



CITY COUNCIL STAFF REPORT

DATE: December 16, 2015 CONSENT AGENDA

SUBJECT: Palm Springs Air Museum Lease Amendment to Accommodate Improvements and Expansion

FROM: David H. Ready, City Manager

BY: Department of Aviation

SUMMARY

This item considers a request by the Palm Springs Air Museum seeking the reimbursement for long-term capital leasehold improvements of a new road and aircraft apron, a boundary easement to accommodate the improvements, and concession fee abatement for a new public restaurant.

RECOMMENDATION:

1. Approve amendment No. 3 to the Palm Springs Air Museum lease No. A3613 with rental credits not to exceed \$205,000, for road and aircraft apron leasehold improvements, a boundary easement to accommodate the improvements, and concession fee abatement for a new restaurant.
2. Authorize City Manager to execute all necessary documents.

STAFF ANALYSIS:

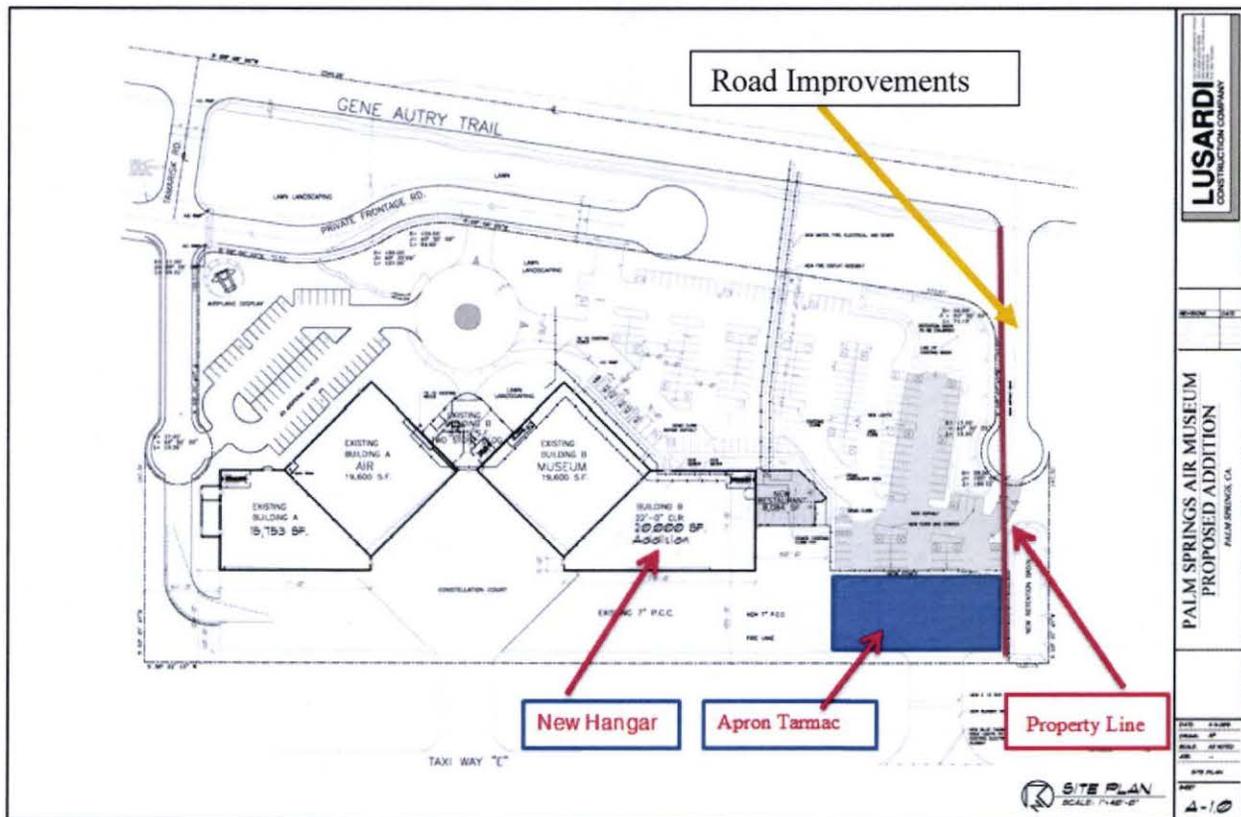
In November 1995, the Palm Springs Air Museum commenced with a land lease at the Airport for a term of 40 years. The purpose of the lease was for the construction and operation of an aviation museum on a ten-acre parcel of Airport land adjacent to N. Gene Autry Trail.

