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December 6, 2024

*Via email to Mr. Andrew Potter*

*Clerk of the Board of Supervisors, San Diego County*  
*Andrew Potter (Andrew.Potter@sdcountry.ca.gov)*  
1600 Pacific Highway  
Fourth Floor, Room 402  
San Diego, California 92101

**Re: Land Use Agenda Item No. 10; McClellan-Palomar Airport Lease with American Airlines**

**Dear Mr. Andrew Potter:**

On behalf of Citizens for a Friendly Airport (“C4FA”), we provide the following comments regarding the proposed approval of a contract that would allow for new weekly flights by American Airlines at the McClellan-Palomar Airport (“Project”). This vote, Agenda Item No. 10, is scheduled for the County of San Diego’s (“County”) Board of Supervisors (“Board”) meeting on December 11, 2024.<sup>1</sup> On September 19, 2024, C4FA submitted a comment letter raising concerns about this contract, among other issues. This letter is attached as **Exhibit A**. C4FA reiterates the issues detailed in its prior letter, which have not been addressed.

C4FA remains concerned that the County is proceeding in a manner inconsistent with the California Environmental Quality Act (“CEQA”) by attempting to circumvent environmental review, and provides additional comments on the proposed Project below.

**I. The County is Pre-Committing to American Airlines Without Environmental Review, in Violation of CEQA**

Lead agencies who intend to carry out, propose to carry out, or approve a project that may have a significant effect on the environment shall prepare and certify an Environmental Impact Report (“EIR”). (*Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 128; Cal. Pub. Res. Code §§ 21100(a), 21151.) A project is “approved” once the agency commits to a definite course of action and, for private projects, upon “issuance by the public agency of a discretionary contract, grant, subsidy, loan, or other form of financial assistance, lease, permit, license, certificate, or other entitlement for use of the project.” (*Save Tara, supra*, 45 Cal.4th at 129; Cal. Code Regs., tit. 14, § 15352, subs. (a) & (b).) Approval is measured by the agency’s *earliest* commitment to the project, and an agency may not postpone the preparation of an EIR or other environmental

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<sup>1</sup> <https://bosagenda.sandiegocounty.gov/cobservice/cosd/cob/content?id=0901127e8113e61c>.

review document (i.e., an addendum or Supplemental EIR) until after it has already committed to the project. (*Save Tara, supra*, 45 Cal.4th at 132, 134.)

The proposed lease would permit American Airlines to operate at McClellan-Palomar from February 13, 2025, to February 12, 2027. The County has already determined the fee and rent schedule, the time of American Airlines' arrivals and departures, and identified the ticket and boarding counters to be used. (**Exhibit B**, at 4-6.) American Airlines is already selling seats on flights departing from and arriving to McClellan-Palomar, scheduled for early 2025. (**Exhibit C**.) Until very recently, the County was even advertising American Airlines flights on its own website. (**Exhibit D**.) The County has already made numerous improvements to the terminal and kiosks at American Airlines' request. (**Exhibit E**.) It is evident that the County has pre-committed to contract with American Airlines, allowing American Airlines to offer service from the McClellan-Palomar Airport without conducting adequate environmental review, in violation of CEQA.

The Board must deny approval of the Project until the adequate environmental review is conducted.

## **II. The County Must Comply with the Conditional Use Permit and Its Master Plan Before Approving the Contract**

The Master Plan Update provides that that the County will seek a Conditional Use Permit ("CUP") amendment prior to "taking other action to implement facility improvements needed to implement an ultimate ARC greater than B-II." (Master Plan Update, p. 5-5.) The Court has also made it clear that the County may not change the designation of the McClellan-Palomar Airport without an approved amendment to the CUP:

Planning Commission Resolution No. 1699 stated that **'[t]he existing designation of the airport as a General Aviation Basic Transport Airport shall not change unless an amendment to this CUP is approved by the Planning Commission.'** Here, the County changed the designation of the airport from B-II to D-III . . . the administrative record contained evidence showing that the change from B-II to D-III would allow larger aircraft to takeoff with more fuel. This evidences an intent to use the Airport in a way that was not previously authorized.<sup>2</sup>

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<sup>2</sup> Citizens for a Friendly Airport v. County of San Diego, Minute Order (Jan. 26, 2021) Case No. 37-2018-00057624-CU-TT-CTL (emphasis added).

The County has repeatedly attempted to change McClellan-Palomar's designation or undertake improvements that would only be necessitated if the designation was to be changed, as detailed in **Exhibit A**. American Airlines will utilize a much larger type of aircraft than is typical of others that fly from McClellan-Palomar: the Embraer 175.<sup>3</sup> The Embraer 175 seats 76 people. (**Exhibit B**, at 4.) Notably, County Policy F-44 limits airline operations to aircraft "having 70 seats which meet the approach speed and wingspan categories for McClellan-Palomar Airport in accordance with FAA regulations." (S.D. Policy No. F-044.)

The Embraer 175 is designated above the airport's current B-II status and seats more people than presently allowed under Policy F-44. The County asserts that Policy F-44 can be waived if necessary for federal compliance or where desired by the Board (**Exhibit B**, at 11), and Staff recommends that the Board repeal the policy at its December 11 hearing, or alternatively, waive or significantly amend F-44.<sup>4</sup> (Land Use Agenda Item No. 10, at 4 (Dec. 11, 2024).)

However, the significant amendments that Staff proposes clearly "evidences an intent to use the Airport in a way that was not previously authorized," as Policy F-44 would be stripped of its substantive requirements relating to aircraft weight and seat capacity.

One provision of Policy F-44 would be amended as follows: "The role of McClellan-Palomar Airport shall be to provide air transportation for the ~~residents of North San Diego County~~ public and to facilitate ~~general~~ aviation support activities while minimizing noise impacts on surrounding areas and communities."<sup>5</sup> "General aviation" refers to public-use airports that have scheduled service with less than 2,500 enplanements annually.<sup>6</sup> The removal of the word "general" is significant, particularly as the County has also proposed adding the following language to the policy: "The Airport provides valuable general and commercial aviation."<sup>7</sup> These changes, taken together, reveal the County's attempt to change McClellan-Palomar's categorization from General Aviation to Commercial Service. Per the Court's order, "[t]he existing designation of the airport as a General Aviation Basic Transport Airport shall not change

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<sup>3</sup> The Embraer 175 is a C-III designated aircraft. "As defined in FAA Advisory Circular 150/5300-13A, runway design standards for C-III and D-III aircraft are identical." (Master Plan Update, p. 5-5-45.)

<sup>4</sup> A draft of the Amended Policy F-44 is available at this link:

<https://bosagenda.sandiegocounty.gov/cobservice/cosd/cob/content?id=0901127e8113e620>.

<sup>5</sup> Amended Policy F-44, supra note 4.

<sup>6</sup> [https://www.faa.gov/airports/planning\\_capacity/categories](https://www.faa.gov/airports/planning_capacity/categories).

<sup>7</sup> Amended Policy F-44, supra note 4.

unless an amendment to this CUP is approved by the Planning Commission.”<sup>8</sup> Accordingly, the proposed changes to Policy F-44 would require a CUP amendment. If the County proceeds without fulfilling this substantive requirement, it would violate the Court’s order.

This lease is also inconsistent with the Master Plan. The Master Plan Update studied anticipated airline trips through 2036, though presumed that the largest aircraft to operate out of McClellan-Palomar would be a 64-seat aircraft. (Airport Master Plan Update, p. 3-3-28.) Allowing American Airlines to operate a 76-seat aircraft out of a B-II designated airport is inconsistent with the Master Plan Update, County policy, judicial determinations, and the CUP.

The County is not only allowing American Airlines to operate out of McClellan-Palomar, but *incentivizing* it: during the first year of the contract, the County proposes to waive over half of the \$542,375 owed by American Airlines in fees and rent. (**Exhibit B**, at 6.) The County cannot incentivize and enter a contract that invites C-III designated aircraft to its B-II designated airport, and then rely upon that contract as evidence that a change in designation must be approved for “safety.” This contract with American Airlines is yet another example of the County’s efforts to circumnavigate the substantive requirements for changing the Airport’s designation by contracting with incompatibly large aircraft.

### **III. Substantial Changes to McClellan-Palomar’s Operation Require Further Environmental Review**

Agenda Item No. 10 proposes to repeal or radically alter the text of Policy F-44 and authorize operations by a much larger aircraft than those typical at McClellan-Palomar. These actions differ from those studied and approved under the Final Program EIR for the McClellan-Palomar Airport Master Plan Updated, certified on December 8, 2021.

Yet, the County’s proposed CEQA findings claim that there “are not substantial changes in the project or in the circumstances under which it is undertaken which involve significant new environmental impacts that were not considered in the previously certified PEIR, that there is no substantial increase in the severity of previously identified significant effects, and that no new information of substantial importance has become available since said PEIR was prepared in accordance with CEQA Guidelines Section 15168.” (Board Letter, Land Use Agenda Item No. 10, at 5 (Dec. 11, 2024).)

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<sup>8</sup> Citizens for a Friendly Airport v. County of San Diego, Minute Order (Jan. 26, 2021) Case No. 37-2018-00057624-CU-TT-CTL.

“[W]hen a program EIR is employed, if a later proposal is not “either the same as or within the scope of the project ... described in the program EIR,” the agency is required to apply a more exacting standard to determine whether the later project might cause significant environmental effects that were not fully examined in the initial program EIR.” (*Save Our Access v. City of San Diego* (2023) 92 Cal.App.5th 819, 845 (internal citations omitted).) Subsequent projects that are inconsistent with the prior EIR are to be treated as a new project and must be analyzed accordingly. (Ibid.)

This lease would result in additional four trips per day at McClellan-Palomar, two arrivals and two departures, over the course of two years. (**Exhibit B**, at 4.) Thus, over the 729-day life span of the lease, there would be 2,916 additional trips at McClellan-Palomar, all by a much larger aircraft than those currently operating at or anticipated to operate at the airport. The Master Plan Update states that “the largest type of aircraft anticipated to be in operation . . . [is] 70 seats.” (Master Plan Update, p. 3-3-34.) Therefore, this type of aircraft – the Embraer 175 – was not studied in the Master Plan EIR.

Furthermore, internal County records obtained through a Public Records Act request anticipate large aircraft operations continuing to grow at the airport, whether this particular lease be renewed or another airline be selected for operation. There, these cumulative impacts must be studied and mitigated before the Project is approved.

#### **IV. Conclusion**

The proposed Project conflicts with the County’s *own* policies, the Master Plan EIR, and the existing CUP for the airports. The County must comply with its policies, including the requirement to obtain an amendment to the existing CUP, and perform adequate environmental review before any commitments are made, to avoid violations of CEQA

Sincerely,



Kathryn Pettit  
Isabella Coye

cc: publiccomment@sdcounty.ca.gov

# **Exhibit A**



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September 19, 2024

*Via email to the Honorable Keith Blackburn*

Mayor of the City of Carlsbad  
Keith Blackburn (keith.blackburn@carlsbadca.gov)  
1200 Carlsbad Village Drive  
Carlsbad, CA 92008

**Re: McClellan-Palomar Airport; Proposed Revisions to the City's Code and General Plan**

**To the Honorable Keith Blackburn:**

Our firm represents Citizens for a Friendly Airport (“C4FA”). On behalf of C4FA, we provide the following comments regarding the County of San Diego’s (“County”) April 23, 2024 letter to the City of Carlsbad (“City”), July 8, 2024 letter to the City, and ongoing activities regarding the operation and designation of the McClellan-Palomar Airport.

