

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

September 12, 2023

FROM

TERRY W. THOMPSON, Director, Real Estate Services Department

JAMES E. JENKINS, Director, Department of Airports

SUBJECT

Use Permit for Use of Vacant Land for the 2023 Apple Valley Airshow Overflow Parking

RECOMMENDATION(S)

Acting as the governing body of County Service Area 60-Apple Valley Airport:

1. Approve the Real Estate Services Department's use of an alternate procedure in lieu of a formal Request for Proposal as allowed per County Policy 12-02 – Leasing Privately Owned Real Property for County Use, to use approximately 20.06 acres of vacant land in Apple Valley for the period of October 6, 2023 through October 8, 2023.
2. Approve Use Permit (**Contract No. 23-943**), including non-standard terms, with Heidi Reed, Trustee of the Tanner Gift Trust dated July 11, 1983, in the amount of \$2,500, for the use of approximately 20.06 acres of vacant land (Assessor's Parcel Numbers 0463-372-60, 0463-372-62, and 0463-372-49) located west of the Apple Valley Airport, to serve as overflow parking for the 2023 Apple Valley Airshow, for the period of October 6, 2023 through October 8, 2023.

(Presenter: Terry W. Thompson, Director, 387-5000)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES.

Create, Maintain, and Grow Jobs and Economic Value in the County.

Provide for the Safety, Health, and Social Service Needs of County Residents.

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). On March 29, 2022 (Item No. 62), the Board of Supervisors (Board) authorized the necessary funding from County Service Area 60-Apple Valley Airport (CSA 60) for the 2023 Apple Valley Airshow (Event). The total cost of the Use Permit is \$2,500 and is included in the overall total Event budget of \$200,000. Adequate appropriation for the 2023 Airshow is included in CSA 60's 2023-24 budget.

BACKGROUND INFORMATION

CSA 60 has hosted the annual airshow at the Apple Valley Airport (Airport) since 2008 under the promotion and administration of the Department of Airports, except in 2020 and 2021 when the airshow was canceled due to the COVID-19 pandemic. This annual airshow attracts a wide audience of attendees and provides an opportunity to promote the Airport and San Bernardino County (County).

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The Event aligns with the County and Chief Executive Officer's goals and objectives by creating commerce and economic value through community entertainment and aviation-themed concessions. The Event includes many attractions, including individual flybys, aerobatic demonstrations, and static displays of biplanes and classic and vintage aircraft. Other entertainment will include a car show, food and beverage concessions, and vendors selling aviation-related memorabilia.

Approximately 15,400 people attended the airshow in 2017, approximately 7,715 people attended in 2018, with the reduction due to inclement weather, approximately 18,286 people attended the airshow in 2019, and approximately 9,266 people attended the airshow in 2022, with the reduced attendance due to the COVID-19 pandemic. It is expected that attendance for the Event will be at pre-pandemic levels, necessitating the use of the vacant land to provide sufficient parking for the community. The recommended Use Permit will allow CSA 60 to use approximately 20.06 acres, comprised of three parcels known as Assessor's Parcel Numbers (APN) 0463-372-60 with 6.27 acres, APN 0463-372-62 with 6.28 acres, and APN 0463-372-49 with 7.51 acres, as overflow parking for the period of October 6, 2023 through October 8, 2023.

The Use Permit includes terms that differ from the standard CSA 60 contract. The non-standard terms include the following:

1. CSA 60 will indemnify and hold Heidi Reed, Trustee of the Tanner Gift Trust dated July 11, 1983 (Permitter), harmless for any liabilities to the extent resulting from any negligent acts or omissions of CSA 60.
 - CSA 60's standard contract does not include any indemnification or defense by CSA 60 of a permittor.
 - Potential Impact: By agreeing to indemnify the Permitter, CSA 60 could be contractually waiving the protection of sovereign immunity. Claims that may otherwise be barred against CSA 60, time limited, or expense limited could be brought against the Permitter without such limitations and CSA 60 would be responsible to reimburse the Permitter for costs, expenses, and damages, which could exceed the total contract amount.

2. The Permitter is not contractually required to carry property liability insurance nor name CSA 60 as an additional insured.
 - CSA 60's standard contract requires a permittor to carry property liability insurance and name CSA 60 as an additional insured.
 - Potential Impact: Historically, the Permitter has advised that it carries a liability policy for its properties but has declined to include an express commitment in the Use Permits to carry such insurance or to name CSA 60 as an additional insured, which means that CSA 60 may have liability exposure in the event of a claim that could exceed the total contract amount.

CSA 60 recommends the approval of this Use Permit, including non-standard terms, to allow for the use of vacant land for the 2023 Apple Valley Airshow overflow parking given that there are limited options available for nearby vacant land of this size to accommodate overflow parking for the airshow.

PROCUREMENT

Board approval is requested to use an alternative procedure in lieu of a Formal Request for Proposals (RFP) as allowed per County Policy 12-02 - Leasing Privately Owned Real Property

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for County Use (Policy 12-02) to use approximately 20.06 acres of vacant land in Apple Valley for the period from October 6, 2023 through October 8, 2023. Policy 12-02 provides that the Board may approve the use of an alternative procedure to the use of a formal RFP process whenever the Board determines that compliance with the formal RFP requirements would unreasonably interfere with the financial or programmatic needs of CSA 60, or when the use of an alternative procedure would otherwise be in the best interest of CSA 60.

Real Estate Services Department has reviewed the proposed real property Use Permit agreement under Policy 12-02, completed a competitive analysis of the market, and found the proposed fees to be competitive and these properties best meet the programmatic needs of CSA 60 to provide overflow parking for the Event.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Agnes Cheng, Deputy County Counsel, and John Tubbs II, Deputy County Counsel, 387-5455) on July 27, 2023; Risk Management (Victor Tordesillas, Director, 386-8623) on July 27, 2023; Airports (James E. Jenkins, Director, and Maureen Snelgrove, Assistant Director, 387-8812) on July 31, 2023; Purchasing (Peter Geriguis, Lead Buyer, 387-2573) on July 27, 2023; Finance (Elias Duenas, Administrative Analyst, 387-4052, and Garrett Baker, Administrative Analyst, 387-3077) on August 16, 2023; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on August 17, 2023.

(LD: 453-5349)

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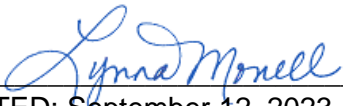
Record of Action of the Board of Supervisors
Board Governed County Service Areas

APPROVED (CONSENT CALENDAR)

Moved: Joe Baca, Jr. Seconded: Curt Hagman

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

Lynna Monell, CLERK OF THE BOARD

BY  _____
DATED: September 12, 2023



cc: RESD - Thompson w/ agree
Contractor c/o RESD w/ agree
File w/ agree
JLL 09/13/2023