



2011-2012 SANTA CLARA COUNTY CIVIL GRAND JURY REPORT

HOW SANTA CLARA COUNTY DECIDES TO LEASE PROPERTY AT BELOW FAIR MARKET RATES

Summary

Since the 1950s, the Santa Clara County (the County) Board of Supervisors (BOS) has approved real property below fair market (BFM) rents and ground leases. These include licensing agreements and Memoranda of Understanding on County properties for nonprofit organizations, charities, and government agencies or municipalities. A recent internal audit indicated approximately \$9.7M potential General Fund lost annual revenues from these BFM agreements. The Grand Jury sought to understand how these leases are managed, and specifically:

1. What is the process for awarding the below fair market agreements and how transparent are these decisions to the public?
2. What ongoing oversight does the County perform regarding these agreements?
3. Is awarding these lease agreements a revenue loss or a good investment for the County or both?

Background

The Grand Jury routinely examines management audits and financial reports from the County, the cities within the county and special districts. One of the audit reports reviewed by the Grand Jury was the *Facilities and Fleet Custody Internal Controls Audit Report*, dated 8/1/2011 (see Appendix A for a link to the actual audit report).

The County Charter Section 602(b) requires an audit of all accounts and records upon a vacancy in any office charged with the responsibility for receipt, disbursement, or custody of cash. With a change in leadership at the County's Facilities and Fleet (FAF) Department, the County's Internal Audit Department performed a Custody Internal Controls Audit (Audit) of FAF. The scope of the Audit included revenue leases, which are managed by the Property Management Division of FAF. The leases reviewed in the Audit were in regard to properties leased from the County at BFM rates. California Government Code (GC) Section 26227 allows the County to make lease agreements at below market rates under certain conditions (see Appendix B for the full text of GC 26227). The Audit results influenced the Grand Jury to undertake an in-depth review of the management processes used by the County BOS to award and oversee below fair market leases.

Methodology

The Grand Jury conducted interviews with members of the following County departments: the BOS, Facilities and Fleet, the Internal Audit Department, Office of the County Executive and the Finance Department.

In addition, the Grand Jury reviewed the Audit, lease agreements referred to in the Audit, and relevant BOS meeting transmittal documents. A complete list of documents reviewed is listed in Appendix A.

The Grand Jury focused on a subset of the BFM leases discussed in the Audit, specifically sampling a variety of service types and those with large dollar amounts. A list of the BFM leases addressed by the Audit is provided in Appendix C (note that this list may not include all County properties leased at below fair market rates).

Discussion

The Audit found approximately \$9.7M in potential annual General Fund lost revenues from BFM rents and ground leases that were approved by the BOS as far back as 1971. The \$9.7M was calculated by subtracting rents received from fair market rents for comparable facilities as published in local newspapers. The Audit further states “although the FAF files contain comments on why the County would provide the facilities at BFM rates, there is no financial analysis to support the discount.” While the Audit recognized the financial costs of the leases and rents, the corresponding value received by the County was not evaluated in the Audit.

The Audit also recognized the need for periodic review of the BFM agreements: “The Board [of Supervisors] annually approves the County budget. When long-term financial arrangements are not taken to the Board periodically, the current Board is not aware of how all County resources are being used.”

According to interviews and documents detailing how BFM rents and ground leases are awarded, the Grand Jury found that this consideration is sometimes connected to a broader contract for services. For example, the service contract may contain a provision for a BFM agreement with the stipulation that as long as the services are provided, the BFM agreement may continue. Some service contracts state the BFM agreement may be terminated if services were no longer provided or did not meet performance expectations. Some of the leases are not connected to the broader service contract between that organization and the County. Other leases are granted to organizations that have no service agreement.