**I. Defining “Expansion” and Determining whether a CUP Amendment is Required**

Our firm sent a letter, dated January 2, 2024, on behalf of C4FA to the City. Our letter stated that “amendment of CUP-172 is required for any extension of the Airport runway because a runway extension was ‘specifically omitted’ from the facilities allowed by right at Table I of CUP-172,” and that “this interpretation is consistent with the definition of ‘airport expansion’ in Public Utilities Code section 21664.5.”

The County responded with the assertion that this “argument was reviewed and rejected in the January 26, 2021 ruling,” and that the Court agreed “with the County’s interpretation of the term “expansion” and that no amendment [of CUP-172] was required on the basis of the proposed changes set forth.” In the County’s view, Table 1 instead provides a non-exhaustive list of uses permitted without further discretionary review.

However, CUP-172 Condition 8 provides that “[t]he permitted uses for Palomar Airport are limited to those as outlined in Table 1, dated September 24, 1980, and incorporated herein by reference. Approval of any uses **not specifically listed in Table 1 and/or expansion of the airport facility shall require an amendment to the Conditional Use Permit.**” (emphasis added.) Runway extension is not specifically listed in Table 1, so a CUP amendment would be required for this reason alone.

Furthermore, as stated in Condition 8, expansion of the airport facility always requires a CUP amendment. Thus, so long as the City of Carlsbad's ("City") General Plan and municipal code are amended to define "expansion" as inclusive of alterations and extensions to runways, Condition 8 would also require CUP amendment on these grounds.

The County also notes that C4FA's intended definition of expansion was rejected by the Court, which agreed with the County and held that no amendment would be required to extend the runway. However, the Court only rejected the premise that the extension would require an amendment under the City's current definition of expansion; the Court did not preclude the City from adopting a new definition that would include a runway extension. (*Citizens for a Friendly Airport v. County of San Diego*, Minute Order (Jan. 26, 2021) Case No. 37-2018-00057624-CU-TT-CTL (hereinafter *C4FA v. Cnty. of San Diego*).

In further support of its position, the County notes that Public Utilities Code ("PUC") section 21664.5 only applies to state-issued airport operating permits, so amending the City's Municipal Code to be compliant with state law is unnecessary, as the state law in question is inapplicable to the McClellan-Palomar Airport. As a preliminary matter, we were unable to locate a provision within the PUC that limits section 21664.5 to state-issued airport operating permits. Regardless, the City is not precluded from adopting a more inclusive definition of expansion merely because the law does not require the City to do so; the City's new definition can still be consistent with state law, even if that consistency is not mandated. Thus, even if PUC section 21664.5 is not directly applicable to the McClellan-Palomar Airport, the City may certainly adopt a similar definition within its own codes, which then would be applicable to the airport.

The County also relies heavily on the May 3, 1993 letter from the then City Attorney, which concluded that the acquisition of property for a "clear zone" was not an expansion unless it involved (i) redesignation or rezoning or (ii) the completion of structures or buildings. This letter served as "a basis" for the Court's agreement with the County's definition of expansion, and the County is quick to note that this ruling was final. However, though this letter may have served as a basis for the Court's conclusion, the 1993 letter itself cannot be construed as binding upon the current City Attorney or City Council. The ruling was final; the circumstances upon which the ruling was based are not. Though the letter—written over thirty years ago—provided support for the Court's conclusion, the current City officers can adopt or amend ordinances as needed to modernize the City's code and general plan. This letter does not bind the City to a limited definition of expansion moving forward.

## **II. Applicability of the City's Code and General Plan to the County**

The County also argues that, if the City amends its General Plan or zoning code, the changes would not be applicable to the County by virtue of its "vested rights" and its "immunity" from subsequently enacted ordinances.



With respect to immunity from subsequently enacted ordinances, the County asserts that such changes could not be applied to the County because the “Ruling did not find that the waiver extends to subsequently enacted City ordinances.” This statement misconstrues the language of the court’s order, as the court draws no distinction between immunity for previously and subsequently enacted ordinances. The ruling explicitly states that “the County waived its immunities,” with no caveats mentioned. (*C4FA v. Cnty. of San Diego, supra* at \*3.) The “County voluntarily and intentionally relinquished its immunities with respect to the airport.” (*Id.*) There is no support for the idea that the court’s holding left undecided whether the waiver extends to subsequently enacted ordinances and, therefore, there is no support for the idea that the County would not be subject to compliance with the City’s amended General Plan and zoning code.

In its letter to the City, the County also vaguely asserts its “vested rights.” There is generally no vested right to expand or enlarge a nonconforming use. (*Sabek, Inc. v. County of Sonoma* (1987) 190 Cal.App.3d 163, 167; *Goat Hill Tavern v. City of Costa Mesa* (1992) 6 Cal.App.4th 1519, n. 4.) The McClellan-Palomar Airport is subject to a Conditional Use Permit; the issuance of CUP-172 does not vest any rights for further expansion or enlargement. Such rights must come from an amendment to the CUP where they do not exist in the CUP itself. Thus, the County does not have a “vested right” to anything not expressly provided for in the CUP.

As discussed in Part I, the County would be subject to the City’s updated definition of “expansion” once the City makes this change within its general plan and zoning code. This change would not impose additional restrictions on the County, but clarify the scope of the authority already granted under the CUP. Thus, “vested rights” would not allow the County to extend the runway without an amendment to the CUP.

As an additional note, the City is free to impose new conditions or alter existing conditions in the CUP whenever an amendment to the CUP is sought, as well as in a limited number of other situations, such as where the “conditional use permit is being or has recently been exercised contrary to any of the terms or conditions of approval.” (Carlsbad Muni. Code §§ 21.54.125(D), 21.42.120(F)(3).) This further indicates that even “vested rights” can be modified when the circumstances so require it.

The County also draws attention to FAA Grant Assurance 5, which provides that the County “may ‘not take or permit any action which would operate to deprive it of any of the rights and powers [necessary to comply with its obligations as airport sponsor] . . . and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance.’” As stated above, there is no right—vested or otherwise—to expand the airport beyond the extent provided for in the CUP.

### III. The County Has Sought Out Expansion of the Airport

The County asserts in its letter that it “has no authority over the quantity, type, or flight track of any aircraft arriving or departing from the Airport, which are under FAA jurisdiction.”

Yet, the County is deep into contract negotiations with American Airlines (“AA”) to add the airline as a route provider at McClellan-Palomar Airport subject to a two-year lease. Though the County does not yet appear to have signed or finalized the contract, the County has publicly announced that AA flights will begin in February 2025, and AA has already begun to offer these flights for purchase. Our client has informed us that the County has stated its intent to waive fees for AA for the first year of the two-year lease, likely to ensure that the contract is finalized. AA will utilize a much larger type of aircraft than is typical of others that fly from McClellan-Palomar: the Embraer 175.<sup>1</sup> The County does have some level of authority over the “type . . . of any aircraft arriving or departing from the airport,” as it has taken it upon itself to allow, and even try to incentivize, AA’s much larger planes to use the airport.

As the Superior Court found, and as discussed in Section IV, the County must first obtain a CUP amendment from the City.

### IV. The County has Unlawfully Initiated the Expansion of its Operations at McClellan-Palomar

#### A. The County is Precluded from Taking Unilateral Action to Change the Airport’s Designation

In *C4FA v. County of San Diego*, the Court made it clear that the County was not to change the designation of the McClellan-Palomar Airport without an approved amendment to the CUP:

[T]he Project required an amendment to CUP-172. The project changes the designation of the airport. Planning Commission Resolution No. 1699 stated that **‘[t]he existing designation of the airport as a General Aviation Basic Transport Airport shall not change unless an amendment to this CUP is approved by the Planning Commission.’** Here, the County changed the designation of the airport from B-II to D-III . . . the administrative record contained evidence showing that **the change from B-II to D-III would allow larger aircraft to takeoff with more**

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<sup>1</sup> The Embraer 175 is a C-III designated aircraft. “As defined in FAA Advisory Circular 150/5300-13A, runway design standards for C-III and D-III aircraft are identical.” (Master Plan Update, p. 5-5-45.)

**fuel. This evidences an intent to use the Airport in a way that was not previously authorized.**<sup>2</sup>

The Court expressly held that a change to the designation of the Airport would require an amendment to the CUP, and that a change in designation without the requisite amendment would result in a use that was not previously authorized.

This same requirement is echoed in the County’s Project Environmental Impact Report (“PEIR”) and in its filings in the litigation. The County noted: “In regards to Conditional Use Permit 172 from the City of Carlsbad, the Project EIR states: ‘...the County will seek an amendment to CUP-172 for **any change** in ARC [Airport Reference Code] **beyond the existing B-II designation** in the ALP [Airport Layout Plan] **or prior to taking action to implement facility improvements for an ARC greater than B-II.**’”<sup>3</sup>

The same language is also reiterated in the County’s Master Plan Update: “the County will seek an amendment to CUP-172 for any change in the existing ARC as shown on an ALP from B-II to something greater (i.e., B-III or higher). The County will also **seek a use permit amendment prior to** seeking grant funds, awarding a contract, or **taking other action to implement facility improvements needed to implement an ultimate ARC greater than B-II.**” (Master Plan Update, p. 5-5 (emphasis added).)

The requirement is absolutely clear: the County must request from the City an amendment to CUP-172 prior to changing the designation, undertaking improvements necessary to facilitate the change in designation, or seeking grant funds or awarding contracts based on the potential change in designation. Initiating the change without the amendment would result in a use unauthorized by the CUP.

However, the County has acted in contradiction with this requirement numerous times, as discussed in Section IV.B, below.

#### B. The County has Unlawfully Initiated a Change in Designation from B-II to D-III

In various communications between the County and the FAA, the FAA flags that the project scenario suggested by the County meets—and in fact exceeds—the design standard requirements for a B-II designated airport: For example, the FAA writes, “[t]he Future Scenario’s RDC is a B II-5000/B II-4000 designation that meets the Runway Safety Area (RSA) design standards for both runway ends” and asks the County to “[p]rovide justification for EMAS on the west end of

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<sup>2</sup> *C4FA v. County of San Diego*, *supra* at \*3 (emphasis added).

<sup>3</sup> Respondent and Defendant County of San Diego’s Amended Final Return to Peremptory Writ of Mandate (Apr. 14, 2022) Case No. 37-2018-00057624-CU-TT-CTL (emphasis added).

the runway under Future Scenario if RSA design standards are met under the B II-5000/B II-4000 designation.” (FAA, ALP 7460 No Objection Letter (Feb. 28, 2024).) The runway length is not the only design feature that exceeds B-II requirements: the FAA also flags that the runway width and taxiway design also “exceed[] design standards based on the B-II designation.” (CRQ ALP Comment Matrix, Mar. 2023.) Evidently, the Future Scenario submitted by the County consistently proposes improvements that are unnecessary for McClellan-Palomar’s current designation.

