



# **Management Audit of the County of Santa Clara Facilities & Fleet Department's Property Management Division and the Administrative Space Committee**

**Prepared for the Board of Supervisors of the  
County of Santa Clara**

**March 28, 2024**

**Prepared by the  
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# County of Santa Clara

## Board of Supervisors

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March 28, 2024

Supervisor Otto Lee, Chair  
Supervisor Susan Ellenberg, Vice Chair  
Board of Supervisors' Finance and Government Operations Committee  
70 West Hedding Street San Jose, CA 95110

Dear Supervisors Lee and Ellenberg:

We have completed the Management Audit of the Property Management Division and the Administrative Space Committee. This audit was added to the Management Audit Division's work plan by the Board of Supervisors of the County of Santa Clara, pursuant to the Board's power of inquiry specified in Article III, Section 302(c) of the Santa Clara County Charter. This audit was conducted in conformity with generally accepted government auditing standards as set forth in the 2018 revision of the "Yellow Book" of the U.S. Government Accountability Office. The purpose of this audit was to examine the Property Management Division and the Administrative Space Committee to identify opportunities to increase their efficiency, effectiveness, and economy.

The report includes 6 findings and 21 recommendations related to the following:

- Developing policies and procedures to specify data ownership and management responsibilities for various types of property information;
- Documenting property acquisitions to ensure records relating to purchases or leases of property for County use are retained and properly stored;
- Conducting lease vs. buy cost benefit analyses for potential property acquisitions including documenting exceptions or waivers to this requirement;
- Updating Board policy on selection of real estate brokers for County use;
- Developing procedures for a request for qualifications process for the selection of real estate brokers and reassessing the qualifications of those included on the County's approved broker list;
- Documenting decision-making criteria and prioritization protocols for the Administrative Space Committee as well as members and their respective roles; and,

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Cindy Chavez  
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Otto Lee  
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**County Executive:** James R. Williams

- Developing policies and procedures for tracking, monitoring, and reporting on Space Requests.

In the attached joint response to this audit, the Facilities and Fleet Department and the Office of the County Executive agree with all 17 recommendations directed to them. Four recommendations concerning amendments to the Board Policy Manual are directed to the Board of Supervisors.

If implemented, the recommendations would:

- Improve data governance and information management leading to more comprehensive and accurate information on County property;
- Provide assurance that real estate transactions were performed consistently according to industry best practices and ensure records are complete and readily available;
- Ensure compliance with Board policy and provide assurance that properties acquired are the most cost-effective options available;
- Ensure the County is fairly selecting qualified real estate brokers who are free of conflicts of interest;
- Increase transparency to the Administrative Space Committee's process; and,
- Enable the Administrative Space Committee to set expectations and better communicate with departments regarding Space Requests.

We would sincerely like to thank the Property Management Division and the Administrative Space Committee for their thoughtful, patient, and professional cooperation and assistance throughout this audit.

Respectfully submitted,



Cheryl Solov  
Management Audit Manager

CC: Supervisor Sylvia Arenas  
Supervisor Cindy Chavez  
Supervisor S. Joseph Simitian  
Tony LoPresti, County Counsel  
James R. Williams, County Executive



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## Executive Summary

### **Finding 1: Property Data and Information Management**

Comprehensive and accurate property data and information is critical to the property management function. However, data and information on County property needed for effective property management is missing, unreliable, or outdated, and existing information is siloed and managed separately even though the Property Management Division (PMD) owns a property management system capable of integrating the various types of data. Information on County property is not maintained in the Archibus Real Estate module purchased for the PMD in 2017 and there is insufficient planning information, such as accurate, reliable square footage, employee occupancy, and vacant or underutilized space, for effective property management. To improve the accuracy of property information in its systems, the PMD will need to invest in ongoing monitoring and governance of data entered and enforce standards and processes for keeping property information as current as possible. PMD should develop policies that specify data ownership and management responsibilities for the various types of property information and procedures for updating and maintaining data as current as possible. In addition, PMD should prioritize the improvements to its property management system, provide training to staff on how to use the system, and report back to the Board of Supervisors on integration of property information into the system.

### **Finding 2: Retention of Property Acquisition Records**

PMD does not consistently retain records relating to real estate transactions as required by County and departmental retention policies. Documentation is either missing or incomplete and is not readily available. Although record-keeping has improved as shown by our review of five property acquisitions between 2018 and 2020, key documents such as comparative cost analyses and comprehensive reviews of building conditions are missing. In addition, the records PMD does have were not organized or readily available and required weeks to compile. PMD should develop written policies and procedures for documenting acquisitions to ensure that records relating to real estate transactions, such as the purchase or lease of property for County use, are retained in accordance with the departmental and Countywide retention schedules. PMD should include in these policies and procedures the use of a checklist to record when documents are received and key steps in the acquisition process have been completed. Training should be provided to Real Estate staff regarding retention of property acquisition records. Lastly, PMD should maintain a comprehensive list of real estate transactions, including purchases, dispositions, and leases.

### **Finding 3: Lease vs. Buy Cost-Benefit Analyses**

Prior to leasing or purchasing a property for County department or office use, PMD does not routinely conduct cost-benefit analyses for leasing versus purchasing the property. This is out of compliance with Board Policy Manual Section 5.9.5.1, contrary to real estate best practices, reduces transparency, and limits the Board's understanding of costs and the ability to consider viable alternatives. The absence of these analyses could lead to property leases and/or acquisitions being more costly than their worth to the County. There is also a risk that the County may purchase or lease a property without knowing whether there is a viable alternative at a similar or lower price. There may be valid, justifiable reasons for not conducting this analysis, but PMD does not document reasons for exceptions or waivers to this requirement, nor do they communicate this to the Board. PMD should conduct lease vs. buy cost benefit analyses for all potential property acquisitions in compliance with Board Policy Manual Section 5.9.5.1. Further, Board Policy Manual Section 5.9.5.1 should be amended to: include exceptions or waivers to the policy; require an attestation to the completion of cost-benefit analyses to be included in the public information file; and require certification of departmental compliance.

### **Finding 4: Selection of Real Estate Brokers**

PMD does not follow written policies or procedures related to the selection of real estate brokers included on the approved broker list for County use. Specifically, the Division does not issue a request for qualifications (RFQ) every five years for the selection of brokers included on the list, as required by Board Policy. In addition, PMD does not adequately maintain relevant documents related to the selection of brokers for County use, or verify brokers' licensure prior to being added, prior to soliciting broker services, or periodically to ensure all listed brokers' licensures are still active. As a result, there is no assurance brokers added to the list were evaluated and approved based on qualifications and expertise. Without the proper management and oversight of the selection of brokers for County use, there is a lack of transparency in terms of how brokers are selected. PMD should develop policies and procedures to certify compliance with Board Policy Manual Section 5.9.5.5.4, including a process for facilitating an RFQ process for the selection of brokers. Further, Board policy should be amended such that the list is valid for four (4) years rather than five (5) years consistent with State broker and salespersons licensing requirements and adding a provision requiring the semi-annually report to the Board to provide justification for the addition or removal of brokers from the list.

### **Finding 5: Administrative Space Committee and the Space Request Process**

Administrative tools used to guide the Space Request review process are not developed, documented or current, resulting in a process that is not transparent and a committee that cannot be held accountable. The criteria used to evaluate and prioritize requests are not readily understood, nor is the role and responsibilities of the individual committee members. Further, the meeting calendar and meeting minutes available to departments on the County intranet are not kept current. The Office of the County Executive (OCE) should develop and document decision-making criteria and prioritization protocols for the Space Committee, clearly identify roles and responsibilities of committee members, and maintain the meeting calendar and meeting minutes current. All of these items should be made widely available on the County's website and internal intranet site.



**Finding 6: Space Request Tracking, Monitoring, and Reporting**

While there is a formal process for County departments and non-County organizations to submit a Space Request and have that request reviewed and decided upon by the Space Committee, once the request is submitted and formally heard by the Committee, its status is not necessarily tracked, monitored, or reported. This leaves departments unable to either facilitate a resolution or otherwise mitigate planning, operational, or service delivery impacts. This also prevents the Space Committee and PMD from analyzing the Space Request process and workload. Both OCE and PMD should develop written policies and procedures for tracking, monitoring, and reporting on Space Requests, including routine and recurring communications with requesting departments until the Space Request is ultimately resolved. Further, PMD should assess Space Request timelines and staff workload to develop process efficiencies.

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## INTRODUCTION

This Management Audit of the Facilities and Fleet Department's Property Management Division and the Administrative Space Committee was added to Management Audit Division's Fiscal Year 2021–22 work plan by the Board of Supervisors, pursuant to the Board's power of inquiry specified in Article III, Section 302(c) of the County of Santa Clara Charter. The Board added this audit after considering the annual County-wide audit risk assessment conducted by the Management Audit Division in accordance with Board Policy.

## PURPOSE, SCOPE, AND OBJECTIVES

The purpose of the audit was to examine the operations and management practices of the Property Management Division, including the property management, planning and real estate functions, and to identify opportunities to increase efficiency, effectiveness, and economy. The audit excluded Property Management's Civic Center Parking function. Additionally, this audit examined the processes of the Administrative Space Committee, which receives and authorizes requests from County departments for additional space and licensing for special events.

This audit builds on the work of two prior audits and studies. The Management Audit Division issued the Management Audit of the Capital Programs Division in 2020. That audit considered the Countywide planning, prioritization, and budgeting practices for capital projects among various parties. Additionally, the Management Audit Division completed a special study of County-owned and leased properties managed by the General Fund and Roads and Airports departments. That study is a compendium resulting in an interactive dashboard and map of properties. These audits and studies differ from the Property Management Division and Administrative Space Committee management audit in that this audit assesses the acquisition and management of the County's real property.

Work on this audit began with an entrance conference on February 17, 2022, and a draft report was issued to the Facilities and Fleet Department and the Office of the County Executive on July 28, 2023. We also sent the draft audit report to the Office of the County Counsel.

An exit conference was held with the Facilities and Fleet Department and the Office of the County Executive on August 25, 2023 and a revised draft incorporating feedback from the exit conference was provided to the Facilities and Fleet Department and the Office of the County Executive for written response. This final report includes those written responses as Attachment A on page 53.

The audit's main objectives were to answer the following questions:

- Does the real property acquisition and management unit have in place effective controls and criteria to ensure (1) financially optimal long-term property acquisition/lease/sale decisions, including reasonable protections from potential conflicts of interest, influence or fraud, (2) accountability and performance monitoring of outcomes, and (3) timely outcomes that meet the County's strategic goals and needs?
- Does the Property Management function and the Administrative Space Committee have in place sufficient staff, information, records, systems, and other resources to fulfill their missions and meet the County's real property needs?
- Does the Property Management function effectively manage the leases and real property in its portfolio and effectively coordinate with County departments, the County Asset and Economic Development Manager, local planning departments, and private real estate brokers, donors, lobbyists, landowners/landlords?
- Does the Administrative Space Committee have an effective process to review and approve licensing of special events or property leases and acquisitions?
- Are there opportunities to improve the efficiency, economy or effectiveness of the County's real estate acquisitions, sales, and management practices?

## AUDIT METHODOLOGY

We conducted interviews with all staff levels, including the Chief of Facilities Planning and the Manager of Real Estate Assets. Additional interviews included meetings with Technology Services and Solutions and representatives from several departments to gather feedback about their experience with the Administrative Space Committee.

As part of the audit process, we requested documents related to the property management function, including:

- Organization charts and staff rosters.
- Strategic plans and planning criteria documents.
- Administrative Space Committee meeting minutes, agendas, and attachments.
- Administrative Space Committee records relating to workspace, storage space, and event licensing.
- Reports related to long-term real property plans, forecast and projections.
- Detailed documentation of selected property acquisition/lease planning materials, including, but not limited to, all related communications, meeting documents, requests, and outcomes for selected properties.
- Department and Division policies and procedures.

- State laws and regulations, local ordinances, charter provisions, Board and administrative policies, applicable codes of ethics, and other requirements related to real estate agent licensing, brokering, property acquisition and management, and related public records and meetings laws.
- A list of all contracts managed by the Property Management Division and any contracts managed by other County or component entities that relate to the acquisition or disposal of County owned or leased real property.
- Records of all real property transactions, whether carried out by the Property Management Division or not, on behalf of the County or its component units from January 1, 2019, through June 30, 2022, and any available analysis of the practical and financial factors taken into consideration in the acquisition and disposal of the property.
- Procedures governing the acquisition of property, addition of the property to the County's financial statements and insurance policies; and, the sale of property, removal of sold property from the County's financial statements and insurance policies.
- Other records as appropriate and necessary.

