RESOLUTION - ACTION REQUESTED 2017-478

MEETING: July 18, 2017

TO: The Board of Supervisors

FROM: Steve Johnson, Human Resources Director - Risk Manager

RE: Approve Lease Agreement for Human Resources Office Space

RECOMMENDATION AND JUSTIFICATION:
Approve Lease Agreement with the Thompson N. Spear Family Trust for office space for the Human Resources Department effective July 1, 2017; and authorize the Board of Supervisors Chair to sign the Lease Agreement.

Human Resources staff continues to be housed in office space located at 4988 11th Street, which is across from the Government Center. The terms of the three-year lease include a monthly rental rate of $1,035.77 for the first year and thereafter, the rent will be subject to a 2.5% increase.

Appropriations for the monthly lease payments are included in the requested budget for fiscal year 2017/2018.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
The Board of Supervisors approved the first Lease Agreement for Human Resources office space with the Thompson N. Spear Family Trust on June 8, 2013 for a four-year term.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
A negative action would result in needing to find alternate office space for the Human Resources Department.

FINANCIAL IMPACT:
Appropriations for lease payments are included in the requested budget for fiscal year 2017/2018.

ATTACHMENTS:
HR Office Lease Agt  (PDF)
HR Office Lease Agt Exhibit A  (PDF)

CAO RECOMMENDATION
Requested Action Recommended
RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER: Rosemarie Smallcombe, District I Supervisor
SECONDER: Miles Menetrey, District V Supervisor
AYES: Rosemarie Smallcombe, Marshall Long, Kevin Cann, Miles Menetrey
EXCUSED: Merlin Jones
LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into in the County of Mariposa, State of California, as of July 1, 2017, by and between Barbara Jean Spear, Trustee of The Thompson N. Spear Family Trust dated August 30, 1991, hereinafter called LESSOR, and the COUNTY OF MARIPOSA, hereinafter called LESSEE.

WITNESSETH

WHEREAS, the LESSOR owns real property commonly known as 4988 11th Street, Suite B, Mariposa, California and more particularly described in Exhibit “A” attached hereto; 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 HEREAFTER CONTAINED, IT IS AGREED AS FOLLOWS:

1. PREMISES: The leased PREMISES is the real property located in the County of Mariposa as more particularly described in Exhibit “A”, attached hereto and incorporated herein by reference.

2. CONSIDERATION/TERM: For and in consideration of LESSOR agrees to lease the real property described above. This Lease shall commence on the 1st day of July 2017, and shall continue for three (3) years, renewable thereafter as mutually agreed by the LESSOR and LESSEE. Rent payments are to be directed to Classic Property Management, P.O. Box 1994, Mariposa, CA 95338, unless LESSEE is otherwise
directed by LESSOR in writing.

3. **RATE:** The rental rate shall be $1,035.77 per month for the first year. Thereafter, the rent will be adjusted annually commencing the first of the 13th month of this agreement, subject to a 2.5% increase.

4. **UTILITIES:** Lessee shall pay all charges incurred for the furnishing of propane, electricity, water/sewer, telephone, cable/satellite, internet, garbage, and other public utilities furnished to the Premises during the term of the Lease.

5. **USE:** The PREMISES which are the subject of this Lease shall be used as an office.

6. **REGULATIONS:** The use of the leased PREMISES by LESSEE shall at all times be subject to all federal and state laws and ordinances of the County of Mariposa. LESSOR warrants that the PREMISES is at the time of this Lease in compliance with all laws and ordinances.

7. **COMPLIANCE WITH LAW:** As required by California Civil Code section 1938, Lessor represents that premises have not undergone inspection by a Certified Access Specialist (CASp).

8. **VOLUNTARY 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, nor 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.

9. **IN VOLUNTARY ASSIGNMENT:** LESSEE agrees that, except as expressly
provided herein, neither this Lease or any interest herein shall be assignable or transferable unless otherwise agreed in writing by the parties hereto, which consent shall not be unreasonably withheld. LESSEE may use the PREMISES for other similar County activities if the use in paragraph 3 is no longer needed.

10. 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.

11. MAINTENANCE AND REPAIR: LESSEE will be responsible for all maintenance and repairs of LESSEE installed interior improvements. LESSEE agrees to maintain the PREMISES in a clean and orderly condition at all times, and in accordance with safety and fire codes and other applicable federal and state laws and ordinances of the County of Mariposa. LESSOR shall notify the LESSEE in writing of any necessary maintenance or repair of any structure placed on the leased PREMISES by LESSEE. LESSOR shall maintain and repair all structures and utilities, including but not limited to heat, air conditioning, water, and sewer. Failure to repair and maintain the PREMISES shall be a breach of this Lease and LESSEE may at its option terminate this Lease.

12. 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.

13. 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. **POSSESSORY INTEREST:** LESSEE recognizes and understands that to the extent this Lease may or may not create a possessory interest subject to property taxation that the LESSEE is solely responsible for the payment of any taxes levied or assessed on the Leased PREMISES. LESSOR expresses no opinion on the taxable affect of this Lease.

12. **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.

13. **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 Five Hundred Thousand Dollars ($500,000) combined limit for bodily injury and property damage.
14. **CHANGE OF ADDRESS:** It shall be LESSOR'S responsibility to inform LESSEE of any change of address.

15. **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.

16. **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.

17. **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.

18. **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.

19. **NOTICES:** Any notice to the LESSEE shall be sufficient if sent by certified mail, postage prepaid, addressed to the 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 LESSOR c/o Classic Property Management, P.O. Box 1994, Mariposa, CA 95338.

20. **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.

21. **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:**

[Signature]

Marshall Long, Chairman
Mariposa County Board of Supervisors

**LESSEE:**

[Signature]

**ATTEST:**

RENE LAROCHE
Clerk of the Board

**APPROVED AS TO FORM:**

STEVEN W. DAHLEM
County Counsel

Last Revised 3/24/14