Today, the Air Museum serves as one of the main attractions in Palm Springs with a world-class aviation war history-themed venue. Attendees pay an entry fee to experience war history through an array of static aircraft, a medley of World War II and Vietnam-era memorabilia, and military related art. Dozens of private special events occur throughout the year by businesses that look for a unique theme and setting.

The existing Air Museum facility complex consists of three large aircraft storage hangars with office space, adjacent aircraft parking apron, and several public vehicle lots including a temporary parking area under a short-term license agreement from the Airport.

As the basis of their rebate request, the Palm Springs Air Museum has unveiled a plan that constructs one additional 20,000-square-foot temperature-controlled aircraft storage hangar to accommodate the growing demand for its aircraft display and special events. Also included in the planned facility expansion is a full restaurant open to the public, expanded aircraft apron, and new public roadway. The current leasehold boundary is adequate to accommodate the hangar and aircraft apron improvements, but the new road and associated retention basin do overlap onto vacant Airport property and an easement will be required to address the lease boundary protrusion.

As depicted in the drawings below, the proposed new road would be perpendicular to Gene Autry and favors the south boundary of the leasehold with some overlap onto Airport property. Abutting this road segment on the diagram's right side are approximately 15 acres of Airport's prime vacant land. This new road is an improvement that will benefit possible future new aviation development on the site.





At its meeting of September 16, 2015, the Airport Commission reviewed the overall museum expansion plans and a capital improvement reimbursement arrangement using rent abatements toward the actual construction costs associated with the street and aircraft apron. The cost estimates provided by the Air Museum for these two project elements is \$205,000. The proposed capital improvement reimbursement arrangement would be in the form of ongoing consecutive monthly leasehold rent abatements until the Airport obligation is retired.

In addition to the rent abatement, there is also a requested adjustment to the Airport fee structure on a permanent basis. As part of the proposed project, the Air Museum is planning an additional full-service aviation themed restaurant. In order to make this portion of the expansion economically viable for the Museum, they are asking for a permanent abatement of the current 10% fee on gross sales of food service. The 10% concession fee for sales generated by the original smaller restaurant will not be abated.

The proposal was presented to the City Council on October 7, 2015, as an informational item. Staff received direction to proceed with further negotiations with the Palm Springs Air Museum and develop the appropriate amendment to the agreement as presented with this report.

FISCAL IMPACT:

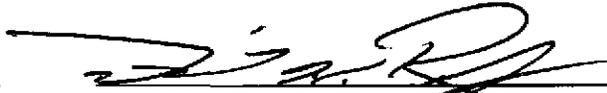
Under the current lease agreement, the Airport receives a combination of revenue from the Air Museum, including revenue from the admission fee, a percentage of the gift shop sales, and revenue from the food and beverage sales. In 2015, nearly \$38,000 in annual revenue was generated from the Air Museum to the Airport. Of that amount, approximately \$9,800 was from the existing restaurant facility.

To reimburse the Museum for a portion of the described capital costs, not to exceed \$205,000, would require an estimated six years of all lease abatements. Going forward, beyond the rebate amount, the new full-service restaurant 10% concession fee would not be required under this amendment. These amounts will be reduced from the Airport's annual revenue projections.

The benefit to the Airport would accrue from having the new entrance road constructed off of Gene Autry to support future development of the adjacent Airport property. The total project improvements estimated by the Palm Springs Air Museum are \$2,500,000.00.



Thomas Nolan, A.A.E.
Executive Director, Airport



David H. Ready, Esq., Ph.D.
City Manager

Attachments:

Lease Amendment No. 3 to the Palm Springs Air Museum Lease No. A3613
City Council Staff Report of October 7, 2015

AMENDMENT NO. 3 TO LEASE NO. A3613
AIR MUSEUM AND LEASE AGREEMENT
AT PALM SPRINGS INTERNATIONAL AIRPORT

THIS THIRD AMENDMENT ("Amendment") to Lease Agreement No. A3613 is made and entered into this ___ day of December, 2015, by and between the City of Palm Springs, a California charter city and municipal corporation, ("Landlord"), and the Palm Springs Air Museum, Inc., a California non-profit public benefit corporation ("Tenant").