Recommendation for approval of these agreements comes from the Office of the County Executive, FAF, and the sponsoring agency (e.g., Social Services or Mental Health). First, a County Department identifies a service need and prepares a Request For Proposal (RFP). Each of the vendors who respond to an RFP is evaluated by an all-

volunteer vendor selection committee. As a result of this selection process, a vendor is chosen and a contract is prepared. During contract negotiations, the vendor may also express a need for real property to render its services. The awarding County Department prepares a recommendation package, which includes a request for real property if applicable, for submittal to the Office of the County Executive for approval. The County Executive then presents its recommendation in a transmittal to the BOS for final approval. The item is agendaized and voted on at a BOS meeting.

Table 1 lists the vendor agreements the Grand Jury reviewed, and the table includes additional data and remarks gleaned from the Grand Jury review of BOS meeting summaries, minutes, transmittals, and BFM rent and ground lease agreements as awarded. These documents were obtained from the County Portal and the Clerk of the BOS. A listing of the below fair market leases addressed in the Audit is shown in Appendix C.

The Grand Jury also interviewed individuals to determine the decision making used for awarding the BFM rents and ground leases, expecting to find a written process for awarding leases or agreements to use public property that would be treated with a certain rigor. The Grand Jury found that such a process does not exist.

Given that a formal process does not exist, the Grand Jury sought to understand how the financial transactions were transparent to the public. To this end, the Grand Jury wanted to determine whether the following information was presented to the BOS to ensure they had sufficient information upon which to make a decision regarding these County commitments:

1. Did the transmittal to the BOS include the fair market value of the property being awarded at BFM value?
2. Did the transmittal include a financial or other analysis to show the value being received by the County in exchange for the BFM rent or ground lease?
3. Did the BOS approval require that the agreements include a term for periodic review in order for the County to regularly verify the value being received by the County in exchange for the BFM rent or ground lease?

The Grand Jury reviewed the transmittal documents for the agencies listed in Table 1. This information is presented in the following sections.

Table 1: Vendor Agreements Reviewed¹

Lessee (Vendor)	Property Use	Annual Rent Received	Annual Fair Market Rent (Estimated in Audit)	Ground Lease	BOS Approval Date	Lease Expiration Date	Remarks
Abilities United	Children Center	\$1	\$775,440	Yes	9/29/1980	4/11/2015 with an option to renew for an additional 49 years	Facility located in Palo Alto located at Charleston and Middlefield Rds.
Abilities United	Adult Center	\$1	\$324,000	Yes	9/29/1980	10/14/2024 with an option to renew for an additional 49 years	Facility located in Palo Alto located at Charleston and Middlefield Rds.
California Institute for Medical Research (CIMR)	Medical Research Laboratory	\$1	\$336,600	Yes	4/11/1988	12/31/2027 with an option to renew for an additional 25 years	Site located near Fruitdale and Bascom in San Jose
Mid-peninsula Housing Coalition (VIVENTE 1)	Apartment for the developmentally disabled	\$1	\$1,760,180	Yes	1/14/1992	11/23/2037	Located on Enborg Lane in San Jose
Mayview Community Health Center (Palo Alto & Mountain View)	Community Clinics	0	\$211,968	No	6/9/2009	6/30/2013	270 Grant Ave. in Palo Alto and 100 Moffett Blvd in Mountain View
Ali Baba Corporation	Adult Residential Facility	\$277,200	\$415,800	No	9/15/2009	9/30/2012	Facility located at 101 Jose Figueres Avenue in San Jose
City of Campbell	City Park	0	\$2,038,608	Yes	9/15/2009	9/1/2034 with an option to extend for an additional 10 years	Approximately 1.3 acres located on East Campbell Ave in Campbell
San Jose State University Research Foundation	Aquatic instruction, recreation, education and rehabilitation services	Base rent not to exceed \$120,000 per year	\$1,170,185	No	9/29/2009	9/28/2012 with an option to extend for an additional 3 year period	Located at 730 Empey Way in San Jose

¹ This is a subset of properties in the Audit and does not total \$9.7M.

Abilities United (Children and Adult Facilities)

Abilities United is a nonprofit public benefit corporation that provides the County with services for residents with physical and developmental challenges.

