

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: CHIEF EXECUTIVE OFFICER

BOARD AGENDA # *B-4

Urgent _____ Routine X

AGENDA DATE June 12, 2001

CEO Concurs with Recommendation YES ^{ph} NO _____
(Information Attached)

4/5 Vote Required YES _____ NO X

SUBJECT: APPROVAL TO ENTER LEASE AGREEMENT WITH CLS INVESTMENTS AT 121 DOWNEY STREET, SUITE 102, MODESTO TO ACCOMMODATE RELOCATION OF THE AREA AGENCY ON AGING AND DEPARTMENT OF VETERAN SERVICES

STAFF
RECOMMEN-
DATIONS:

1. AUTHORIZE CHIEF EXECUTIVE OFFICER TO ENTER INTO A 5-YEAR AGREEMENT WITH CLS INVESTMENTS FOR LEASE OF APPROXIMATELY 6,000 SQUARE FEET AT 121 DOWNEY STREET, SUITE 102 IN MODESTO.
2. AUTHORIZE THE RELOCATION OF THE AREA AGENCY ON AGING AND DEPARTMENT OF VETERAN SERVICES TO RELOCATE TO 121 DOWNEY STREET AND TO VACATE THEIR CURRENT FACILITY AT 822 12TH STREET IN MODESTO.
3. AUTHORIZE THE EXPENDITURE OF \$7,900 FOR DATA AND TELECOMMUNICATIONS IMPROVEMENTS AND OTHER ONE-TIME RELOCATION EXPENSES.

FISCAL
IMPACT:

The proposed lease will cost a total of \$469,315 over the five-year term; and will require the additional estimated annual expenditure of \$23,000 for janitorial services, utilities and operational costs. The first-year lease cost will be \$89,100 (from August 1, 2001 through June 30, 2002); thereafter \$97,200 annually in years 2-5. An option to extend the lease for an additional five years is provided at escalated rates for years 6 through 10. The proposed lease agreement is attached.

(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2001-421

On motion of Supervisor Caruso _____, Seconded by Supervisor Simon _____
and approved by the following vote,

Ayes: Supervisors: Mayfield, Blom, Simon, Caruso, and Chair Paul _____

Noes: Supervisors: None _____

Excused or Absent: Supervisors: None _____

Abstaining: Supervisor: None _____

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

Motion:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

By: Deputy

File No.

FISCAL
IMPACT:
(Con't)

In addition to the gross lease cost and the maintenance and operational costs associated with the proposed facility, initial start-up costs will include \$7,900 for relocation expenses.

The annual cost of this lease will result in new expense, as the space to be vacated is presently owned and incurs no debt service. On-going utility and janitorial costs are expected to remain comparable to the existing cost experience at 12th Street.

Approximately \$120,000 has been budgeted in the General Fund as part of the 2001-2002 Proposed Budget to fund the annual lease amount and one-time relocation costs.

DISCUSSION:

The Area Agency on Aging and Department of Veteran Services are presently located at 822 12th Street in Modesto on property that is planned for development as a 675-space parking structure, as approved by the Board of Supervisors on December 19, 2000 as part of the Downtown Facilities Plan. The Downtown Plan called for relocation of the Area Agency on Aging and Veteran's Services to a leased space within the downtown Modesto area in an easily accessible facility.

The proposed space at 121 Downey Street, Suite 102 is ideally located for both Aging and Veteran Services. It is located convenient to downtown Modesto on the first floor of a fully-accessible office space, and provides 18 parking spaces in an adjacent, private surface parking lot for visitors and staff. The space is currently vacant and requires minimal tenant improvements to be completed prior to occupancy, thus expediting vacancy of the existing 12th Street space in preparation for development of that site.

An exhaustive search for lease office space in downtown Modesto found this space to best meet the needs of both Aging and Veteran Services and to be well within current market rates for comparable facilities.

The proposed lease term of five years will provide sufficient space resources to accommodate these departments until additional County-owned space can be developed in downtown Modesto, per the Downtown Facilities Plan. The proposed lease also includes

APPROVAL TO ENTER LEASE AGREEMENT WITH CLS INVESTMENTS AT 121 DOWNEY STREET,
SUITE 102, MODESTO TO ACCOMMODATE RELOCATION OF THE AREA AGENCY ON AGING AND
DEPARTMENT OF VETERAN SERVICES

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provision for a five-year renewal option at then-projected market rates.