Generally, and as detailed in this report, the Property Management Division does not necessarily maintain sufficient documentation and records. Further, processes are not necessarily documented with written policies and procedures. Therefore, much of the audit field work depended on assessment of the limited available documentation and discussion with staff regarding processes.

### **Compliance with Generally Accepted Government Auditing Standards**

This management audit was conducted under the requirements of the Board of Supervisors Policy Number 3.35 as amended on May 25, 2010. That policy states that management audits are to be conducted under Generally Accepted Government Auditing Standards (GAGAS) issued by the U.S. Government Accountability Office. We conducted this performance audit in accordance with GAGAS as set forth in the 2018 revision of the "Yellow Book" of the U.S. Government Accountability Office. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. In accordance with these auditing standards, we performed the following procedures:

Audit Planning – This management audit was selected by the Board of Supervisors using a risk assessment tool and estimate of audit work hours developed at the Board's direction by the Management Audit Division. After audit selection by the Board, a detailed management audit work plan was developed and provided to the Facilities and Fleet Department and the Office of the County Executive.

Entrance Conference - An entrance conference was held with Facilities and Fleet Department and Office of the County Executive management to introduce the audit team, describe the audit program and scope of review, and to respond to questions. A letter of introduction from the Board and the audit work plan were also provided at the entrance conference.



Pre-Audit Survey - Audit staff reviewed documentation and other materials to obtain an overall understanding of the Property Management Division and the Administrative Space Committee's operations, and to isolate audit areas that warranted more detailed assessments.

Field Work - Field work activities were conducted after completion of the pre-audit survey and included interviews with program managers, real estate agents, planners, and analysts; review and analysis of property records; assessment of Administrative Space Committee records; and department surveys.

Draft Report - On July 28, 2023, a draft report was provided to the Facilities and Fleet Department and the Office of the County Executive to describe the audit progress, and to share general information on our preliminary findings and conclusions. We also provided the draft report to the Office of the County Counsel.

Exit Conference - An exit conference was held with the Facilities and Fleet Department and the Office of the County Executive on August 25, 2023 to obtain views on the report findings, conclusions, and recommendations, and to make fact-based corrections and clarifications as appropriate. Following this meeting, a Revised Draft was provided to the Facilities and Fleet Department and the Office of the County Executive on for use in preparing their formal written responses.

Final Report - A final report was prepared and issued on March 28, 2024. Written responses are attached to this report from the Department and Office of the County Executive as Attachment A on page 53.

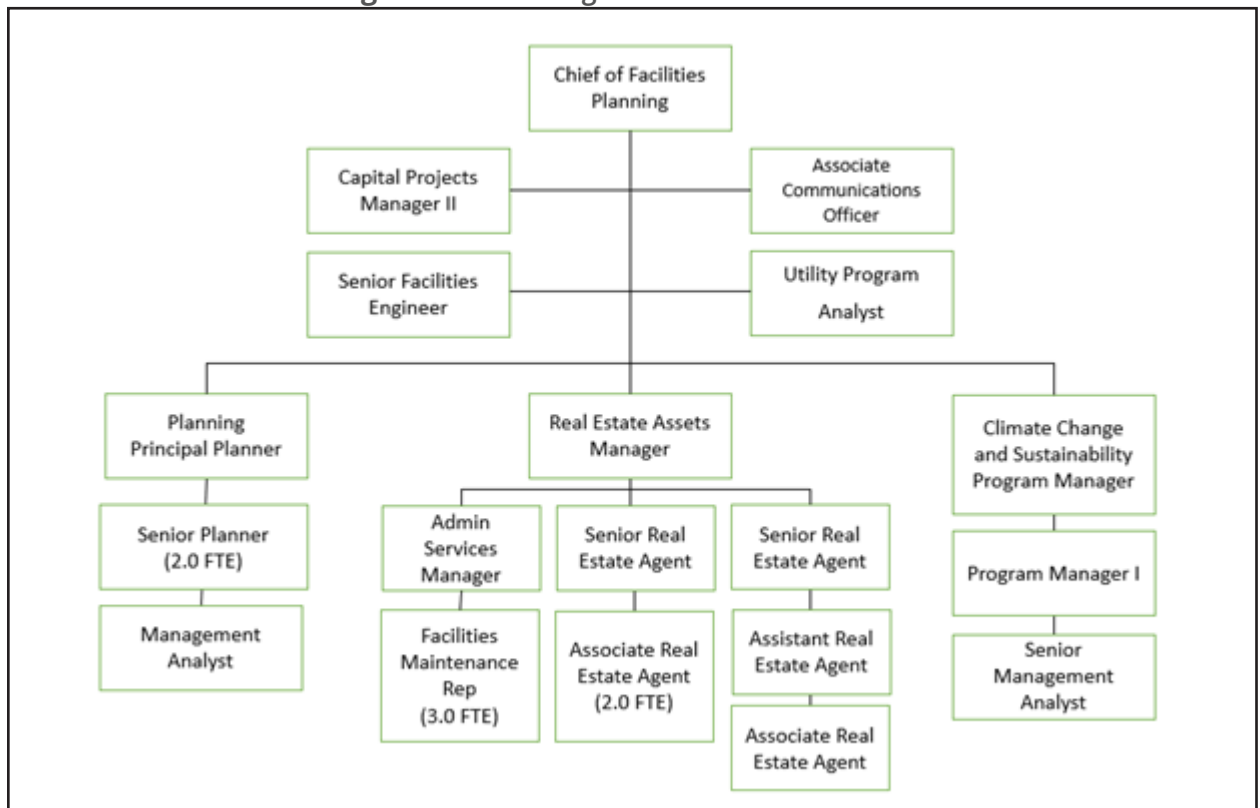
## **BACKGROUND**

The Property Management Division (PMD) is comprised of the Countywide facilities planning, real estate, and energy functions of the Facilities and Fleet Department. PMD provides for the acquisition and disposal of real property for the County, including real property lease management both as a lessor (County as owner) and as a lessee (County as occupant). As such, PMD is responsible for maintaining the Countywide inventory of real estate assets. The Planning group within PMD provides support to County Administration and departments for long-range and strategic Countywide space planning needs, including developing service model and operational plans, master planning, feasibility studies, projects scopes and prioritization of backlog and maintenance projects. Informed by facilities planning, the Real Estate group within PMD facilitates property acquisition through the purchase of vacant land and/or buildings or leasing of space to meet the needs of County departments. Property acquisition includes site search and selection, negotiation of terms, and preparation and management of associated documents, such as cost analyses, surveys, appraisals, title reports, and purchase agreements. The Real Estate group is also responsible for property management, including compliance with lease terms and real property agreements.

The Fiscal Year (FY) 2023–24 Recommended Budget funds PMD with \$85,129,560 in appropriations, a net cost of \$5,964,807, and 13.0 Full-Time Equivalent positions (FTEs). This is a \$6.8 million or 8.6% increase from the FY 2022–23 appropriation level of \$78.3 million and a \$2.2 million or 57.4% increase from \$3.8 million in net costs. The FY 2023–24 Recommended Budget increase is due to rents and lease costs increasing greater than the amount recovered by other County departments.

The following organization chart in Figure I.1 reflects the structure of PMD as of January 2022:

**Figure I.1: PMD Organization Chart <sup>(1)</sup>**



Source: Management Audit Division rendition of organization chart provided by PMD.

Note: (1) All positions are 1.0 FTE unless otherwise noted.

As can be seen in the organization chart, the assigned FTE are 23.0 while the PMD Recommended Budget reflects 13.0 FTE.

#### *The Administrative Space Committee*

The mission and goals of PMD are supported by the Administrative Space Committee (Space Committee). The Space Committee reviews internal and external requests from County departments and non-County organizations to facilitate planning and management of the County's owned and leased space and space requirements. According to the PMD website throughout our fieldwork and as of late March 2024, the Space Committee is comprised of the County Executive, the Chief Operating Officer, and the Budget Director. However, in late March 2024, the Budget Director advised that, although the County Executive has attended some past meetings, the County Executive is not a member of the committee and no longer attends the meetings. We cannot ascertain who attends the meetings because the meeting minutes do not list attendees. County departments seeking to make changes to existing space, use an alternative existing County space, or requesting additional County space must submit a request for consideration. The Committee also receives requests from external organizations seeking to temporarily use County facilities,

such as a parking lot or conference room. Between calendar years 2016 and 2022, the Committee received an average of 79 requests per year. The number of requests received per year ranged from a minimum of 22 in 2016 to a maximum of 105 in 2019.

The Space Committee is staffed by both the Office of the County Executive (OCE) and the Facilities and Fleet Department (FAF). Staff from OCE's Office of Budget and Analysis are responsible for administrative functions, such as recording minutes, saving determination letters issued to requestors, and updating the log used to track all space requests. Planning and Real Estate staff from FAF's PMD bring business before the Space Committee for official decision-making, advise the Committee members, and have individual requests referred to them for follow-up.

### **TOPICS REQUIRING ADDITIONAL REVIEW**

#### *Topic 1*

Throughout this management audit of PMD and its functions, written policies and procedures were not available to assist staff in performing their roles. Formal and documented policies and procedures are critical for the efficient and effective performance of any organization because they define and assign roles and responsibilities, establish process requirements, and standardize performance.

#### *Topic 2*

The lack of documentation and formal procedures for tracking and monitoring workload and PMD outputs and outcomes makes the assessment of staffing levels impossible. Once PMD has established written policies and procedures to support its processes, it should review staffing levels to ensure that the Division's resources are adequate and adequately assigned.

### **DEPARTMENT ACCOMPLISHMENTS**

Audits typically focus on opportunities for improvements within an organization, program, or function. To provide additional insight into PMD, we requested that it provide some of its noteworthy achievements. However, we did not receive a list of recent accomplishments from the auditee.

## RECOMMENDATION PRIORITIES

The priority rankings shown for each recommendation in the audit report are consistent with the audit recommendation priority structure adopted by the Finance and Government Operations Committee of the Board of Supervisors, as follows:

**Priority 1:** Recommendations that address issues of non-compliance with federal, State and local laws, regulations, ordinances and the County Charter; would result in increases or decreases in expenditures or revenues of \$250,000 or more; or, suggest significant changes in federal, State or local policy through amendments to existing laws, regulations and policies.

**Priority 2:** Recommendations that would result in increases or decreases in expenditures or revenues of less than \$250,000; advocate changes in local policy through amendments to existing County ordinances and policies and procedures; or, would revise existing departmental or program policies and procedures for improved service delivery, increased operational efficiency, or greater program effectiveness.

**Priority 3:** Recommendations that address program-related policies and procedures that would not have a significant impact on revenues and expenditures but would result in modest improvements in service delivery and operating efficiency.

## ACKNOWLEDGMENTS

We would like to thank the Property Management Division and the Facilities and Fleet Department, the Office of the County Executive, and departments who provided feedback and input regarding their experience with the Administrative Space Committee.

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## Section 1: Property Data and Information Management

### **Background**

The Property Management Division (PMD) is responsible for the acquisition and management of leased and owned facilities, as well as strategic and long-term planning. A conglomeration of data on County property, including a list of properties within the County's portfolio, occupancy, vacant space, lease information, and facility conditions, is needed for effective property management and to make informed decisions. In 2017, PMD purchased an integrated workplace management system to serve as a central repository where various types of property information can be stored and maintained.

### **Problem, Cause, and Adverse Effect**

Comprehensive and accurate property data and information is critical to the property management function. However, data and information on County property needed for effective property management is missing, unreliable, or outdated, and existing information is siloed and managed separately even though PMD owns a property management system capable of integrating the various types of data. Information on County property is not maintained in the Archibus Real Estate module purchased for the PMD in 2017 and there is insufficient planning information, such as accurate, reliable square footage, employee occupancy, and vacant or underutilized space, for effective property management. To improve the accuracy of property information in its systems, the PMD will need to invest in ongoing monitoring and governance of data entered and enforce standards and processes for keeping property information as current as possible.

### **Recommendations**

PMD should develop policies that specify data ownership and management responsibilities for the various types of property information and procedures for updating and maintaining data as current as possible. Policies and procedures should clearly state who the owner of each piece of information is and describe processes for updating and maintaining the data. In addition, PMD should prioritize the improvements to its property management system, provide training to staff on how to use the system, and report back to the Board of Supervisors on integration of property information into the system.

### **Savings, Benefits, and Costs**

Comprehensive and accurate property data and information leads to more efficient processes and cost savings. It reduces the risk of uninformed decision-making and reduces legal exposure. The costs of implementing the recommendations include the investment of time initially to establish policies, procedures, roles, and responsibilities, and then to maintain comprehensive and accurate property data and information in the Archibus system.

