

Agenda Date: March 16, 2017  
Agenda Placement: Admin.  
Estimated Time: N/A  
Continued Item: No

## Board Agenda Item

TO: Air Pollution Control District Board

FROM: Aeron Arlin Genet, Air Pollution Control Officer

CONTACT: Kristina N. Aguilar, Administrative Manager, 961-8813

SUBJECT: One (1) Year Lease for Santa Maria Office and Authorize Air Pollution Control Officer to negotiate lease termination for Aegis building

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### RECOMMENDATION:

1. Execute a Lease Agreement between the Santa Barbara County Air Pollution Control District (District) and Acquistapace Ranches, LLC for the purposes of extending the existing tenancy of 301 East Cook Street, Santa Maria; and
2. Authorize the Air Pollution Control Officer to negotiate the lease termination for the Aegis building with the County of Santa Barbara, located at 260 North San Antonio Road, Santa Barbara.

### DISCUSSION:

***Santa Maria*** - In an April 2000 Board meeting, direction was given to plan for a North County regional office with the vision of expanding North County presence to "improve services to the North County community, improve accessibility, improve future recruitment and retention opportunities, and force improvements in communication technologies, while maintaining South County services." Subsequent to the Board's direction, the District located and began renting office space at 301 East Cook Street, Santa Maria, and now conducts business out of two offices in Santa Barbara County; one in Santa Barbara, and one in Santa Maria.

The lease term for the North County office space ended on February 15, 2017. The lease for the 3,340 square feet space was at a cost of \$1.06 per square foot, for a monthly cost of \$3,548. Acquistapace Ranches, LLC has proposed an increase to \$1.10 per square foot, for a new monthly rate of \$3,674 per month. The proposed lease is for a term of one (1) year or until terminated by

either party and contains four (4) one-year extensions along with a CPI adjustment for each extension.

***Santa Barbara*** - The District is currently in a 15-year lease with the County of Santa Barbara (County) for the Aegis building at 260 North San Antonio Road. The small building is used as storage for District files, which must be maintained as required by law, as well as our Board approved Records Retention policy. The lease of this building is at a monthly cost of \$1,140.65, and terminates December 31, 2019. The District is requesting to terminate the lease of the Aegis building two years early, on, or before, December 31, 2017. At which time the property will be vacated and surrendered back to the County. This request is being made in an effort for the District to move into a paperless operation, which means converting all of our boxes stored in the Aegis building into electronic files. This would eliminate the amount of space the District needs to occupy, therefore reducing our expenditures for the future.

#### **FINANCIAL IMPACT:**

The District's rent expense for the Santa Maria office was included in the Fiscal Year 2016-17 budget, as approved by your Board on June 16, 2016. The future rental costs for this office will be appropriated in the District's future budgets and brought back to your Board for approval.

The Aegis building cost savings would be captured in future budgets.

#### **ATTACHMENT:**

- A. Lease between the Santa Barbara County Air Pollution Control District and Acquistapace Ranches, LLC

## LEASE AGREEMENT

### 1. BASIC LEASE PROVISIONS:

- 1.1. **Parties:** This Lease (hereinafter "Agreement") is made by and between Santa Barbara County Air Pollution Control District (hereinafter "LESSEE") and Acquistapace Ranches LLC, (hereinafter "LESSOR").
- 1.2. **Administration & Enforcement:** The provisions of this Agreement shall be administered and enforced for LESSEE by the Control Officer, or designee.
- 1.3. **Notices:** All notices under this Agreement and in connection herewith shall be addressed and delivered as follows:

LESSEE: Santa Barbara County Air Pollution Control District  
260 North San Antonio Road, Suite  
A Santa Barbara, CA 93110  
Attn: Business Manager

LESSOR: Acquistapace Ranches LLC  
PO Box 1099  
Santa Maria, CA 93456-1099

- 1.4. **Building:** Located at 301 East Cook Street, Suite L, in the City of Santa Maria, County of Santa Barbara, State of California, more particularly described as County Assessor's Parcel Number 125-340-011 (hereinafter "Property").
- 1.5. **Premises:** One suite, consisting of 3,340 square feet (hereinafter "Premises").
- 1.6. **Use/Purpose:** The Premises will be used as an office for the staff of the north county branch of LESSEE with visiting members of the public.

2. **LEASE:** LESSOR hereby leases and LESSEE hereby takes the Premises identified in Section 1.5 above, upon the terms and conditions contained herein.

3. **TERM:** The term of this Agreement shall be for a period of one (1) year, more or less, commencing March 16, 2017 (hereinafter "Commencement Date"), and terminating on March 16, 2018, unless sooner terminated or extended as hereinafter provided.