Under the proposed agreement, the County may terminate the lease upon 90-days notice to the Landlord and payment of the pre-negotiated and unamortized landlord's costs.

**POLICY
ISSUE:**

The proposed lease of approximately 6,000 square feet for the Area Agency on Aging and the Department of Veteran Services is consistent with the Downtown Facilities Plan adopted by the Board of Supervisors on December 19, 2000.

The proposed relocation of the Area Agency on Aging and the Department of Veteran Services also accomplishes the Board of Supervisor's goals of delivering excellent community service, promoting efficient government operations and achieving multi-jurisdictional cooperation.

**STAFFING
IMPACTS:**

Additional regular County staff is not required. Minor assistance in planning for occupancy of the proposed space is required of the affected department and the Chief Executive Office.

LEASE AGREEMENT

This lease agreement is made and entered into in the City of Modesto, State of California, on the 28th day of June, 2001 by and between the **COUNTY OF STANISLAUS**, a political subdivision of the State of California and a body corporate and politic, hereinafter referred to as "Lessee", and CLS Investments hereinafter referred to as "Lessor", for and in consideration of the premises, and the mutual promises, covenants, and agreements as are hereinafter set forth.

1. Premises – Lessor hereby leases to Lessee, and Lessee hereby hires from Lessor, those certain premises in the County of Stanislaus, more particularly described as 121 Downey Street, Suite #102, Modesto, California.
2. Payment – Lessee agrees to pay to Lessor for the said premises during the term hereof, \$ 8,100.00 (approximately 6,000 sq. ft. @ \$1.35 per sq. ft.) per month payable on the first day of the month following the month for which the obligation accrues.
3. Term – The term of this lease shall be for a period of five (5) years commencing at 12:01 A.M. on August 1, 2001 or upon completion and acceptance of tenant improvements, and terminating at 11:59 P.M. on July 31, 2006.
4. Utilities -
 - (A) Lessor shall pay for the furnishing of water, sewer, garbage, and common area janitorial services which may be used in or upon the premises during the term of this lease or any extension or holdover period thereof.
 - (B) Lessee shall pay for the furnishing of gas, electricity, and telephones which may be used in or upon the premises during the term of this lease, or any extension or holdover period thereof, provided that Lessee has contracted therefore directly with the respective utility companies.
5. Use of the Premises – Lessee's use of the premises is for the purpose of Department of Aging and Veteran's Services. Lessee shall not use or permit said premises to be used for any other purpose or purposes without first obtaining the written consent of Lessor, which consent shall not be withheld unreasonably. Lessor shall provide Lessee at no charge the non-exclusive use of eighteen (18) parking spaces in common with all other tenants of the building. Five (5) of such

spaces shall be located and marked for Tenant's use near the entry door of the premises.

6. Maintenance – Lessor shall keep in good repair and maintain at his own expense the entire premises including but not limited to walls, including glass, ceilings, roofs, floors, hall and entrance ways, sidewalks, parking spaces, heating equipment, cooling equipment, plumbing, lighting, (excluding light bulbs and tubes) and electrical wiring and fixtures. Excluding heating and cooling equipment, and normal wear and tear, Lessee shall be responsible for repairs if damage was caused by lessee negligence.
7. Holding Over – In case Lessee holds over beyond the end of the term herein provided, with the consent expressed or implied of Lessor, such tenancy shall be from month to month only, subject to the terms and conditions of this lease, but shall not be a renewal thereof, and the rent to be paid therefore shall be at the rate prevailing under the terms of this lease.
8. Option to Renew – This lease may be renewed at the option of Lessee for a period of five (5) years from the expiration of the original term, and at succeeding -0- periods at the then current fair market rent, however, in no event less than the following:

Months 01 – 12 of Option Term:	\$1.51 per rentable sq. ft. / month (Gross)
Months 12 – 24 of Option Term:	\$1.58 per rentable sq. ft. / month (Gross)
Months 25 – 36 of Option Term:	\$1.66 per rentable sq. ft. / month (Gross)
Months 37 – 48 of Option Term:	\$1.74 per rentable sq. ft. / month (Gross)
Months 49 – 60 of Option Term:	\$1.83 per rentable sq. ft. / month (Gross)

Such options are to be exercised in writing at least one hundred-twenty (120) days prior to the termination of the existing lease period. Renewal subject to negotiation.

