



# MARIPOSA COUNTY

County Counsel • (209) 966-3222



## **RESOLUTION - ACTION REQUESTED 2016-308**

MEETING: June 21, 2016

TO: The Board of Supervisors

FROM: Steve Dahlem, County Counsel

RE: Lease Agreement with Mariposa Golden Agers, Inc. for Community Services Building

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### **RECOMMENDATION AND JUSTIFICATION:**

Approve a Lease Agreement Between the Mariposa Golden Agers, Inc. And the County of Mariposa for Use of the Community Services Building for a Term of Twenty-One Years; and Authorize the Board of Supervisors Chair to Sign the Lease Agreement. The Lease Agreement is substantially the same as in previous years and contains a clause that the lease payment may be increased annually based on the Consumer Price Index (CPI) with an annual maximum increase of five-percent and no reductions in the lease payment.

### **BACKGROUND AND HISTORY OF BOARD ACTIONS:**

The Board has authorized the lease of the Community Services facility from the Mariposa Golden Agers, Inc. To provide senior supportive and/or senior nutrition services since it opened in 1991.

### **ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Do not approve the lease agreement. The County may have to find another facility for senior services and incur additional expense.

### **FINANCIAL IMPACT:**

**No changes in the lease amount from the previous fiscal year. The lease payments are budgeted in the Senior Services, Senior Nutrition, and Transit budgets.**

### **ATTACHMENTS:**

**Golden Agers Lease Agt (DOC)**

### **CAO RECOMMENDATION**

Requested Action Recommended

Mary Hodson  
Mary Hodson, CAO 6/13/2016

**RESULT:** ADOPTED BY CONSENT VOTE [UNANIMOUS]  
**MOVER:** Rosemarie Smallcombe, District I Supervisor  
**SECONDER:** Marshall Long, District III Supervisor  
**AYES:** Smallcombe, Jones, Long, Cann, Carrier

## LEASE AGREEMENT

**THIS LEASE AGREEMENT** is made and entered into in the County of Mariposa, State of California, as of July 1, 2016, by and between the Mariposa Golden Agers, Inc., a California non-profit corporation, hereinafter referred to as **LESSOR**, and the County of Mariposa, hereinafter referred to as **LESSEE**.

### WITNESSETH

**WHEREAS**, **LESSOR** owns real property located in the County of Mariposa commonly known as 5246 Spriggs Lane, Mariposa, California; and

**WHEREAS**, the parties wish to provide for the leasing of said property by the **LESSOR** to the **LESSEE**;

**FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS  
HEREINAFTER CONTAINED, IT IS AGREED AS FOLLOWS:**

1. **PREMISES**: The leased **PREMISES** is the real property located in the County of Mariposa commonly known as 5246 Spriggs Lane, Mariposa, California.
2. **CONSIDERATION/TERM**: For and in consideration of Twenty-Eight Thousand Nine Hundred Forty-Five Dollars and 92/100 (\$28,945.92) per year payable in twelve (12) equal monthly installments on the first of each calendar month commencing on the 1<sup>st</sup> day of July 2016, and shall continue until June 30, 2037, renewable thereafter as mutually agreed by the **LESSOR** and **LESSEE**. Each year, following the first year of the term, the lease rate shall be adjusted annually on July 1<sup>st</sup> of each year and shall be increased, but not decreased, by a percentage equal to the prior year's percentage

increase in the San Francisco/Oakland Consumer Price Index for All Urban Consumers, as published by the U.S. Department of Labor's Bureau of Labor Statistics (the "Index"), subject to a maximum annual increase of five percent (5%). For purposes of computing such increases, the prior year's percentage increase in the Index shall be calculated by dividing the Index for the month of June prior to the date of the increase by the Index for the previous June. If this calculation shows that the Index has remained unchanged or has declined, the lease rate shall remain unchanged. If the described Index shall no longer be published, another generally recognized as authoritative Index shall be substituted by agreement of the parties. If they are unable to agree within thirty (30) days after demand by either party, the substitute Index shall, on application of either party, be selected by the chief officer of the San Francisco Regional Office of the Bureau of Labor Statistics or its successor. In no event shall the amount of minimum monthly rent be reduced below the amount paid in the month immediately preceding the applicable rental adjustment date.