From the Abilities United 2009-2010 Financial Statement:

NOTE 11 – Operating Lease Commitments:

The County of Santa Clara leases to Abilities United the land on which their offices and swim facility are located. The leases, which commenced in October 1979, have a 50-year term with an option to renew for an additional 49-year term. The leases require Abilities United to perform certain functions in consideration of reduced lease payments of \$1 per year for each facility. The leases are considered exchange transactions.



Abilities United Adult and Children Center

Abilities United constructed and operates a facility for developmentally challenged adults and children on County-owned property in Palo Alto. In exchange for providing this service to county residents, Abilities United has been awarded a BFM ground lease for 50 years at \$1 per year for each building built on that land (as shown in Table 1, Abilities United leases two properties). The original lease agreement was approved in October 1979 and required Abilities United to construct two buildings at Middlefield and

Charleston Roads in Palo Alto. In September 1980 the lease agreement was amended to extend the completion date of the second building.

Item number 11 at the BOS meeting of October 15, 1979 authorized execution of the BFM ground lease. On September 29, 1980, the BOS authorized execution of the first amendment to that lease (agenda item number 12). The transmittals included in the minutes of the October 15, 1979 and September 29, 1980 BOS meetings do not indicate that the BOS was provided with or considered information about the fair market value for these leases or a financial analysis showing the value received from Abilities United in exchange for the BFM ground lease. There is no service agreement between Abilities United and the County that would enable periodic review to ensure that Abilities United continues to provide the services assumed when the BFM ground lease was granted. No review of Abilities United's performance in providing services for the physically and developmentally challenged was provided for in the lease or otherwise presented to the BOS.

Ali Baba Corporation

Ali Baba Corporation provides mental health services at an adult residential facility for seriously mentally ill patients pursuant to a service contract with the County Mental Health Department. Ali Baba Corporation, along with its subsidiary, Oasis Care, provides residential care services and supportive mental health services at the Riviera Center on José Figueres Avenue in San Jose. The County has contracted with Ali Baba Corporation to provide these services since 1985. In September 2009, the County entered into a three-year BFM rental agreement set to end in September 2012. The rental agreement is contingent upon satisfactory performance under the service contract.



Ali Baba Adult Residential Facility

From the BOS meeting summary of September 15, 2009, the recommendation for approval of the BFM rental agreement appeared as Item 70 on the agenda. Neither the agenda nor the FAF Transmittal included fair market rent information at the time the agreement was presented for BOS approval. Likewise, no financial analysis was presented showing the value received from Ali Baba in exchange for the BFM rent. The BOS reviews the rental agreement every three years when the agreement terminates. In addition, the BFM rental agreement requires that Ali Baba Corporation have an approved service agreement with the County. The service agreement between the County and Ali Baba Corporation is reviewed and renewed every twelve months. Ongoing approval of the lease is contingent upon Ali Baba meeting the performance criteria outlined in the service agreement.

It should be noted that in the October 28, 2003 transmittal to the BOS, the County's General Services Agency (now a part of the Office of the County Executive) states: "Fair market rent of \$350 per bed per month has been established for this property by an independent real estate consulting firm." While this establishes a rental rate, it does not actually provide the fair market value of the property. The current rental agreement includes no comment that this price is a fair market value.

California Institute for Medical Research (CIMR)

The California Institute for Medical Research (CIMR) is a nonprofit corporation that sponsors and conducts medical research relating to all phases of human illness. CIMR also provides the County with administration of contracts, donations, and non-County funded grants on behalf of Santa Clara Valley Medical Center (SCVMC).



California Institute for Medical Research

The County granted a BFM ground lease of \$1 per year to CIMR on the SCVMC campus near Fruitdale and Bascom Avenues. The term of the lease is 55 years, commencing in 1973 and ending in 2027. On April 26, 1988, item number 38 on the BOS meeting agenda sought to amend the lease to authorize CIMR to place an additional trailer on the property. No fair market value information was provided in transmittal to the BOS at either the 1973 or the 1988 meeting. No financial analysis was presented showing the value received from CIMR in exchange for the BFM ground lease. No service agreement exists between CIMR and the County, and therefore the BOS has no provision to evaluate whether CIMR continues to warrant a BFM ground lease.