9. Entry – Lessee shall permit Lessor or his authorized agents free access to the premises at all reasonable times for the purpose of inspection or for making necessary improvements or repairs.
10. Janitorial Services – Lessee shall furnish such janitorial service as is necessary on the premises.

11. Alterations – The parties agree not to make any alterations in or on the demised premises without first securing the written consent of the other party, and further agree to make such alterations only at such time that is agreeable to said other party.

12. Notices – Notices desired or required to be given by this lease or by any law now or hereinafter in effect, may be given by enclosing the same in a sealed envelope addressed to the party for whom intended and by depositing such envelope, with postage prepaid, in the United State Post Office or any substation thereof, or any public letter box, and any such notice and the envelope containing the same shall be addressed to Lessor as follows:

**CLS Investments
C/o Woodside Management Group
1620 Carpenter Road, Suite A-3
Modesto, CA 95351**

or such other place as may hereinafter be designated in writing by Lessor and the notices and envelopes containing the same to the Lessee shall be addressed as follows:

**Stanislaus County Purchasing Agent
1010 10th Street Place Suite #5400
Modesto, CA 95354
P. O. Box 3229
Modesto, CA 95353**

13. Failure to Perform Maintenance – In the event Lessor should fail, neglect or refuse to commence the repair or maintenance work required by Section 6 herein, within 30 days after written notice has been served by Lessee, or fail, neglect or refuse to pursue said repair or maintenance work with reasonable diligence to completion, Lessee at its sole option may perform or cause to be performed said repair or maintenance work and deduct the reasonable cost thereof from the lease installments next due as a charge to Lessor, or Lessee at its sole option may surrender the premises and shall not be liable for any further lease payments under this lease and agreement.

14. Loss – Lessor agrees that should the demised premises be so badly damaged by fire, incidents of war, earthquake, or other violent action of the elements as to render them wholly unfit for Lessee's occupancy, then this lease shall be terminated immediately upon the happening of any such event whereupon Lessee shall surrender the premises and shall not be liable for any further payments. In the event of any lesser damage by any such cause, Lessor shall restore the premises to the

condition it was in immediately prior to the event causing the damage, and the lease payment shall abate in proportion to the area not used by Lessee during the period of restoration. If Lessor should fail to pursue said restoration work with reasonable diligence to completion, Lessee, at its sole option may surrender the premises and shall not be liable for any further lease payments under this lease and agreement.

15. Successors – Each and all of the terms and agreements herein contained shall be binding upon and shall inure to the benefit of the successors in interest of Lessor, and wherever the context permits or requires, the successors in interest to Lessee.

16. Trade Fixtures – Lessee shall install such fixtures, equipment, and personal property as may be necessary and convenient for its operation. Such furnitures, equipment, and personal property may be removed at any time during Lessee's tenancy or within a reasonable time thereafter, and shall not be considered part of the premises. Removal of the same shall not damage or deface the premises, and if the premises shall be so damaged, Lessee shall repair such damage at its own expense.

17. Fire and Other Perils Insurance – The parties agree to be responsible for damage by the perils of fire, extended coverage, and vandalism to those items of real and personal property for which they hold title or for which they have assumed liability to others.

18. Waiver of Rights of Subrogation – Lessor and Lessee agree that in the event of loss due to any of the perils for which they have agreed to provide insurance, that each party shall look solely to its insurance for recovery. Lessor and Lessee hereby grant to each other on behalf of any insurer providing insurance to either of them with respect to the premises, a waiver of any right of subrogation which any insurer of one party may acquire against the other by virtue of payment of any loss under such insurance.

19. Liability Insurance – Lessee agrees to hold Lessor harmless from loss occurring on the premises and arising out of Lessee's occupancy of the premises. Lessee assumes no liability for any loss caused by the sole negligence of Lessor.