## **FINDING**

### **Data and Information Critical to Real Property Acquisition and Management**

Comprehensive and accurate property data and information is critical to the real property acquisition and management function. This data and information are necessary for effective portfolio management, including leased and owned properties, as well as for long-term and strategic planning. To address these needs, the Facilities and Fleet Department (FAF) purchased Archibus in 2013, an integrated workplace management system, as FAF's record of County property and property maintenance and repair work order system. In 2017, FAF purchased two additional applications for Archibus, Portfolio Management and Lease Administration, collectively called the Real Estate module, to serve as a central repository for property management data and information. The system has the capability to record a full suite of property data and information, including a list of sites, buildings, and land owned or leased by the County; classification structure; lease information; and building square footage and occupancy by department, building, floor, budget unit, or cost center. The cost of these additional features purchased for the Property Management Division (PMD) included one-time costs of \$53,924, plus annual subscription fees of \$1,962 for the software.

### **Special Study of County Property Owned and Leased**

In 2020, the lack of a reliable record of all properties owned and leased by the County prompted a Special Study of County Property Owned and Leased by the General Fund and Roads and Airports Departments, which commenced in September 2020 and was completed and issued to the Board of Supervisors in April 2022. The study identified 462 parcels, covering 1,949 acres owned or leased by the respective County departments. The study noted that no single system maintained comprehensive and accurate information of all County properties. Accordingly, the study used a compendium of resources to develop the County's portfolio of owned and leased properties. The study noted issues and limitations with County property data and information, including missing and inaccurate information, unusable area and square footage of buildings, inconsistent grouping and categorizing of property, and a lack of comprehensive Countywide planning information. The size of the portfolio and length of time needed to complete the study speaks to the amount of time and effort needed to compile comprehensive information on County properties. As such, all documentation and records related to the study were provided to FAF and Roads and Airports departments to assist them with the maintenance of their information systems.

## Real Property Asset Management Best Practices

In 2012, the Urban Institute, a nonprofit research organization, published a guidebook documenting best practices for real property asset management for local governments.<sup>1</sup> The guidebook lists key elements of private-sector practices that local governments should apply to asset management to improve local government accountability and transparency, which are summarized in five principal areas:

1. Build a property database.
2. Classify properties according to their relation to government functions.
3. Create a department dedicated to asset management.
4. Formulate a strategic role for real estate in attaining municipal goals.
5. Implement portfolio management practices (e.g., monitoring asset performance and planning and executing long-term strategies).

The guidebook also recommends 14 activities for their proposed asset management model, including building and maintaining a database, classifying properties by use, developing a comprehensive asset management plan, and reporting on property. Considerations, examples, and practical solutions to potential challenges are offered. For example, methods of addressing common inventory problems, such as databases that are incomplete and inaccurate or the lack of a central location or body that consolidates property information, are discussed. Further, the proposed asset management model emphasizes the importance of a long-term, disciplined, and organized process of database creation and maintenance, use of a single database that can be accessed by various groups, and establishing appropriate communication channels to exchange information.

### Current Status of Countywide Property Data and Information Management is Deficient

While comprehensive and accurate property data and information is needed for effective property management and planning, FAF and PMD continue to not maintain a list of properties within the County's asset portfolio and do not maintain current data and information necessary for planning, including occupancy, square footage, and property classification. We requested a record of all properties currently owned and leased by the County from PMD and were subsequently directed to FAF's Fiscal Unit. Further, FAF Planning staff report that they have difficulty maintaining their own internal spreadsheet and, therefore, also rely on building occupancy information maintained by the Fiscal Unit.

FAF's Fiscal Unit maintains select property data and information for financial reporting and cost allocation purposes. This data and information are limited, some of which is only updated once a year. The Fiscal Unit is neither the owner nor the source of property information. Rather, they are a user of property data and, therefore, should not be relied upon to be PMD's source to fulfill its property management and strategic planning responsibilities. For example, Planning uses changes in building occupancy percentages tracked by the Fiscal Unit annually to estimate changes in employee locations. However, Planning staff are privy to changes in County space

<sup>1</sup> [Guidebook on Real Property Asset Management for Local Governments | Urban Institute](#)

usage throughout the year, and while staff report that the Planning group has a good sense of where there is vacant County space, this information is not tracked or documented. The Fiscal Unit also lacks reliable information on square footage and types of uses for County properties which are also essential for planning and property management. Building square footage is either missing or unusable because the basis of the square footage (e.g., gross, net, assignable, rentable, etc.) is not recorded by the Fiscal Unit. Further, classification of properties into useful categories, such as parking, office building, medical facility, etc. is not maintained in Archibus, making it difficult to provide this information quickly and efficiently. As a result, it is unclear how the Planning group assesses and determines whether space requests from departments can be accommodated with existing space. Outdated or inaccurate occupancy data can lead to poor property decisions or inefficient use of space. The lack of comprehensive, reliable planning information limits the County's ability to perform meaningful long-term and strategic planning. The ability to identify usable existing space is extremely important in Silicon Valley since buying facilities is expensive, and construction of new facilities on owned land tends to take many years.

Further, as discussed in Section 2, starting on page 19 of this report, the Real Estate group was unable to provide a comprehensive list of property acquisitions. As part of audit fieldwork, a list of all purchases and purchase or lease attempts was requested to inform a workload analysis and to select a sample of properties to review documentation for as case studies, but PMD does not track or maintain a list of real estate transactions or attempted acquisitions. Without this information, auditors were limited in our case studies sample selection and unable to fully assess staff workloads. The absence of this information also reduces transparency.

### **Data is Not Integrated and the Property Management System is Underutilized**

While the Real Estate module of the Archibus system was purchased in 2017, it has never been fully implemented or integrated into PMD's processes. As a result, existing property data and information is managed separately and independently by staff using spreadsheets and other tools resulting in siloed and piecemeal data and information that is not only not accessible and not integrated, but also incomplete and not current, as discussed previously.

The Real Estate module has several property management features available. For instance, the property management system is capable of storing information on department occupancy at the building or floor level, but PMD's Planning group does not use this feature. The system is also capable of assigning different classifications to properties such as parking, office building, medical facility, etc. but this information is not maintained. In addition, Real Estate staff do not maintain the Lease Administration feature in the property management system even though it can record all the lease information now compiled and managed in a separate spreadsheet. As a result, lease information stored in the system is incomplete and outdated.

Full implementation of existing system capabilities and incorporation into PMD processes would integrate property data and information into a single source. This would result in not only complete and accurate property data and information, but also would result in process efficiencies and better informed decision-making. As an example, standard system reports could include reports on vacant space, leases that are coming up for renewal, and maintenance and other costs for specific facilities.

### *Improvements to the Property Management System*

Even though the system was purchased over 5 years ago and never fully implemented, FAF is pursuing system enhancements. PMD reports that the current Real Estate module functionality does not meet its needs with respect to its lease information. Further, PMD would like to integrate condition assessments into the module. As part of this process, FAF is seeking the following system enhancements that are estimated to cost approximately \$267,000:

- Incorporating lease information as a link for leased facilities;
- Setup of access to Manage Property view;
- Additional fields added to the Lease Amendments Table; and
- Add field visibility capability to Lease Management Console.

As of March 2023, FAF was in the process of finalizing the Statement of Work, which was under review at the time by the Office of County Counsel and the Procurement Department. Staff report that it is anticipated that the enhancements to Archibus will be implemented sometime during the first quarter of FY 2023–24.

### *Facility Condition Assessments*

As noted above, condition assessments are not currently integrated with the Archibus system. Condition assessments of County facilities are performed by a contractor on a 5-year cycle and stored in a separate web-based database. In 2022, FAF chose to let the contract with the County's former vendor for facility condition assessments expire to explore other options with the goal of having condition information stored and integrated into Archibus. In March 2022, PMD began developing a request for proposals (RFP) for a new vendor that could meet these requirements. However, as of March 2023, a year later, the RFP had not yet been completed and issued. According to FAF staff, the RFP has not been issued because FAF is exploring whether the collection of other property information, such as square footage, employee occupancy, and number of workstations, can be incorporated into the RFP and completed by the new vendor.

PMD should fully implement the Real Estate module of the Archibus system, integrate it into its processes, and report back to the Board of Supervisors on integration of property information into the system. Further, PMD staff should be provided with training on how to enter and update data in the system and how to extract reports and information.

### **No Clear Data Ownership Structure or Policies and Procedures on Information Management**

PMD has not clearly defined roles and responsibilities, nor has it implemented policies and procedures, with respect to property data and information management. Every piece or type of data needs an owner, and it benefits FAF and the County to have property information integrated. Because a sustained commitment is required to keep the information accurate and usable, FAF should invest in ongoing monitoring and governance of data entered in the systems and determine how to use data in a more methodical way to plan for future property decisions. In addition, FAF should



develop policies that specify data ownership and management responsibilities for the various types of property information. Policies should clearly state who the owner of each piece of information is and describe processes for updating and maintaining data as current as possible.

## CONCLUSION

Comprehensive and accurate property data and information is critical to the property management function. However, data and information on County property needed for effective property management is missing, unreliable, or outdated, and existing information is siloed and managed separately even though PMD owns a property management system capable of integrating the various types of data. Information on County property is not maintained in the Archibus Real Estate module purchased for the PMD in 2017 and there is insufficient planning information, such as accurate, reliable square footage, employee occupancy, and vacant or underutilized space, for effective property management. To improve the accuracy of property information in its systems, the PMD will need to invest in ongoing monitoring and governance of data entered and enforce standards and processes for keeping property information as current as possible.

## RECOMMENDATIONS

### The Property Management Division should:

- 1.1 Develop policies that specify data ownership and management responsibilities for the various types of information relevant to property management and develop procedures for updating and maintaining data as current as possible. Policies should clearly state who the owner of each piece of information is and procedures should describe processes for maintaining information. In addition, these policies and procedures should require the Property Management Division to manage and maintain their own list of County owned and leased properties for their own purposes and require the Planning group to create a process for regularly surveying and updating occupancy information, such as meeting monthly or quarterly to discuss department moves and other changes in building occupancy and employee locations. Planning should also maintain a list of vacant space so that this information is readily available and can be used to inform decisions regarding County space. (Priority 1)
- 1.2 Provide training to staff on how to use the integrated property management system, including how to extract, enter, and update data in the Archibus system. (Priority 2)
- 1.3 Report back to the Board of Supervisors on integration of property information into the Archibus system. (Priority 2)

## SAVINGS, BENEFITS, AND COSTS

Comprehensive and accurate property data and information leads to more efficient processes and cost savings. It reduces the risk of uninformed decision-making and reduces legal exposure. The costs of implementing the recommendations include the investment of time initially to establish policies, procedures, roles, and responsibilities, and then to maintain comprehensive and accurate property data and information in the Archibus system.

## Section 2: Retention of Property Acquisition Records

### Background

Documents related to real estate transactions that qualify as “Official Records” as defined by Board Policy must be effectively managed to ensure proper retention. According to the Facilities and Fleet Department’s (FAF) Departmental Record Retention and Destruction Schedule, records related to the acquisition of owned and leased properties must be retained for the duration of the life of the property within the County’s portfolio. The Countywide retention policy requires the retention of lease records for seven years after termination of the lease. Appropriate record retention provides assurance that County staff conducted due diligence prior to major property acquisitions; reduces risk and financial liability in case of disputes; and assists in strategic planning.

### Problem, Cause, and Adverse Effect

PMD does not consistently retain records relating to real estate transactions as required by County and departmental retention policies. Documentation is either missing or incomplete and is not readily available. Records of older transactions were not properly retained and stored in a shared space for future access. Although record-keeping has improved as shown by our review of five property acquisitions between 2018 and 2020, key documents such as comparative cost analyses and comprehensive reviews of building conditions are missing. In addition, the records PMD does have were not organized or readily available and required weeks to compile.

### Recommendations

PMD should develop written policies and procedures for documenting acquisitions to ensure that records relating to real estate transactions, such as the purchase or lease of property for County use, are retained in accordance with the departmental and Countywide retention schedules. PMD should include in these policies and procedures the use of a checklist to record when documents are received and key steps in the acquisition process have been completed. Training should be provided to Real Estate staff regarding retention of property acquisition records. Lastly, PMD should maintain a comprehensive list of real estate transactions, including purchases, dispositions, and leases.

### Savings, Benefits, and Costs

Implementation of these recommendations would not have a direct fiscal impact, but it would ensure compliance with County record retention policies and State law and would also reduce risk in instances of disputes and litigation. Proper retention of property acquisition records, the use of a checklist, and staff training would provide assurance that transactions were performed consistently according to industry best practices and ensure records are complete and readily available.

