RESOLUTION - ACTION REQUESTED 2015-145

MEETING: April 7, 2015

TO: The Board of Supervisors

FROM: Mary Hodson, CAO

RE: Ag Department Lease Agreement

RECOMMENDATION AND JUSTIFICATION:

Approve the Five Year Lease Agreement with the 35-A District Agricultural Association to Allow the County Agricultural Commissioner and Farm Advisor to Lease Office Space, and Authorize the Board of Supervisors Chair to Sign the Agreement.

The County currently leases the Campbell Building at the Fairgrounds to house the Agricultural Commissioner’s office and the Farm Advisor. It is the Departments’ desire to continue the lease for the next five years (July 1, 2015 - June 30, 2020). The lease contains termination clauses (item #21) for convenience and lack of funding.

The lease amounts for each year are also predetermined allowing the Departments to plan their budgets accordingly. The current lease amount is $2,731 per month, and the new lease agreement incorporates a yearly increase of approximately three percent.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

All lease agreements must receive Board approval.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

The Board could request a one year agreement. The Board could direct staff to identify an alternate location to house these departments.

FINANCIAL IMPACT:

The lease payments will be included in the annual budget for the affected Departments.

ATTACHMENTS:

Ag Dept Lease agreement 2015-2020 (PDF)

CAO RECOMMENDATION

Requested Action Recommended
RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER: Marshall Long, District III Supervisor
SECONDER: Rosemarie Smallcombe, District I Supervisor
AYES: Smallcombe, Jones, Long, Cann, Carrier
LEASE AGREEMENT  
2015-2020. No. 1

This agreement, by and between the 35-A District Agricultural Association, hereinafter called the Association and the Mariposa County Board of Supervisors, hereinafter referred to as RENTER is entered into this 27th day of April, 2015.

The program representatives for correspondence, inquiries, etc. during the term of this agreement are:

<table>
<thead>
<tr>
<th>Requesting Agency: County of Mariposa</th>
<th>Providing Agency: California Department of Food and Agriculture, Division of Fairs and Expositions</th>
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</thead>
<tbody>
<tr>
<td>Section/Unit:</td>
<td>Section/Unit: 35-A District Agricultural Association</td>
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<tr>
<td>Attention: Mary Hodson, County Admin</td>
<td>Attention: Brian Bullis, General Manager</td>
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<tr>
<td>Officer</td>
<td></td>
</tr>
<tr>
<td>Address: P.O. Box 784, Mariposa, Ca 95338</td>
<td>Address: 5007 Fairgrounds Road, Mariposa, Ca 95338</td>
</tr>
<tr>
<td>Phone: 209/966-3222</td>
<td>Phone: 209/966-2432</td>
</tr>
<tr>
<td>Fax: 209/966-5147</td>
<td>Fax: 209/966-6273</td>
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</tbody>
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1. The term of this lease agreement is July 1, 2015 through June 30, 2020.

2. The ASSOCIATION grants RENTER the right to occupy the Campbell Building subject to the terms and conditions of this agreement.

3. The purpose of occupancy shall be limited to office space for Cooperative Extension and Agricultural Commissioner and shall be for no other purpose or purposes whatsoever without prior written permission from fair management.

4. RENTER agrees to pay to ASSOCIATION for the rights and privileges hereby granted, the amounts in the manner set forth below:
   - July 1, 2015 through June 30, 2016: $2,824.00 per month
   - July 1, 2016 through June 30, 2017: $2,912.20 per month
   - July 1, 2017 through June 30, 2018: $3,000.50 per month
   - July 1, 2018 through June 30, 2019: $3,088.70 per month
   - July 1, 2019 through June 30, 2020: $3,177.00 per month
   - Plus utilities. Charges for electricity will be billed monthly at current rate from meter readings.
   - Included is approximately 300 square feet of storage space for the 4-H program located in the Fairgrounds Maintenance Shop Area.

Lease to include water and sewer hook-up, disposal of normally generated office trash and annual inspection/servicing of fire extinguisher.