Mayview Community Health Center, Inc. (Palo Alto & Mountain View)

Santa Clara Valley Health and Hospital System (SCVHHS) enters into an annual contract with Mayview Community Health Center, Inc. (Mayview) to provide primary medical care and health services. The County entered into two license agreements wherein Mayview leases County-owned facilities located at 270 Grant Avenue, a portion of the County-owned courthouse building in Palo Alto, and the County-leased facility at 100 Moffett Blvd. in Mountain View, adjacent to Social Services Agency offices. The two sites are primarily used for outpatient medical care. The BOS reviews the license agreements every four years when the agreements' terms end. In addition, the license agreements require that Mayview have an approved service agreement with the County. The service agreement between the County and Mayview is reviewed and renewed every twelve months.



Mayview Community Health Clinic (Mountain View Facility)

At the June 9, 2009 BOS meeting, the license agreements with Mayview relating to providing property for medical health facilities were recommended to the BOS for approval. The item appeared on the agenda as Item 94. The rent-free license agreements approved at the June 9, 2009 BOS meeting did not present fair market value information for BOS's review. No cost benefit analysis was presented showing the value received from Mayview in exchange for the BFM license agreement. Also, there was no financial analysis done in the context of the service agreement.

Mid-peninsula Housing Coalition (Vivente 1)

The Mid-peninsula Housing Coalition develops and manages affordable housing in the county and beyond. The Mid-peninsula Housing Coalition developed and operates a 24-unit residential apartment building for developmentally disabled people on the SCVMC site.

In 1987, the County entered into a BFM ground lease 50-year agreement with the Mid-peninsula Housing Coalition for a portion of the County owned Valley Medical Center site on Enborg Lane in San Jose. The lease was subsequently transferred to Vivente 1. In January 1991 the BOS granted easements for utilities to Vivente 1. No service agreement exists between Vivente 1 and the County that would tie the grant to service performance.



Mid-peninsula Housing Coalition (Vivente 1)

At the January 14, 1992 BOS meeting, the recommendation was made to authorize execution of the lease agreement and granting of easements for housing use at the Santa Clara Valley Medical Center site between the County and Mid-peninsula Housing Coalition. No provision for ongoing review of the lease agreement by the BOS was presented at the January 14 meeting. No fair market value information and no cost benefit analysis was presented showing the value received from Vivente 1 in exchange for the BFM ground lease.

San Jose State University Research Foundation

The County owns the real property located at 730 Empey Way, in the City of San Jose, commonly known as the Timpany Center of Santa Clara County (the Timpany Center). When the former lessee abandoned their agreement with the County, the BOS commissioned a needs assessment study which outlined the Center's importance to the community, compared it to other similar facilities, and determined how the center might be operated at the least cost to the County.²

The San Jose State University Research Foundation (SJSURF) represents, through the SJSU Department of Kinesiology ("KIN") in the College of Applied Sciences and Arts, that it is a qualified provider of aquatic instruction, recreation and rehabilitation services for children, adults and seniors and persons with and without disabilities. It is also qualified to provide the necessary administration, supervision, and maintenance associated with a swimming pool facility, including a 100,000-gallon swimming pool.

The County granted to SJSURF a lease with BFM rent. The lease directs SJSURF to use the portion of the Timpany Center that includes the swimming pool and rooms directly associated with the swimming pool operations. This includes the reception area, offices, locker rooms/showers, deck and equipment rooms, as well as the main gym, auxiliary rooms, office adjacent to the gym, and the public restrooms. The lease excludes the space occupied by Kidango Daycare and the office located near Kidango Daycare (collectively the Premises). SJSURF occupies, operates and manages the Premises for the County and may conduct training, classes, fieldwork and service learning for SJSURF students. There is no separate service agreement between SJSURF and the County related to the Timpany Center, although the lease summarizes the type of services SJSURF is to provide.