4. **EXTENSION AND RENEWAL:** In the event this Agreement has not otherwise been terminated and LESSEE is in good standing at the end of the above-referenced term, then such term may be extended for up to four (4) additional terms of one (1) year. This extension and renewal option may be exercised by the Control Officer, or designee, on behalf of LESSEE, and shall be requested in writing at least sixty (60) days prior to the expiration of the then-current term, provided that such renewal involves no additional changes. In the event of such extension, the subsequent term's rent shall be current term's rent adjusted by the change in the Consumer Price Index (CPI) for the CPI periods as specified below, as determined pursuant to Section 2212 of the Revenue and Taxation Code.

Lease Extension Term: March 16, 2018 to March 16, 2019	CPI: April 2016 to 2017
Lease Extension Term: March 16, 2019 to March 16, 2020	CPI: April 2017 to 2018
Lease Extension Term: March 16, 2020 to March 16, 2021	CPI: April 2018 to 2019
Lease Extension Term: March 16, 2021 to March 16, 2022	CPI: April 2019 to 2020

5. **HOLDING OVER:** Should LESSEE occupy the Premises after the expiration of this Agreement or any extension thereof, with the expressed or implied consent of LESSOR, such possession shall be construed to be a tenancy from month-to-month and LESSEE shall pay LESSOR for such tenancy at the monthly rate in effect on the expiration date. This month-to-month tenancy may be terminated upon thirty (30) days written notice from either party given at any time.

6. **RENT:** LESSEE shall pay to LESSOR rent in the sum of THREE THOUSAND SIX HUNDRED SEVENTY FOUR AND 00/100 DOLLARS (\$3,674.00), per month and shall be payable in advance on or before the first (1st) day of each and every calendar month, except as provided herein. LESSOR shall execute and return such forms as LESSEE may require for processing the request for rent payments so that rent may be paid in a timely manner. The rent due for any period, which is for less than one (1) calendar month, shall be prorated based upon a thirty (30) day month. If the lease is extended pursuant to Section 4, then the rent shall be as provided therein.

7. **TENANT IMPROVEMENTS:** During the term of this Agreement or any extension thereof, and with the prior written consent of LESSOR, LESSEE may make reasonable improvements to the Premises. All tenant improvements must conform to: (1) the City of Santa Maria Building Code; (2) any permit(s) issued by the City of Santa Maria, or other applicable regulatory agency; and (3) this Agreement. LESSEE shall be responsible for the cost of such improvements.

8. **PROPERTY INSTALLED BY LESSEE:** It is understood and agreed that LESSEE may install furniture, communications equipment, fixtures and other personal property. LESSEE shall pay the cost of all equipment, installation, maintenance, and recurring monthly charges. All such personal property shall remain the property of LESSEE and shall be removed without damage to the Premises by LESSEE upon expiration or termination of this Agreement.

9. **MAINTENANCE AND REPAIR:**

A. **LESSOR'S Responsibilities:**

LESSOR agrees to perform all exterior maintenance and repair to the Premises.

LESSOR shall maintain all mains, wires, and cables leading to the Premises.

LESSOR shall keep the common areas of the Premises in good order and repair

and shall, upon receipt of notice from LESSEE that maintenance or repair work is required, perform or cause to be performed such maintenance, and repair work in a competent, expeditious, and workman-like manner and in such a way as to cause the least inconvenience and disruption to LESSEE.

LESSOR shall have thirty (30) days after notice from LESSEE to make repairs and/or provide maintenance pursuant to this Section for the common area of the premises, except that LESSOR shall make repairs immediately (within one (1) workday) if the nature of the problem presents a hazard or emergency. If LESSOR does not make repairs within the time limitations specified, LESSEE may make such repairs and submit a bill to LESSOR for reimbursement of actual costs. If the bill remains unpaid by LESSOR sixty (60) days following submission, LESSEE may withhold the amount of such costs from future rent payments until LESSEE is fully reimbursed.

B. LESSEE'S Responsibilities: Except as provided in Section 8A, above, LESSEE shall, at its sole cost and expense, keep and maintain in good condition and repair the interior of the Premises. Upon termination or expiration of this Agreement, LESSEE will return the Premises to LESSOR, with those items in good order, reasonable wear and tear excepted.

10. UTILITIES AND JANITORIAL SERVICES: LESSEE shall provide and pay for all utilities and janitorial services for the Premises. LESSEE shall make all necessary arrangements and shall pay for telephone and communication services for the Premises.

11. AMENDMENTS: This Agreement may be amended by written consent of both parties. This Agreement and all amendments to it, once fully executed, shall be binding upon heirs, successors, and assigns of all parties hereto.

