

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF BOARD GOVERNED COUNTY SERVICE AREAS
AND RECORD OF ACTION**

March 26, 2024

FROM

BRETT GODOWN, Director, Department of Airports

SUBJECT

Amendment to Loan Agreement with the United States of America for Static Display of United States Airforce F-86 Fighter Jet at Apple Valley Airport

RECOMMENDATION(S)

Acting as the governing body of the County Service Area 60 – Apple Valley Airport, approve **Amendment No. 17 to Loan Agreement No. 06-1073**, including a non-standard term, and Inventory Report with the United States of America for the loan of a United States Air Force F-86 Fighter Jet for static display at Apple Valley Airport at no cost, extending the term of the agreement for the period from April 1, 2024, through March 31, 2029, for a total term of July 1, 2006 through March 31, 2029.

(Presenter: Brett Godown, Director 387-8810)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.

FINANCIAL IMPACT

Approval of this item will not require Discretionary General Funding (Net County Cost). There is no cost for the Loan Agreement No. 06-1073 (Agreement) with the United States of America (US) for the loan of the United States Air Force F-86 Fighter Jet (Aircraft) for static display at Apple Valley Airport other than routine cleaning and maintenance costs, which is estimated to be up to \$500 per year, and minimal insurance costs. Sufficient funding and appropriation for this cost are included in the County Service Area 60 – Apple Valley Airport (CSA 60) 2023-24 budget and will be included in future recommended budgets as necessary. In the event the Agreement is not further extended, CSA 60 shall return the Aircraft at a location determined by the US at no cost to the US.

BACKGROUND INFORMATION

The recommended amendment will extend the no-cost Agreement for the loan of the Aircraft for continued static display at Apple Valley Airport for five years from April 1, 2024, through March 31, 2029, and an Inventory Report that acknowledges possession of the Aircraft and its value. The aircraft may only be used for static display purposes, may not be modified without US consent, and must be insured for its full replacement value of \$10,000. The aircraft display will continue to be maintained as required by the Agreement by the Department of Airports' (Department) staff with the participation of volunteer organizations, most notably the Apple Valley Chapter of the Experimental Aircraft Association.

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On August 23, 1995, the Town of Apple Valley (Town) entered into an agreement with the US, acting by and through the National Museum of the United States Air Force (NMUSAF), whereby the US loaned the Aircraft to the Town. Pursuant to that agreement, the Aircraft was relocated from Southern California Logistics Airport and mounted in a permanent display at Apple Valley Airport. In early 2006, the Town notified the NMUSAF of its desire to relinquish responsibility for the Aircraft. Concurrently, the Department expressed interest in taking over those responsibilities.

On October 31, 2006 (Item No. 8), the Board of Supervisors (Board) approved the Agreement for the loan of the Aircraft for the period commencing July 1, 2006, and ending March 31, 2007, and authorized the Chairman of the Board to execute annual renewals of the Agreement. For the period of April 1, 2007, through March 31, 2016, the Department presented each annual renewal to the Chairman for execution, as authorized by the Board. On March 1, 2016 (Item No. 79), the Board approved an annual renewal of the Agreement for the period of April 1, 2016, through March 31, 2017, and extended the authority of the Chairman of the Board to execute annual renewals of the Agreement for up to four successive one-year periods for a cumulative term not to exceed March 31, 2021.

On March 23, 2021 (Item No. 66), the Board approved an annual renewal for the period of April 1, 2021, through March 31, 2022, and extended the authority of the Chairman of the Board to execute annual renewals of the Agreement for up to four successive one-year periods for a cumulative term not to exceed March 31, 2026. NMUSAF then changed the renewal term from one year to two years. Therefore, on March 29, 2022 (Item No. 60), the Board approved a two-year renewal of the Agreement for the period of April 1, 2022, through March 31, 2024. This year, NMUSAF changed the renewal period from two years to five years, which requires the Department to return to the Board for approval of the Agreement for the period of April 1, 2024, through March 31, 2029.

The Agreement includes the following term that differ from CSA 60's standard contract terms:

1. Rather than the US indemnifying CSA 60, the Agreement requires CSA 60 to indemnify, defend, and hold the US harmless for claims arising out of personal injuries, death, or property damage caused by the possession and/or use of the Aircraft.
 - The County standard contract term requires that the contractor agrees to indemnify CSA 60 in accordance with County Policy 11-07.
 - Potential Impact: By agreeing to indemnify the US, the CSA could be contractually waiving the protection of sovereign immunity. Claims that may otherwise be barred against the CSA time-limited, or expense-limited could be brought against the US without such limitations and the CSA would be responsible to defend and reimburse the US for costs, expenses, and damages, which could exceed the total Agreement amount.

The Department recommends approval of the amendment to the Agreement with US, including the non-standard term, given the public benefit of the ongoing display of the F-86 "Beauteous Butch" and its historical relationship to Apple Valley Airport.

PROCUREMENT

N/A

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REVIEW BY OTHERS

This item has been reviewed by County Counsel (Agnes Cheng, Deputy County Counsel, 387-5455) on March 1, 2024; Risk Management (Victor Tordesillas, Deputy Executive Officer, 386-8621) on March 6, 2024; Finance (Elias Duenas, Administrative Analyst, 387-4052) on March 5, 2024; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on March 8, 2024.

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Record of Action of the Board of Supervisors
Board Governed County Service Areas

APPROVED (CONSENT CALENDAR)

Moved: Curt Hagman Seconded: Joe Baca, Jr.
Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: March 26, 2024



cc: Airports - Godown w/ agree
Contractor c/o Airports w/ agree
File w/ agree

JLL 03/27/2024