20. Lack of Funding – If, during the term of this lease, the **Stanislaus County Department of Aging & Veteran's Services**, in its sole discretion, determines that sufficient funds are not available to allow for continuation of this Lease or current County owned space becomes available, and payment to Lessor of the unamortized lease transaction costs. The total of such transaction costs paid by Lessor in

connection with the Lease is \$24,300.00, or \$405.00 per month for each month of the five (5) year term. Therefore, in the event Lessee exercises its right to terminate this Lease, Lessee shall pay to Lessor a sum equal to \$405.00 times (x) the total number of months remaining in the initial five (5) year term from and after the effective date of the Lease termination as provided above.

Lessor has read and understands specifically those terms contained in paragraph number 20 listed directly above.

Lessor's Initials

21. Asbestos Notification – In September, 1989, the Governor of California signed AB-1564, an Asbestos Notification law, codified in Section 25915 et seq. of the Health and Safety Code. Health and Safety Code Section 25915(a) states.

Notwithstanding any other provisions of the law, the owner of any building constructed prior to 1979, who knows that the building contains asbestos-containing construction materials, shall provide notice to all employees of that owner working within the building.

Should the Lessor know of any asbestos-containing material, Lessor will notify Lessee within ten (10) days.

If Lessee suspects or has reason to believe that the premises, as described in Section 1, contains asbestos-containing material, Lessor shall within ten (10) days of Lessee's request supply Lessee with an Asbestos Survey Report done by a qualified hazardous material specialist. If Lessor fails to have requested testing done, Lessee shall have the required testing done and all related cost shall be deducted from the lease payment. If test is positive and abatement is necessary, Lessor shall provide the Lessee an Asbestos Abatement Plan within thirty (30) days.

22. Building Ventilation – Premises shall comply with Title 8, Section 5142, California Code of Regulations, "Mechanically Driven Heating, Ventilating and Air Conditioning (HVAC) Systems" to provide minimum building ventilation. Provided, however, that lessor may terminate this lease should it decide that repair expenses, do not merit the continuance of this lease. Lessee shall be given notice by Lessor of said decision and notice shall provide Lessee adequate time to make other arrangements.

23. CAL/OSHA Inspections – If the premises, as described in Section 1, is cited by CAL/OSHA, Lessor shall be required to abate said citations. Provided, however, that Lessor may terminate this lease should it decide that abatement cost, do not

merit the continuance of this lease. Lessee shall be given notice by Lessor of said decision and notice shall provide Lessee adequate time to make other arrangements.

24. Surrender – Lessee shall surrender the premises to Lessor at the expiration of this lease in as good a condition as at the commencement of it, excepting reasonable wear and tear, damages and destruction by the elements, or other persons.

IN WITNESS WHEREOF Lessor has executed this lease and Lessee, County of Stanislaus, by order of the Board of Supervisors, has caused this lease to be executed on its behalf by the Chief Executive Officer on the day, month and year above written.

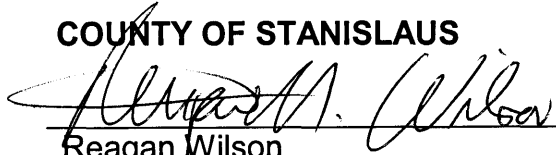
LESSEE

LESSOR

COUNTY OF STANISLAUS

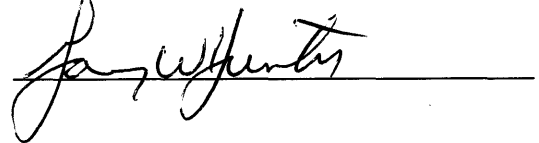
CLS INVESTMENTS

By:



Reagan Wilson

By:



Stanislaus County
Chief Executive Officer

Date:

7/11/01

Date:

June 28, 2001

94-2420890

Federal Identification Number

**STANISLAUS COUNTY
DEPARTMENT OF AGING &
VETERAN SERVICES**

By:



Department Head Signature

Date:

June 28, 2001

APPROVED AS TO FORM
BY COUNTY COUNSEL