The lease agreement with the SJSURF to operate the Timpany Center was approved by the BOS at the September 29, 2009 meeting. The agreement specifies the County shall be responsible for ongoing maintenance of the Premises. The rent to be paid is \$10,000 per month. This is a base rent with a supplemental profit-sharing arrangement. The supplement is to offset the renovation and improvement costs the County incurred prior to SJSURF agreeing to operate the center. The lease agreement states:

SJSURF shall pay to the County fifty percent (50%) of all Surplus Revenue received by SJSURF every month (a month shall consist of the first day of the month until and including the last day of the month) not to exceed ten thousand dollars (\$10,000) per month ("Base Rent"). To the extent that the amount that equals fifty percent (50%) of Surplus Revenue in any given month exceeds ten thousand dollars (\$10,000), SJSURF shall contribute all such excess funds to the County for the renovation and improvement of the Premises.

² Find the study at the following URL:

<http://www.sccgov.org/keyboard/attachments/BOS%20Agenda/2009/March%203,%202009/202525069/MPKeyboard202594400.pdf>

Although the study contained some financial analysis of how the facility should be run, and a discussion about how it might be operated, and the lease outlines two types of payment, there was not a complete financial analysis presented in the BOS transmittal showing the value received from SJSURF in exchange for the BFM lease agreement.

For example, it is not clear how the \$10,000 monthly rent—or \$120,000 per year—relates to the overall cost of the facility to the County. From several documents, the Grand Jury can find that the Timpany Center costs the County approximately \$163,000 per year to maintain, plus \$133,000 in utilities. If SJSURF’s maximum rent is \$120,000 per year under the SJSURF agreement, and notwithstanding additional revenue owed to the County that is contingent upon SJSURF meeting certain financial thresholds, one can calculate a net loss of approximately \$179,000 to the County. Such information clearly describes the cost to the County. The cost is offset by the benefit SJSURF provides the community, which can also be calculated. This information could be explicitly presented in a transmittal, ensuring cost-benefit transparency to the public.



Timpany Center

City of Campbell

In 1955 the County leased the County Assessor’s Parcel Number 412-09-047 to the City of Campbell to be used as a corporation yard or, as cited in BOS documents, “for such other purpose as public interest and necessity dictated.” In 1959 additional, adjacent land was leased to the City for park purposes. This lease was for 25 years (1959 – 1984) with an option to renew for an additional twenty-five years with a

termination date of August 31, 2009. However, the City and County were unable to locate any document indicating that the option was exercised in 1984 as stated in the lease. The original lease was to be renewed every 25 years. The lease had lapsed but it was finally amended and approved by the BOS on September 15, 2009. This formalized the arrangement between the County and the City of Campbell with a new 25-year term. In exchange, Campbell would maintain the property.

Under the 1959 lease, the partnership between the County and the City allowed the City to provide a neighborhood park (Campbell Park) containing a playground, trails, picnic facilities, and a basketball court on portions of County-owned property. The Los Gatos Creek Trail links Campbell Park to the County's regional Los Gatos Creek County Park and Vasona Lake County Park and other local parklands such as Mid-peninsula Regional Open Space District, St. Joseph's Hill Open Space Preserve, and the Town of Los Gatos Novitiate Park.

At the September 15, 2009 BOS meeting, the renewal of the ground lease between the County and the City of Campbell was approved for a 25-year term. At that meeting, no fair market value information and no cost benefit analysis was presented to the BOS showing the value received from the City of Campbell in exchange for the BFM ground lease. There is no service agreement between the City of Campbell and the County addressing the use of this property. The 2009 Board did not incorporate language into the lease allowing for periodic review of the agreement. A review of the documents suggests the property is to be used for recreational purposes with Campbell maintaining the property; however, this purpose was not communicated to the public via the transmittal as justification for why property estimated at a \$2M value³ was granted at a zero-dollar lease.