## **FINDING**

### **The Property Management Division's Role in Property Acquisitions**

The Property Management Division (PMD) is responsible for the acquisition, leasing, and sale of County property. PMD's Planning staff work with County departments to understand their criteria and programmatic needs, and PMD's Real Estate staff are responsible for the duties related to the actual transaction, such as exploring available options, correspondence with the seller or landlord, and finalizing the purchase or lease. Throughout this process, the purchase of real property involves site search and selection, negotiations of terms of a sale, title reports, surveys (i.e., environmental, topographic, boundary, and building), appraisals, and development of a purchase agreement. Leasing involves site search and selection, formal appraisal, comparative cost analysis, building surveys, negotiations, estimating and implementing building improvements, developing a lease agreement, and establishing a payment schedule. All of these activities involve the development or gathering of extensive documentation.

### **Documentation of Real Estate Transactions are "Official Records"**

Per Board Policy Manual Section 3.57.3, the County must effectively manage and ensure the proper retention of records: 1) to ensure availability of information; 2) because the law requires that certain types of Official Records must be retained for specified time periods; 3) to ensure public access to records pursuant to the California Public Records Act; and 4) to enable the County to properly implement Litigation Holds which require the preservation of relevant records as soon as the County anticipates litigation against or by the County.

Some documents related to real estate transactions are "Official Records" as defined by Board Policy. According to Board Policy Manual Section 3.57.2, Official Records include records: prepared and retained to disseminate information to the public; memorializing an official transaction; required by law or regulation to be retained; and those made or retained for the explicit purpose of preserving informational content. Preliminary drafts, notes, or memoranda used in the preparation of Official Records may themselves be Official Records when their retention is necessary for one of the purposes described above. If an email is sent for one of these purposes (e.g., to memorialize an official transaction), the email can be considered an Official Record, too. Further, whether a record constitutes an Official Record is a determination made by the department with custody of the record. Therefore, real estate transaction records qualifying as Official Records under Board Policy Manual Section 3.57.3 must be retained consistent with the adopted record retention and destruction schedules.

### **Countywide and Departmental Record Retention Policies**

According to the Countywide Record Retention and Destruction Schedule, records relating to the acquisition of fixed assets should be retained for five years. FAF's departmental Record Retention and Destruction Schedule for Real Estate/Property Management requires that acquisition records be retained for the duration of the life of the property within the County's portfolio (i.e., so long as the County owns or leases the property). This includes grant deeds, easement deeds, title reports, title policies, appraisals, maps, purchase and sale agreements, letters of intent, escrow, and option agreements.

Records of leases, including lease agreements, amendments, monitoring records, insurance certificates, capital improvements and alteration records, building permits, plans and specifications, and as-built plans, should also be retained throughout the life of the property within the County's portfolio (i.e., until termination of the lease), per FAF's Record Retention and Destruction Schedule. The Countywide Record Retention and Destruction Schedule, however, requires the retention of records of real property leases for seven years after the termination of the lease. This includes documentation of rental agreements, capital leases, operational lease agreements, or any other similar agreement and amendments, according to the Countywide policy.

In sum, records of purchases must be retained until the property is no longer owned by the County and lease records should be retained up to seven years after the lease is terminated per Countywide and departmental retention policies.

### **Real Estate Industry Best Practices**

Performing due diligence on real estate purchases is recognized as an industry best practice and is key to ensuring the County is making a good investment and mitigating potential unknown risks or future costs.<sup>2</sup> The planning and decision-making processes should be documented. Building acquisitions should fit into an overall space requirements strategic plan. Each building acquisition should have a specific purpose and business case to avoid the risk of buildings sitting vacant or underutilized for their intended purpose. Further, due diligence requires staff involved in property acquisitions to: review floor plans, unit descriptions, site plans, and architectural drawings; walk through the property to verify conditions; review all contracts and other documents related to the property (e.g., inspections, insurance policies, leases, easements, and any warranties or guarantees); and have the property inspected by experts such as engineers. Cross-checking the appraisal with an independent source is also recommended.<sup>3</sup>

Records and documentation of the decision-making process and property acquisitions are needed for PMD to provide assurance that the County did its due diligence prior to major purchases and knew the condition and costs associated with the purchase (i.e., that it was a good investment).

### **Case Studies: Request for Records Relating to Property Acquisitions**

As part of audit fieldwork, a sample of six property acquisitions that occurred between 2005 and 2019 were selected for review. The sample included two major purchases of office campuses and four leases. While leases were chosen from the County's FY 2021–2022 lease payment schedule, both purchases were subjectively selected because PMD does not maintain a current and comprehensive list of owned and leased properties or recent transactions.

The purpose of these case studies was to review and evaluate PMD's processes and practices regarding real estate transactions. Older transactions, a lease from 2008 and another from 2005, were included for comparison, to assess changes over time, and because the properties are still within the County's portfolio (i.e., the properties are still being leased by the County). See Figure 2.1 on page 22 for the list of properties included in our initial request.

<sup>2</sup> [Real estate due diligence: What to know before you acquire a property, www.plantemoran.com.](http://www.plantemoran.com)

<sup>3</sup> [Sound Transit: Performance Audit on Real Property Acquisition, www.soundtransit.org.](http://www.soundtransit.org)

**Figure 2.1: Initial Case Studies List**

<b>Name/Address</b>	<b>Year of Transaction</b>	<b>Type</b>	<b>Purchase Price or Annual Rent <sup>(1)</sup></b>
<b>Champion Point a.k.a. Tasman Campus, San Jose</b>	2018	Purchase	\$178.42 million
<b>Silver Creek Campus, San Jose</b>	2018	Purchase	\$58.00 million
<b>2144 Oakland Road, San Jose</b>	2019	Lease	\$1.09 million
<b>353 W. Julian Street, San Jose</b>	2019	Lease	\$7.88 million
<b>2730 Junction Ave, San Jose</b>	2008	Lease	\$1.92 million
<b>125 Ciro Ave, Suite 201, San Jose</b>	2005	Lease	\$781,500

*Source: Management Audit Division review of County records.*

*Note: (1): Annual rent amounts are based on the County's lease payment schedule for FY 2022–23.*

We requested all key documentation or records relating to purchase and lease transactions for the properties in Figure 2.1 above. Key documentation for real estate transactions includes, but is not limited to:

1. Site search and selection,
2. Cost-benefit analyses comparing all viable alternatives (e.g., purchase vs. lease),
3. Original due diligence materials (e.g., building surveys, reviews of building conditions and systems, and seller or landlord disclosures),
4. Formal property appraisals,
5. Negotiations of terms of a sale or terms of a lease (e.g., maintenance, utilities, Tenant Improvements, and payment schedule),
6. All executed materials (e.g., letter of interest, title reports, grant and easement deeds, purchase/sale and lease agreements), and
7. Information presented to the Board of Supervisors.

#### *Records of Older Transactions are Missing*

Records of older transactions for properties still within the County's portfolio were not retained or readily available. PMD was unable to provide any records for three property acquisitions that occurred between 2005 and 2019 to review as case studies. Staff report that records or documentation for older transactions or for those that



involved former staff are not accessible because much of it was kept in emails rather than a shared space. Thus, when staff leave, any documents or materials located in emails, along with institutional knowledge or memory of the transaction, are lost because they are not properly stored for retention.

As a result, three lease transactions from 2005, 2008, and 2019, respectively, were removed from the request and replaced by two properties suggested by PMD staff, a leased facility acquired in 2019 and the 2020 purchase of a medical office building adjacent to St. Louise Regional Hospital in Gilroy. As noted above, selection of purchases as case studies was limited because PMD does not maintain a list of real estate transactions. The two major purchases of the Champion Point and Silver Creek office campuses and one of the leases for the Social Services Agency's Julian Street campus from the original request were retained, resulting in a revised list of five transactions that occurred between 2018 and 2020 for review.

See Figure 2.2 below for the final, revised list of properties reviewed as case studies.

**Figure 2.2: Revised Case Studies List**

<b>Name/Address</b>	<b>Year of Transaction</b>	<b>Type</b>	<b>Purchase or Annual Rent <sup>(3)</sup></b>
<b>Champion Point a.k.a. Tasman Campus, San Jose</b>	2018	Purchase	\$178.42 million
<b>Silver Creek Campus, San Jose</b>	2018	Purchase	\$58.00 million
<b>9360 No Name Uno, Gilroy <sup>(1)</sup></b>	2020	Purchase	\$7.20 million
<b>353 W. Julian Street, San Jose</b>	2019	Lease	\$7.88 million
<b>2305 Bering Drive, San Jose <sup>(2)</sup></b>	2019	Lease	\$508,000

*Source: Management Audit Division review of County records.*

Notes:

(1): The purchase of 9360 No Name Uno in Gilroy was added to the initial case studies request.

(2): The lease at 2305 Bering Drive in San Jose was added to the initial case studies request.

(3): Annual rent amounts are based on the County's lease payment schedule for FY 2022–23.

While staff report that record retention has improved over time and especially in recent years, resulting in better and more complete documentation for more recent transactions, one of the properties dropped from the initial request per PMD's suggestion was a warehouse lease from 2019 (2144 Oakland Rd in San Jose). The lease, held by FAF as the occupant department, is for a term of 12 years at an annual cost of approximately \$1.09 million. PMD's request to have the lease removed from the sample indicates, at a minimum, that records were not retained or readily available for that particular transaction despite it being relatively recent at the time of the audit. It could also indicate that the transaction may have been problematic for other reasons.

### *Existing Acquisition Records are Incomplete and Not Readily Available*

For the sample of case studies, PMD staff took approximately seven weeks (from May 6, 2022 to June 24, 2022) to provide documentation of requested properties, indicating that files were not readily accessible. To note, PMD does not have written internal procedures for documenting real estate transactions to ensure the files are properly retained and readily available.

Although the review of acquisitions records confirmed staff reports that the documentation and record retention has improved over time, PMD still failed to provide all relevant documentation. We found that records of more recent purchases and leases are missing key documentation, such as comparative cost analyses, documentation of tours, inspection reports, and complete assessments of facilities to verify the condition and costs. For example, although the acquisition purchase of the Silver Creek campus in 2018 included contracted assessments of storm drainage, sanitary sewer systems, and the exterior and roof of the buildings, there is no documented review of the interior of the building to ensure the County knew the condition and costs associated with the purchase. Staff report that all properties are toured and inspected prior to a purchase or lease, but documentation was not retained. However, multiple FAF staff reported several issues with the property, including a lack of clearly articulated intended use. Further, improvements were needed, including replacement of single-pane windows, but no funding or plan was in place to do so.

### **Consequences of Failure to Retain Records Relating to Real Estate Transactions**

There are significant consequences for failure to retain records of real estate transactions. Without proper retention of real estate transaction records, PMD is out of compliance with County and department policies. Further, PMD is unable to provide assurance that transactions involving millions of dollars were performed in accordance with industry best practices. There is insufficient evidence to show that due diligence and other crucial steps in the acquisition process were followed for acquisitions of owned and leased properties. This exposes the County to unnecessary risk, including the risk that due diligence for property acquisitions is not being performed, the risk of poor decision-making or decision making that is not the best interest of the County, and the risk in the case of disputes and litigation. Finally, the failure to maintain records hinders planning and future decision-making.

### **CONCLUSION**

PMD does not consistently retain records relating to real estate transactions as required by County and departmental retention policies. Documentation of property acquisitions is either missing or incomplete and is not readily available. Records of older transactions were not properly retained and stored in a shared space for future access. Although there is better record-keeping for more recent transactions as shown by our review of five property acquisitions between 2018 and 2020, key documents such as comparative cost analyses and comprehensive reviews of building conditions are missing. In addition, the records PMD does have were not organized or readily available and required weeks to compile.

## RECOMMENDATIONS

### The Property Management Division should:

- 2.1 Develop written internal policies and procedures for documenting acquisitions to ensure that records relating to real estate transactions, such as the purchase or lease of property for County use, are retained in accordance with State law and the departmental and Countywide retention schedules. The procedures should require the retention of all relevant email correspondence. Files should be organized into a closing folder and clearly labeled for easy and future access. (Priority 1)
- 2.2 To facilitate retention records in recommendation 2.1 and to ensure acquisitions are conducted according to industry standards and best practices, implement the use of a checklist to record when documents are received and when key steps in the acquisition process have been completed. (Priority 1)
- 2.3 Provide training to Real Estate staff on the policies and procedures developed as part of recommendation 2.1 and the checklist in recommendation 2.2 so that staff are properly documenting and retaining records relating to real estate transactions. (Priority 1)
- 2.4 Record and maintain a comprehensive list of property acquisitions to increase transparency and information available regarding property acquisitions. (Priority 2)

## SAVINGS, BENEFITS, AND COSTS

Implementation of these recommendations would not have a direct fiscal impact but would ensure compliance with State law and the County record retention policies and would also reduce risk of due diligence not being performed. Proper retention of property acquisition records, the use of a checklist, and staff training would provide assurance that transactions were performed consistently according to industry best practices and ensure records are complete and readily available.

