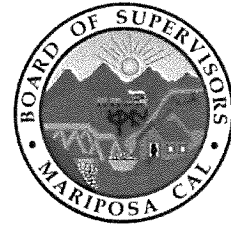




# MARIPOSA COUNTY

Administration • 966-3222



## RESOLUTION - ACTION REQUESTED 2019-100

MEETING: February 19, 2019  
TO: The Board of Supervisors  
FROM: Dallin Kimble, County Administrative Officer  
RE: Approve the Option Agreement to Purchase Real Property at 5087 St Andrews Road

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### **RECOMMENDATION AND JUSTIFICATION:**

Approve the Option Agreement to Purchase the Real Property Located at 5087 Saint Andrews Road, Mariposa, CA for Housing Development.

The property includes APNs 012-350-0100 (5 acres) and 012-350-0080 (3 acres) for a total of 8 acres. The seller is the Norman G. Gallagher and Debra L. Gallagher Family Trust dated April 24, 1981. It is zoned Mult-Family Residential (MFR).

Mariposa County Health and Human Services Agency (HHSA) is working with the California Department of Housing and Community Development to obtain Community Development Block Grant (CDBG) funding to support the development of the parcels. HHSA plans to leverage additional funding from No Place Like Home (NPLH) grant funds to support clients with mental health needs who are placed in some of the units.

The properties are being appraised and the seller has agreed to sell them for the appraised value. The funding to purchase will come from monies obligated by the department formerly known as the Health Department (now HHSA) for debt repayment to the Community Medical Services Program. New information has provided information which has eliminated the debt obligation freeing up funding to support the purchase of the parcels detailed above.

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

Board approved Resolution #2019-50 on January 22nd, 2019 for the purpose of purchasing real property.

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

### **FINANCIAL IMPACT:**

**The specific financial impact of this option agreement is not yet known. The cost of the parcel will be based on the appraisal.**

### **ATTACHMENTS:**

## Resolution - Action Requested 2019-100

**Option Agreement (DOC)**

**Resolution of Intent to Purchase (DOCX)**

**Publication Proof (PDF)**

**RESULT: ADOPTED [UNANIMOUS]**

**MOVER:** Merlin Jones, District II Supervisor

**SECONDER:** Kevin Cann, District IV Supervisor

**AYES:** Smallcombe, Jones, Long, Cann, Menetrey

## OPTION AGREEMENT

THIS OPTION AGREEMENT (the "Agreement"), dated February 19, 2019, is between Norman G. Gallagher, Trustee of the Norman G. Gallagher and Debra L. Gallagher Family Trust dated April 24, 1981 (the "Optionor" or "Seller") and the County of Mariposa, a political subdivision of the State of California (the "Optionee" or "Buyer").

### RECITALS

- A. Optionor owns real property in the County of Mariposa, State of California, commonly known as 5087 Saint Andrews Road, Mariposa, California, and described in Exhibit "A" attached hereto (the "Property"). The Property contains 8+/- gross acres and is zoned Multi-Family Residential (MFR).
- B. Optionor is willing to grant to Optionee an option to purchase the Property subject to the terms and conditions set forth in this Agreement

NOW THEREFORE, the parties agree as follows:

1. Grant of Option. Optionor grants to the Optionee the exclusive right to purchase the Property at a price and under the terms and conditions as set forth herein.

2. Period of Option. The period of this option shall commence on the date of this Agreement and shall expire at 5 p.m. four (4) months from the Agreement date.

a. If the Optionee is not in default of the Agreement, the option agreement may be extended by the Optionee to eight (8) months from the Agreement date. The request to extend must be in writing, accompanied by a Five Hundred Dollar (\$500) extension fee, and initiated on or before four (4) months from the Agreement date.

3. Consideration for Option. The Optionee, in consideration for the grant of this option, agrees to deposit One Thousand Dollars (\$1,000) into escrow at the time of execution of this Agreement. Said \$1,000 is to be released to the Optionor at the expiration of the Feasibility Period, unless the Optionee has delivered to escrow written instructions to cancel this Agreement. The total consideration for the option will be credited against the purchase price upon close of escrow. If escrow does not close, any option consideration paid will be nonrefundable, following the completion of the Feasibility Period.

