinance

Ordinance - Redlined

CAO ANALYST:

Yussel Zalapa