RESOLUTION - ACTION REQUESTED 2019-659

MEETING: November 19, 2019

TO: The Board of Supervisors

FROM: Walter Wall, District Attorney

RE: Approve Lease Agreement for Victim Witness- 4975 9Th Street

RECOMMENDATION AND JUSTIFICATION:

Approve a Lease Agreement Marc and Tracy Lingenfelter for Office Space for the District Attorney’s Victim Witness Program and Authorize the Board of Supervisors Chair to Sign the Agreement.

The Lease Agreement would be in effect from December 1, 2019, through November 30, 2020. This is a continued lease agreement for the property located at 4975 9th Street. This is a building that the program had previously utilized in prior years. The total rent cost per month will be $1,150.00 and will be paid through the Victim Witness Grant Program.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

Since June of 2000, the Board has approved the yearly Lease Agreement for office space for the District Attorney’s Victim Witness Program and the Child Abuse Forensic Interview Room. This additional building was once occupied the program and as grant funding dropped, the building was unavailable. With the continued increase of grant funds we have utilized the space to house the Victim Witness office space and space for victims and witnesses to meet and confer with prosecutors as well as wait during trials.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

If the Board chooses not to approve the Lease Agreement it would prevent the expansion of the Victim Witness Program and the goals and objectives we have set out for the current fiscal year. It would also remove the opportunity to provide separate space for victims in need who utilize the victim witness services.

FINANCIAL IMPACT:

Funds are available within the District Attorney’s Victim Witness Program Grants, which are fully funded with State and Federal Grant Funds. No General Fund dollars will be used.
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ATTACHMENTS:
Scan of Updated Lease 4975 9th Street - Revised for Nov. 19, 2019 meeting (PDF)

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER: Marshall Long, District III Supervisor
SECONDER: Merlin Jones, District II Supervisor
AYES: Smallcombe, Jones, Long, Cann, Menetrey
LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into in the County of Mariposa, State of California, as of December 1, 2019, by and between MARC AND TRACY LINGENFELTER, hereinafter referred to as LESOR, and the County of Mariposa, hereinafter referred to as LESSEE.

WITNESSETH

WHEREAS, LESOR owns real property located in the County of Mariposa commonly known as 4975 9th Street, Mariposa, California; and

WHEREAS, the parties wish to provide for the leasing of said property by the LESOR 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 commonly known as 4975 9th Street, Mariposa, California.

2. CONSIDERATION: For and in consideration of Eleven Hundred and Fifty Dollars ($1,150) per month. LESOR agrees to lease the real property described above commencing on the 1st day of December 2019 and terminating on 30th of November 2020. This Lease is renewable thereafter as mutually agreed by the LESOR and LESSEE.

3. USE: The PREMISES which are the subject of this Lease shall be used as a
business office. LESSEE hereby warrants that it is a District Attorney’s Victim Witness Program.

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.

5. **INSPECTION BY CERTIFIED ACCESS SPECIALIST:** As required by California Civil Code section 1938, LESSOR represents that premises have not undergone inspection by a Certified Access Specialist (CASp).

A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.

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 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.

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 4916 Ashworth Road, Mariposa, California, 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:**

Marc Lingenfelter

Tracy Lingenfelter

**LESSEE:**

Miles Menetrey, Chairman
Mariposa County Board of Supervisors

**ATTEST:**

RÉNE LAROCHE
Clerk of the Board

**APPROVED AS TO FORM:**

STEVEN W. DAHLEM
County Counsel