4. Feasibility Period. The Optionee has 150 days beginning the day the Agreement is executed to investigate the legal, financing, and physical status of subject property. Optionee may cancel the Agreement at its sole discretion within this 150 day period by sending written notice thereof

to Optionor, and the initial \$1,000 option fee and, if applicable, the \$500 extension fee will be refunded to the Optionee.

5. Processing of any Conditional Use Permit, Architectural Review, Site Plan Review, and other Governmental Entitlements. Optionee agrees to pay all costs to be incurred for the preparation of all required Government Entitlements. Optionor agrees to cooperate with Optionee in securing these items. The requests for these items will be in the Optionor's/Owner's name and Optionee will send Optionor a copy of all such items prior to their submission.

6. Exercise of Option. Optionee, if not in default under this Agreement, may exercise this option by delivering to the Optionor, prior to the expiration of the option, a written notice stating that the option is exercised. Optionee's signing of escrow instructions would satisfy this requirement.

7. Purchase Price. The purchase price for the property shall be the appraised value of the Property as determined by Andrew J. Anderson, Certified Residential Property Appraiser, to be paid in cash at close of escrow.

8. Right of Entry. Optionee, and/or its agents shall have the right to enter the Property for any purpose reasonably related to conducting its due diligence, such as preparing Environmental Studies and a Geotechnical Engineering Study, at Optionee's sole cost and expense. Optionee shall indemnify and hold Optionor harmless from all losses, cost and expenses (including reasonable attorneys' fees) resulting from such entry onto the Property.

9. Representations and Warranties of Optionor. Optionor represents and warrants to Optionee that the following matters are true and correct as of the execution of this Agreement, and acknowledges that any misrepresentation of these matters will jeopardize the non-refundable nature of any option fees paid:

a. To Optionor's actual knowledge, there are (I) no condemnation, environmental, zoning or other land-use regulation proceedings, either instituted or planned to be instituted, which would detrimentally affect the value or use of the Property, nor (II) any assessments affecting the Property other than as set forth in the preliminary title report issued by Inter-County Title Company. In addition, Optionor has no knowledge of existing or abandoned underground storage tanks, other underground systems, or environmental contamination on the Property.

10. Completion of Sale. The sale and purchase shall be consummated through an escrow which shall be opened by the parties hereto at Inter-County Title Company. The escrow shall be closed no later than ninety (90) days from the Agreement date.

Sale and purchase of the subject property shall be subsequent to completion of a full and satisfactory environmental review of the Optionee's proposed building project. This project site shall pass a satisfactory environmental review as a condition of sale.

Appropriate escrow instructions shall be prepared at the proper time by the parties hereto in conformity with the terms and conditions contained in this Agreement. Any title insurance for the property being acquired by the Optionee shall be paid for by Optionee. Escrow fees will be paid by Optionee. Any transfer taxes will be paid by Optionee.

The delivery and recordation of the grant deed on behalf of the Optionor for the benefit of the Optionee, and the payment on behalf of the Optionee to the Optionor of the full purchase price in cash, shall be conditions concurrent when escrow is closed.

11. Time Limits. Time is of the essence. If the escrow provided herein is not closed within the time set forth in this Agreement, this Agreement shall automatically terminate without further obligation on either party unless both parties hereto consent in writing prior to termination to an extension of this option for a definite period of time.

12. Conditions of Escrow. The close of the escrow pursuant to the exercise of this option is conditioned on:

- a. The conveyance to Optionee of title to said Property, as evidenced by a standard form CLTA Title Insurance Policy in the full amount of the purchase price issued by the title company, subject only to such liens (other than liens for taxes due and payable on or before the date of sale), encumbrances, clouds, or conditions as are approved in writing by Optionee.
- b. Delivery of possession of the Property to Optionee immediately on close of escrow free and clear of all uses and occupancies except as Optionee may waive in writing.
- c. The closing of this escrow is subject to the Responsible Entity's (as defined by HUD) determination to proceed with, modify, or cancel the project based on the results of a subsequent environmental review and the receipt of an "Authority to Use Grant Funds" from HUD, for the proposed development of the subject property.

13. Possession. Delivery of possession of the Property to Optionee shall occur simultaneously with recordation of the grant deed.