3. **USE:**

A. **LESSEE** shall have the use of the entire facility for the Community Services Program from 8:00 a.m. to 5:00 p.m., Monday through Friday and at other times as coordinated between **LESSOR** and the Community Services Officer.

B. **LESSEE** shall be entitled to use parking located on **LESSOR'S** property as necessary for operation of the Department of Community Services Programs.

C. **LESSEE** shall be permitted to use the building for County functions at the request of **LESSEE** for no charge upon prior approval of **LESSOR**, which shall not be unreasonably withheld. Said use shall not exceed five (5) hours per month.

4. **COMPLIANCE WITH LAW:** **LESSEE** shall comply with all laws, ordinances, rules, regulations and requirement of county, state and federal government, or of any department, bureau or official thereof having jurisdiction. **LESSOR** warrants that the **PREMISES** is at the time of this Lease in compliance with all laws and ordinances.

5. **INSPECTION BY CERTIFIED ACCESS SPECIALIST:** As required by California Civil Code section 1938, **COUNTY** represents that premises have not undergone

inspection by a Certified Access Specialist (CASp).

6. **ASSIGNMENT**: Except as expressly provided herein, **LESSEE** shall not assign this Lease nor any right hereunder, nor sublet the **PREMISES**, nor any part thereof, or suffer any other person to occupy the said **PREMISES** or any portion thereof without prior written consent of the **LESSOR**, which consent shall not be unreasonably withheld. Any such assignment, subletting or occupation by any other person without such consent shall be void, and shall at the option of **LESSOR** terminate this Lease. This provision does not prohibit the **LESSEE** from renting or allowing other parties to utilize the **PREMISES** for permitted functions and events.

7. **IMPROVEMENTS, CONSTRUCTION, ALTERATION, REMOVAL**: **LESSEE** may maintain on the **PREMISES** improvements as necessary to facilitate the use of the **PREMISES**. Any such structure and/or alteration shall remain the sole and separate property of **LESSEE** and at the termination of this Lease shall be removed at the **LESSEE'S** expense within a reasonable time or disposed of as otherwise mutually agreed by **LESSEE** and **LESSOR**.

8. **MAINTENANCE AND REPAIR**: **LESSEE** shall be responsible for pest control, maintenance of fire extinguishers, the fire suppression system in the kitchen, the janitorial service for **LESSEE'S** administrative office, and fifty percent (50%) of the utility expenses (electricity, water, propane, and janitorial) incurred by **LESSOR**.

9. **RIGHT OF RE-ENTRY OF LESSOR**: It is expressly agreed that in the event **LESSEE** creates or causes any breach of this Lease, **LESSOR** shall have the right and option to re-enter said **PREMISES**, take possession thereof, and remove all persons as provided by law.

10. **SURRENDER OF POSSESSION**: At the expiration of this Agreement, **LESSEE** promises and agrees to deliver unto **LESSOR** the Leased **PREMISES** in as good condition as at the date of execution of this Agreement, reasonable wear and tear

excepted.

11. **INDEMNITY**: **LESSEE** agrees to indemnify, protect, defend and hold **LESSOR** and its officers, agents and employees, free and harmless from any and all liabilities, claims, demands, actions, losses, damages and costs of any kind, including but not limited to, all costs of defense thereof, caused by or arising out of **LESSEE'S** use or the use of any guests, invitees or agents of **LESSEE** of the leased **PREMISES**. Upon demand **LESSEE** shall, at its own expense, defend **LESSOR**, and its officers, agents and employees, against any and all such liabilities, claims, demands, actions, losses, damages, and costs of any type or nature arising from the sole negligence of **LESSEE**. **LESSOR** shall indemnify, protect, defend, and hold **LESSEE** and its officers, agents, and employees free and harmless from any and all liabilities, claims, demands, actions, losses, damages and costs of any kind, including but not limited to, all costs of defense thereof, caused by or arising out of, or in any way related to **LESSOR'S** obligations to maintain and repair the **PREMISES**, or any negligence of **LESSOR**, or any structural or other defects of the **PREMISES**.