The FAA further notes that it will not fund projects that exceed the design standards for the Airport’s current designation, including the aforementioned improvements to the runway’s width, EMAS, and taxiways: “FAA policy is that if the project meets the FAA standards, then the public need has been fully met. Therefore, a project that is designed or built to a more rigorous standard is considered to exceed FAA standards. Except in limited circumstances . . . the ADO must not fund work exceeding FAA standards with AIP.” (FAA, ALP 7460 No Objection Letter (Feb. 28, 2024).) Accordingly, the County will not receive FAA funding—beyond the funding needed to comply with its current B-II designation—for adding the EMAS, widening the runway, or improving the taxiway

Yet, in its response to the FAA, the County states that it will pay for improvements that result in a runway width wider than required for a B-II designation. (CRQ ALP Comment Matrix, Mar. 2023.) This improvement would exceed minimum design standards, unless the County is already using the ALP to plan for a higher designation. The County’s willingness to solely fund improvements that exceed the required design standards indicates “an intent to use the Airport in a way that was not previously authorized,” to use language from *C4FA v. Cnty. Of San Diego*, *supra* at \*3. Moreover, the County’s willingness to fund these presently unnecessary improvements clearly contradicts the Master Plan Update, which asserts that the county will seek a CUP amendment prior to “taking other action to implement facility improvements needed to implement an ultimate ARC greater than B-II.” (Master Plan Update, p. 5-5.) The County is already taking action (i.e., promising funding and including widened runways in its ALP) that is only necessary for designations higher than B-II, yet no CUP amendment has been sought or obtained.

In fact, the County has been working with the FAA to obtain D-III designation status for months, as confirmed by a February 28<sup>th</sup> email from an FAA Planner: “As you **continue to work with ATO on getting an LOA [Letter of Agreement] for D-III operations** and resolve the Conditional Use Permit issue with the City of Carlsbad . . . ” (Email from Justin Guan, FAA Planner, Feb. 28, 2024 (emphasis added).) In emails exchanged with the FAA, the County’s Director of Airports confirms that as of July 10, 2024, the County was still “in the process of

obtaining an LOA from the ATO for C-III or greater operations at Palomar.”<sup>4</sup> (Email from Jamie Abbott, July 10, 2024.) The County has been working to obtain the D-III designation for months, including by proposing physical improvements to the airport, in contravention of the Master Plan Update’s clear statement that the County would not take action to implement facility improvements for a higher designation without first seeking a CUP amendment.

Furthermore, the ALP must conform to the Master Plan, as the County has identified the ALP as a “product of [the] Master Plan; rather than a component of [the] Master Plan.” (County of San Diego Presentation to the Board of Supervisors, Item #6, Dec. 8, 2021.) This means the ALP cannot preemptively make changes to the Airport to prepare for a D-III designation, because the Master Plan itself does not provide the authority for the designation change. Rather, the Master Plan is clear: the County must first seek an amendment to the CUP.

Even the County Board of Supervisors (“Board”) has provided express conditions for the County before the Board would be willing to consider the D-III standard. The Board selected Option B<sup>5</sup> for the airport design standard, which is the “same as Option A, and adding future D-III design standards **conditioned on addressing the Conditional Use Permit and Runway Protection Zone requirements and returning to the Board to consider D-III design standards and a runway extension option** AND Runway Extension of 200 feet that allows a variance of up to 10% if needed.” (County of San Diego Board of Supervisors, Minute Order No. 6 (Dec. 8, 2021) (emphasis added).) These conditions have yet to be met, so the Board cannot formally consider the D-III design standard. Yet, the County has attempted to obtain approvals for the D-III designation from the FAA and make improvements to the Airport that would only be necessary for a designation of C-III or higher. The County must obtain both an amendment to the CUP and approval from the Board, though has declined to fulfill either obligation while still taking clear steps towards the designation change. The County cannot ignore the substantive requirements for changing the Airport’s designation, and similarly, cannot later point to the unnecessary improvements made in the meantime to support their argument that the change should be approved.

Moreover, the County is actively seeking and encouraging the change in designation to a D-III, effectively welcoming the FAA to send C-III and D-III jets to McClellan-Palomar. The Embraer 175—the aircraft that AA will operate to and from Palomar—is a C-III designated aircraft. “As defined in FAA Advisory Circular 150/5300-13A, runway design standards for C-III and D-III aircraft are identical.” (Master Plan Update, p. 5-5-45.) Accordingly, the fact that the Embraer

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<sup>4</sup> Note that “For the purposes of design, the FAA dimension standards for C-III and D-III airfields are ‘the same.’” (Master Plan Update, p. ES-3.)

<sup>5</sup> Option A provides for a “B-II Enhanced Facility.” Option B provides for a “B-II Enhanced Facility Now and Condition D-III Modified Standards Compliance in the Future.” (County of San Diego Board of Supervisors, Minute Order No. 6 (Dec. 8, 2021).)

175 is a C-III designated aircraft will not reduce the requirements for runway design standards; rather, runway design standards would need to accommodate both C-III and D-III jets. The County cannot assert that it has no control over the type of planes using its facilities when the County has clearly and repetitively indicated to the FAA that it wished to expand operations and has invited AA's larger planes to operate there. The change in designation is not merely for "safety," because the County would not already be operating with a D-III Critical Aircraft<sup>6</sup> and inviting C-III aircraft if doing so was in clear contravention of safety requirements. The County cannot enter contracts that encourage the arrival of larger aircraft and then rely on that contract as a basis for procuring a formal change to a D-III designation, especially where an amendment to the CUP is required before any such change could be obtained.

Before the designation can be changed, the County must obtain approval for an amendment to CUP-172. The County cannot circumnavigate the substantive and procedural requirements for changing the Airport's designation, and certainly cannot do so under the guise of "safety" purposes, when inviting ever-larger planes to operate at the Airport's facilities. Continuing to take action to initiate this change in designation is in contravention of the Master Plan Update, the Court's Ruling in *C4FA v. County of San Diego*, and the County's PEIR.

## **VII. Conclusion**

We encourage the City to call on the County to explain how its correspondence with the FAA and actions in relation to the AA contract comply with the Superior Courts ruling and Board of Supervisors' direction.

The County must obtain a CUP amendment before initiating a change to the Airport's current designation of B-II. The County has not yet attempted to do so, though has generally encouraged the change in designation by pursuing a contract with AA for increased service from C-III jets—for which the FAA's runway design standards are identical to those for D-III jets—and seeking FAA approval for improvements in the ALP that would only be necessary for an airport designated above B-II. Such efforts alone will not support the designation change: the County must obtain the CUP amendment.

Sincerely,

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<sup>6</sup> McClellan-Palomar's Critical Aircraft (i.e., the aircraft in highest demand at an airport that has at least 500 annual operations at that airport) is the Gulfstream 500/600 series business jet, which is a D-III categorized jet. (County of San Diego Board of Supervisors, Land Use Agenda Item 6 (Dec. 8, 2021), at 10.)



Kathryn Pettit  
Josh Chatten-Brown  
Isabella Coye

cc:

Carolyn Luna, City Council Member (carolyn.luna@carlsbadca.gov)  
Teresa Acosta, City Council Member (teresa.acosta@carlsbadca.gov)  
Priya Bhat-Patel, City Council Member (priya.bhat-patel@carlsbadca.gov)  
Melanie Burkholder, City Council Member (melanie.burkholder@carlsbadca.gov)  
Scott Chadwick, City Manager (scott.chadwick@carlsbadca.gov)  
Cindie McMahon, City Attorney (attorney@carlsbadca.gov)  
Jason Haber, Intergovernmental Affairs Director (jason.haber@carlsbadca.gov)  
Mike Strong, Assistant Director of Community Development (mike.strong@carlsbadca.gov)  
Terra Lawson-Remer, County Board of Supervisors (Terra.Lawson-Remer@sdcounty.ca.gov)  
Nora Vargas, County Board of Supervisors (nora.vargas@sdcounty.ca.gov)  
Joel Anderson, County Board of Supervisors (joel.anderson@sdcounty.ca.gov)  
Monica Montgomery Steppe, County Board of Supervisors  
(Monica.MontgomerySteppe@sdcounty.ca.gov)  
Jim Desmond, County Board of Supervisors (jim.desmond@sdcounty.ca.gov)

# **Exhibit B**





# County of San Diego

## MCCLELLAN-PALOMAR AIRPORT LEASE WITH AMERICAN AIRLINES

Palomar Airport Advisory Committee

September 19, 2024

Agenda Item #4

# COUNTY AIRPORTS

- Infrastructure for General and Commercial Service
  - runways, taxiways, ramps, terminal
- Compliance with FAA Part 139
- Certification of aircraft and air traffic operations are handled by the FAA

# PALOMAR AIRPORT ADVISORY COMMITTEE

- Advise the Board of Supervisors regarding
  1. Voluntary Noise Control
  2. Land Use within the Airport Influence Area
  3. Future development and operations of the Airport
  4. Open forum for Communities on matters about the Airport
  5. Any other items assigned by the Board of Supervisors
  
- Not a decision-making Committee

# AMERICAN AIRLINES SPECIFICS

- Aircraft: Embraer 175 (76 seats)
- Noise Levels: Similar to existing aircraft using the airport
- Flight Schedule:
  - 2 flights/day to Phoenix Sky Harbor
    - 6:15am departure
    - 11:50am arrival
    - 12:35pm departure
    - 6:30pm arrival

# LEASE AGREEMENT TERMS

- Two-year lease
  - February 13, 2025 – February 12, 2027



## Premises:

479 SF Office Space - Exclusive Use

Ticket Counters one and two; with position one, two and three

Space for ticket kiosk

Passenger Terminal - Non-Exclusive Use

Boarding Counter; with position one and two in the holding room

Parking Facilities

Aircraft Ramp Space

Rents and Fees

# AMERICAN AIRLINES – ADDITIONAL INFO

- Rents and Fees Consideration
  - The County will be proposing rent/fee reductions as a gesture of support for new airline service.
  - What are the rents and fees associated with an airline lease?
    - Office and Ticket Counter
    - Aircraft turn Fees
    - Landing Fees
    - Aircraft Overnight Parking (RON)
    - Employee Car Parking
    - Passenger Facility Charges
    - Passenger Parking Fees
  - What are the high-level figures?
    - Year 1: \$542,375 - \$287,125 (fee/rent waiver) = **\$255,250**
    - Year 2: **\$542,375**

# AMERICAN AIRLINES – ADDITIONAL INFO

---

- Connectivity for Community
- Financial Impacts
- Sustainability

# ADDITIONAL ACTIONS THE BOARD WILL CONSIDER

- *Board Policy F-44*
  - History
  - Relation to the Master Plan
  - Our Recommendation
- *CEQA*
  - Acceptance of associated CEQA determination



# RECOMMENDED MOTION

---

“Approve the County entering into a lease with American Airlines and authorize the Director of Airports to execute, upon receipt, three copies of the lease”



# County of San Diego

## MCCLELLAN-PALOMAR AIRPORT LEASE WITH AMERICAN AIRLINES

Palomar Airport Advisory Committee

September 19, 2024

Agenda Item #4

# Policy F-44

## 2.10.5 POLICY F-44 "DEVELOPMENT OF McCLELLAN-PALOMAR AIRPORT"

County Policy F-44 "Development of CRQ" was adopted by the Board of Supervisors in 1987 to serve as a land use plan supplement to optimize airport use while minimizing noise impacts to the surrounding community. The policy currently provides general guidance regarding the following:

- The role of the Airport shall be to provide air transportation for the residents of North San Diego County and to facilitate general aviation support activities while minimizing noise impacts on surrounding areas and communities.
- Scheduled commuter airline operations are limited to aircraft meeting the approach speed and wing span categories for the Airport in accordance with FAA regulations. Commuter airline aircraft shall meet the FAA Stage III noise criteria. The policy also limits aircraft to 70 seats or less. However, applications from airlines proposing to operate aircraft with more than 70 seats can be submitted to the Airport. When necessary to comply with federal requirements or if desired by the Board, the policy can be waived to allow for operations by aircraft with over 70 seats.