14. Notice. Any notice required or permitted to be delivered hereunder shall be deemed delivered when personally served or when deposited in the United States Mail, certified, return receipt requested, postage prepaid, addressed to the party being served as follows:

To Optionor:

Norman G. Gallagher, Trustee  
827 Vista Point Circle  
Vista, CA 92084

To Optionee:

County of Mariposa  
Attention: County Administrative Officer  
P.O. Box 784  
5100 Bullion Street  
Mariposa, CA 95338

15. Option Assignability. This Agreement may be assigned by the Optionee with the Optionor's written consent, which consent shall not be unreasonably withheld.

16. Termination by Optionee. Optionee may terminate this Agreement at any time by notifying Optionor in writing.

17. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

18. Non-waiver. The waiver by one party hereto of the performance of any promise or condition shall not invalidate this Agreement or constitute a waiver by such party of any other promise or condition.

19. Entire Agreement. This Agreement contains the entire understanding between the parties relating to the option herein granted and any agreement or representation respecting this Agreement, or the responsibilities of either party in relation thereto, not expressly set forth herein, shall be ineffective.

20. Amendments. Any amendments of or supplements to this Agreement shall be in writing, signed on behalf of both parties hereto.

21. Quitclaim. If Optionee fails to exercise this option in accordance with the terms of this Agreement or if this Agreement is earlier terminated in accordance with the terms of this Agreement, Optionee shall properly execute, acknowledge, and deliver to Optionor within (10) ten days of the request thereof a quitclaim deed or any other document required by the Optionor or a title insurance company to verify the termination of this Agreement.

22. Memorandum of Option. A memorandum of option evidencing this Agreement may be recorded in the official records of the County of Mariposa in the form set forth in Exhibit "B" attached hereto.

23. Attorney's Fees. In the event of any litigation or arbitration between the parties hereto arising out of this Agreement or the performance thereof, the losing party shall pay the prevailing party's reasonable attorney's fees and costs.

24. Extension of Time Limit. Any extension of time limit specified herein, to be effective, must be in writing, signed by all parties, and must stipulate a definite period.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the date first above written.


OPTIONOR:

Norman G. Gallagher, Trustee

  
\_\_\_\_\_  
**NORMAN G. GALLAGHER**  
Trustee

OPTIONEE:

County of Mariposa

  
\_\_\_\_\_  
**MILES MENETREY, Chair**  
Mariposa County Board of Supervisors

ATTEST:

  
\_\_\_\_\_  
**RENÉ LaROCHE**  
Clerk of the Board

APPROVED AS TO FORM:

  
\_\_\_\_\_  
**STEVEN W. DAHLEM**  
County Counsel

# **EXHIBIT “A”**

## **Property Description**

Parcel A as shown on the Parcel Map for Coastal Development Company, L.L.C., filed March 16, 2001 in Book 28 of Parcel Maps at page 1, Mariposa County Records.



**EXHIBIT "B"**

Recording Requested By:

COUNTY OF MARIPOSA

When recorded Return to:

County of Mariposa  
Attention: County Administrative Officer  
P.O. Box 784  
Mariposa, CA 95338

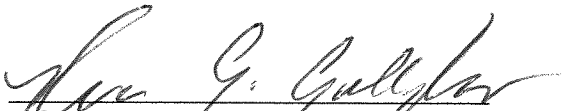
**MEMORANDUM OF OPTION AGREEMENT**

By this Memorandum of Option Agreement, dated February 19, 2019, concurrently with an Option Agreement between the same parties with respect to the same property and dated as of the same date, Norman G. Gallagher , Optionor, and COUNTY OF MARIPOSA, a political subdivision of the State of California, Optionee, agree:

Optionor grants to Optionee the right, on the terms and conditions stated in the Option Agreement, to purchase the property described in Exhibit "A" provided the option is exercised according to the terms of the Option Agreement and, in no event, later than eight (8) months from the Agreement date.

OPTIONOR:

Norman G. Gallagher  
Trustee

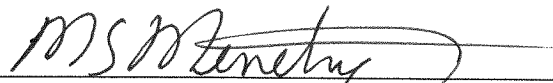


**NORMAN G. GALLAGHER**

Trustee

OPTIONEE:

County of Mariposa



**MILES MENETREY, Chair**

Mariposa County Board of Supervisors

ATTEST:



**RENE LaROCHE**

Clerk of the Board

APPROVED AS TO FORM:



**STEVEN W. DAHLEM**

County Counsel