RECITALS

A. Landlord owns and operates an airport known as the Palm Springs International Airport, located in the City of Palm Springs, County of Riverside, State of California ("Airport"). Landlord and Tenant entered into Lease Agreement No. A3613, effective November 29, 1995, Amendment No. 1 to said Lease Agreement on December 2, 1998, and Amendment No. 2 to said Lease Agreement on February 2, 2005. The Lease Agreement and its Amendments are collectively referred to as the "Agreement."

B. Pursuant to the terms of the Agreement, the Landlord leases a portion of the Airport ("Demised Premises") to Tenant to construct, operate, and maintain an Air Museum.

C. Tenant desires to construct, operate, and maintain certain additional facilities in furtherance of its museum use of the Demised Premises, including an additional 20,000 (approximately) square foot "hanger" for exhibit and display space and an 8,100 (approximately) square foot restaurant. In addition, Tenant desires to design, construct, and provide near the southwestern corner of the Demised Premises: (1) an aircraft apron tarmac expansion to accommodate additional aircraft parking, and (2) a retention basin. The Tenant has also requested the Landlord authorize Tenant (1) to enter the adjoining airport property directly to the south of the existing property line to design and construct a public road that would serve the Demised Premises as well as other property owned by the Landlord to the south of the Demised Premises, and (2) to enter Airport property to the west of the aircraft apron tarmac described above on the Demised Premises to provide an access over Airport Property to such tarmac area. The facilities and improvements described in this Recital C are collectively referred to in this Amendment No. 3 as the "Improvements."

D. Tenant also desires Landlord to pursue regulatory approvals for a future second aircraft entry/exit gate to the new aircraft apron tarmac expansion referenced as part of the Improvements in Recital C.

E. Tenant also desires to ultimately develop a full service restaurant space on the Demised Premises for independent operation by a sub-lessee of Tenant as a potential aviation themed restaurant attraction, which will require significant financial investment. Tenant has requested that the 10% service fee on gross sales made in, upon or from the Demised Premises with respect to any food and beverage sales (excluding third party catering for special events or convention receptions), as otherwise required pursuant to Section 3.2(a)(ii) of the Agreement (as amended), be waived for a full service restaurant site on the Demised Premises.

F. Landlord and Tenant recognize that the Improvements will enhance the Demised Premises and the Airport, and will improve the overall utility and usefulness of the Demised Premises. The abatement of certain portions of Tenant's rental obligations to partially offset the costs of the Improvements is fair and reasonable.

G. The parties wish to amend the Agreement to expressly allow for additional facilities and Improvements on and adjacent to the Demised Premises and modify certain provisions thereof as provided in this Amendment No. 3.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and for other good and valuable considerations, Landlord and Tenant agree to amend the Agreement as provided herein.

AGREEMENT

Section 1. Section 1.6 of the Agreement is amended to read:

1.6 Use of Demised Premises. The Demised Premises and improvements to be installed by tenant may be utilized for an Aviation Museum may include items (a) through (k) listed below. Further, the demised Premises and improvements shall include rent free space for the Civil Air Patrol in an amount comparable to the space occupied as of October 21, 1998.

- (a) Static as well as rotational display of airworthy aircraft;
- (b) A "theater of the air" interior to the Museum hangars;
- (c) Gift Shop;
- (d) Snack Bar;
- (e) Aircraft restoration facility;
- (d) Office use related to the Museum operations;
- (f) Special events coordinated with the Director of Aviation;
- (g) Parking for (display) aircraft with a minimum stay of one week;
- (h) Museum hangars
- (i) Restaurant
- (j) Retention basin
- (k) Aircraft apron tarmac
- (l) Second aircraft entry/exit gate to Airport taxiway (subject to regulatory approvals)

Section 2 Section 3.2(a)(ii) of the Agreement is amended to read:

“(ii) The product of ten percent (10%) times the gross sales made in, upon or from the Demised Premises with respect to any food and beverage sales except that this provision shall not apply to: (1) third party catering for special events or convention receptions, where food is prepared off-site; or (2) full-service stand-alone restaurants independently operated by a sub-lessee of Tenant.”