12. NONDISCRIMINATION: LESSOR shall comply with County of Santa Barbara law, rules and regulations regarding nondiscrimination as such are found in the Santa Barbara County Code and as such may from time to time be amended. These provisions are incorporated herein as if they were fully set forth. A copy of Article XIII, "Prohibition of Unlawful Discrimination in Employment Practices," is set forth in Attachment A. Any right assigned in such regulations to the County of Santa Barbara shall be construed to assign such rights to the District.

Noncompliance with provisions of this section shall constitute a material breach of this Agreement and in addition to any other remedies provided by law, LESSEE shall have the right to terminate this Agreement and the interest hereby created without liability therefor.

13. **QUIET ENJOYMENT:** LESSOR covenants that LESSEE, upon performing the provisions of this Agreement, shall have quiet use and enjoyment of the Premises. LESSOR further covenants that it will not deliberately interfere or permit others acting subsequently through or under LESSOR, including other tenants of LESSOR, to interfere with LESSEE'S quiet use and enjoyment of the Premises.

14. **INDEMNIFICATION:** LESSEE shall defend, indemnify, and save harmless LESSOR, its officers, agents and employees (if any) from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments, or liabilities arising out of this Agreement, or occasioned by the performance or attempted performance of the provisions hereof, including but not limited to any act or omission to act on the part of LESSEE or its agents, employees, or independent contractors.

LESSOR shall defend, indemnify, and save harmless LESSEE, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments, or liabilities arising out of this Agreement or occasioned by the performance or attempted performance of the provisions hereof, including but not limited to any act or omission to act on the part of LESSOR, his agents, employees, or independent contractors.

15. **LESSOR'S INSURANCE OBLIGATION:** LESSOR shall maintain property insurance on the Premises throughout this Agreement. In the event LESSOR enters into a self-insurance program for property coverage, LESSOR shall include the Premises covered under this Agreement in any such program.

LESSEE shall maintain property insurance for personal effects, including supplies, furniture, equipment and other personal property.

16. **LESSEE'S SELF INSURANCE PROGRAM:** LESSOR understands and acknowledges that the LESSEE is permissively self-insured for Workers Compensation. Documentation of self-insurance as authorized by the State of California will be provided if requested.

LESSEE is self-insured for General and Automobile Liability Insurance. Documentation will be provided to LESSOR evidencing the \$500,000 self-insured retention by LESSEE and the remaining coverage evidenced by a Certificate of Insurance for Excess Liability Coverage up to \$1,000,000.

LESSEE shall provide Fire Legal Liability coverage in the amount of \$50,000 as part of the General Liability Policy.

17. **TAXES AND ASSESSMENTS:** LESSOR shall pay and discharge all property taxes and assessments, including special assessments, if any, levied upon the Property and/or Premises during the term of this Agreement, or any extension thereof.

18. **DEFAULT:** Except as otherwise specified herein, should either party at any time be in default hereunder with respect to any material covenant contained herein, the nondefaulting party shall give notice to the defaulting party specifying the particulars of the default and the defaulting party shall promptly commence remedial action to cure the default. Should such default continue uncured for a period of twenty-one (21) calendar days from such notice, then this Agreement shall terminate at the option of the nondefaulting party unless the cure of such default shall reasonably take more than twenty-one (21) calendar days in which case the defaulting party shall proceed with all due speed to cure the default and shall have a reasonable time to effectuate its cure.

19. **REMEDIES:** In the event of a default or breach by either party, the nondefaulting party may exercise any right or remedy at law or in equity which such nondefaulting party may have by reason of such default or breach including but not limited to the following:

- A. Either party may waive the default or breach in accordance with Section 20, WAIVER, herein below; or
- B. Either party may maintain this Agreement in full force and effect and recover whatever monetary loss(es) may have resulted from such default or breach.
- C. Where LESSEE is the nondefaulting party, LESSEE may terminate this Agreement and surrender possession.
- D. Where LESSOR is the nondefaulting party, LESSOR may terminate or not terminate this Agreement. Where LESSOR elects not to terminate this Agreement but elects to terminate LESSEE'S right of possession, LESSOR shall have the right and the duty to attempt to relet the Premises for the benefit of LESSEE upon such terms and conditions, including rent, which LESSEE deems reasonable. If LESSOR lawfully removes property of LESSEE, such property may be stored in a public warehouse or elsewhere at the cost of, and for the account of, LESSEE.

20. **WAIVER:** It is further understood and agreed that any waiver, express or implied, of any breach of any term of this Agreement shall not be a waiver of any subsequent breach of a like or any other provision of this Agreement.