PARKING: RENTER may use area known as RV#3 for parking official vehicles during working hours, evenings and weekends. Such vehicles will be relocated at ASSOCIATION’S request when specific interim activities or the annual county fair require said space. In addition. No more than six (6) parking spaces in front of and adjacent to leased building may be designated as parking only for Cooperative Extension, Agricultural Commissioner and Resource Conservation customers. Said spaces to be marked with signs that can be removed during weekend interim events and during the annual county fair. No permanent markings such as paint, etc. shall be painted in said parking places with the exception of the handicapped parking spaces located next to the building.

NOT INCLUDED IN THE LEASE IS: General maintenance inside office building, i.e. windows broken by or use by RENTER, painting inside of building, renovating inside office space, replacement of light bulbs, maintenance or smoke alarm(s), toilet paper, paper towels, soap, seat liners, restroom and janitorial supplies or janitorial services.

5. ASSOCIATION agrees to reimburse the Renter $240.00 dollars; (two hundred forty dollars and no cents) per year for pest control maintenance. Association agrees that said amount is to be paid in January of following year.

6. RENTER agrees to pay fees required by Association as set forth above and to guarantee payment of:
   a. Any money which may be payable to Association under this agreement.
   b. Any damage to Fairgrounds property and extra utilities, if any.
c. Removal of all property of RENTER and leaving premises in a condition satisfactory to the Association at end of agreement.

d. Use of facilities not set forth in this agreement will result in extra charges.

7. RENTER shall provide, as required by ASSOCIATION, evidence in the form of resolution or written document declaring RENTER is self-insured and responsible for liability resulting from the use of the facility.

8. RENTER agrees to defend, indemnify and hold harmless ASSOCIATION, the State of California and their respective officers, employees, volunteers and representatives from and against any liability, loss, expense (including reasonable attorneys’ fees) or claim for injury or damages arising out of the performance of this Agreement but only to the extent caused by or resulting from the negligent or intentional acts or omissions or RENTER, its officers, employees, volunteers or representatives.

9. ASSOCIATION agrees to defend, indemnify and hold harmless RENTER and its officers, employees, volunteers and representatives from and against any liability, loss, expense (including reasonable attorneys’ fees) or claim for injury or damages arising out of the performance of this Agreement but only to the extent caused by or resulting from the negligent or intentional acts or omissions of ASSOCIATION.

10. RENTER further agrees that s/he will not sell, barter or exchange or permit his employees to sell, barter or exchange any permits issued to RENTER or his employees hereunder.

11. It is mutually agreed that this agreement or the privileges granted herein, or any part thereof, cannot be assigned to otherwise dispose of without the written consent of the ASSOCIATION.

12. It is mutually understood and agreed that no alteration or variation of the terms of this agreement shall be valid, unless made in writing and signed by the parties hereto, and that no oral understanding or agreements not incorporated herein and no alterations or variations of the terms hereof, unless made in writing and signed by the parties hereto, shall be binding upon any of the parties hereto.

13. In the event RENTER fails to comply in any respect with the terms of this agreement and the rules and regulations referred to herein, all payments for facilities used shall be deemed earned and non-refundable by the Association and the Association shall have the right to occupy the space in any manner deemed for the best interest of Association.

14. RENTER will conduct his business in a quiet and orderly manner, will deposit all rubbish, garbage, etc. in receptacles provided for such purpose outside the building by the ASSOCIATION.

15. RENTER will conduct the privileges granted in this agreement according to all the rules and requirements of the State Department of Health Services and local health authorities and will not engage in any other business whatsoever upon or within said premises except that which is herein expressly stipulated and contracted for in this agreement.

16. All sound producing devices used by RENTER within or outside his space must be of such nature and must be so operated as not to cause annoyance or inconvenience to others. The decision of ASSOCIATION as to the desirability of any such sound producing device shall be final and conclusive. Sound application equipment may be installed outside the office space only by first obtaining written permission thereof from Association.

17. Any activities or item(s) deemed objectionable or harmful by Association are prohibited.

18. RENTER is entirely responsible for facilities allotted to RENTER and agrees to reimburse Association for any damage caused in conjunction with said facilities with the exception of reasonable wear and tear and damage beyond the control of RENTER.

