RESOLUTION - ACTION REQUESTED 2019-689

MEETING: December 10, 2019

TO: The Board of Supervisors

FROM: Steve Dahlem, County Counsel

RE: Approve a Grazing Lease

RECOMMENDATION AND JUSTIFICATION:
Approve a Grazing Lease Agreement with Tim and Bette Erickson for a Five Year Term; and Authorize the Board of Supervisors Chair to Sign the Agreement.

On or about November 11, 1997, the County of Mariposa purchased property from the Erickson’s for the use of the Don Pedro Wastewater Treatment Facility. Contained in the deed is a provision that allows the Erickson’s first right to graze cattle on the property at no cost to them should the County desire to allow grazing on the property.

Therefore, this lease agreement contains no monetary consideration. However, it does contain indemnity and insurance provisions to safeguard the County.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

FINANCIAL IMPACT:
None

ATTACHMENTS:
Erickson Grazing Lease (PDF)
Grant Deed Agreement-Property Description (PDF)

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

THIS LEASE AGREEMENT is made and entered into this 13th day of November, 2019 by and between the COUNTY OF MARIPOSA, hereinafter referred to as "LESSOR", and TIMOTHY AND BETTE ERICKSON, hereinafter referred to as "LESSEE".

WITNESSETH:

I. DESCRIPTION OF PREMISES

LESSOR leases to LESSEE, and LESSEE leases from LESSOR, as herein provided, that certain real property described as follows (hereinafter "PREMISES"): 

Assessor's Parcel Numbers 001-260-029 and 001-260-033 in the Don Pedro area and as more particularly described in Exhibit "B" attached hereto.

II. TERM

The term of this LEASE AGREEMENT is five (5) years beginning the 1st day of January 2020 and ending the 31st day of December 2025.

III. CONSIDERATION

There shall be no consideration for this LEASE AGREEMENT pursuant to the terms contained in the Grant Deed Agreement attached hereto as Exhibit "A".

IV. USE OF PREMISES

The PREMISES are leased to be solely used for grazing purposes, and LESSEE agrees to restrict the use to such purpose and not to permit the use of the PREMISES for any other purpose without first obtaining the consent in writing of LESSOR.

V. NO WASTE, NUISANCE, OR UNLAWFUL USE

LESSEE shall not commit or allow to be committed any waste on the premises, or nuisance, nor shall LESSEE use or allow to be used the PREMISES for an unlawful purpose.
VI. 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.

VII. NON-LIABILITY OF LESSOR FOR DAMAGES; INDEMNITY AND SAVE HARMLESS CLAUSE

LESSEE agrees to indemnify, protect, defend and hold LESSOR, 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, arising out of, or in any way related to LESSEE'S use or the use of any guests, invitees or agents of LESSEE of the PREMISES. Upon demand LESSEE shall, at its own expense, defend LESSOR, and its officers, agents and employees, against any and all such liabilities, actions, losses, damages, costs, claims, demands, actions of any type or nature.

VIII. INSURANCE

LESSEE will certify that the following insurance coverages are in effect as of to the commencement of this LEASE AGREEMENT and any right of occupancy of the PREMISES and shall maintain coverage in full force and in effect until the termination of this LEASE AGREEMENT:

A. General Liability and Bodily Insurance: LESSEE shall obtain and keep in full force and effect, a general liability policy of at least Five Hundred Thousand Dollars ($500,000) combined limit for bodily injury and property damage, provided that the LESSOR, its officers, employees and agents are to be named additional insureds under the policy, and that the policy shall stipulate that this insurance will operate as primary insurance, and that no other insurance effected by LESSOR or other named insureds will be called on to cover a loss covered thereunder.