21. **TERMINATION:** This Agreement shall terminate and all rights of LESSEE shall cease and LESSEE shall quietly and peacefully deliver to LESSOR, possession and interest in the Premises and upon such delivery, shall be relieved of all future liability:

- A. Upon expiration of the term as provided in Section 3, TERM, or any extension thereof as provided in Section 4, EXTENSION AND RENEWAL; or
- B. After the expiration of the initial term, or any extended term upon thirty (30) days notice given by either party, which notice may be given without cause, as provided in Section 5, HOLDING OVER; or
- C. Upon discrimination by LESSOR in violation of Section 12, NONDISCRIMINATION; or
- D. Upon the failure of either party to satisfy, observe, or perform any of the

covenants, conditions, or reservations set forth in this Agreement and the expiration of the cure period as provided in Section 18, DEFAULT; or

E. Upon the total destruction of the Premises, as provided in Section 23, DESTRUCTION OF THE PREMISES.

22. **ABANDONMENT**: LESSEE shall not vacate or abandon the Premises at any time during the term of this Agreement. If LESSEE abandons, vacates, or surrenders said Premises, any personal property belonging to LESSEE and left on the Premises more than thirty (30) days after termination of this Agreement shall be deemed abandoned, at the option of the LESSOR.

23. **DESTRUCTION OF THE PREMISES**: If the Premises are totally destroyed by fire or any other cause, this Agreement, at the option of LESSEE, shall terminate.

If a loss renders any portion of the Premises unusable, LESSEE may choose to remain or may terminate this Agreement by written notice to LESSOR. Should LESSEE choose to remain in possession after such loss, LESSOR shall promptly repair the Premises within ninety (90) days of the casualty.

If LESSEE chooses to remain in possession of the Premises despite partial destruction, the rent provided in this Agreement shall be reduced by the same percentage that usable floor space has been reduced until the destroyed section is rebuilt to its condition prior to the casualty.

24. **OBLIGATIONS TO SECURED LENDER/FORECLOSURE**: In case of a foreclosure or other proceeding by which the lender or its successor takes title to the Premises, LESSEE will accept the lender or its successor as the lawful landlord in place of LESSOR. LESSEE shall provide such estoppel or attornment certificates as the lender, or successor, may reasonably require, without subordination of this Agreement.

25. **CAPTIONS**: The title on headings to the sections of this Agreement are not a part of this Agreement, and shall have no effect upon the construction or interpretation of any part hereof.

26. **SEVERABILITY**: If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal, or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

27. **SUCCESSORS IN INTEREST**: This Agreement shall bind and enure to the benefit of the parties hereto, their respective personal representatives, heirs, successors in interest, and assigns.

28. **WASTE AND NUISANCE**: LESSEE shall not commit, nor suffer to be committed, any waste upon the Premises, nor permit any nuisance to exist thereon.



29. **CERTIFICATION OF SIGNATORY:** The signatories of this Agreement and each of them represent and warrant that they are authorized to execute this Agreement and that no additional signatures are required to bind LESSEE and LESSOR to its terms and conditions or to carry out duties contemplated herein.

30. **CONSTRUCTION:** The parties to this Agreement agree that each party and its respective counsel have reviewed and approved this Agreement to the extent that each party in its sole discretion has desired, and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement. The terms and provisions of this Agreement embody the parties' mutual intent, and this Agreement shall not be construed more liberally in favor of, nor more strictly against any party hereto.

31. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the parties hereto and no obligation other than those set forth herein will be recognized.

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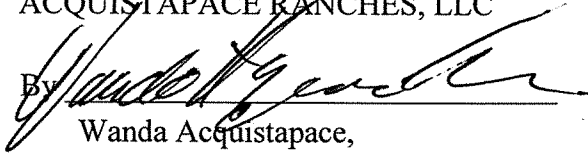
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IN WITNESS WHEREOF, LESSEE and LESSOR have executed this Agreement to be effective on the date executed by the parties.

