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NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Michael Stoltz for Peterson, Robert - Director
Public Works
REPORT BY: Michael Stoltz, Deputy Director of Public Works, 299-1365
SUBJECT: Discussion and update regarding balloon launching facility

RECOMMENDATION

Director of Public Works requests direction regarding whether to extend the term of nonexclusive License Agreement No. 1-06 with Balloons Above the Valley for operation of the balloon launch facility at the Yountville Corporation Yard beyond the current expiration date of December 31, 2007.

EXECUTIVE SUMMARY

PROCEDURAL REQUIREMENT:

1. Staff Report.
2. Board Questions of Staff.
3. Public Comment?
4. Motion to provide direction to staff, second.
5. Board Discussion.
6. Vote

At the November 15, 2005 Board of Supervisors meeting, it was recommended that the establishment of a balloon launching facility on County owned property adjacent to the Roads Division Corporation Yard on Silverado Trail near Yountville be limited to a six month evaluation period. Although no formal action was taken by the Board regarding the precise time period, it was understood that the County site would be used for a limited time period for purposes of a test period, and to afford time for the Board to consider other options including an amendment to the zoning ordinance that would allow hot air balloon launches in any zoning district upon grant of a use permit. On May 2, 2006, the Board adopted Ordinance Number 1276 to permit establishment of hot air balloon launching sites in any zoning district, subject to certain conditions. To date, two applications have been filed and approved under the new rules. This ordinance is scheduled to sunset on May 2, 2008 unless extended by the Board.

On March 7, 2006, Balloons Above the Valley entered into a nonexclusive license agreement with the County of Napa to utilize this site for use as a hot air balloon launching facility. To date, no other balloon companies have

entered into a nonexclusive license agreement with the County to utilize the Corporation Yard for hot air balloon launches. On September 12, 2006, the Board approved to continued operation of balloon launches at the County Corporate Yard until December 31, 2007.

Balloons Above the Valley has initiated a request to extend the term of nonexclusive License Agreement No. 1-06 for operation of the balloon launch facility at the Yountville Corporation Yard beyond the current expiration date of December 31, 2007. In its request, it indicated a desire to at least provide a five year extension with an ultimate goal make the Corporate Yard a permanent Balloon Launching Park.

If the time period is extended, other balloon companies will also be able to utilize this site based upon entering the nonexclusive license agreement. Board direction on this issue is requested.

FISCAL IMPACT

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|-----------------------------------|---|
| Is there a Fiscal Impact? | Yes |
| Is it currently budgeted? | Yes |
| Where is it budgeted? | Public Works |
| Is it Mandatory or Discretionary? | Discretionary |
| Discretionary Justification: | The fiscal impact is dependent upon the direction of the Board. If the Board determines to continue this program, the Department will continue to receive reimbursements for staff time spent to administer the program. If the Board determines not to continue the program, reimbursements will discontinue because staff will no longer be administering this program. Staff will focus on other priorities. The fiscal year 2006-07 budget recovered \$29,743 in reimbursements. The fiscal year 2007-08 budget anticipates \$16,875 in revenue based upon operations ceasing on December 31, 2007. |
| Is the general fund affected? | Yes |
| Future fiscal impact: | This is dependent upon the direction of the Board |
| Consequences if not approved: | The fiscal impact is dependent upon the direction of the Board. If the Board determines to continue this program, the Department will continue to receive reimbursements for staff time spent to administer the program. If the Board determines not to continue the program, reimbursements will discontinue because staff will no longer be administering this program. Staff will focus on other priorities. The fiscal year 2006-07 budget recovered \$29,743 in reimbursements. The fiscal year 2007-08 budget anticipates \$16,875 in revenue based upon operations ceasing on December 31, 2007. |

Additional Information:

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Categorical Exemption Class 1: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. [See Class 1 ("Existing Facilities") which may be found in the guidelines for the implementation of the

California Environmental Quality Act at 14 CCR §15301; see also Napa County's Local Procedures for Implementing the California Environmental Quality Act, Appendix B.]

BACKGROUND AND DISCUSSION

On November 15, 2005, the Board adopted Resolution No. 05-212, which authorized the Director of Public Works, or the Director's designee, to execute on behalf of the County nonexclusive license agreements to allow for balloon launches at the County Corporate Yard on Silverado Trail. Prior to that date, the Board had adopted a "Code of Conduct" intended to govern activities by balloon operators using the Corporate Yard. Only one company, Balloons Above the Valley, has opted to enter into this nonexclusive agreement. The Department is unable to advise as to the launch locations of other balloon companies given the Board's direction for Public Works to limit its activities to the minimum administration activities related to launches from the Corporate Yard.