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## Section 3: Lease vs. Buy Cost Benefit Analyses

### Background

Per Board Policy Manual Section 5.9.5.1, prior to a request for the lease or purchase of property for County department or office use, the applicable County property managing department must conduct a cost-benefit analysis for leasing versus purchasing the property. For Santa Clara County, this responsibility is assumed by the Property Management Division (PMD). The requesting department must develop a written plan demonstrating the fiscal, operational, and management objectives associated with the need for the property and its intended use. Using this written plan, the property managing department must develop an analysis to determine the cost-benefit of leasing versus purchasing the property.

### Problem, Cause, and Adverse Effect

PMD does not routinely conduct cost-benefit analyses prior to leasing or purchasing a property for County department or office use. Therefore, PMD is out of compliance with Board Policy, thereby limiting the Board's understanding of costs and ability to consider viable alternatives. In addition, PMD is not adhering to real estate industry best practices. There may be valid, justifiable reasons for not conducting this analysis, but PMD does not document reasons for exceptions or waivers to this requirement, nor do they communicate this to the Board. This is out of compliance with Board policy, contrary to real estate best practices, reduces transparency, and limits the Board's understanding of costs and the ability to consider viable alternatives. The absence of these analyses could lead to property leases and/or acquisitions being more costly than their worth to the County. There is also a risk that the County may purchase or lease a property without knowing whether there is a viable alternative at a similar or lower price.

### Recommendations

PMD should conduct lease vs. buy cost benefit analyses for all potential property acquisitions in compliance with Board Policy Manual Section 5.9.5.1. Further, Board Policy Manual Section 5.9.5.1 should be amended to: include exceptions or waivers to the policy; require an attestation to the completion of cost-benefit analyses to be included in the public information file; and require certification of departmental compliance.

### Savings, Benefits, and Costs

Implementing procedures for conducting the required cost-benefit analyses, including documenting exceptions or waivers, will ensure compliance with Board Policy 5.9.5.1, align with real estate best practices, and increase transparency. In addition, ensuring these analyses are conducted where applicable and presented to the Board will likely result in significant cost savings for the County and provide assurance that properties acquired are the most cost-effective options available and that viable alternatives were considered.

## **FINDING**

### **Background**

Prior to a request for the lease or purchase of property for County department or office use, Board Policy (Section 5.9.5.1) requires the development of a cost-benefit analysis for leasing versus purchasing the property. For Santa Clara County, this responsibility is assumed by the Property Management Division (PMD) of the Facilities and Fleet Department (FAF). The requesting department must develop and present a written plan to the applicable property managing department demonstrating the fiscal, operational, and management objectives associated with the need and intended use of the property. The property managing department works with the requesting department to develop specifications for the lease or purchase. Based on the written plan and other relevant material, the property managing department is required to then develop a cost-benefit analysis of leasing versus purchasing the property prior to the lease or purchase. This policy was adopted by the Board of Supervisors on September 10, 2013.

### **Cost-Benefit Analyses Identified as Real Estate Industry Best Practices**

In addition to being required by Board Policy, performing cost-benefit analyses prior to property acquisitions have been identified as an industry best practice. The City of San Diego's Office of the City Auditor conducted an audit of the City's building acquisition process in 2021 which identified economic analyses that "clearly lay out all costs and compare viable alternatives" as a "Real Estate Best Practice". Best practices identified in that audit were determined through a review of real estate industry best practices, audits from other cities, prior reviews of the City of San Diego's real estate department, and interviews with other government agencies. A lack of these analyses leaves decision makers unaware of the true cost of the building and could lead to a purchase or lease of a building more than its worth. Further, presenting this information to the Board increases transparency and decision-makers' ability to make fully informed decisions and is also considered a best practice.

### **Non-Compliance with Board Policy to Conduct a Lease vs. Buy Analysis of Real Estate Transactions**

PMD does not routinely conduct cost-benefit analyses prior to leasing or purchasing a property for County use. As a result, PMD is out of compliance with Board Policy and there is no assurance that viable alternatives were considered or that purchases or leases were the most affordable option available at the time of the acquisition. As part of audit fieldwork, documentation for five recent property acquisitions, including both purchases and leases, was reviewed. Of the five properties, only one included the required cost-benefit analysis. We received a PowerPoint presentation that was presented to the Office of the County Executive on March 9, 2018 and an internal spreadsheet titled "Lease Comparison Worksheet", demonstrating compliance with the cost-benefit analysis policy for the purchase of the Champion Point Campus, also known as the Tasman Campus<sup>4</sup>. The purchase of the Tasman Campus followed a County Space Demands Study conducted by FAF. The study determined the County's outstanding space needs for County departments were approximately 550,000 gross square feet. The Tasman Campus provided 435,000 square feet of additional space.

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4 24.35 acres of land at 110, 130, 150, and 180 West Tasman Drive in San Jose.



The cost to purchase the property (\$174 million) was compared to the cost of a 10-year lease inclusive of County tenant improvement contributions (\$228.25 million). The Board approved the acquisition of the property in June 2018 for \$174 million, which was approximately \$54 million less than the estimated cost for a 10-year lease according to the analysis.

There was no evidence PMD conducted a similar analysis for the other remaining four transactions reviewed. The four transactions included:

- The \$58.0 million purchase of the Silver Creek Campus in San Jose in October 2018;
- The \$7.2 million purchase of the No Name Uno in Gilroy in November 2020;
- The five-year lease approved August 2019 for 2305 Bering Drive for a total leasing cost of \$2.6 million, or approximately \$0.5 million annually; and
- The twelve-year lease approved January 2018 for 353 W. Julian Street for a total leasing cost of \$102.5 million, or approximately \$8.5 million annually.

The \$58.0 million purchase of the Silver Creek Campus was for 5965 Silver Creek Valley Road, 5905 Silver Creek Valley Road, 5845 Hellyer Avenue, 5750 Fontanoso Way, 5710 Fontanoso Way, and approximately 7.9 acres on undeveloped land on Embedded Way. The purchase included all buildings located at these addresses and a total of 33.3 acres of land. According to the Notice of Intent to purchase the Silver Creek Campus presented to the Board of Supervisors on September 11, 2018, PMD received an unsolicited proposal on April 30, 2018 from M West Propco XVII LLC for the purchase of the 5965 Silver Creek Valley Road, 5905 Silver Creek Valley Road, 5845 Hellyer Avenue, 5750 Fontanoso Way, and 5710 Fontanoso Way ("Property One") for \$51.0 million. According to the documentation, in addition to the consideration of the acquisition of Property One, PMD also considered the acquisition of the nearby vacant parcel located on Embedded Road ("Property Two"), which was available for sale by an affiliate of M West Propco XVII LLC for \$7.0 million. Figure 3.1 on page 30 provides the details of the Silver Creek Property and the proposed price and gross square footage of the property.

**Figure 3.1: Silver Creek Property Details, Proposed Price & Gross Square Footage**

Property	Price	Address	Gross Square Feet
<b>One</b>	\$51.0 million (\$115.84 per square foot)	5965 Silver Creek Valley Road	97,749
		5905 Silver Creek Valley Road	98,361
		5845 Hellyer Avenue	98,362
		5750 Fontanoso Way	98,382
		5710 Fontanoso Way	47,378
<b>Two</b>	\$7.0 million (\$20.28 per square foot)	Embedded Way	7.9 acres

*Source: Legislative File As noted in Section 2, starting on page 19 of this report, County staff reported several issues with this purchase, including no clear intended use of the property, a lack of planning, and a failure to identify issues with the building and needed improvements. A cost-benefit analysis, consistent with best practices and required for due diligence, would have almost certainly identified at least some of these issues prior to purchase. It is difficult to say in retrospect what the impact would have been if these issues were called out up front. It is possible that the properties would not have been purchased or they would have been purchased at a lower cost.*

### **PMD Contends Board Policy is Not Appropriate for Certain Transactions**

PMD reports that the need for a cost-benefit analysis depends on the type of transaction being conducted. During the initial planning phase of a real property transaction, a determination is made whether the cost-benefit analysis is appropriate and helpful. According to PMD, there are certain situations in which a lease is most appropriate and conducting an analysis comparing the cost of leasing to purchasing a property does not make sense, is not needed, or could potentially extend the length of time of the transaction. Examples of these situations include:

**Temporary Funding** – A space request for a lease for a program may only provide grant funding for a limited duration (e.g., 5 years), stipulating that the funds cannot be applied to capital costs. In such a case, a lease would be appropriate. Therefore, finding a comparable property for purchase to compare to would not be useful or beneficial in that case.

**Satellite Offices** – There are instances in which departments require satellite locations in particular areas within the County where there may not be a property for sale.

**Time-Sensitive** – Sometimes there is immediacy of need for the services provided. According to PMD, a lease would be most appropriate in time-sensitive instances, because lease agreements almost always take less time than a property acquisition. Conducting a cost-benefit analysis comparing property for sale to comparable lease space would delay the provision of urgently needed services.

**Lease Reimbursement** – The Social Services Agency (SSA) almost always prefers to lease a property, because the department recovers all annual lease costs through state and federal reimbursement. If the property is owned, SSA can only submit the annual amount of depreciation of the building for reimbursement.

There are also situations where a property owner is only interested in leasing or purchasing a property, so calculating the cost of both is not relevant or useful since only one – either leasing or purchasing – is an option, according to PMD. Although there may be valid reasons why a cost-benefit analysis comparing the cost of leasing versus purchasing a property may not be applicable or appropriate, the reasons are not documented or recorded by PMD. In addition, these exceptions and reasons for the determination to not conduct the analysis are not presented to the Board.

There are currently no written procedures to certify compliance with Board Policy Manual Section 5.9.5.1, including a procedure for documenting exceptions to the required analysis or an approval process for waivers from this policy. The Office of the County Executive and County Counsel should develop procedures that provide for verification of compliance with Board Policy Manual Section 5.9.5.1, including documenting exceptions or waivers to this requirement, and develop language requiring the inclusion of an attestation in the public information file. This attestation should demonstrate that a lease vs. buy cost-benefit analysis was conducted, or provide justification for the exception or waiver to this requirement, when the transaction is presented to the Board for approval.

## CONCLUSION

PMD does not routinely conduct cost-benefit analyses prior to leasing or purchasing a property for County department or office use. Therefore, PMD is out of compliance with Board Policy, thereby limiting the Board's understanding of costs and ability to consider viable alternatives. In addition, PMD is not adhering to real estate industry best practices. There may be valid, justifiable reasons for not conducting this analysis, but PMD does not document reasons for exceptions or waivers to this requirement, nor do they communicate this to the Board. This is out of compliance with Board policy, contrary to real estate best practices, reduces transparency, and limits the Board's understanding of costs and the ability to consider viable alternatives. The absence of these analyses could lead to property leases and/or acquisitions being more costly than their worth to the County. There is also a risk that the County may purchase or lease a property without knowing whether there is a viable alternative at a similar or lower price.

## RECOMMENDATIONS

### The Board of Supervisors should:

- 3.1 Direct the Office of the County Executive and County Counsel to develop procedures that provide for verification of compliance with Board Policy Manual Section 5.9.5.1, including documenting exceptions or waivers to this requirement. The Board should request that the Administration and County Counsel report back to the Board on placement and language in the Board's Policy Manual as soon as possible. (Priority 2)
- 3.2 Direct the Office of the County Executive and County Counsel to develop language requiring the inclusion of an attestation in the public information file. This attestation should demonstrate that a lease versus buy cost-benefit analysis was conducted, or provide justification for the exception or waiver to this requirement, when the transaction is presented to the Board for approval. (Priority 2)

**The Property Management Division should:**

- 3.3** Conduct lease vs. buy cost benefit analyses for all potential property acquisitions in compliance with Board Policy Manual Section 5.9.5.1. (Priority 2)

**SAVINGS, BENEFITS, AND COSTS**

Implementing procedures for conducting the required cost-benefit analyses, including documenting exceptions or waivers, will ensure compliance with Board Policy 5.9.5.1, align with real estate best practices, and increase transparency. In addition, ensuring these analyses are conducted where applicable and presented to the Board will likely result in significant cost savings for the County and provide assurance that properties acquired are the most cost-effective options available and that viable alternatives were considered.