Section 3 Section 3.10 is added to the Agreement to read:

3.10. Temporary Rent Abatement for Specified Improvements. Rental payments due to Landlord from Tenant as provided in Section 3.2 of the Agreement, as amended, and in Sections 1 and 2 of Exhibit “D” of the Agreement, as amended, shall be abated and credited as payment of rent otherwise required to be paid by Tenant, for the purpose of assisting Tenant in the installation and construction of the aircraft apron tarmac, retention basin, and public street improvements as described and depicted on Exhibit “G” to this Agreement. The public street improvements shall be constructed to city local street standards and the plans, specifications, and construction contracts for the improvements shall be reviewed and approved by the City Engineer of the City of Palm Springs prior to commencement of construction; connection of the new public street to Gene Autry Trail (State Highway 111) shall also be subject to review and approval of, and issuance of permits by, Caltrans. Abatement and credit shall commence upon the earlier of the City Engineer’s final acceptance of completion of (a) the aircraft apron tarmac project, or (b) the public street improvements and the basin. Rent abatement and credit associated with the aircraft apron tarmac project shall not exceed \$55,000 and the rent abatement and credit associated with the public street improvements and retention basin projects shall not exceed \$150,000. Notwithstanding the commencement of rent abatement and credit, Tenant shall continue to provide a monthly report of revenues otherwise due to Landlord under this Agreement. Rent abatement and credit shall cease once the total rent abatement and credit either equal the construction contract amounts or the maximum amounts specified in this Section 3.10, whichever amount is less. Once rent abatement and credit ceases under the provisions of this Section 3.10, the Tenant shall resume all rental payments as provided in this Agreement.

Section 4 Except as otherwise provided in this Amendment, all terms and conditions of the Agreement shall remain in full force and effect and performance of services under the Agreement shall be governed by the provisions of the Agreement.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have executed and entered into this Amendment No. 3 as of the date first written above.

ATTEST:

**CITY OF PALM SPRINGS,
a California charter city and
municipal corporation**

By: _____
James Thompson,
City Clerk

By: _____
David H. Ready,
City Manager

APPROVED AS TO FORM:

By: _____
Douglas Holland,
City Attorney

**PALM SPRINGS AIR MUSEUM, INC.,
a California non-profit public benefit
corporation**

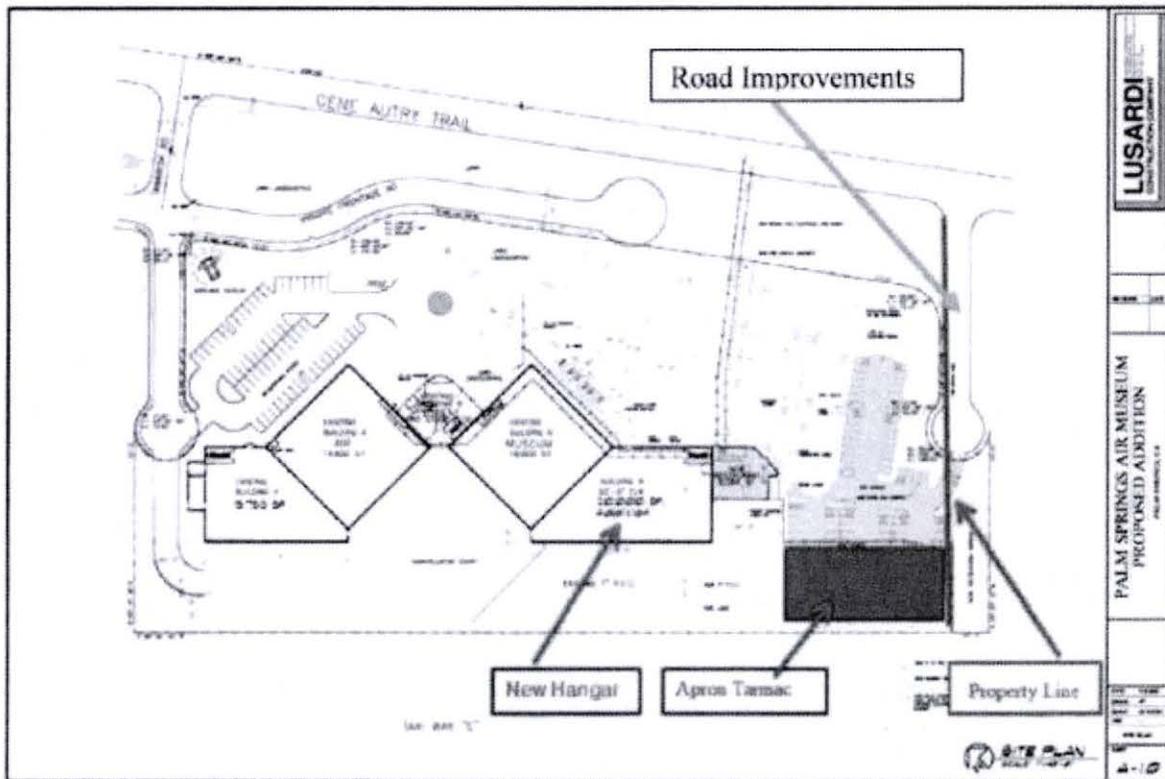
By: _____
Signature (notarized)