# **Exhibit C**

# Choose flights

[« New search](#)



DEPART


## San Diego, CA to Phoenix, AZ Saturday, March 1, 2025

<	Wed, Feb 26 \$151	Thu, Feb 27 \$151	Fri, Feb 28 \$151	<b>Sat, Mar 1 \$151</b>	Sun, Mar 2 \$151	Mon, Mar 3 \$151	Tue, Mar 4 \$151	>
---	----------------------	----------------------	----------------------	-----------------------------	---------------------	---------------------	---------------------	---

Filter by:

2 results

Depart	Arrive	Duration	Main	Premium
CLD	PHX	1h 23m	Nonstop	
<b>6:15 AM</b>	<b>8:38 AM</b>			
✕ AA 4022 · E75-Embraer 175 Operated by Envoy Air as American Eagle				
				
<a href="#">Details</a>	<a href="#">Seats</a>		One way from <b>\$151</b>	One way from <b>\$232</b>
CLD	PHX	1h 23m	Nonstop	
<b>12:45 PM</b>	<b>3:08 PM</b>			
✕ AA 3729 · E75-Embraer 175 Operated by Envoy Air as American Eagle				
				
<a href="#">Details</a>	<a href="#">Seats</a>		One way from <b>\$151</b>	One way from <b>\$232</b>



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### Help

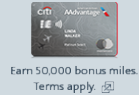
- Contact American
- Receipts and refunds
- FAQs
- Agency reference [↗](#)
- American Airlines Cargo [↗](#)
- Bag and optional fees
- Customer service and contingency plans
- Conditions of carriage

### About American

- About us
- We're hiring! Join our team [↗](#)
- Investor relations [↗](#)
- Newsroom [↗](#)
- Legal, privacy, copyright
- Environmental, social and governance [↗](#)
- Modern Slavery Report
- Browser compatibility
- Web accessibility

### Extras

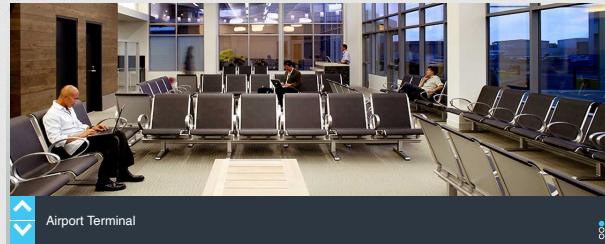
- Business programs
- Gift cards [↗](#)
- Trip insurance



**BuyMiles**  
Buy or gift miles for new adventures [↗](#)

**AVIS Budget**  
Up to 35% savings plus AAAdvantage® miles [↗](#)

# **Exhibit D**



Airport Terminal

American Airlines will be starting February 13, 2025 **NEW Service** from Carlsbad (CLD) to Phoenix (PHX).



- American Airlines
- JSX
- Advanced Airlines

ABOUT

- Airport History
- Commercial Flight Services Potentially Returning to Palomar Airport
- Businesses & Organizations
- Community Events & Meetings
- Directions & Parking
- FAQs
- Noise Information
- Operations Counts
- DPW/Management Services Division/ Closed Landfills

RESOURCES

- Current ACIP Projects
- Master Plan
- Feasibility Study
- Airport Economic Impact Analysis
- Tarmac Delay Plan
- Palomar Airport Advisory Committee
- Palomar VNAP Handout
- Fuel Flowage
- ADA Resources
- Administrative Citations Program for Vehicles and Pedestrians

PILOT INFORMATION

- Aviation Information
- Customs Service
- NOTAMS
- Graphic TFR's
- Airport Diagram, Approaches, Minimums
- Airport Facility Directory Search
- AirNav
- SkyVector
- Transient Parking
- Pilot VNAP Procedures
- Palomar VNAP Handout

I want to report...

OPPORTUNITIES

- Business Opportunities
- Hangar Rentals



Popular Services

- Air Taxi & Charter Services
- Flight Tracker
- Master Plan Update
- Rental Car Companies
- Taxi-Shuttle Services
- Airports Homepage
- More Services

McClellan-Palomar Airport in Carlsbad is a gateway to and from San Diego's North County. It serves the general aviation community, corporate aircraft and commercial services.

What makes this airport so popular is its proximity to business and recreation. Major corporations and world-class resorts are just minutes from McClellan-Palomar. Some of the finest beaches in San Diego County are close to the airport and offer surfers, swimmers and sun worshipers balmy weather and beautiful ocean waters most of the year. Oceanside Harbor, with its shops, yachts and fishing boats, is a pleasant place to spend time. Legoland is two miles west of the airport.

La Costa Resort & Spa is just a short drive from McClellan-Palomar, and the Park Hyatt Aviara Resort, Golf Club & Spa is also nearby.

The airport is an important part of the community with its \$461 million in industry activity, and generates \$72 million in federal, state, and local taxes annually.

[Airports Homepage](#)



Contact  
 General County Information  
 (858) 694-3900  
 2-1-1 San Diego  
 Board of Supervisors  
 Department Contacts  
 Media Information

Navigation  
 County Home  
 Departments  
 I Want To...  
 Government  
 Residents  
 Business  
 Jobs  
 Services A-Z  
 Visiting San Diego

Website  
 Accessibility  
 Security & Privacy  
 Policies  
 Website Issues  
 Language

County Connections  

 More Connections

# **Exhibit E**



---

**From:** Otto, John  
**Sent:** Monday, July 15, 2024 8:54 AM  
**To:** Pasumarthi, Murali; Abbott, Jamie; Baskel, Marc; Varner, Donna  
**Subject:** American Airlines Departure Time

**Categories:** Red Category

Murali, Jamie, Marc and Donna,

American's departure time will remain 6:15 a.m. whether we are DST time or not. This departure will be within our VNAP quiet hours for Jets which is from 10 p.m. to 7 a.m.. I am sure will be asked about this by the community.

See email below from American.



**Thank you,**  
**John Otto**, Airport Manager  
McClellan-Palomar Airport  
2192 Palomar Airport Road  
Carlsbad, CA. 92011  
O: 760-966-3272 | C: 760-497-4933  
Email: [john.otto@sdcounty.ca.gov](mailto:john.otto@sdcounty.ca.gov)

---

**From:** Nahas, Debbie <[Debbie.Nahas@aa.com](mailto:Debbie.Nahas@aa.com)>  
**Sent:** Friday, July 12, 2024 7:27 PM  
**To:** Otto, John <[John.Otto@sdcounty.ca.gov](mailto:John.Otto@sdcounty.ca.gov)>  
**Cc:** Reiner, Mark <[Mark.Reiner@sdcounty.ca.gov](mailto:Mark.Reiner@sdcounty.ca.gov)>  
**Subject:** [External] Re: CLD - Notes - Facility

John,

The flight time will not change when daylight savings ends. See exact response below.

It will be 6:15 to offer me connectivity in PHX. We begins the times in CLD change.

Debbie

Sent from my iPhone

On Jul 12, 2024, at 6:40 PM, Otto, John <[John.Otto@sdcounty.ca.gov](mailto:John.Otto@sdcounty.ca.gov)> wrote:

Thanks Debbie,

Have a great weekend.

<image001.png>

---

**From:** Nahas, Debbie <[Debbie.Nahas@aa.com](mailto:Debbie.Nahas@aa.com)>  
**Sent:** Friday, July 12, 2024 4:38 PM  
**To:** Otto, John <[John.Otto@sdcounty.ca.gov](mailto:John.Otto@sdcounty.ca.gov)>  
**Cc:** Reiner, Mark <[Mark.Reiner@sdcounty.ca.gov](mailto:Mark.Reiner@sdcounty.ca.gov)>  
**Subject:** [External] Re: CLD - Notes - Facility

John,

I won't get a response from anyone tonight. I'll get you a response on Monday morning. I have no doubt you will be questioned.

Debbie  
Sent from my iPhone

On Jul 12, 2024, at 6:09 PM, Otto, John <[John.Otto@sdcounty.ca.gov](mailto:John.Otto@sdcounty.ca.gov)> wrote:

Debbie,

Different subject. I noticed the first flight out is at 6:15 am. Will this always be the case or will it slide to 7:15 when daylight saving time ends?  
<image001.png>

The reason I ask is because our Voluntary Noise Abatement Hours for jets are from 10 p.m. to 7 a.m. and some folks in the community will ask. Either way will need to come up with our response before the question is asked.

Thanks,  
<image002.png>

---

**From:** Nahas, Debbie <[Debbie.Nahas@aa.com](mailto:Debbie.Nahas@aa.com)>  
**Sent:** Friday, July 12, 2024 3:49 PM  
**To:** Otto, John <[John.Otto@sdcounty.ca.gov](mailto:John.Otto@sdcounty.ca.gov)>  
**Cc:** Reiner, Mark <[Mark.Reiner@sdcounty.ca.gov](mailto:Mark.Reiner@sdcounty.ca.gov)>  
**Subject:** [External] Re: CLD - Notes - Facility

Love it!!!  
Have a great weekend!

Sent from my iPhone

On Jul 12, 2024, at 5:47 PM, Otto, John  
<[John.Otto@sdcounty.ca.gov](mailto:John.Otto@sdcounty.ca.gov)> wrote:

Hi Debbie,

Yes...both the gate counters are the same dimensions as the Lobby ticket counters. The only difference is there is no scale.

Don't worry...I asked my staff twice as well and then I walked over and triple checked it myself.

<image001.png>

---

**From:** Nahas, Debbie <[Debbie.Nahas@aa.com](mailto:Debbie.Nahas@aa.com)>  
**Sent:** Friday, July 12, 2024 3:05 PM  
**To:** Otto, John <[John.Otto@sdcounty.ca.gov](mailto:John.Otto@sdcounty.ca.gov)>

Cc: Reiner, Mark <[Mark.Reiner@sdcounty.ca.gov](mailto:Mark.Reiner@sdcounty.ca.gov)>

Subject: [External] Re: CLD - Notes - Facility

Confirming, the gate is the same as the ticket counter.  
I know you just said that but I need to hear it multiple times.

Thank you!  
Sent from my iPhone

On Jul 12, 2024, at 5:02 PM, Otto, John  
<[John.Otto@sdcounty.ca.gov](mailto:John.Otto@sdcounty.ca.gov)> wrote:

Hi Debbie,

All the ticket counters are the same size in both  
locations.

<image001.png>

---

**From:** Nahas, Debbie <[Debbie.Nahas@aa.com](mailto:Debbie.Nahas@aa.com)>  
**Sent:** Friday, July 12, 2024 8:58 AM  
**To:** Otto, John <[John.Otto@sdcounty.ca.gov](mailto:John.Otto@sdcounty.ca.gov)>  
**Cc:** Reiner, Mark <[Mark.Reiner@sdcounty.ca.gov](mailto:Mark.Reiner@sdcounty.ca.gov)>  
**Subject:** [External] RE: CLD - Notes - Facility

John,

Good Morning!

I'm revisiting the facility notes. I have the  
measurements for one ticket counter. Can you measure  
the second ticket counter and the gate counter?  
I want to get quotes for the inserts.