Conclusions

The County strives to meet its social and human services needs by providing County services directly and/or by contracting with community-based organizations (CBOs) and charities. Often CBOs and charities cannot afford fair market prices for real property needed to perform contracted duties. In some cases, these organizations ask the County for BFM rents and ground leases to facilitate their service to the County.

Although awarding BFM rents and ground leases are financial transactions, historically the BOS does not treat them as financial matters. Transmittals do not consistently include the type of information that would justify an essentially financial commitment. Sometimes the BFM agreements are an add-on to a service agreement. Long-term leases do not always include provision, allowing the Board to conduct periodic reviews to ensure that the intent behind granting a BFM rent or ground lease continues to be fulfilled.

³ As valued in the Audit.

As reported in the Audit, the BOS approved a number of BFM agreements from the 1950s to 2009. From 1972 to 2009, the transmittals included increasingly more robust analyses, but there is room for improvement. As noted in the Audit and confirmed by the Grand Jury, related transmittals to the BOS did not include financial analyses to support discounted rents or leases. The Grand Jury's investigation also found that the transmittals requesting the BOS to approve BFM rent or ground leases did not include the market value of the property being leased, the cost incurred by the County (if any), or, where there was a corresponding service agreement, service descriptions that would justify the BFM awards. Further the transmittals do not consistently convey the benefit to the public of making these discounted financial decisions, which may ultimately be a cost to the County. If this information was provided in another venue, it was not summarized in the BOS transmittals.

Such omissions of information are problematic in two ways. First, it misses the opportunity to convey the cost-benefit information that pairs the expense of these facilities to the County with the public benefit of these agreements. From housing to parks to a warm water therapy facility, these entities serve the public interest in important ways that the public should be made aware of. Second, consolidating the cost and benefit considerations in the transmittal to the BOS would ensure that consistent, complete information is presented for decision making—including the decision to enter into very long-term leases. This is particularly important for long-term agreements, since the BOS that made the award may have different members from the BOS that considers renewals. So the completeness of the transmittal can better ensure continuity of decision making.

There is no clear responsibility for oversight of the initiation and development of these agreements. FAF Property Management does not become directly involved with the external service provider. This leaves the sponsoring department, such as Mental Health, with the primary role in what is a real estate matter.

Neither the BOS nor the department presenting the request required a periodic lease review to be incorporated into the lease agreement to ensure the continued fulfillment of the agreement. These agreements are reviewed solely upon the termination of the lease, which in many cases expire 25 years or more from execution. In most cases, the County does not perform periodic oversight of BFM rent and ground leases, particularly when the leases are not tied to a service agreement. This is largely because the County does not have the authority to do so if such a review is not included in the terms of the agreement.

As appropriate to the purpose of the lease, it would be important to add a provision to new leases that allows the BOS to periodically review whether the entity is still performing a benefit to the public as assumed when the lease was approved. This is particularly important for long-term leases that are not tied to service agreements because the lessee's role and the need may change over time. Periodic reviews and more robust transmittal information can provide necessary transparency to the public and help to ensure that the value that existed with the original approval of a BFM rent or ground lease is still occurring.

Findings and Recommendations

Finding 1:

The historic method of awarding public property in BFM rents and ground leases did not require that transmittals include complete financial analysis and corresponding service summaries to communicate the full value (or benefit) to the County of granting BFM rent or ground leases.

Recommendation 1:

Before awarding a BFM rent or ground leases, the County should require that transmittals include financial analysis and corresponding service summaries to communicate the full value (or benefit) to the County. Specifically, the County should require the transmittals to include:

- a. A financial analysis—including the fair market value of the property being awarded and the County’s costs associated with the property—to show the value being received by the County in exchange for the BFMR or ground lease.
- b. A description of how oversight will occur, such as a tie to a service agreement
- c. A description of the services provided by the lessee and related costs or savings to the County

Finding 2:

Fair market value was calculated inconsistently and not in accordance with established appraisal methods.