## Section 4: Selection of Real Estate Brokers

### **Background**

Per Board Policy Manual Section 5.9.5.5.4, any County department that intends to enter into an agreement with a licensed real estate broker for the purchase or lease of real property for County use shall select a broker from the list of brokers available through the Facility and Fleet Department's (FAF) Property Management Division (PMD). The policy states the list is to be generated through a request for qualifications (RFQ) process administered, updated, modified, and managed by PMD and is valid for five years. FAF reports the list, including any changes, to the Finance and Government Operations Committee (FGOC) semi-annually. Broker and salespersons licenses are valid for four years per California Business and Professions Code § 10153.6-10153.7.

### **Problem, Cause, and Adverse Effect**

PMD does not follow written policies or procedures related to the selection of real estate brokers included on the approved broker list for County use. Specifically, the Division does not issue an RFQ every five years for the selection of brokers included on the list, as required by Board Policy. In addition, PMD does not adequately maintain relevant documents related to the selection of brokers for County use, or verify brokers' licensure prior to being added, prior to soliciting broker services, or periodically to ensure all listed brokers' licensures are still active. As a result, there is no assurance brokers added to the list were evaluated and approved based on qualifications and expertise. Without the proper management and oversight of the selection of brokers for County use, there is a lack of transparency in terms of how brokers are selected.

### **Recommendations**

PMD should develop policies and procedures to certify compliance with Board Policy Manual Section 5.9.5.5.4, including a process for facilitating an RFQ process for the selection of brokers. Further, Board policy should be amended such that the list is valid for four (4) years rather than five (5) years consistent with State licensing requirements and adding a provision requiring the semi-annually report to the Board to provide justification for the addition or removal of brokers from the list.

### **Savings, Benefits, and Costs**

Implementation of the recommendations will require staff time to develop amendments to Board policy and PMD policies and procedures. However, these recommendations will ensure the County is fairly selecting qualified real estate brokers who are free of conflicts of interest to represent the County in transactions that have significant and long-term funding implications.

## **FINDING**

### **Background**

Per Board Policy Section 5.9.5.5.4, any County department that intends to enter into an agreement with a licensed real estate broker for the purchase or lease of real property for County use shall select a broker from the list of brokers available through Facility and Fleet Department's (FAF) Property Management Division (PMD). The policy states the list is to be generated through a request for qualifications (RFQ) process administered, updated, modified, and managed by the Division and is valid for five years. FAF reports the list, including any changes, to the Finance and Government Operations Committee (FGOC) semi-annually. Broker and salespersons licenses are valid for four years per California Business and Professions Code § 10153.6–10153.7.

### **Compliance with Board Policy on the Selection of Brokers for County Use**

PMD does not follow written policies or procedures related to the selection of real estate brokers included on the approved broker list for County use. Specifically, PMD does not issue an RFQ every five years for the selection of brokers included on the list, as required by Board Policy 5.9.5.5.4. Although the initial list created in 2013 was generated through an RFQ, PMD no longer uses this process or solicits brokers to be added to the list. Instead, brokers interested in being added to the list and doing business with the County contact PMD independently and informally.

On March 12, 2013, the Board accepted a report relating to Board Policy 5.9.5.5 Use of Commercially Licensed Real Estate Brokers. This policy is intended to promote fairness, justice, and equity through a transparent process for selecting real estate brokers. FAF was subsequently directed to develop a list of qualified commercial real estate brokers, meant to be used by FAF, the Roads and Airports Department, the Parks and Recreation Department, and the County Executive's Office of Asset and Economic Development. On November 4, 2013, an RFQ was issued to both individual brokers and brokerage firms to create such a list. As described in Board Policy, the approved broker list is valid for five years. However, an RFQ process was not issued in 2018, five years after the creation of the first list in 2013, to generate an updated list.

According to PMD staff, PMD has not actively solicited brokers through an RFQ process. Rather, real estate brokers included on the list requested to perform work for the County. Instead of being generated through a RFQ process and being valid for five years, the approved broker list, reported to the FGOC semi-annually, is managed on an open-enrollment basis so that additional qualified brokers may be considered and added at any time.

In May 2023, FAF presented to the Board the most recent approved broker list, which included 39 individual brokers representing 14 different companies. Of the 39 individual brokers and the 14 companies listed in the most recent list, 12 of the individual brokers and 8 of the companies were also included in the original list generated by a RFQ process in 2013. Therefore, the most recent approved broker list includes 27 individual brokers and 6 companies that were not solicited through an RFQ process.



By not following a formalized and transparent process, such as the RFQ process required by Board Policy, the County is made vulnerable to potentially biased or partial information from real estate brokers. In addition, by not issuing an RFQ periodically to generate the list of approved brokers and relying on brokers to self-select, the County may be excluding qualified real estate brokers from potentially being added to the list.

### **Maintenance of Relevant Documentation for the Selection of Brokers**

PMD does not maintain relevant documentation related to the selection of brokers included on the list for County use, including applications submitted by brokers. In lieu of a RFQ process, brokers who are interested in working with the County and seeking to be added to the County's list of brokers must fill out a qualifications questionnaire for consideration. According to the qualifications questionnaire form, a broker's eligibility for inclusion on the County's approved broker list is determined through answers received on the form. Brokers must sufficiently demonstrate, to the satisfaction of PMD staff, minimum skills and expertise and that they are free of conflicts of interest that might interfere with their ability to provide independent and unbiased services (e.g., formal or informal relationships with potential sellers or landlords). PMD updates and reports the approved broker list, including newly added brokers, to FGOC semi-annually. However, PMD cannot provide evidence that the questionnaire is consistently being administered.

The approved broker list as of November 2022 had not changed since December 2021. According to the list, PMD should have received completed questionnaires from all 36 brokers on the list, but PMD could only provide evidence of one completed qualifications questionnaire. The provided completed qualifications questionnaire was signed September 2019 and represents three brokers working for the same firm. PMD was unable to provide questionnaires for the remaining 33 brokers on the list, including brokers involved in recent transactions as well as two brokers who were added to the list in 2021. PMD reports that they do not have approved brokers' responses to the qualifications questionnaire form because the Manager of Real Estate Assets who initiated the process passed suddenly in 2015 and the files were lost. However, as noted, at least two brokers have been added to the list since 2015 and there are likely to have been other additions.

According to PMD staff, brokers are also interviewed prior to being added to the list and qualifications questionnaires and interviews serve to set expectations and clarify the County's processes. Yet, auditors neither received any formalized policies or procedures related to conducting broker interviews for inclusion on the broker list, nor was any other documentation received to validate this claim.

Without retaining qualifications questionnaires on file and ensuring that brokers are free of conflicts of interest, the County lacks the information needed to determine if a broker is able to provide independent and unbiased services. In addition, the absence of qualifications questionnaires means there is no documentation to show brokers on the County's approved list sufficiently demonstrated minimum skills and expertise or were approved based on their qualifications. Without proper internal controls to assess the qualifications and conflicts of interest of brokers and brokerage services, the County may enter leases and/or acquire properties that result in unnecessary costs.

PMD should require all brokers included on the current approved list for County use to resubmit their qualifications questionnaire for record-keeping and maintain these on file for future reference.

### **Ensuring Validity of Broker Licensure**

PMD does not ensure the validity of a broker's licensure using the California Department of Real Estate website prior to being added to the County's approved broker list, nor does PMD periodically verify that all listed brokers' licensures are still active. According to California Business and Professions Code (BPC) § 10150-10151, the real estate broker and salesperson licenses ensure the broker and/or salesperson, as required by law, has relevant experience and education, and passed the applicable broker examination to conduct brokerage and salesperson business. Additionally, California BPC § 10153.6-10153.7 provides that the term for the issuance of both broker and salesperson licenses is four years, and the licenses may be renewed if the applicant is in compliance with the required continuing education requirements. According to the FAF's Semi-Annual Reports on Use of Real Estate Brokers to the FGOC, those who no longer qualify will be removed from the approved broker list at the County's discretion. Further, the qualifications questionnaire for inclusion on the County's real estate broker list states that all responses must come from a broker licensed, insured, and otherwise qualified to operate and function as a real estate broker in the State of California.

The broker list received by auditors, last updated in November 2022 but unchanged since December 2021, included two expired individual broker licenses and two expired individual salesperson licenses, as of February 2023.

PMD reports that they do not verify licensure because the application specifies that the qualifications questionnaire must be filled out by a broker licensed, insured, and otherwise qualified to provide real estate broker services in the State of California. The questionnaire also asks whether brokers are in good standing with the California Department of Real Estate. PMD expects that interested brokers will answer honestly considering the potential repercussions, but PMD was unable to provide evidence that these questionnaires were being completed. Verifying active license using the State's online query resources is a simple, fast method to ensure the County's interests are being protected. Auditors were able to check licensures for all 36 brokers on the approved list in approximately 45 minutes.

PMD should develop a procedure to semi-annually reassess the qualifications of the brokers included in the broker list for County use. The semi-annual reassessment should include ensuring that applicable licensures are still active, the broker has not received any disciplinary actions, and requiring disclosures from agents related to potential conflicts of interest.

## CONCLUSION

PMD does not follow written policies or procedures related to the selection of real estate brokers for County use, they do not maintain relevant documentation related to the selection of brokers included on the list, nor does PMD ensure that brokers' licensure is valid. PMD does not utilize an RFQ process for the selection of brokers for County use, as specified in Board Policy Section 5.9.5.5.4. Rather, brokers are not solicited for their services, but instead request to perform their services for the County. This method of retaining services, especially in a private-public relationship, could lend itself to potential conflicts of interest and biased or incomplete information regarding market options for property acquisitions. PMD uses a qualifications questionnaire to assess broker qualifications, but PMD only provided evidence of one completed questionnaire for three of the 36 brokers on the most recent broker list. In addition, they do not verify brokers' licensure prior to being added, prior to soliciting broker services, or periodically to ensure all listed brokers' licensures are still active. Without the proper internal controls for the solicitation of brokers for County use and the reassessment of the brokers qualifications and conflicts of interest, the County may utilize underqualified and/or biased brokers, which could result in real property leases or acquisitions that are not in the best interest of the County.

Real estate brokers are in a position to influence transactions involving large dollar amounts. By not following a formalized process, such as the RFQ process required by Board Policy, the County is made vulnerable to potentially biased or partial information. Furthermore, without retaining qualifications questionnaires on file and ensuring that brokers are free of conflicts of interest, the County lacks the information needed to determine if a broker is able to provide independent and unbiased services. For instance, a broker may have a personal or business relationship with a potential seller or landlord that influences the broker to overlook other market options that fit the County's needs. Without proper internal controls to assess the qualifications and conflicts of interest of brokerage services, the County may enter leases and/or acquire properties that result in unnecessary costs.

## RECOMMENDATIONS

### The Board of Supervisors should:

- 4.1** Direct the Office of the County Executive and County Counsel to develop language amending Board Policy Manual Section 5.9.5.5.4 to:
1. Amend “which list(s) shall be valid for five (5) years” to “which list(s) shall be valid for four (4) years”,
  2. Require the Property Management Division to reassess the qualifications of the brokers included on the County’s approved broker list semi-annually, and report on changes to the approved broker list in the semi-annual report to the Finance and Government Operations Committee, including justification for the addition or removal of brokers from the list.

### The Property Management Division should:

- 4.2** Develop policies and procedures to certify compliance with Board Policy Manual Section 5.9.5.5.4, including a request for qualifications process for the selection of brokers, retention of qualifications and other relevant documentation for the selection of brokers, and a procedure to semi-annually reassess the qualifications of the brokers included in the broker list for County use. The semi-annual reassessment should include ensuring that applicable licensures are still active, the broker has not received any disciplinary actions, and requiring disclosures from brokers related to potential conflicts of interest. Any broker not complying shall be removed from the approved broker list and prevented from conducting business with the County. (Priority 2)
- 4.3** Require all brokers included on the current approved list for County use to resubmit their qualifications questionnaire for record-keeping and maintain these on file for future reference. (Priority 2)
- 4.4** After the development of internal policies and procedures, issue a request for qualifications and re-establish the approved broker list in compliance with Board Policy. (Priority 2)

## SAVINGS, BENEFITS, AND COSTS

Implementation of the recommendations will require staff time to develop amendments to Board policy and PMD policies and procedures. However, these recommendations will ensure the County is fairly selecting qualified real estate brokers who are free of conflicts of interest to represent the County in transactions that have significant and long-term funding implications.

## Section 5: Administrative Space Committee and the Space Request Process

### **Background**

The Administrative Space Committee (Space Committee) reviews internal and external requests from County departments and non-County organizations to facilitate planning and management of the County's owned and leased space and space requirements. Departments submit requests when they are seeking to make changes to existing space, use an alternative existing County space, or requesting additional County space, and external organizations submit requests for temporary use of County facilities, such as a parking lot or conference room. The resources available to guide the Space Request process include a list of Frequently Asked Questions, a meeting calendar and meeting minutes, and the County's Space Planning Guidelines and Standards. Decisions made by the Space Committee have significant implications that impact capital and building costs and determine how County space is allocated and to whom.