**Thank you!**

Debbie

---

**From:** Otto, John <[John.Otto@sdcounty.ca.gov](mailto:John.Otto@sdcounty.ca.gov)>  
**Sent:** Wednesday, June 5, 2024 10:57 AM  
**To:** Nahas, Debbie <[Debbie.Nahas@aa.com](mailto:Debbie.Nahas@aa.com)>  
**Cc:** Reiner, Mark <[Mark.Reiner@sdcounty.ca.gov](mailto:Mark.Reiner@sdcounty.ca.gov)>  
**Subject:** FW: CLD - Notes - Facility

Hi Debbie,

I am working on the exhibits for the lease, and I was wondering if you had decided whether you want the third office (in Blue) or do you only want the two offices highlighted in yellow. If you need more time no worries. I can do the exhibit with just the two offices for now.

Thanks,

<image001.png>

---

**From:** Otto, John  
**Sent:** Monday, June 3, 2024 3:30 PM  
**To:** Nahas, Debbie <[Debbie.Nahas@aa.com](mailto:Debbie.Nahas@aa.com)>  
**Cc:** Gutierrez, Carmela <[Carmela.Gutierrez@sdcounty.ca.gov](mailto:Carmela.Gutierrez@sdcounty.ca.gov)>; Reiner, Mark <[Mark.Reiner@sdcounty.ca.gov](mailto:Mark.Reiner@sdcounty.ca.gov)>  
**Subject:** FW: CLD - Notes - Facility

Hi Debbie,

After speaking with Carmela, she has determined that the cost per sf will be [REDACTED] per sf. I am attaching the Terminal layout plan which shows the sf. If you interested in the third office, seen in blue please let me know and I can have Carmela put all three offices into the lease. Additionally, I reconfirmed that all the ticket counters both in the holdroom and in the ticket lobby all measure as the same. See attached measurement doc.

Please let me know if you have any questions.

<image001.png>

---

**From:** Reiner, Mark <[Mark.Reiner@sdcounty.ca.gov](mailto:Mark.Reiner@sdcounty.ca.gov)>  
**Sent:** Monday, June 3, 2024 1:53 PM  
**To:** Otto, John <[John.Otto@sdcounty.ca.gov](mailto:John.Otto@sdcounty.ca.gov)>  
**Subject:** Re: CLD - Notes - Facility

Yes John the measurements appear to all be the same!

Get [Outlook for iOS](#)

---

**From:** Otto, John <[John.Otto@sdcounty.ca.gov](mailto:John.Otto@sdcounty.ca.gov)>  
**Sent:** Monday, June 3, 2024 1:28:11 PM  
**To:** Reiner, Mark <[Mark.Reiner@sdcounty.ca.gov](mailto:Mark.Reiner@sdcounty.ca.gov)>  
**Subject:** FW: CLD - Notes - Facility

Mark,

Can you have ops check the measurements of the ticket counter in the holdroom and see if they are the same as what is attached.

Thanks,

<image001.png>

---

**From:** Nahas, Debbie <[Debbie.Nahas@aa.com](mailto:Debbie.Nahas@aa.com)>  
**Sent:** Friday, May 17, 2024 1:26 PM  
**To:** Otto, John <[John.Otto@sdcounty.ca.gov](mailto:John.Otto@sdcounty.ca.gov)>  
**Cc:** Reiner, Mark <[Mark.Reiner@sdcounty.ca.gov](mailto:Mark.Reiner@sdcounty.ca.gov)>;  
Baskel, Marc <[Marc.Baskel@sdcounty.ca.gov](mailto:Marc.Baskel@sdcounty.ca.gov)>  
**Subject:** [External] RE: CLD - Notes - Facility

John,

I just realized I never responded to the email below. Apologies! I added some answers in green. It might be easier to have a quick call about data and power to be sure we're all on the same page. Once I know about incentives and square foot prices, I'll know where to go with space.

How are things with TSA? Do you need anything from me?

Again, I'm sorry for missing the email below.

Have a great weekend!

Debbie

**Ticket Counter**

1. Can the inserts be removed? Millwork dimensions – Attachment 1
  1. 04/28/2024 - In Work (IW) to determine if ticket insert can be removed from shell.
  2. 05/08/2024 - Inserts can be removed. They are a combination of glued and screwed together.
  3. 05/17/2024 – Is the ticket counter and gate

- millwork the same size?
4. 05/17/2024 - I added a picture of empty millwork and one with the insert installed below. (different airports) The inserts are delivered and just set in the millwork; there isn't typically a need for a contractor. The insert comes in three pieces.
  2. FIDS Monitors – Please test the monitors behind the ticket counter to be sure they work. (FIDS \_ Flight Information Display at the ticket counter)
    1. 04/28/2024 - Will look at this next week.
    2. 05/08/2024 – FIDS Monitors are in working order.
      1. Great news, we'll add a minicomputer on one of them to show our flight information.
  3. 1 power - 1 data – Homerun to the AA IT cabinet, terminated in a patch panel – The mini-computer will be added to the first dual position counter.
    1. 04/28/2024 - Contractor has been sourced to perform work. Schedule Pending
    2. 05/08/2024 – See attached Tel Data email and attached doc for details.
  4. Kiosks – Wall – 1 power – 1 data per kiosk – We should have two kiosks. – Kiosks will not be confirmed for a couple of weeks.
    1. 04/28/2024 - Confirmed Power and

Data is location on opposite side of wall for an old ATM machine that used to be located in seating area. Will need to doublecheck termination of data cabling and type of data cabling.

2. 05/08/2024 – See attached Tel Data email and attached doc for details.
5. AA will want three ticket counter positions: the first dual-position counter and the one next to it.
  1. 05/08/2024 – All ticket counters are open. Just let me know which three you want.
6. I like the first counter on the left on the passenger side. Let me know if that will work with Mammoth, which uses that space.
  1. 04/28/2024 - Will discuss this with Mammoth next week. Will also look to see what the lease says.
  2. 05/08/2024 – Counter closest to the airline hallway and proposed kiosk area is open.

#### **Airline IT Closet Room 101 / DATA**

1. Path panel with data terminations from all data ports in the ticket counter, gate counter, kiosks, FIDS/GIDS monitors, and back office space (Any AA data)
  1. 04/28/2024 - Contractor has been sourced to perform work. Schedule Pending.
  2. 05/08/2024 - All data ports in the ticket counter, room 129,



gate counter are in working order. See attached email for specific. Kiosks, FIDS/GIDS monitors only have power no data, Back office space all operational.

2. Does all the current cabling still work?
  1. 04/28/2024 - Contractor has been sourced to perform work. Schedule Pending
  2. 05/08/2024 – Yes. See attached email with specifics.

### Back Office

1. Room measurements – I would like the two furnished rooms, but I think I'll need another for storage and possible training. I'll know better once I know the square footage for the two rooms and how much more space I need.
  1. 04/28/2024 - I have attached the document with all the sq footage. The two office you are interested in are highlighted in yellow.
  2. 05/17/2024 – I may be missing an attachment. I don't have anything with the room sq. footage. The attached is what I received. It may be right in front of me, and I missed it.
  3. 05/08/2024 – Still working on price per sq. ft.

### Gate

1. Is the gate numbered? Can we give it a number?
  1. 04/28/2024 - I will check the ASP to see how I have them numbered next week.

2. 05/08/2024 - Gates are not numbers. Gates can be number "Gate 1" and "Gate 2"
  1. Perfect
2. Millwork dimensions – Attachment 1
  1. 05/08/2024 – See attached Ticket Counter Shell doc. Recommend AA contractor do final measurement before building of new insert.
  2. 05/17/20245 – See above under ticket counter.
3. Data and power on the wall discussed for the GIDS monitor. I added an example of what it could look like when they are not working a flight. (GIDS – Gate Information Display)
  1. 04/28/2024 - Contractor has been sourced to perform work. Schedule Pending
  2. 05/08/2024 - Contractor said that he does have access to the area so power and data can be installed in the column.
  3. 05/17/2024 – Great news! The monitor adds to the overall experience. I wrote I would need a wall mount for the monitor, I just want to confirm.

**MPOE (122)**

1. We will need an extension for the circuit landing in airline IT closet, room 129
  1. 05/08/2024 – Airline IT room will be referred to as room 129 per handout on attached e-mail.
2. Antenna - we typically use LMR 600 cabling. Do you know if the cabling exists today from

United? I don't know all the antenna requirements, but I will get someone onsite to survey the airport.

1. 04/28/2024 - Will ask contractor on what type data cabling we have.
2. 05/08/2024 - Is this Antenna used for the pilot radio communication between the station and pilot.
3. 05/17/2024 – Yes, air-to-ground radio.

<image002.jpg>

<image003.jpg>

---

**From:** Otto, John <[John.Otto@sdcounty.ca.gov](mailto:John.Otto@sdcounty.ca.gov)>  
**Sent:** Friday, May 10, 2024 6:18 PM  
**To:** Nahas, Debbie <[Debbie.Nahas@aa.com](mailto:Debbie.Nahas@aa.com)>  
**Cc:** Reiner, Mark <[Mark.Reiner@sdcounty.ca.gov](mailto:Mark.Reiner@sdcounty.ca.gov)>; Baskel, Marc <[Marc.Baskel@sdcounty.ca.gov](mailto:Marc.Baskel@sdcounty.ca.gov)>  
**Subject:** RE: CLD - Notes - Facility

Hi Debbie,

Here is an update to the questions you had from your visit.

**Ticket Counter**

1. Can the inserts be removed? Millwork dimensions – Attachment 1
  1. 04/28/2024 - In Work (IW) to determine if ticket insert can be removed from shell.
  2. 05/08/2024 - Inserts can be removed. They are a combination of glued and screwed together.

Is the gate millwork the same size?

1. FIDS Monitors – Please test the monitors behind the ticket counter to be sure they work. (FIDS\_ Flight Information Display at the ticket counter)
  1. 04/28/2024 - Will look at this next week.
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2. 1 power - 1 data – Homerun to the AA IT cabinet, terminated in a patch panel – The mini-computer will be added to the first dual position counter.
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  2. 05/08/2024 – See attached Tel Data email and attached doc for details.
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  1. 04/28/2024 - Confirmed Power and Data is location on opposite side of wall for an old ATM machine that used to be located in seating area. Will need to doublecheck termination of data cabling and type of data cabling.
  2. 05/08/2024 – See attached Tel Data email and attached doc for details.
4. AA will want three ticket counter positions: the first dual-position counter and the one next to it.
  1. 05/08/2024 – All ticket counters are open. Just

let me know which three you want.

5. I like the first counter on the left on the passenger side. Let me know if that will work with Mammoth, which uses that space.
  1. 04/28/2024 - Will discuss this with Mammoth next week. Will also look to see what the lease says.
  2. 05/08/2024 – Counter closest to the airline hallway and proposed kiosk area is open.

#### **Airline IT Closet Room 101 / DATA**

1. Path panel with date terminations from all data ports in the ticket counter, gate counter, kiosks, FIDS/GIDS monitors, and back office space (Any AA data)
  1. 04/28/2024 - Contractor has been sourced to perform work. Schedule Pending.
  2. 05/08/2024 - All data ports in the ticket counter, room 129, gate counter are in working order. See attached email for specific. Kiosks, FIDS/GIDS monitors only have power no data, Back office space all operational.
2. Does all the current cabling still work?
  1. 04/28/2024 - Contractor has been sourced to perform work. Schedule Pending
  2. 05/08/2024 – Yes. See attached email with specifics.