12. **INSURANCE**: **LESSEE** will provide insurance coverage as of the commencement of this Lease and during any right of occupancy of the leased **PREMISES** and shall maintain coverage in full force and in effect until the termination of this Lease Agreement as follows:

A. **General Liability and Bodily Insurance**: **LESSEE** shall obtain and keep in full force and effect general liability coverage of at least One Million Dollars (\$1,000,000) combined limit for bodily injury and property damage.

13. **CHANGE OF ADDRESS**: It shall be **LESSOR'S** responsibility to inform **LESSEE** of any change of address.

14. **INSPECTION**: **LESSOR** shall be permitted to enter and view the **PREMISES** at any reasonable time for the purpose of inspecting or maintaining such **PREMISES** and

doing any and all things with reference thereto which the **LESSOR** is obligated to do.

15. **TERMINATION PRIOR TO EXPIRATION:**

A. The **LESSOR** shall have the right to terminate this Lease, on the occurrence of any of the following events:

(i) The failure of the **LESSEE** to perform or observe any of the terms, covenants and conditions which it is obligated to perform, keep or observe under this Lease.

(ii) The abandonment of the leased **PREMISES**. Should this occur **LESSOR** shall not be responsible for the custodial protection of **LESSEE'S** abandoned property, fixtures or equipment.

B. **LESSEE** shall have the right to terminate this Lease upon sixty (60) days written notice.

C. It is mutually agreed that if **LESSEE**, during any fiscal year covered by this Agreement fails to appropriate sufficient funds to continue this Agreement, this Agreement shall be of no further force and effect. California State Constitution Article XVI section 18.

16. **BREACH:** In the event of breach of this Lease by **LESSEE**, **LESSOR** shall be entitled to all rights and remedies provided by law in addition to the specific remedies mentioned herein.

17. **PARTNERSHIP DISCLAIMER:** It is mutually understood and agreed that nothing in this Lease is intended to or shall be construed as in any way creating or establishing the relationship of partners between the parties hereto, or as constituting the **LESSEE** as an agent or representative of the **LESSOR** for any purpose or in any manner whatsoever.

18. **NOTICES:** Any notice to the **LESSEE** shall be sufficient if sent by certified mail, postage prepaid, addressed to County Administrative Officer, County of Mariposa, P.O.

Box 784, Mariposa, CA 95338. Any notice to the LESSOR shall be sufficient if sent by certified mail, postage prepaid, addressed to the Mariposa Golden Agers, Inc., P.O. Box 74, Mariposa, CA 95338.

19. **NON-WAIVER:** Any waiver of breach of any covenants or conditions herein contained to be kept and performed by either party shall be effective only if in writing and shall not be deemed or considered as a continuing waiver and shall not operate to bar or prevent the other party from declaring a forfeiture or exercising its rights for any succeeding breach of either the same or other condition or covenant.

20. **SUCCESSOR:** This Lease shall be binding upon and inure to the benefit of all the heirs, successors and assigns of the parties.

**IN WITNESS WHEREOF,** the parties hereto have caused this Lease to be executed the day and year first above written.

**LESSOR:**

**LESSEE:**



**PETE OLSON**, President  
Mariposa Golden Agers, Inc.



**JOHN CARRIER**, Chairman  
Mariposa County Board of Supervisors

**ATTEST:**

**APPROVED AS TO FORM:**



**RENE LAROCHE**  
Clerk of the Board



**STEVEN W. DAHLEM**  
County Counsel