**LESSOR**

ACQUISTAPACE RANCHES, LLC

By   
Wanda Acquistapace,  
Managing Member

Dated 3-3-17

**LESSEE**

SANTA BARBARA COUNTY  
AIR POLLUTION CONTROL DISTRICT

By \_\_\_\_\_  
Chair

Dated \_\_\_\_\_

**ATTEST:**

AERON ARLIN GENET  
Clerk of the Board

By \_\_\_\_\_  
Deputy

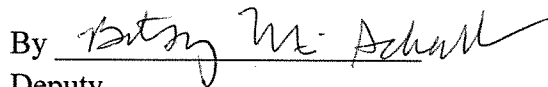
**APPROVED AS TO FORM:**

MICHAEL C. GHIZZONI  
Santa Barbara County Counsel

By   
Deputy

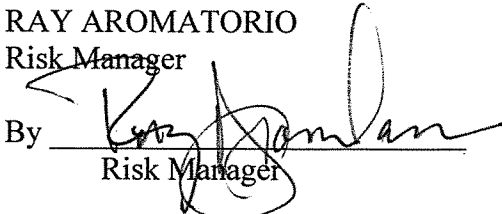
**APPROVED AS TO FORM:**

THEODORE A. FALLATI, CPA, CPFO  
Auditor-Controller

By   
Deputy

**APPROVED AS TO FORM:**

RAY AROMATORIO  
Risk Manager

By   
Risk Manager

## Attachment A

### Sec. 2-95. Prohibition of unlawful discrimination in employment practices.

The County of Santa Barbara reserves the right to terminate forthwith each and every written contract and agreement (except purchase orders) respecting real property, goods and/or services entered into by the County of Santa Barbara including but not limited to concessions, franchises, construction agreements, leases, whether now in effect or hereinafter made if the county finds that the contractor is discriminating or has discriminated against any person in violation of any applicable state or federal laws, rules or regulations which may now or hereafter specifically prohibit such discrimination on such grounds as race, religion, sex, color, national origin, physical or mental disability, Vietnam era veteran/disabled, age, medical condition, marital status, ancestry, sexual orientation, or other legally protected status. This right of termination extends to contracts entered into by the County of Santa Barbara or by its joint powers, agencies or agents so long as the county obtains the consent of those parties.

Such finding may only be made after contractor has had a full and fair hearing on notice of thirty days before an impartial hearing officer at which hearing contractor may introduce evidence, produce witnesses and have the opportunity to cross-examine witnesses produced by the county. Further, any finding of discrimination must be fully supported by the facts developed at such hearing and set forth in a written opinion; and in addition, contractor may move in the appropriate court of law for damages and/or to compel specific performance of a contractor or agreement if any of the above procedures are not afforded to the contractor. If contractor is not found to have engaged in unlawful discriminatory practices, county shall pay all costs and expenses of such hearing, including reasonable attorneys' fees, to contractor in accordance with current Santa Barbara County Superior Court schedule of attorneys' fees for civil trials. If contractor is found to have engaged in such unlawful discriminatory employment practices, contractor shall pay all such costs, expenses and attorneys' fees.

Whether or not a contract or agreement is still in existence at the time of final determination of such unlawful discrimination, the contractor shall forthwith reimburse the county for all damages directly stemming from such discrimination; however, those damages shall not exceed and are not reimbursable in an amount which exceeds amounts paid to contractor under the terms of the contract or agreement.

Nothing in this section 2-95 shall directly or by interpretation give a private cause of action to any third party (not a signatory to the contract or agreement) including employees past or present, or applicants for employment to contractor, it being the sole purpose of this clause to administratively assure compliance with the nondiscrimination clauses contained herein.

With respect to employment discrimination, employment practices shall include, but are not limited to, employment, promotion, demotion, transfer, recruitment and advertising for recruitment, layoff or other termination, rate of pay, employee benefits and all other forms of compensation or selection for training and apprenticeship and probationary periods.

Contractor shall permit access at all reasonable times and places to all of its records of employment, advertising, application forms, tests and all other pertinent employment data and records, to the County of Santa Barbara, its officers, employees and agents for the purpose of investigation to ascertain if any unlawful discrimination as described herein has occurred or is being practiced, provided that such records are relevant to a complaint of an unlawful discriminatory practice which has been forwarded to contractor reasonably prior to the time contractor is asked to make such records available. In addition, all such records shall be deemed "Confidential" by the officers, employees and agents of the county. No records or copies of such records may be removed from the premises of contractor, and no disclosure, oral or written, of such record may be made to third parties except as provided within the agreement. Provided, however, that in the event of a hearing to determine whether or not contractor is engaging in unlawful discrimination in employment practices as defined herein, the board of supervisors of Santa Barbara County may issue subpoenas to require that certified copies of such records be made available to the hearing.

Failure to fully comply with any of the foregoing provisions shall be deemed to be a material breach of any contract or agreement with the County of Santa Barbara. All persons contracting with or who have contracts for goods or services with the county shall be notified that this chapter applies to their contract or agreement with the County of Santa Barbara. (Ord. No. 2946, § 1; Ord. No. 2993, § 1; Ord. No. 3018, § 1; Ord. No. 4413, § 1)