#### **Back Office**

1. Room measurements – I would like the two furnished rooms, but I think I'll need another for storage and possible training. I'll know better once I know the square footage for the two rooms and how much more space I need.
  1. 04/28/2024 - I have attached the document with all the sq footage. The two office you are interested in are highlighted in yellow.
  2. 05/08/2024 – Still working on price per sq. ft.

### Gate

1. Is the gate numbered? Can we give it a number?
  1. 04/28/2024 - I will check the ASP to see how I have them numbered next week.
  2. 05/08/2024 - Gates are not numbers. Gates can be number "Gate 1" and "Gate 2"
2. Millwork dimensions – Attachment 1
  1. 05/08/2024 – See attached Ticket Counter Shell doc. Recommend AA contractor do final measurement before building of new insert.
3. Data and power on the wall discussed for the GIDS monitor. I added an example of what it could look like when they are not working a flight. (GIDS – Gate Information Display)
  1. 04/28/2024 - Contractor has been sourced to perform work. Schedule Pending
  2. 05/08/2024 - Contractor said that he does have access to the area so power and data

can be installed in the column.

**MPOE (122)**

1. We will need an extension for the circuit landing in airline IT closet, room 129
  1. 05/08/2024 – Airline IT room will be referred to as room 129 per handout on attached e-mail.
2. Antenna - we typically use LMR 600 cabling. Do you know if the cabling exists today from United? I don't know all the antenna requirements, but I will get someone onsite to survey the airport.
  1. 04/28/2024 - Will ask contractor on what type data cabling we have.
  2. 05/08/2024 - Is this Antenna used for the pilot radio communication between the station and pilot.

Thanks,

*John Otto*

John Otto  
Airport Manager  
McClellan-Palomar Airport  
2192 Palomar Airport Road  
Carlsbad, CA 92011  
Cell: 760-497-4933

---

**From:** Nahas, Debbie <[Debbie.Nahas@aa.com](mailto:Debbie.Nahas@aa.com)>  
**Sent:** Monday, April 29, 2024 4:49 AM  
**To:** Otto, John <[John.Otto@sdcounty.ca.gov](mailto:John.Otto@sdcounty.ca.gov)>  
**Cc:** Reiner, Mark <[Mark.Reiner@sdcounty.ca.gov](mailto:Mark.Reiner@sdcounty.ca.gov)>  
**Subject:** [External] RE: CLD - Notes - Facility

John,

Thank you so much for the update. How did the meeting with TSA go?

GSE is asking about ground/outdoor power. Please share when you have the specifics.  
If I add space, I may want to add the 282 sq. ft.

**Thank you!**

Debbie

---

**From:** Otto, John <[John.Otto@sdcounty.ca.gov](mailto:John.Otto@sdcounty.ca.gov)>  
**Sent:** Friday, April 26, 2024 6:26 PM  
**To:** Nahas, Debbie <[Debbie.Nahas@aa.com](mailto:Debbie.Nahas@aa.com)>  
**Cc:** Reiner, Mark <[Mark.Reiner@sdcounty.ca.gov](mailto:Mark.Reiner@sdcounty.ca.gov)>  
**Subject:** RE: CLD - Notes - Facility

Hi Debbie,

Check wanted to check in with you before the end of the week to give you a status on where we are with gathering the information your requested. See my comment below in red.

#### Ticket Counter

1. Can the inserts be removed? Millwork dimensions – Attachment 1 **In Work (IW) to determine if ticket insert can be removed from shell.**
2. FIDS Monitors – Please test the monitors behind the ticket counter to be sure they work. (FIDS \_ Flight Information Display at the ticket counter) **Will look at this next week.**
  1. 1 power - 1 data – Homerun to the AA IT cabinet, terminated in a patch panel – The mini-computer will be added to the first dual position counter. **Contractor has been sourced to perform work. Schedule Pending**
3. Kiosks – Wall – 1 power – 1 data per kiosk – We should have two kiosks. – Kiosks will not be



confirmed for a couple of weeks. **Confirmed Power and Data is location on opposite side of wall for an old ATM machine that used to be located in seating area. Will need to doublecheck termination of data cabling and type of data cabling.**

4. AA will want three ticket counter positions: the first dual-position counter and the one next to it.
  1. I like the first counter on the left on the passenger side. Let me know if that will work with Mammoth, which uses that space. **Will discuss this with Mammoth next week. Will also look to see what the lease says.**

#### Airline IT Closet Room 101 / DATA

1. Path panel with data terminations from all data ports in the ticket counter, gate counter, kiosks, FIDS/GIDS monitors, and back office space (Any AA data) **Contractor has been sourced to perform work. Schedule Pending**
2. Does all the current cabling still work? **Contractor has been sourced to perform work. Schedule Pending**

#### Back Office

1. Room measurements – I would like the two furnished rooms, but I think I'll need another for storage and possible training. I'll know better once I know the square footage for the two rooms and how much more space I need. **I have attached the document with all the sq footage. The two office you are interested in are highlighted in yellow.**

#### Gate

1. Is the gate numbered? Can we give it a number? **I will check the ASP to see how I have them numbered next week.**
2. Millwork dimensions – Attachment 1
3. Data and power on the wall discussed for the GIDS monitor. I added an example of what it could look like when they are not working a flight. (GIDS – Gate Information Display) **Contractor has been sourced to perform work. Schedule Pending**

MPOE (102)

1. We will need an extension for the circuit landing in our IT closet, room 101.
2. Antenna - we typically use LMR 600 cabling. Do you know if the cabling exists today from United? I don't know all the antenna requirements, but I will get someone onsite to survey the airport. **Will ask contractor on what type data cabling we have.**

Thanks,

*John Otto*

John Otto  
Airport Manager  
McClellan-Palomar Airport  
2192 Palomar Airport Road  
Carlsbad, CA 92011  
Cell: 760-497-4933

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**From:** Nahas, Debbie <[Debbie.Nahas@aa.com](mailto:Debbie.Nahas@aa.com)>  
**Sent:** Friday, April 19, 2024 2:29 PM  
**To:** Otto, John <[John.Otto@sdcounty.ca.gov](mailto:John.Otto@sdcounty.ca.gov)>  
**Cc:** Reiner, Mark <[Mark.Reiner@sdcounty.ca.gov](mailto:Mark.Reiner@sdcounty.ca.gov)>;  
Baskel, Marc <[Marc.Baskel@sdcounty.ca.gov](mailto:Marc.Baskel@sdcounty.ca.gov)>  
**Subject:** [External] RE: CLD - Notes - Facility

That's amazing. Thank you!!!

I forgot to ask you to verify the type of outside ground and wall power. I believe we need a 400 Hz unit with a minimum of 90 KVA per gate and 2 110/120 GFI plugs.

**Have a great weekend!**

Debbie

---

**From:** Otto, John <[John.Otto@sdcounty.ca.gov](mailto:John.Otto@sdcounty.ca.gov)>  
**Sent:** Friday, April 19, 2024 1:49 PM  
**To:** Nahas, Debbie <[Debbie.Nahas@aa.com](mailto:Debbie.Nahas@aa.com)>  
**Cc:** Reiner, Mark <[Mark.Reiner@sdcounty.ca.gov](mailto:Mark.Reiner@sdcounty.ca.gov)>;  
Baskel, Marc <[Marc.Baskel@sdcounty.ca.gov](mailto:Marc.Baskel@sdcounty.ca.gov)>  
**Subject:** RE: CLD - Notes - Facility

Hi Debbie,

Thank you very much for the notes below. We have already put the wheels in motion on almost every item below. Will get back to you in the coming weeks with the answers you need.

Thanks again, we enjoyed your visit, and we are looking forward to working with you more in the future.

Happy Friday 😊

*John Otto*

John Otto  
Airport Manager  
McClellan-Palomar Airport  
2192 Palomar Airport Road  
Carlsbad, CA 92011  
Cell: 760-497-4933

---

**From:** Nahas, Debbie <[Debbie.Nahas@aa.com](mailto:Debbie.Nahas@aa.com)>  
**Sent:** Friday, April 19, 2024 6:14 AM  
**To:** Otto, John <[John.Otto@sdcounty.ca.gov](mailto:John.Otto@sdcounty.ca.gov)>  
**Cc:** Reiner, Mark <[Mark.Reiner@sdcounty.ca.gov](mailto:Mark.Reiner@sdcounty.ca.gov)>;  
Baskel, Marc <[Marc.Baskel@sdcounty.ca.gov](mailto:Marc.Baskel@sdcounty.ca.gov)>  
**Subject:** [External] CLD - Notes - Facility

John,

I have included some notes below about our talk on Wednesday that will help get the facility part rolling. In

my next email, I will introduce Marc to Jay Leitner so they can discuss the runway projects. Please don't hesitate to include me in any calls with the low-voltage contractor.

#### Ticket Counter

1. Can the inserts be removed? Millwork dimensions – Attachment 1
2. FIDS Monitors – Please test the monitors behind the ticket counter to be sure they work. (FIDS\_ Flight Information Display at the ticket counter)
  1. 1 power - 1 data – Homerun to the AA IT cabinet, terminated in a patch panel – The mini-computer will be added to the first dual position counter.
3. Kiosks – Wall – 1 power – 1 data per kiosk – We should have two kiosks. – Kiosks will not be confirmed for a couple of weeks.
4. AA will want three ticket counter positions: the first dual-position counter and the one next to it.
  1. I like the first counter on the left on the passenger side. Let me know if that will work with Mammoth, which uses that space.

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2. Does all the current cabling still work?

#### Back Office

1. Room measurements – I would like the two furnished rooms, but I think I'll need another for

storage and possible training. I'll know better once I know the square footage for the two rooms and how much more space I need.

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1. Is the gate numbered? Can we give it a number?
2. Millwork dimensions – Attachment 1
3. Data and power on the wall discussed for the GIDS monitor. I added an example of what it could look like when they are not working a flight. (GIDS – Gate Information Display)

#### MPOE (102)

1. We will need an extension for the circuit landing in our IT closet, room 101.
2. Antenna - we typically use LMR 600 cabling. Do you know if the cabling exists today from United? I don't know all the antenna requirements, but I will get someone onsite to survey the airport.

Have a fantastic Friday!

