

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF MOUNTAIN VIEW
AMENDING PROCEDURES FOR
LEASING PROPERTY IN EXCESS OF 55 YEARS

THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW DOES HEREBY
ORDAIN AS FOLLOWS:

Section 1. Chapter 2, Article XI, Sections 2.89 and 2.90, of the Mountain View
City Code are hereby amended to read as follows:

“SEC. 2.89. - Lease of city property.

Except as provided herein, property owned, held or controlled by the city may
be leased for a period not to exceed fifty-five (55) years.

SEC. 2.90. - Leases in excess of fifty-five (55) years.

Notwithstanding Sec. 2.89, the city may lease property for a period exceeding
fifty-five (55) years, but not exceeding ninety-nine (99) years, if the city council makes
the findings required by Subsection (a) and the lease provides for a periodic review as
set forth in Subsection (b), below.

(a) **Findings required.** Prior to the final execution of any lease entered into
pursuant to this section or prior to the approval of any development on the property to
be leased where said development is a condition precedent to lease or rent
commencement, the city council shall find all of the following:

(i) That the lease and any development on the site is consistent with
the City of Mountain View general plan and any applicable precise plan or specific
plan; and

(ii) The property is not now needed for other public purposes; and

(iii) The term of the lease, including any option to extend, is in the best
interest of the city; and

(iv) This particular lease offers the greatest economic return to the city
when compared to other proposals, if any; and

(v) A determination that entering into the lease without engaging in a competitive bid process is in the best interest of the city, if applicable.

(b) **Lease requirements.** To qualify as a lease in excess of fifty-five (55) years, the following shall be incorporated into the lease to provide the greatest protection and return for the city and to ensure that the appropriate periodic review of the lease is conducted:

(i) The lease shall include a definite term that may include an option period.

(ii) The lease shall include provisions for the lessee to provide insurance to the city in the form and amounts determined by the city attorney and which names the city as an additional insured.

(iii) **Periodic review:**

(a) **All leases.** The lease shall contain provisions for periodic review by the city that will provide for an analysis as to each of the following: (1) whether the lessee is in compliance with the terms of the lease; (2) whether the property is in good and marketable condition; and (3) whether the level of insurance is adequate or needs to be increased or decreased.

(b) **Rent.** In addition to the above-described items, the periodic review shall take into consideration the then-current market conditions and may also include an analysis as to whether or not the rent paid by the lessee for the lease is consistent with then-available fair market rents. The lease shall also include a mechanism for adjustments to rent to reflect the fair market value rent at the time of such periodic review. However, this analysis shall not be required during any portion of the lease term for which rent is prepaid or for those leases that include provisions to periodically adjust the rent.

(iv) **Timing of periodic review.** The review pursuant to this section as incorporated into the terms of any lease shall be conducted no less frequently than Year 20, Year 40 and Year 60 of the lease term and each ten (10) years thereafter.

(v) **Severability.** The lease shall provide that if any action is filed to contest the length of term of said lease that the city and the lessee will be deemed to have consented to entering into a lease of such lesser term as a court of competent jurisdiction may find appropriate and that neither party to the lease shall be liable to the other party or any third party for entering into the lease or for damages related thereto by reason of the aforementioned judicial proceedings.”

Section 2. The provisions of this ordinance shall be effective thirty (30) days from and after the date of its adoption.

Section 3. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the other remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Section 4. Pursuant to Section 522 of the Mountain View City Charter, it is ordered that copies of the foregoing proposed ordinance be posted at least two (2) days prior to its adoption in three (3) prominent places in the City and that a single publication be made to the official newspaper of the City of a notice setting forth the title of the ordinance, the date of its introduction, and a list of the places where copies of the proposed ordinance are posted.

Section 5. This ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) (the activity will not result in a direct or reasonable foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly).

LK/2/ORD
014-09-25-18o