19. Association shall not be responsible for loss or damage to the property of RENTER.

20. All safety orders of the Division of Industrial Safety, Department of Industrial Relations, California Construction Authority, State Department of Environmental Health, etc. must be strictly observed.
21. Failure of ASSOCIATION to insist on any one or more instances upon the observance and/or performance of any of these rules and regulations shall not constitute a waiver of any subsequent breach of any such rules and regulations.

22. This rental agreement shall be subject to termination for cause by either party at any time during the term hereof by giving the other party notice in writing at least 90 days prior to the date when such termination shall become effective. Such termination shall relieve the ASSOCIATION of any further performance of the terms of this agreement. Termination for Convenience of County: County may terminate this Contract at any time by providing a notice in writing to Contractor that the Contract is terminated. Said Contract shall then be deemed terminated and no further work shall be performed by Contractor. If the Contract is so terminated, the Contractor shall be paid for that percentage of the phase of work actual completed, based on a pro rata portion of the compensation for said phase satisfactorily completed at the time the notice of termination is received. Termination of Funding: The parties acknowledge that the nature of government finance is unpredictable and that the rights and obligations set forth in this Contract are necessarily contingent upon the receipt and/or appropriation of the necessary funds. In the event that funding is terminated, in whole or in part, for any reason, at any time, this Contract and all obligations of the county arising from this Contract shall be immediately discharged. County agrees to inform Contractor no later than thirty (30) calendar days after County determines, in its sole judgments, that funding will be terminated and the final date for which funding will be available.

23. RENTER recognizes and understands that this rental may create a possessory interest subject to property taxation and that RENTER may be subject to payment of property taxes levied on such interest.

24. The association shall have the right to inspect the premises covered by this agreement at any time or at all times, with permission of RENTER.

25. The parties hereto agree that RENTER and any agents and employees of RENTER in the performance of this agreement shall act in an independent capacity and not as officers or employers or agents of the ASSOCIATION.

26. Time is of the essence of each and all provisions of this agreement and the provisions of this agreement shall extend to and be binding upon and inure to the benefit of the heirs, executors, administrators, and assigns of the respective parties hereto.

STANDARD CONTRACT TERMS AND CONDITIONS

27. RENTER, by signing this contract, does swear under penalty of perjury that no more than one final unappealable finding of contempt of court by a Federal Court has been issued against RENTER within the immediately preceding two-year period because of the RENTER's failure to comply with an order of a Federal Court which orders the RENTER to comply with an order of National Labor Relations Board (Public Contract Code §10296).

28. RENTER shall provide a worker's compensation insurance certificate if worker's compensation is required for this contract. This determination will be made by the association.

29. If, during the performance of this agreement, a dispute arises between RENTER and Association which cannot be settled by discussion, the RENTER shall submit a written statement within 10 days of the incident giving rise to the dispute to the Fair Management. A decision by the Fair Management shall be made to the RENTER within 10 days, in writing. RENTER shall continue to up hold contract in regards to rent and utilities during the dispute period.

30. It is understood and agreed that this contract shall be governed by the laws of the State of California both as to interpretation and performance.

31. During the performance of this contract, RENTER shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. RENTER shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment. RENTER shall comply with the provision of the Fair Employment and Housing Act (Government Code §12900, et seq) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, §7285.0, et seq). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code §12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this contract by reference and made part hereof as if set forth in
full. RENTER shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. This RENTER shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this contract.

32. By signing this contract, RENTER assures the state that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. 12101 et seq.) which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

This agreement is not binding upon ASSOCIATION until it has been duly accepted and signed by its authorized representative

IN WITNESS WHEREOF, this agreement has been executed by and on behalf of the parties hereto, the day and the year first above written.

35-A DISTRICT AGRICULTURAL ASSOCIATION
5007 Fairgrounds Road
Mariposa, California 95338

Brian Bullis, General Manager

MARIPOSA COUNTY
P.O. Box 784
Mariposa, California 95338

Merlin Jones, Chairman of the Board of Supervisors

APPROVED AS TO FORM:

[Signature]

STEVEN W. DAVIES
COUNTY COUNSEL