Debbie

Gate Display Example

<image004.png>

<image005.png>

Debbie Nahas  
Manager, Corporate Real Estate  
American Airlines  
1 Skyview Drive MD8E100  
Ft. Worth, TX 76155  
817.296.5921



**From:** [henkinp@earthlink.net](mailto:henkinp@earthlink.net)  
**To:** [Desmond, Jim](#); [Anderson, Joel](#); [MontgomerySteppe, Monica](#); [Vargas, Nora \(BOS\)](#); [Lawson-Remer, Terra](#)  
**Cc:** [FGG, Public Comment](#)  
**Subject:** [External] PALOMAR AIRPORT LEASE WITH AMERICAN AIRLINES (Please Include with documents for Land Use agenda #10)  
**Date:** Saturday, December 7, 2024 7:01:10 PM

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**Hi Supervisors,**

**There are two issues: Board policy F-44, and the lease itself.**

**The Board Policy – I do not think that restricting the number of seats is “discrimination between any type, kind, or class of aeronautical activity. “ After all, do we want a 100-seater at the airport. No, and the reason is safety. Right now, there is a weight restriction. Maybe we should weigh individual passengers like the Vancouver to Victoria shuttle on a tiny plane. That’s discrimination, but I’m not sure how to get an exact weight. I’m sure you can see how it’s for safety. So no to all these DEI discrimination complaints when the issue is safety.**

**But the Board wants no weight limit, and no seat limit. Crazy. Keep the restriction. Or we will have to keep repaving the runway when the big planes break it or overshoot it and break fences or the neighbors.**

**The lease. the main issue is flying in planes at 6:15 AM. That is totally ridic in a small city. People need their sleep. If American Air can’t understand this, it needs to change the hub where the flights connect. And to me, service just to Phoenix is weird.**

**And I resent the way the Board Letter says the first year it will bring in \$606K the first year when it will have waivers which bring the total down to \$255K. From big peanuts to little peanuts if you ask me.**

**Regards,**

**Paul Henkin**



**From:** [Diane Cottingham](#)  
**To:** [FGG, Public Comment](#)  
**Subject:** [External] OPPOSE  
**Date:** Sunday, December 8, 2024 9:18:21 AM

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Palomar Airport accepting large planes too big to safely land & take off. Re: American Airlines

Diane Cottingham



December 7, 2024  
[Emailed to County & Carlsbad Clerks on 12/9/24 at emails below with  
request to distribute to Supervisors & Council Members]

Raymond Bender

Email:  
Cell:



Supervisors: Nora Vargas, Joel Anderson, Terra Lawson Remer, Monica Montgomery Steppe, Jim Desmond] VIA  
Clerk of the Board of Supervisors, San Diego County  
Andrew Potter ([Andrew.Potter@sdcounty.ca.gov](mailto:Andrew.Potter@sdcounty.ca.gov))  
1600 Pacific Highway  
Fourth Floor, Room 402  
San Diego, CA 92101 via  
[619 531-5434]  
[publiccomment@sdcounty.ca.gov](mailto:publiccomment@sdcounty.ca.gov) ; [LSdocs@sdcounty.ca.gov](mailto:LSdocs@sdcounty.ca.gov)

Copy to: Carlsbad City Council: Mayor Keith Blackburn, Melanie Burkholder, Carolyn Luna, Teresa Acosta, Priya Bhat-Patel VIA  
Carlsbad City Clerk: Sherry Freisinger  
[clerk@carlsbadca.gov](mailto:clerk@carlsbadca.gov) ; 442 339-2808  
1200 Carlsbad Village Dr  
Carlsbad, CA 92008

Re: Wednesday, December 11, 2024 Board of Supervisor Land Use Meeting  
**Opposition to Agenda Item 10:** McClellan-Palomar Airport Lease with American Airlines,  
Repeal, Waive, or Amend Board Policy F-44, and Related CEQA Findings

Supervisors:

Staff's Board Letter requests approval of a county lease with American Airlines (AA) to operate at McClellan-Palomar Airport (Palomar) and approval of CEQA findings. The report has material flaws. Lease approval would violate CEQA and ignore needed amendments to the Palomar Land Use Compatibility Plan. Moreover, the Board letter misstates what the FAA Grant Assurances require, whether the action is compatible with Carlsbad CUP 172, and how the 1990 Airport Noise Capacity Act (ANCA) works.

## Executive Summary

1. **CEQA:** Approving the American Airlines lease violates CEQA because neither the 2018 nor 2021 McClellan-Palomar PMP or PEIR analyzed environmental problems caused by fast, large aircraft, carrying many passengers crashing into the Palomar methane-emitting landfill in the area directly adjacent to the runway. See the SCS Engineers 10/15/13 report airport staff has hidden from the Board. Pages 10 and 11 below identify the report and the problems.
2. **Grant Assurances:** County staff misstates the law. Grants prohibit not all discrimination but only unreasonable discrimination. Limitations on tenants based on environmental and safety concerns are not unreasonable discrimination. The BOS has routinely violated FAA Grant Assurances since 1965. See discussion below.
3. **ANCA (Airport Noise Capacity Act):** County staff misstates what ANCA allows. ANCA allows the county to enter into noise and curfew limitations with its tenants.
4. **LUCP (Land Use Compatibility Plan Crash Site Limitations):** Approving the AA lease will likely severely depreciate commercial tenant lands near the airport without first notifying affected landowners of the problem.
5. **Carlsbad CUP 172 Limitations:** The BOS can not determine if approving the AA lease requires Carlsbad approval unless the Board first confirms that no physical changes will be made to the Palomar Airfield that would in practice start conversion of Palomar from a B-II FAA-rated airport to a higher classification, which Superior Court Judge Pollock barred in his 2021 ruling against the county.

## The CEQA Violations

### 1. **The October 15, 2013 (File # 01213281.00) SCS Engineers Report Entitled: Evaluation of Possible Environmental Impacts of a Potential Aircraft Crash into the Landfill Cover at Palomar Airport Landfill, Carlsbad, California**

#### *A. County Staff Buries the SCS Engineers Report*

County has used SCS Engineers for many years to monitor continuing Palomar landfill problems. The problems include methane gas emissions, underground landfill fires, Palomar runway settlement, and annual county failures to comply with Regional Water Quality Control Board Order 96-13 objectives. Annually, county landfill monitoring reveals that the landfill continues to generate materials harmful to humans in amounts exceeding regulatory limits, often greatly. In the past, it appears that county has been fined for methane gas emissions by the air quality agencies.

County has hidden this report from the Board for more than a decade. Exhibit 1 to this letter is the SCS Engineers report first page. County staff can provide the full report.

The report has an interesting history. County staff was so peeved with the environmental problems SCS described caused by an aircraft crashing into the Palomar RSA (unpaved Runway Safety Area) at the east end that County staff buried the report. This writer understands that county staff simply said that – with hindsight – it appeared that SCS Engineers was not qualified to write the report. That claim is not credible. SCS is a highly respected firm well familiar with the Palomar landfill problems and likely the best qualified to express opinions about the

environmental problems caused by large aircraft carrying significant amounts of explosive, hazardous fuel crashing into the unpaved landfill area.

But assume county staff's claim was true. Namely, that an even more qualified firm should exam the Palomar crash risks. Where is that report? It appears county staff never prepared one knowing that the report would simply confirm the SCS Engineers findings.

*B. Did the SD County 2021 Palomar Master Plan PEIR Consider the Environmental Risks SCS Notes?*

Pull up the 2021 SD County Palomar PMP EIR on your computer. [Just search for it on county site or go to

<https://www.sandiegocounty.gov/content/sdc/dpw/airports/palomar/masterplan/PEIR.html> ]

Click on the Program Environmental Impact Report to open it. Now search [command or control F depending on the computer] for “crash.” Results: “Not Found.” Now search for ARFF (the Palomar Aircraft & Fire Fighting) facility. Result: 9 found. But none of these 9 discuss aircraft crashes at Palomar or the environmental problems that would result – many described in the hidden SCS Engineers report. Search for “radioactive”, one of the risks SCS Engineers identified due to materials in modern aircraft. Result: Not found. Search for “chemicals.” Result: Not found.

*C. May the County Rely on the 2021 Palomar PMP PEIR to Fast Tract the American Airlines Lease?*

A proper EIR allows the county to rely on it to approve future projects covered by the EIR if county meets 3 conditions. First, the 2021 EIR must have analyzed all CEQA issues of concern related to the new project (approving the American Airlines lease). Second, the new project must not materially increase the risks analyzed in the 2021 PEIR. Third, the EIR may not be “stale” meaning it must be current enough to accurately portray current environmental conditions.

County cannot meet the first two conditions. As noted above, the 2021 PEIR did not analyze environmental impacts of aircraft crashes at or near Palomar. Yet the SCS Engineers report put the county on notice of such risks. Moreover, American Airline (AA) operations materially increase the environmental and human risks in two ways. First, larger faster aircraft carry much more explosive aviation fuel than smaller aircraft resulting in a larger crash crater – significant for the reasons noted in the landfill discussion below. Second, AA operations threaten up to 76 passengers per crash, not the 4 to 8 persons on the corporate jets and the 2 to 3 persons on private aircraft mainly using Palomar.

The undersigned commented in detail on the 2018 and 2021 Palomar PEIRs. He noted the safety risks to aircraft passengers. The county reply? We [county] need not discuss those risks because CEQA only requires discussion of environmental issues, not safety issues. That reply essentially says: *We don't care about safety and are not going to analyze it*, a rather remarkable attitude for a county operating an airport that often “reassures” county residents that “all is well.”

Now the good and bad news. It appears the federal National Environmental Policy Act (NEPA) does require discussion of project safety and environmental factors. Just one problem. The FAA

never prepared a NEPA Environmental Impact Statement (EIS) for the 2018 or 2021 Palomar proposed expansion or AA starting Palomar operations.

Recall that county staff tells each supervisor at page 24 of the staff letter that approving the AA lease and finding that the 2021 PEIR sufficiently analyzed the issues now associated with the AA operations “*reflects the independent judgment and analysis of the Board of Supervisors.*” Any supervisor approving the AA lease, if deposed in an environmental suit, would need to explain how that supervisor exercised his or her judgment given the facts above.

## **2. County Staff Misstates FAA Grant Assurance Criteria, Ignores the Long SD County History of Violating the FAA Grants, and Ignores the Resulting Environmental Risks**

County staff tells the Board that FAA Grant Assurance 22 “*prohibits the County from discriminating against any type, kind, or class of aeronautical user.*” [Staff report, p. 21, 3<sup>rd</sup> Overview ¶.]. Staff misquotes the law. Grant Assurance 22(a) actually says: “*Economic Discrimination. It [the local sponsor] will make the airport available on reasonable terms and without unjust discrimination ... .*” (*Emphasis added.*). There is a whole body of law discussing “discrimination” v. “unjust discrimination.” As the term “unjust discrimination” suggests, discrimination may be allowed for valid reasons such as safety concerns.

Moreover, FAA Specific Grant Assurance 19 entitled “Operation and Maintenance” specifically says that local airport sponsors like county “*will not cause or permit any activity or action thereon which would interfere with its use for airport purposes.*”

The 1959 FAA Grant Assurance to County (FAAP 0801) and many FAA grants to County between 1959 & 2015 read similarly. Yet county from 1965 to 1976 allowed 3 landfills on Palomar about 1000 feet from the runway. The landfills created the risk of bird strikes to aircraft engines, runway subsidence, methane gas intrusions into Palomar tenant buildings, and risks to on-site Palomar workers. The county did not receive FAA approval to operate these landfills.

The landfills have created unstable soils that increase the cost of extending the Palomar runway eastward by 5 to 10 times. Placing hundreds of piles through the landfill to bedrock to support grade beams for an extended runway deck is ridiculously expensive. It is unlikely the FAA will pay its usual 90% share to cure a runway extension caused by county violating FAA grants. The landfills have resulted in county reducing the fair market rent to tenants affected by the landfills.

Board of Supervisor FAA grant violations continued in the 2000s. County Airports in 2000 (later amended) entered into an MOU with County Landfill to transfer about \$1.5 million from the airport enterprise fund to the county general fund to pay for Palomar landfill remediation that was only needed because county violated the FAA grants in the first instance. Then the county, without prior FAA written approval, allowed car dealerships to store autos on the Palomar passenger lots paid for with FAA grant funds, a non-airport use.

In short, it appears that both as a result of the county-AA dealings and as a result of the actions above, an environmental suit and a private attorney general act (PAGA) lawsuit against the county to recover monies County Airports has improperly transferred to County Landfills is merited.

More to the point, how do the Palomar now closed but still methane-emitting landfills relate to granting or not granting the AA lease?