Recommendation 2:

The County should develop and implement a process that establishes fair market value through more rigorous valuation, such as through a certified real estate appraiser.

Finding 3:

No single County department is acting as the point of expertise and control of the County owned real estate subject to BFM rent or ground leases or agreements.

Recommendation 3:

The County should identify one department responsible for County-owned real estate, including the responsibility to value and to recommend the award of BFM rent and ground leases to the BOS.

Appendix A: List of Documents Reviewed

Document	Document(s) Location	Lessee
Abilities United 2009 IRS Form 990	www.abilitiesunited.org/privacy	Abilities United
Abilities United Financial Statements for the year ended 6-30-2010	www.abilitiesunited.org/privacy	Abilities United
Board of Supervisors meeting minutes and related documents from 9-29-1980 Board meeting Item #12	Santa Clara County Clerk of the Board Archive	Abilities United
Board of Supervisors meeting Summary, Transmittal and related documents for Item #70 from the 9-15-2009 Board meeting	www.sccgov.org	Ali Baba Corporation
Board of Supervisors meeting Summary, Transmittal and related documents for Item #25 from the 1-12-2010 Board meeting	www.sccgov.org	CIMR
Board of Supervisors meeting minutes and related documents for Item #17 from the 4-26-1988 Board meeting	Santa Clara County Clerk of the Board Archive	CIMR
Board of Supervisors meeting agenda, Transmittal and related documents for Item #94 from the 6-9-2009 Board meeting	www.sccgov.org	Mayview Community Health Centers
Board of Supervisors meeting Summary and related documents for Item #26 from the 1-14-1992 Board meeting	Santa Clara County Clerk of the Board Archive	Mid-peninsula Housing Coalition
Board of Supervisors meeting agenda, transmittal and related documents for Item #65 from the 9-29-2009 Board meeting	www.sccgov.org	San Jose University Research Foundation
Board of Supervisors meeting agenda, transmittal and related documents for item 22A from the 3-3-2009 Board meeting	www.sccgov.org	San Jose University Research Foundation
Board of Supervisors meeting agenda, transmittal, and related documents for item #72 from the 9-15-2009 Board meeting	www.sccgov.org	City of Campbell
Custody Audit – Financial Report of the Facilities and Fleet Department dated 10-1-2010	www.sccgov.org	NA
Custody Audit - Internal Controls of the Facilities and Fleet Department dated 8-1-2011	www.sccgov.org	NA

Appendix B: California Government Code Section 26227

“The board of supervisors of any county may appropriate and expend money from the general fund of the county to establish county programs or to fund other programs deemed by the board of supervisors to be necessary to meet the social needs of the population of the county, including but not limited to, the areas of health, law enforcement, public safety, rehabilitation, welfare, education, and legal services, and the needs of physically, mentally and financially handicapped persons and aged persons.

The board of supervisors may contract with other public agencies or private agencies or individuals to operate those programs which the board of supervisors determines will serve public purposes. In the furtherance of those programs, the board of supervisors may make available to a public agency, nonprofit corporation, or nonprofit association any real property of the county which is not and, during the time of possession, will not be needed for county purposes, to be used to carry out the programs, upon terms and conditions determined by the board of supervisors to be in the best interests of the county and the general public, and the board of supervisors may finance or assist in the financing of the acquisition or improvement of real property and furnishings to be owned or operated by any public agency, nonprofit corporation, or nonprofit association to carry out the programs, through a lease, installment sale, or other transaction, in either case without complying with any other provisions of this code relating to acquiring, improving, leasing, or granting the use of or otherwise disposing of county property.”