### **Problem, Cause, and Adverse Effect**

Administrative tools used to guide the Space Request review process are not developed, documented or current, resulting in a process that is not transparent and a committee that cannot be held accountable. The criteria used to evaluate and prioritize requests are not readily understood, nor is the role and responsibilities of the individual committee members. Further, the meeting calendar and meeting minutes available to departments on the County intranet are not kept current. By developing, documenting, and keeping current these administrative tools used in the Space Request review process, the Space Committee will increase transparency and accountability.

### **Recommendations**

The Office of the County Executive should develop and document decision-making criteria and prioritization protocols for the Space Committee, clearly identify roles and responsibilities of committee members, and maintain the meeting calendar and meeting minutes current. All of these items should be made widely available on the County's website and internal intranet site.

### **Savings, Benefits, and Costs**

Establishing decision-making criteria and prioritization protocols, clearly identifying committee membership and documenting roles and responsibilities of members, and providing a current meeting calendar and current meeting minutes on the public website will increase transparency and bring accountability to the Space Committee's process. The Board of Supervisors, County departments, and the public will be able to see whether decisions made by the committee align with stated goals and objectives. This can be achieved with minimal staff time to develop and maintain the documentation recommended.

## FINDING

### The Administrative Space Committee's Role

The Administrative Space Committee (Space Committee) reviews internal and external requests from County departments and non-County organizations to facilitate planning and management of the County's owned and leased space and space requirements. The County Property Management website as of March 2024 and throughout our fieldwork identified the Space Committee members as the County Executive, the Chief Operating Officer, and the Budget Director. The Budget Director advised in late March 2024 that although the County Executive attended some past meetings, the County Executive is not a member of the committee. County departments seeking to make changes to existing space, use an alternative existing County space, or requesting additional County space must submit a request for consideration. The committee also receives requests from external organizations seeking to temporarily use County facilities, such as a parking lot or conference room. Between calendar years 2016 and 2022, the committee received an average of 79 requests per year. The number of requests received per year ranged from a minimum of 22 in 2016 to a maximum of 105 in 2019.

The Space Committee is staffed by both the Office of the County Executive (OCE) and the Facilities and Fleet Department (FAF). Staff from OCE's Office of Budget and Analysis are responsible for administrative functions such as recording minutes, saving determination letters issued to requestors, and updating the log used to track all space requests. Planning and Real Estate staff from the FAF Property Management Division bring business before the Space Committee for official decision-making, advise Committee members, and have individual requests referred to them for follow-up.

There are two primary sources of information about the Space Committee and the Space Request process:

- A list of Frequently Asked Questions (FAQ) on FAF's public website, which provides general information about the process and a link to the Space Request Form, and
- An Administrative Space Planning Resources page on the County intranet with resources such as the meeting calendar, meeting minutes, and links to the Space Request Form and the FAQ page.

Decisions made by the Space Committee have significant implications that impact capital and building costs and determine how County space is allocated and to whom. This affects County departments and agencies in terms of planning and workspace and, ultimately, operations and service delivery.



## Space Planning Guidelines and Standards

In 2019, OCE and FAF developed the County's Space Planning Guidelines and Standards which establish standards and provides guidance for allocating County space, excluding highly specialized or customized spaces. The document serves as a guide for County departments and agencies to plan more effective and efficient spaces for clients and staff, and supports the County's goals for:

1. Enhanced client service delivery;
2. Improved departmental and interdepartmental collaboration;
3. Increased employee satisfaction; and
4. Good stewardship of resources.

The scope of the Space Planning Guidelines and Standards includes space for client consultation, client support, staff collaboration and interaction, staff and building support, individual workspaces, and storage. Space planning for highly specialized or customized spaces such as medical facilities, patient consultation spaces, clinical spaces, and exterior spaces are not included. Instead, this document focuses on spaces that are generally needed across County services and serves as a quick reference guide for architects and designers to ensure County standards are being met during the design process. While this document serves to establish very specific space-use guidelines and standards, it does not provide evaluative criteria for decision-making and prioritization protocols.

## Decision-Making Criteria and Prioritization Protocols

Both Space Committee administrative staff and Property Management Division staff report that the Committee's primary guiding principles are fiscal responsibility, County priorities, and the Space Planning Guidelines and Standards. To promote and achieve fiscal responsibility, the Space Committee first determines whether space requests submitted by County departments can be accommodated with current existing space to ensure the County is fully utilizing and investing in owned spaces before seeking additional property and to minimize costs. In addition, the Space Committee's decisions and priorities are reportedly driven by the overall priorities of the County. For instance, requests for space for the delivery of mental health services are considered a top priority because the Board of Supervisors declared behavioral health services an emergency in the County. However, these reported guiding principles are not formalized, documented, or otherwise clearly articulated.

A significant influence on any committee's decisions is the composition of its membership. Historically, it is unclear who have been the members of the Space Committee. Only recently can the membership be found on FAF's public website. However, this information is not written in meeting minutes, the space request form, or other documentation. According to the Property Management website, as of March 2024 and throughout our fieldwork, members of the Space Committee are all representatives from the County Executive's Office, including the County Executive, the Chief Operating Officer, and the Budget Director. However, as of late March 2024, the Budget Director advised that the County Executive does not serve on the Space Committee and no longer attends meetings. We do not know who attends the meetings as the meeting minutes furnished to us do not list attendees. Further, the role and responsibility of each member is not articulated. Thus, the overall

process and final determinations can be perceived as being subjective, biased, or otherwise unfair. The OCE should develop and document decision-making criteria and prioritization protocols for the Space Committee, clearly identify roles and responsibilities of committee members, and make this information widely available.

Figure 5.1: Members of Administrative Space Committee



Source: The Facilities and Fleet Department's public website

### Department Survey of the Space Request Process

In a survey of 11 departments, five departments reported a general lack of transparency regarding decision-making and believed the process to be opaque and difficult to understand. Departments' feedback highlighted a lack of assurance that the process is fair. Without established criteria and protocols, it is unclear how space requests are prioritized, how trade-offs are assessed, how the Committee balances current needs and long-term considerations, or what goals and priorities are considered when making decisions about department space requests.

### Meeting Calendar and Meeting Minutes

The Space Committee meets monthly and the meeting calendar and meeting minutes are posted to the Administrative Space Planning Resources page on the County intranet. As of March 2023, the 2022 meeting calendar on the County intranet was not updated, and monthly meeting minutes had not been posted since October 2019. By not keeping the meeting calendar and the meeting minutes current, the process lacks transparency and the Space Committee lacks accountability. The OCE should maintain the annual meeting calendar and monthly meeting minutes of the Space Committee current and up to date.

### CONCLUSION

The Space Committee reviews internal and external requests from County departments and non-County organizations to facilitate planning and management of the County's owned and leased space and space requirements. However, the process is neither transparent, nor necessarily objective. The criteria used to evaluate and prioritize requests are not readily understood, nor is the role and responsibilities of the individual committee members. Further, the meeting calendar and meeting

minutes available to departments on the internal intranet site are not kept current. By developing, documenting, and keeping current these administrative tools used in the Space Request review process, the Space Committee will increase transparency and accountability.

## **RECOMMENDATIONS**

### **The Office of the County Executive should:**

- 5.1** Develop and document decision-making criteria and prioritization protocols for the Administrative Space Committee and make them widely available. (Priority 2)
- 5.2** Document Administrative Space Committee members and their respective roles on the internal intranet site and in meeting minutes so that it is clear who is involved in decision-making. (Priority 2)
- 5.3** Maintain the annual meeting calendar and monthly meeting minutes of the Administrative Space Committee current and up to date. (Priority 2)

## **SAVINGS, BENEFITS, AND COSTS**

Establishing decision-making criteria and prioritization protocols, clearly identifying committee membership and documenting roles and responsibilities of members, and providing a current meeting calendar and current meeting minutes on the public website will increase transparency and bring accountability to the Space Committee's process. The Board, departments, and the public will be able to see whether decisions made by the committee align with stated goals and objectives. This can be achieved with minimal staff time to develop and maintain the documentation recommended.

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## Section 6: Space Request Tracking, Monitoring, and Reporting

### **Background**

When County departments or non-County organizations need to request the use or change in use of County space, they must submit a Space Request form. Space Requests are reviewed by the Administrative Space Committee (Space Committee) during their monthly meeting. A space request can be approved, denied, or referred to County staff, typically in the Property Management Division's (PMD) Real Estate group, for additional follow-up.

### **Problem, Cause, and Adverse Effect**

While there is a formal process for County departments and non-County organizations to submit a Space Request and have that request reviewed and decided upon by the Space Committee, once the request is submitted and formally heard by the Committee, its status is not necessarily tracked, monitored, or reported. This leaves departments unable to either facilitate a resolution or otherwise mitigate planning, operational, or service delivery impacts. This also prevents the Space Committee and PMD from analyzing the Space Request process and workload.

### **Recommendations**

Both the Office of the County Executive (OCE) and PMD should develop written policies and procedures for tracking, monitoring and reporting on Space Requests, including routine and recurring communications with requesting departments until the Space Request is ultimately resolved. Further, PMD should assess Space Request timelines and staff workload to develop process efficiencies.

### **Savings, Benefits, and Costs**

Improved tracking, monitoring, and reporting of Space Requests will enable the Space Committee to set expectations and better communicate with County departments and would provide the data and information necessary to assess the process and staff workload. While the cost to develop and implement the necessary policies and procedures would require nominal staff time, they will result in efficiencies and time-savings once established.

## FINDING

### The Space Request Process

When County departments or non-County organizations need to request the use or change in use of County space, they must submit a Space Request form. While there is a Facilities and Fleet Department (FAF) email address established specifically for Space Request applications and communications, the email is managed by administrative staff in the Office of the County Executive (OCE). The OCE administrative staff log the request and review the form for completeness and accuracy. Space requests must be submitted at least four days before the Administrative Space Committee (Space Committee) meeting date to be included on that month's agenda.

Space Requests are reviewed by the Space Committee during their monthly meeting. A Space Request can be approved, denied, or referred to County staff, typically in the Property Management Division's (PMD) Real Estate group, for additional follow-up. If approved, a determination letter will be forwarded to the requester with the County representative assigned to work with the requester on the next steps. If denied, a denial letter is sent to the requester detailing the issues with the request. For those Space Requests assigned to County staff for additional follow-up, those representatives are charged with contacting and working with the requesting department to address the space requirements identified.

### Tracking and Monitoring of Requests

The OCE administrative staff of the Space Committee track all requests for County space by assigning a Space Request number and using a spreadsheet called the Space Request Log. The log contains fields for data and information on the request, including the requesting department, a description of the request, address and square footage, the Space Committee hearing date, the date it is needed by, active status, department/division referral, staff lead assignment, and an additional field for further status detail. However, the log is not consistently updated and many entries are blank or only state "Active" or "New", including requests received over a year ago. For example, requests heard at the January 13, 2022 meeting were still reported as "New" on the log received in October 2022 and the status field appeared to be only periodically updated. Additionally, the log does not record milestone dates, such as date of initial request, date of referral, or date of final disposition. Therefore, the Space Request Log does not capture how long a request has been open, the date it was closed, or a history of project updates. Accordingly, this log does not provide a history of space requests that would allow for tracking, monitoring, and reporting on status or provide a greater understanding of process issues or delays.

PMD's Real Estate group maintains their own separate Project Log for all projects assigned to the group and which is used to assign a priority level and lead person as well as to record monthly updates. However, this log also does not track how long a request has been open or the date it was closed, and priority levels assigned to projects are not shared with requesting departments. In addition, the monthly updates only go back to 2020, so there is no historical information for older space requests. Further, Real Estate's Project Log does not contain space request numbers. Thus, it is difficult to cross-reference to the Space Committee's log.



By not tracking and monitoring space requests, the Space Committee and PMD impede their own stated goals for planning and management of County space and County space requirements. Accurately and consistently tracking how long requests have been open, milestone dates, delays or issues, status updates and reports, and closing dates provide the necessary data and information not only to keep all vested interests informed, but to also facilitate decision-making and resolution of the request. Further, without this data and information, the Space Committee and PMD are prevented from analyzing the Space Request process and workload.

### The Administrative Space Committee's Caseload

Between 2016 and 2022, the Space Committee received a total of 553 space requests, or an average of 79 requests per year. Over half of these space requests, 312 or 56 percent, are missing determination letters. Conversely, only 241 or 44 percent of requests received during this time-frame have letters on file. See Figure 6.1 below for the breakdown of space requests received by the Space Committee from 2016 to 2022 and determination letters.