On March 7, 2006, Balloons Above the Valley entered into an agreement with the County of Napa to utilize a suitable portion of the Roads Division Corporation Yard for use as a hot air balloon launching facility on a nonexclusive basis. On April 6, 2006, Balloons Above the Valley conducted its first balloon launch from the County Corporate Yard.

On May 2, 2006, the Board adopted County Zoning Ordinance No. 1276 permitting balloon launching sites in any zoning district subject to certain conditions. This ordinance shall sunset on May 2, 2008, unless extended by the Board prior to that date. Two applications for balloon launching sites have been received and approved to date at Provenance and Jaeger Vineyards.

On September 12, 2006, the Board approved to continued operation of balloon launches at the County Corporate Yard until December 31, 2007. It also approved revisions to the "Code of Conduct" to address the vine mealybug and notification of the Agricultural Commissioner of unauthorized vine contact by balloonists.

On a weekly basis, Balloons Above the Valley submits a manifest of passengers signed waivers along with payment to Public Works for any Balloons launched from the County Corporate yard as per the agreement. Public Works staff reviews the submittal for accuracy. Balloons above the Valley has been cooperative and promptly responded to any concerns that have arisen from launch documentation. Balloons Above the Valley has maintained open communication with Public Works staff in order to assure harmonious relations. Public Works is reimbursed for the cost of reviewing the manifest and processing the payment at a present rate of \$67.50 per launch per balloon for passengers of nine or more, \$40 per launch per balloon for passengers of eight or less. Approximately \$41,000 has been recovered since operations started. This rate has been sufficient in recovering the cost of staff time to administer the program. Reimbursement is also recovered for additional annual insurance premiums for liability coverage for the County.

A total of 568 balloon flights have launched from this facility through October 19, 2007. In 2006, there were eight reports filed with the Professional Balloon Pilots Association regarding flights generated from the County Corporate Yard. There was one report of damage, which resulted in an official complaint also being logged with the County, for a landing at Clos du Val Winery in June 2006. This complaint was resolved in a satisfactory manner. Two other reports regarded unauthorized landings, and five reports regarding low-flying balloons.

In 2007, there were three reports generated by Balloon Above the Valley's pilots regarding unauthorized landings. There was also the May incident at the Napa County Airport where Balloons Above the Valley re-launched one balloon without communication or clearance from Air Traffic Control Tower (ATCT), and it proceeded onto the movement area without proper clearance from ATCT. In this case, Balloons Above The Valley accepted responsibility for this incident, took actions against the employees who were responsible for the incident, and

reimbursed the County for staff time spent on this issue. It has also moved ahead in a constructive manner to ensure that no further incident of this nature occurs with the understanding that any further incident of this magnitude will cause the termination of its operation at the corporate yard.

The Agricultural Commissioner has not been notified by any unauthorized vine contact by balloonists launching from the County Corporate Yard. The County, through its complaint process administered by the Conservation, Development and Planning Department, has only received one official complaint previously referred to regarding the unauthorized landing at Clos du Val Winery. The California Highway Patrol has not advised the Department of any traffic movement issues caused by balloon launches adjacent to the Corporate Yard.

Balloons Above the Valley has initiated a request to extend the term of nonexclusive License Agreement No. 1-06 for operation of the balloon launch facility at the Yountville Corporation Yard beyond the current expiration date of December 31, 2007. Its representative will be present to discuss why a longer time period is needed.

The Risk Manager has been consulted regarding this request, and has advised that no other provisions need to be added to protect the County's risk exposure should the Board direct to continue the balloon launch program beyond December 31, 2007.

The original intention of allowing balloon launches from the County Corporate Yard was to provide a limited time period for purposes of a test period, and to afford time for the Board to consider other options including an amendment to the zoning ordinance that would allow hot air balloon launches in any zoning district upon grant of a use permit.

Board direction is sought as to whether it wishes to continue this program beyond the interim time period originally anticipated. If that is the desire of the Board, the following issues should be discussed:

- | How long of an extension should be provided to License Agreement No. 1-06?
- | Should the fee schedule be revised to consider the value of the land in addition to reimbursement for the cost of staff to review the manifest of passengers and signed waivers?

SUPPORTING DOCUMENTS

None

CEO Recommendation: Approve

Reviewed By: Helene Franchi