Appendix C: List of Properties Addressed in FAF Audit

EXHIBIT A

Below Fair Market Rent vs. Fair Market Rent

Item	Lessee	Property Use	Annual Rent Received	*Annual Fair Market Rent	Ground Lease?	On CBO List?	Board Approval Date	Lease Expiration Date
Nonprofits								
1	Abilities United	Children center/developmentally disabled	1	775,440	Yes	No	9/29/1980	4/11/2015
2	Abilities United	Adult center/developmentally disabled	1	324,000	Yes	No	9/29/1980	10/14/2024
3	Ali Baba Corporation	Adult residential facilities (ARF)	277,200	415,800	No	Yes	9/15/2009	9/30/2012
4	California Institute for Medical Research (CIMR)	Medical research laboratory	1	336,600	Yes	No	4/11/1988	12/31/2027
5	Catholic Charities	Classroom /Office	1,200	3,900	No	Yes	12/14/2004	Month to Month
6	Foster and Adoptive Parents (FAPA)	Office	-	57,120	No	No	6/7/2005	9/14/2011
7	Hope Rehabilitation Services	Center for the mentally disabled	1	268,528	No	Yes	4/27/1971	5/3/2021
8	Kidango (Excludes playground about 7,317 square feet)	Childcare and preschool services for SCVHHS, the County employees and low-income families	54,000	65,875	No	No	6/9/2009	7/31/2013
9	Mayview Community Health Center (Palo Alto)	Mayview community clinic	-	144,000	No	Yes	6/9/2009	6/30/2013
10	Mayview Community Health Center (Mountain View)	Mayview community clinic	-	67,968	No	Yes	6/9/2009	6/30/2013
11	Mid-peninsula Housing Coalition (VIVENTE 1)	An apartment for developmentally disabled people	1	1,760,180	Yes	No	1/14/1992	11/23/2037

Appendix C: List of Properties Addressed in FAF Audit - continued

Page 11
Facilities and Fleet (Fiscal Services & Building Operations Divisions, and Revenue Lease Ops) Internal Controls

Item	Lessee	Property Use	Annual Rent Received	*Annual Fair Market Rent	Ground Lease?	On CBO List?	Board Approval Date	Lease Expiration Date
12	Respite and Research for Alzheimer's Disease (RRAD)	Alzheimer's Day Care Center	-	79,200	Yes	No	4/26/1988	11/23/2037
13	San Jose State University Research Foundation	Aquatic instruction, recreation, education and rehabilitation services	**Based on revenue Maximum Rent \$10,000	1,170,185	No	No	9/29/2009	9/28/2012
Subtotal: Nonprofits			\$332,405	\$5,468,795				
City of Campbell								
1	City of Campbell	City park	-	2,038,608	Yes	N/A	9/15/2009	9/1/2034
Housing Authority								
1	Housing Authority of Santa Clara County	Arturo Ochoa Migrant Housing Center	1	1,082,983	Yes	N/A	5/24/1994	5/23/2044
County Office of Education								
1	County Office of Education	Holden Ranch school	1	74,880	No	N/A	8/12/2008	8/10/2018
2	County Office of Education	James Ranch school	1	74,880	No	N/A	8/12/2008	8/10/2018
3	County Office of Education	Sam Della Maggiore Center	1	130,205	Yes	N/A	No transmittal. License agreement only	7/1/2023
4	County Office of Education	Muriel Wright Girls' Ranch classroom	1	86,400	No	N/A	8/12/2008	8/10/2018
5	County Office of Education	Children's shelter	1	56,520	No	N/A	8/12/2008	8/10/2018
6	County Office of Education	Chandler Tripp School	1	780,120	Yes	N/A	5/3/2005	7/1/2023
7	County Office of Education	Osborne School	1	195,696	No	N/A	8/12/2008	8/10/2018
Subtotal: County Office of Education			\$7	\$1,398,701				
Totals			\$332,413	\$9,989,088				
BMFR Difference is \$9,656,088								

This report was **PASSED** and **ADOPTED** with a concurrence of at least 12 grand jurors on this 29th day of May, 2012.

Kathryn G. Janoff
Foreperson

Alfred P. Bicho
Foreperson pro tem

James T. Messano
Secretary