By: _____
Signature (notarized)

Name: _____

Name: _____

EXHIBIT "G"
SPECIFIED IMPROVEMENTS ELIGIBLE FOR RENT ABATEMENT



Apron Tarmac

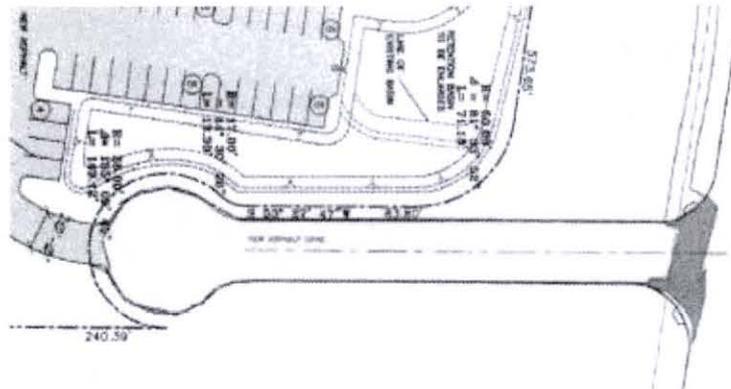
Import materials to fill area, compact and finish grade for a new apron tarmac area extending beyond the existing fence line.

Retention Basin

Construct new retention basin beyond the existing fence line at the southwest corner of the Demised Premises to intercept and collect increased stormwater runoff generated by additional parking facilities.

Public Road Improvements

Construct new public street improvements to City and Caltrans standards subject to approved plans and permits located to the south of the Demised Premises, and as generally shown hereon. Access will be limited to right turn access only, no traffic signal.





CITY COUNCIL STAFF REPORT

DATE: October 7, 2015 NEW BUSINESS

SUBJECT: Palm Springs Air Museum Lease Amendment for Expansion

FROM: David H. Ready, City Manager

BY: Department of Aviation

SUMMARY

This item considers a request by the Palm Springs Air Museum seeking the reimbursement for road and aircraft apron leasehold improvements, a boundary easement to accommodate the improvements, and a concession fee abatement for a new restaurant.

RECOMMENDATION:

1. Discussion of request by Palm Springs Air Museum; direct staff as appropriate.

STAFF ANALYSIS:

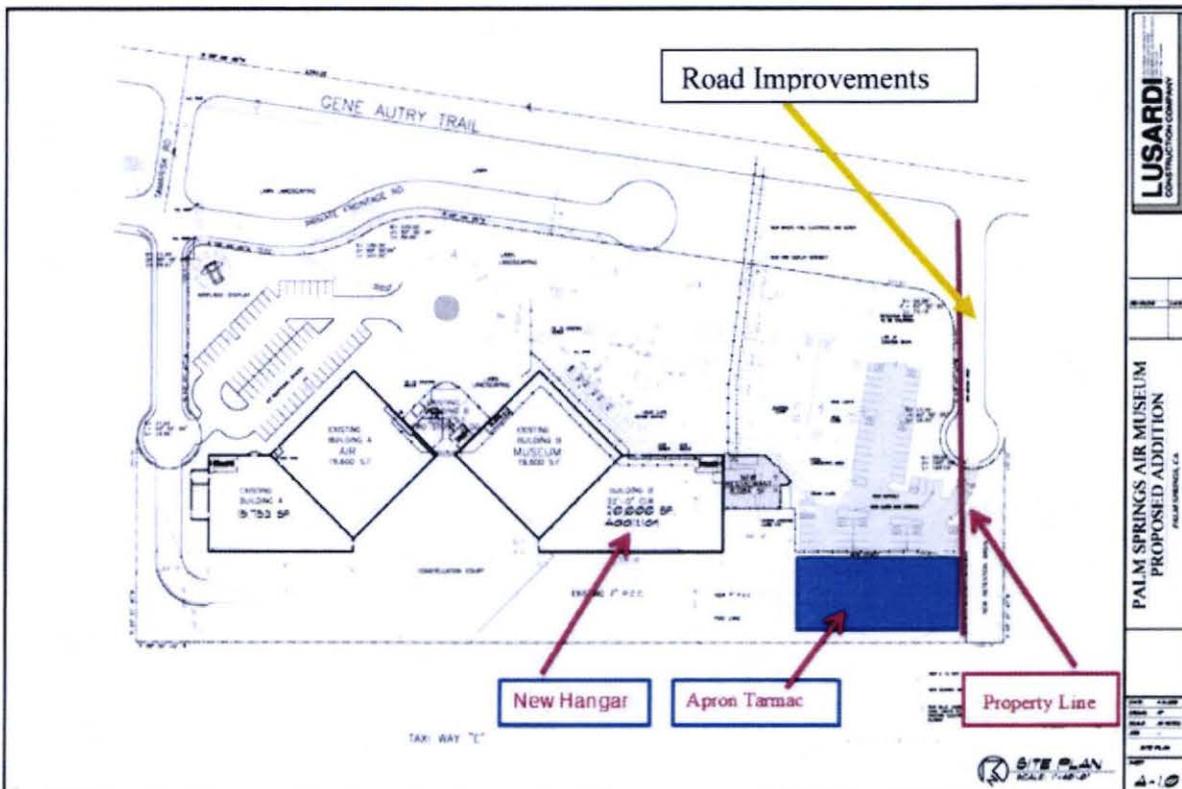
In November 1995, the Palm Springs Air Museum commenced with a land lease at the Airport for a term of forty years. The purpose of the lease was for the construction and operation of an aviation museum on a ten-acre parcel of land adjacent to Gene Autry Drive.

Today, the Air Museum serves as one of the main attractions for the entire Coachella Valley with a world-class aviation war history-themed venue. Attendees experience war history through an array of static aircraft, art, and a medley of World War II and Vietnam-era relics that memorialize these historic events. The Air Museum facility complex includes three large hangars with office space, an adjacent aircraft apron, and several public parking lots, including a temporary parking area under a short-term license agreement.

The Palm Springs Air Museum has unveiled a plan that constructs an additional 20,000-square-foot temperature-controlled aircraft storage hangar to accommodate the growing demand. This planned facility expansion would include a full restaurant open to the public, expanded aircraft apron, and new public roadway. The current leasehold boundary is adequate to accommodate the hangar and aircraft apron improvements,