B. Certificate of Insurance: All policies of insurance required above shall be written by a qualified insurance company rated ‘A’ or better by the Best's Insurance Rating Guide and be authorized to do business by the State of California and shall be in a form approved by LESSOR. LESSEE shall file with the LESSOR a certificate of insurance evidencing coverage as set forth above. LESSEE is required to mail a certificate of insurance, signed by an authorized representative of the issuing company, annually, to the County of Mariposa, Risk Manager, at P.O. Box 189, Mariposa, CA 95338. The following information must be included on each certificate of insurance or
the coverage shall be considered incomplete:

(1) A statement that the County of Mariposa is a named insured under each policy or policies;

(2) All required dollar limits of insurance coverages shall be correctly stated;

(3) A provision that written notice of cancellation or any material change in coverage shall be delivered to LESSOR at least 30 days in advance of the effective date of the material change or cancellation, and that no cancellation, alteration or change of beneficiary or beneficiaries shall be made without written notice to LESSOR.

IX. PROHIBITION AGAINST ASSIGNMENT OR SUBLEASE OF THE PREMISES

LESSEE agrees not to assign or sublease the PREMISES, or any part thereof, without first obtaining LESSOR'S written consent, or to allow any other persons, except LESSEE'S agents or employees, to occupy the PREMISES or any part thereof, without first obtaining LESSOR'S written consent.

IN WITNESS WHEREOF, the PARTIES hereto have executed this LEASE AGREEMENT on the day and year first above-written.

LESSOR:

MILES MENETREY, Chair
Mariposa County Board of Supervisors

LESSEE:

TIMOTHY ERICKSON

BETTE ERICKSON

ATTEST:

RENE LÂROCHE
Clerk of the Board

APPROVED AS TO FORM:

STEVEN W. DAHLEM
County Counsel
GRANT DEED

The undersigned declares that the documentary transfer tax is $0.00 and is /x/ computed on the full value of the interest or property conveyed or is // computed on the full value less the value of liens or encumbrances remaining thereon at the time of sale. The land, tenements or realty is located in unincorporated area.

Date of deed: November 11, 1997 Assessor's Parcel Number 001-260-015

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Timothy Paul Erickson and Bette Anne Erickson, husband and wife

hereby GRANT(S) to

The County of Mariposa, a political subdivision

the following described property in the County of Mariposa, State of California:

The Southeast quarter of the Northwest quarter of Section 31, Township 3 South, Range 15 East, M.D.B. & M., Mariposa County, California.

Excepting therefrom all that portion conveyed to Boise Cascade Properties, Inc. recorded October 29, 1967 in Volume 117 of Official Records of Mariposa County at page 22.

EXCEPTING THEREFROM a non-exclusive easement for utilities ten feet in width along the interior boundaries of the property.

Subject to the following condition:

In the event buyer desires to allow grazing on the property at any time in the future, sellers shall have the first right to graze cattle of the property at no cost to sellers.

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This form prepared by:
MARIPOSA COUNTY TITLE COMPANY
Dated: November 11, 1997
Title Order No. 97573

GRANT DEED CONTINUATION PAGE

Timothy Paul Erickson
Bette Anne Erickson

Colorado
State of California
County of Otero

On November 18, 1997, before me, 
Joan Dahl
a Notary Public in and
for said County and State, personally appeared Timothy Paul Erickson 
and Bette Anne Erickson, personally known to me, (or proved to me on
the basis of satisfactory evidence) to be the person(s) whose name(s)
is/are subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their authorized
capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s), or entity upon behalf of which the person(s)
acted, executed the instrument.

WITNESS my hand and official seal.

My Commission Expires Dec. 15, 1997

Certificate of Acceptance

This is to certify that the interest real property conveyed by this
GRANT DEED dated November 11, 1997 from Timothy Paul Erickson and
Bette Anne Erickson to the County of Mariposa, a political
subdivision, is hereby accepted by Robert C. Stewart, on behalf of the
Board of Supervisors of Mariposa County pursuant to the authority
conferred by resolution of the Board of Supervisors adopted December
2, 1997 and the grantee hereby consents to the recordation thereof, by
its duly authorized officer.

Date: 12-9-97

Robert C. Stewart,
Chairman of the Board of Supervisors
County of Mariposa

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State of California
County of MARIPOSA

On DECEMBER 9, 1997, before me, NEIL A. STONUM, a Notary Public in and for said County and State, personally appeared Robert C. Stewart, personally known to me, (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[Signature]
Notary Public