**Figure 6.1: Space Requests and Determination Letters 2016–2022**

Year	Received Space Requests	Determination Letters	No Determination Letters
2016	22	4 (18%)	18 (82%)
2017	94	63 (67%)	31 (33%)
2018	100	38 (38%)	62 (62%)
2019	105	9 (9%)	96 (91%)
2020	70	7 (10%)	63 (90%)
2021	87	63 (72%)	24 (28%)
2022	75	57 (76%)	18 (24%)
<b>TOTAL</b>	553	241 (44%)	312 (56%)

*Source: Management Audit Division review of County records.*

Of the 241 requests with determination letters on file between 2016 and 2022, 218 (90 percent) were approved and referred to County staff for follow-up. The ultimate disposition of the remaining 312 requests, or 56 percent of total requests, could not be determined. Space Committee administrative staff report that the majority of requests are approved; denied or rejected requests are rare. Notwithstanding, it is unclear what proportion of all requests are approved, denied, or referred to County staff for follow-up.

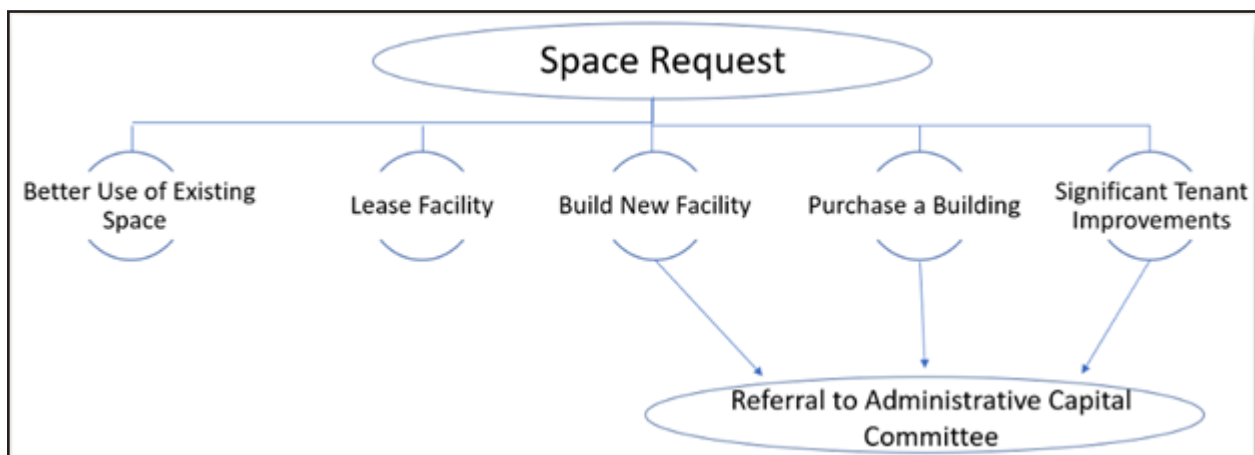
### Department Survey of the Space Request Process

Eleven County departments were surveyed to gather feedback about their experience with the Space Committee. While six departments reported no issues and overall satisfaction with the process, five departments reported having limited understanding of next steps, anticipated timelines, and reasons for delays in securing space, which can adversely affect department operations and service-delivery. Several departments became familiar with the Space Committee only when required to submit a request and believed the process to be unclear and reported difficulties receiving status updates from their assigned PMD staff.

To note, departments with greater space needs, such as the Social Services Agency and the Behavioral Health Services Department, have more frequent meetings with PMD’s Real Estate and Planning groups. This facilitates communication with those departments with a higher volume of space requests and/or more specific or specialized space needs so they are advised on the status of their requests and are aware of properties potentially available for sale or lease. However, not all departments have this level of access to PMD and information on County space. PMD staff report that they sometimes lose contact with requesting departments because the primary point of contact listed on the Space Request Form is no longer with the department or the County, and finding a new point of contact can take some time. However, if PMD staff lose contact due to staff turnover, there is clearly delays in the process and the onus is on the PMD to maintain timely communications.

Therefore, for a significant number of requester departments, the steps involved and the status of Space Requests from the time a request is submitted for review and determination by the Space Committee to ultimate request disposition is unclear. Several departments reported a workflow diagram would be helpful to understand the Committee’s process and potential pathways. The following workflow diagram from a September 2019 capital process workshop could be used as the starting point for developing a more detailed process flowchart.

**Figure 6.2: Space Request Workflow Diagram**



*Source: Administrative Space Planning Resources page on the County intranet*

Ultimately, though, each Space Request is unique. All departments need to have routine and recurring status reports while their Space Requests are open, not only to facilitate their resolution, but to also mitigate any impacts on planning, operations, or service delivery.

## CONCLUSION

There is a formal process for County departments and non-County organizations to submit a Space Request and have that request reviewed and decided upon by the Space Committee. However, once the request is submitted and formally heard by the Committee, its status is not necessarily tracked, monitored, and reported. This leaves departments unable to either facilitate a resolution or otherwise mitigate planning, operational, or service delivery impacts. This also prevents the Space Committee and PMD from analyzing the Space Request process and workload.

## RECOMMENDATIONS

### The Office of the County Executive should:

- 6.1 Develop written policies and procedures for documenting Space Requests to ensure existing tracking systems consistently record how long active requests have been open, the date a request was closed, all project updates, and status reports provided to departments. (Priority 2)

### The Property Management Division should:

- 6.2 Develop written policies and procedures for tracking, monitoring, and reporting on Space Requests referred to the Division, including routine and recurring communications with requesting departments. (Priority 2)
- 6.3 Assess Space Request timelines and staff workload to develop process efficiencies. (Priority 3)

## SAVINGS, BENEFITS, AND COSTS

Improved tracking, monitoring, and reporting on Space Requests will enable the Space Committee to set expectations and better communicate with County departments and would provide the data and information necessary to assess the process and staff workload. The cost to develop and implement the necessary policies and procedures would require nominal staff time, but will result in efficiencies and time-savings once established.

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Recommendation Number and Finding	Priority	Comments
<b>Section 1. Property Data Information Management</b>		
1.1 PMD to develop policies that specify data ownership and management responsibilities for various types of information relevant to property management and develop procedures for updates and maintain data as current as possible. PMD maintain their own list and of County owned and leased properties	1	Agree. PMD will assume full oversight of property management data and will develop policies and procedures regarding same. PMD will be responsible for all data entry and updates except occupancy information, which will be managed by the Planning Group.
1.2 Provide Training to staff on how to use the integrated property management system, including how to extract, enter & update data in the Archibus systems	2	Agree. Refresher training on existing Archibus modules will be provided, and training on new Archibus modules will be offered upon their implementation.
1.3 Report back to the Board of Supervisors on integration of property information into the Archibus systems	2	Agree. Progress reports on data integration will be provided annually at FGOC.
<b>Section 2. Retention of Property Acquisitions Records</b>		
2.1 Develop written internal policies and procedures for documenting acquisitions to ensure that records relating to real estate transactions, such as the purchase or lease of property for County use, are retained in accordance with State law and the departmental and Countywide retention schedules. The procedures should require the retention of all relevant email correspondence. Files should be organized into a closing folder and clearly labeled for easy and future access.	1	Agree. PMD will develop policies and procedures regarding the retention of all communication and information related to acquired properties and entry of same into Archibus. It will also create policies and procedures related to disposal of such items in accordance with Countywide retention schedules.
2.2 To facilitate retention records in recommendation 2.1 and to ensure acquisitions are conducted according to industry standards and best practices, implement the use of a checklist to record when documents are received and when key steps in the acquisition process have been completed.	1	Agree. PMD will develop a checklist regarding documents related to property acquisition.

2.3 Provide training to Real Estate staff on the policies and procedures developed as part of recommendation 2.1 and the checklist in recommendation 2.2 so that staff are properly documenting and retaining records relating to real estate transactions.	1	Agree. Training will be provided upon completion of policies and procedures noted in 2.1.
2.4 Record and maintain a comprehensive list of property acquisitions to increase transparency and information available regarding property acquisitions.	2	Agree. A comprehensive list will be available after all available acquisition information is entered into Archibus.
<b>Section 3. Lease Versus Buy Cost-Benefit Analyses</b>		
3.1 Direct the Office of the County Executive and County Counsel to develop procedures to certify compliance with Board Policy Manual Section 5.9.5.1, including documenting exceptions or waivers to this requirement. The Board should request that the Administration and County Counsel report back to the Board on placement and language in the Board's Policy Manual as soon as possible.	2	Agree. PMD will engage with agencies cited in audit to identify their methodology applied to lease versus buy cost analysis and determine if these are viable for the County.
3.2 Direct the Office of the County Executive and County Counsel to develop language requiring that the results of these analyses be included in the public information file when the transaction comes before the Board for approval.	2	Agree. Once methodology has been determined and buy/lease analyses performed, the results will be included in the legislative files as appropriate for public disclosure.
3.3 Conduct lease vs. buy cost benefit analyses for all potential property acquisitions in compliance with Board Policy Manual Section 5.9.5.1.	2	Agree. Once methodology has been determined, buy/lease analyses will be performed on all potential acquisitions.
<b>Section 4: Selection of Real Estate Brokers</b>		

<p>4.1.1 Direct the Office of the County Executive and County Counsel to develop language amending Board Policy Manual Section 5.9.5.5.4 to: 1) Amend “which list(s) shall be valid for five (5) years” to “which list(s) shall be valid for four (4) years”.</p>	2	<p>Agree. PMD will work with CEO and Counsel to change language.</p>
<p>4.1.2 Require the Property Management Division to reassess the qualifications of the brokers included on the County’s approved broker list semi-annually, and report on changes to the approved broker list in the semi-annual report to the Finance and Government Operations Committee, including justification for the addition or removal of brokers from the list.</p>	2	<p>Agree. PMD will reassess the qualifications of brokers included in the list for County use on a semi-annual basis and report to FGOC on changes made.</p>
<p>4.2 Develop policies and procedures to certify compliance with Board Policy Manual Section 5.9.5.5.4, including a request for qualifications process for the selection of brokers, retention of qualifications and other relevant documentation for the selection of brokers, and a procedure to semi-annually reassess the qualifications of the brokers included in the broker list for County use. The semi-annual reassessment should include ensuring that applicable licensures are still active, the broker has not received any disciplinary actions, and requiring disclosures from brokers related to potential conflicts of interest. Any broker not complying shall be removed from the approved broker list and prevented from conducting business with the County</p>	2	<p>Agree. PMD will develop policies and procedures related to the qualifications of real estate brokers on the broker list.</p>
<p>4.3 Require all brokers included on the current approved list for County use to resubmit their qualifications questionnaire for record-keeping and maintain these on file for future reference.</p>	2	<p>Agree. PMD will verify license status of all brokers on list semi-annually.</p>
<p>4.4 After the development of internal policies and procedures, issue a request for qualifications and re-establish the approved broker list in compliance with Board Policy</p>	2	<p>Agree. A RFQ will be posted once PMD develops policies and procedures related to the qualifications of real estate brokers.</p>

<p><b>Section 5. Administrative Space Committee and the Space Request Process</b></p>		
<p>5.1 Develop and document decision-making criteria and prioritization protocols for the Administrative Space Committee and make them publicly available.</p>	<p>2</p>	<p>Agree. Criteria for Administrative Space Committee decision-making will be developed and published.</p>
<p>5.2 Document Administrative Space Committee members and their respective roles on both the public website, the internal intranet site, and in meeting minutes so that it is clear who is involved in decision-making.</p>	<p>2</p>	<p>Agree. Administrative Space Committee membership will be published.</p>
<p>5.3 Maintain the annual meeting calendar and monthly meeting minutes of the Administrative Space Committee current and up to date.</p>	<p>2</p>	<p>Agree. Calendar and meeting minutes will be maintained for the Administrative Space Committee.</p>
<p><b>Section 6. Space Request Tracking, Monitoring and Reporting</b></p>		
<p>6.1 Develop written policies and procedures for documentation of Space Requests to ensure tracking systems consistently record how long active requests have been open, the date a request was closed, all project updates and status report provided to departments.</p>	<p>2</p>	<p>Agree. PMD will work with CEO to further develop existing policies and procedures to better track requests and enhance reporting capabilities.</p>
<p>6.2 Develop written policies and procedures for tracking, monitoring, and reporting on Space Requests referred to the Division, including routine and recurring communications with requesting departments.</p>	<p>2</p>	<p>Agree. PMD will develop formal policies and procedures.</p>
<p>6.3 Assess Space Request timeline and staff workload to develop process efficiencies</p>	<p>3</p>	<p>Agree. PMD will evaluate current processes for possible efficiencies.</p>