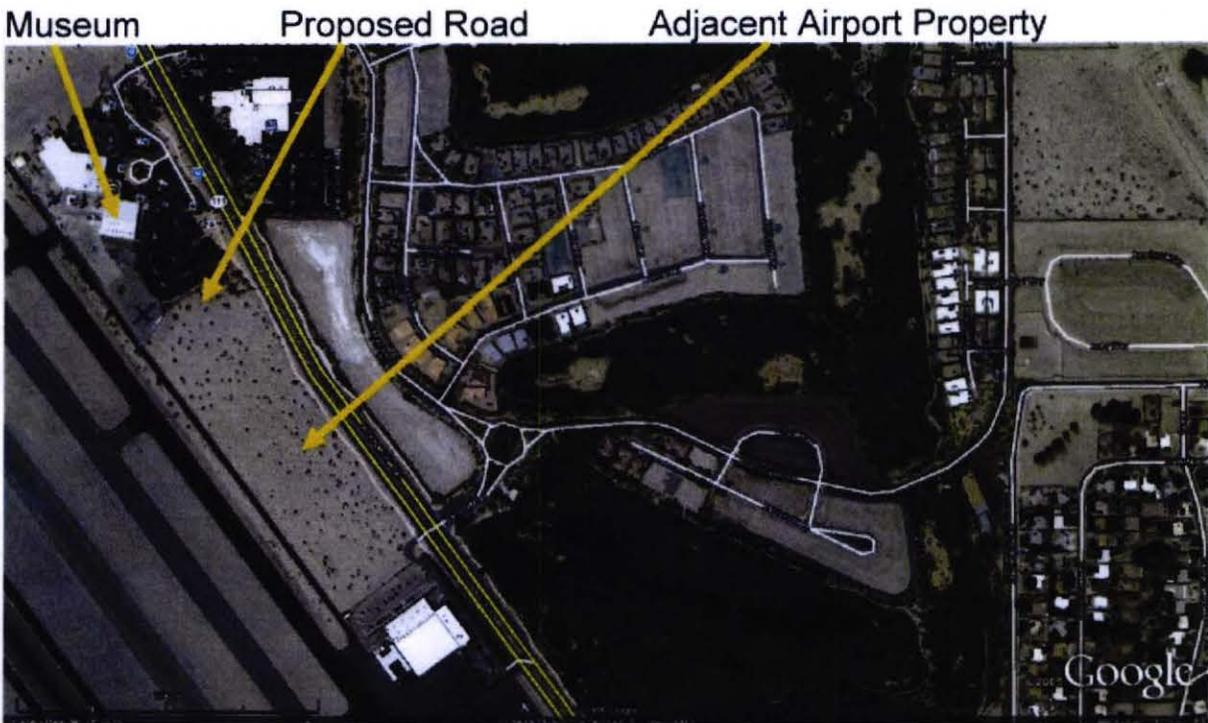
however, the new road and associated retention basin do overlap onto airport vacant property. An easement will be sufficient for addressing this lease boundary protrusion.

As depicted in the drawing below, the proposed road is perpendicular to Gene Autry and favors the south boundary of the leased property with some overlap onto Airport property. Abutting this road segment on the diagram's right is the Airport's prime vacant land of approximately 15 acres. This new road is an improvement that will benefit future new aviation development on this vacant piece of property.



At its meeting of September 2015, the Airport Commission voted in favor of recommending the overall museum expansion plans and the Airport's reimbursement arrangement through rent abatement for actual construction costs associated with the street and aircraft apron. The cost estimates obtained by the Air Museum for these two elements is approximately \$205,000. The proposed reimbursement arrangement would be in the form of ongoing annual leasehold rent abatements, monthly, until the full construction amount is retired (approximately 6-7 years.) In addition, the Air Museum requested an ongoing abatement of the 10% concession fee for the sales generated by the new restaurant. The Airport Commission voted to recommend this request to City Council as well.

The exhibit below identifies the adjacent airport property that will become accessible with the proposed road improvements.



If City Council agrees to the Air Museum's request, staff will work with the City Attorney to prepare a revised lease agreement and easements reflecting these changes. The agreements will be returned to the City Council for final review and approval.

FISCAL IMPACT:

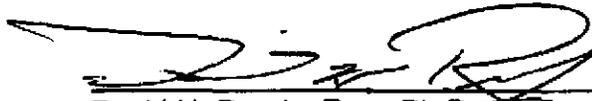
Under the current lease agreement, the Airport receives a combination of fixed rental and a percentage from sales. In 2015, nearly \$38,000 in annual revenue was generated. To reimburse the requested capital costs, not to exceed \$205,000, would require approximately six to seven years of lease abatements.

Under this scenario, a benefit to the Airport would accrue from having the new entrance/road constructed off of Gene Autry, and amortized over several years - which would support future development of the adjacent Airport property.

With regard to the ongoing 10% sales concession abatement requested on the new restaurant, the long-term loss of revenue to the Airport is not knowable at this time. The Air Museum's request is based on its anticipated overall project investment of \$2.5 million and increased operational costs.



Thomas Nolan, A.A.E.
Executive Director, Airport



David H. Ready, Esq., Ph.D.
City Manager