When county Board in the late 1970s or early 1980s closed the Palomar landfills, the Board erred badly. It failed to install a methane gas collection system to collect the gas from the rotting garbage below the unpaved landfill cover. As a result, methane gas – one of the worst climate change causes – was emitted into the Palomar air and communities around it for 10 to 15 years before the Board finally installed a spaghetti like network of methane gas collection piping at the Palomar runway east end a few feet below the surface. Call this network a lurking unseen and unknown target for Palomar crashing aircraft.

The methane gas installation was the air quality “good news.” The bad news was that it created a possible source of ignition for an aircraft crashing into the landfill. Yet neither the 2018 nor 2021 Palomar PMP PEIR analyzed this issue.

To be sure there are technical CEQA violations that perhaps should be overlooked. But why on God’s preferably green earth would the Board of Supervisors – already having violated the FAA grants by installing and maintaining the Palomar landfills and violating them again by using airport land and monies for nonairport purposes and violating common sense and good land management practices by spewing methane gas into the air and around working airport workers for more than a decade – continue the pattern: *Let’s make as much money and as we can no matter how much the community suffers from increased noise and traffic and property depreciation (see LUCP discussion below)?*

Conclusion: When each Board member conducts the “independent investigation” to conclude that the 2021 Palomar PMP PEIR studied the risks of AA bringing faster, larger, more fuel laden, passenger-carrying aircraft to Palomar, ask the Airport Director to give both you and the public a list of all PMP PEIR pages where the risk to the environment and humans of an aircraft crashing into the Palomar east end misnamed “Runway Safety Area” was specifically covered.

### **County Staff Airport Noise Capacity Act Misstatements**

In 1990 Congress adopted the Airport Noise Capacity Act (ANCA). The Act defines how airport noise may be regulated. County staff tells you that the FAA in 2006 denied county’s request to impose noise curfews at Palomar and says “*County does not have the authority to impose what would amount to a curfew on American Airlines by prohibiting the airline from flying before 7:00 am.*” (p. 22, last ¶)

As famous radio commentator Paul Harvey used to say: *Here is the rest of the story.*

Conveniently, airport staff fails to tell you that ANCA expressly allows the county and AA to agree to limit hours of operation. ANCA at 49 U.S.C. § § 47524 (*Airport noise and access restriction review program*) says:

*“(c) Stage 3 aircraft.--(1) Except as provided in subsection (d) of this section, an airport noise or access restriction on the operation of stage 3 aircraft not in effect on October 1, 1990, may become effective only if the restriction has been agreed to by the airport proprietor and all aircraft operators or has been submitted to and approved by the Secretary of Transportation after an airport or aircraft operator's request for approval as provided by the program established under this section. Restrictions to which this paragraph applies include--*

- (A) a restriction on noise levels generated on either a single event or cumulative basis;*
- (B) a restriction on the total number of stage 3 aircraft operations;*
- (C) a noise budget or noise allocation program that would include stage 3 aircraft;*
- (D) a restriction on hours of operations; and***
- (E) any other restriction on stage 3 aircraft.*

\* \* \*

*(e) Grant limitations.--Beginning on the 91st day after the Secretary prescribes a regulation under subsection (a) of this section, a sponsor of a facility operating under an airport noise or access restriction on the operation of stage 3 aircraft that first became effective after October 1, 1990, is eligible for a grant under section 47104 of this title and is eligible to impose a passenger facility fee under section 40117 of this title only if the restriction has been--*

- (1) agreed to by the airport proprietor and aircraft operators;*
- (2) approved by the Secretary as required by subsection (c)(1) of this section; **or***
- (3) rescinded.”*

In short, if AA wanted to be a good neighbor, it could agree to a curfew with county and county would still be eligible to receive FAA grants.

### **The Palomar Land Use Compatibility Plan Violations and Property Owner Depreciations Resulting from AA Operations**

CEQAs purpose was to hold elected officials feet to the fire when they approved projects that could harm people. Projects could be freely approved so long as elected officials were willing to take the heat at the next election by disclosing project impacts pre-project approval.

When the Board approves and encourages larger aircraft to operate at Palomar, it likely depreciates 15 to 30 commercial property values of owners who operate within a few miles of Palomar Airport. The proof?

Recall that the Board paid millions a few years ago to a property owner who built an office building near Palomar only to have the San Diego County Regional Airport Authority (SDCRAA) Airport Land Use Commission (ALUC) prohibit the office use. Why? Because the office was within a Palomar Land Use Compatibility Plan (LUCP) crash zone. The ALUC theory is simple. No matter how seldom a plane crash occurs, there is only one way to minimize harm to humans at higher-risk crash site. Assure the crash site has only a few, transitory workers not permanent worker bees as in an office building.

What is the practical result of the Board approving AA operations? When the ALUC next revises the Palomar LUCP (last revised in 2011), the ALUC will redraw the crash zones impacted by Palomar operations.

Do the supervisors have an excuse for bankrupting some property owners? Sort of. The common criminal trial defense: SODDI (some other dude did it). The other dude? The ALUC. Ignoring the fact that the ALUC had to act only because the Board approved the AA lease.

What a rotten way for a public entity to act when it could so easily coordinate its operations with the ALUC and let affected property owners know of the risks before the AA approval so they could appear at Board meetings.

### **The County Staff Carlsbad Conditional Use Permit (CUP) 172 Omissions**

County staff says approving the AA lease “aligns with the existing (Carlsbad) Conditional Use Permit 272 (CUP)” and “County would not require an amendment to the existing CUP.” (p 22, ¶ 3).

Unfortunately, county staff does not give the Board or the public sufficient information to reach that conclusion. Recall that Judge Pollock in his 2021 decision against the county held that the county needs Carlsbad approval to convert Palomar from a B-II airport to a C or D airport.

Converting Palomar above its current FAA B-II ARC (Airport Reference Code) rating requires varied physical, airfield changes. Changes include increasing pavement strength, widening the runway-taxiway separation, increasing the turning radii from taxiways to the runway so that larger aircraft can turn safely, and altering the navigational lighting, among others.

County records suggest that when the county rehabilitated the runway in about 2019, it may have snuck in increased pavement strength by change order to the construction specs. Without telling the public. County has already tried to operationally meet the FAA 400-foot taxiway/runway separation by barring larger aircraft from operating concurrently on the taxiway and runway to avoid the aircraft touching wingtips.



The AA board letter does not disclose whether AA asks or the county wishes to change the airfield turning radii or navigational lighting. Such changes show a county intent to convert the airfield from its historical B-II rating and the ARC rating the Board approved in its 2021 Palomar action.

**Consider this letter as a request to provide the undersigned, pursuant to the California Public records act and for the period 1/1/20 to 12/8/24, a CD with (1) all correspondence between the county and AA (including its consultants) discussing the proposed lease and any Palomar airfield improvements discussed and (2) all records discussing possible Palomar airfield changes to accommodate AA or any other carrier.**

### **County Airport Staff “End-Running” the Board: the Palomar Airport Layout Plan**

In 2021, the Board voted to keep Palomar a B-II airport consistent with Carlsbad Council resolutions supporting a B-II airport and opposing airport conversion.

For the last 3 years, county staff and the FAA – without any formal Board action changing the Board’s position on the Palomar B-II rating, which would require Carlsbad action – have blind-sided the public. It appears the final 2024 FAA-approved Palomar Airport Layout Plan (ALP) designates the ultimate Palomar ARC as D or higher.



The public is confused for these reasons:

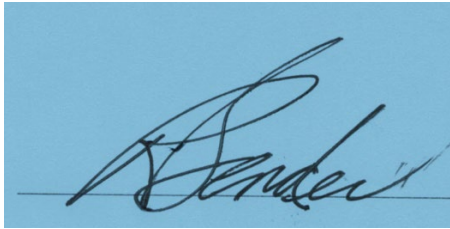
- The FAA has always said – recognizing that the U.S. Constitution gives states the power to zone their own lands – that local airport sponsors such as county and NOT the FAA decide whether to support airports and what size they should be.
- The Board has held no public hearing requiring public input as to what the ultimate Palomar ARC designation should be. In fact, the 2021 Board action expressly retained Palomar as a B-II airport.
- Yet county airport staff has exchanged multiple ALP drafts with the FAA without insisting that the FAA adhere to the Board’s Palomar B-II ARC determination.

The above county staff actions betray the public trust.

### **Conclusions**

1. **CEQA:** Board action on the AA lease should be continued until the county completes a CEQA-compliant analysis of the environmental damage that could result of a large AA aircraft crashing into the Palomar east end misnamed “Runway Safety Area (RSA).”
2. **NEPA:** The FAA should prepare a NEPA-compliant analysis of the environmental and safety risks of an AA aircraft crashing into the Palomar runway east end RSA.
3. **ANCA:** Pursuant to ANCA’s terms, the county should negotiate quiet hours with AA as a condition of the lease.
4. **ALUC Updated LUCP:** County staff should consult with ALUC staff to determine if and how AA operations would change the LUCP crash zones and devalue certain commercial properties around the airport so that affected owners are given notice to appear at the Board action on a proposed AA lease.
5. **Grant Assurances:** The Board should immediately prepare a report to the public analyzing its FAA Grant Assurance compliance including the transfer of about \$1.5 million from the county airport enterprise fund to the general fund to remediate Palomar landfill problems caused by the county violating the FAA Grant Assurances.
6. **County Compliance with Carlsbad CUP 172.** County should immediately notify Carlsbad in writing of all Palomar airfield modifications it has made since Judge Pollock’s 2021 decision and all modifications it has discussed making through 12/10/24.
7. **Staff Board Letter Legal Compliance.** The Board should assure that county airport staff provides a fair and balanced analysis of all legal representations it makes in Board letters related to Palomar operations.
8. **Board Member Independent CEQA Analysis.** Before voting on an AA lease, each Board member should state what facts it relies on to conclude that AA operations could not materially affect the environment in view of the issues related to a large aircraft with many people aboard crashing into the Palomar east end unpaved area a few feet above methane gas collection piping.
9. **Insurance Carrier Notification.** If the county carries airport liability insurance (as opposed to being self-insured), the county should assure that it did not misrepresent any facts to the insurance carrier when applying for Palomar coverage. Misrepresentations could result in voiding coverage if an AA aircraft did crash into the landfill area.

Thank you for reviewing this letter and the issues raised.



Ray Bender

A Concerned Citizen

District Court Schopler RB Ltr to BOS re AA Issues.docx

**Note Re: SCS Engineers Report Exhibit 1 Below**

I have provided only page 1 of the SCS report in Exhibit 1 below due to computer copying difficulties. Based on past experience, if Exhibit 1 is attached as a scanned record it may be too light to read. Hence, Supervisors should request an original from the Clerk of the Board. I request that the county include the full report in the Administrative Record for court review. If county staff has destroyed the report already, I can have a paper copy federal expressed to the Clerk. Highlights of the SCS report include:

1. Identification of Crash Hazards: flammable liquids such as Jet fuel; burning of hazardous solids such as aircraft batteries, electrical equipment, engines, tires, wheels pathogenic substances, radioactive materials and metals; creation of on-site and off-site fires; a violent aircraft crash ground impact may also result in an impact crater that exposes the buried solid waste to the atmosphere; post-crash fires can then initiate surface fires as the landfill is now free to vent directly into the atmosphere; smoldering solid waste materials that are below grade can be difficult to control.
2. Identification of Crash Hazards: Spillage of cryogenic liquid used to cool to reduce engine temperatures. Even low quantities of cryogenic liquids can expand into large volumes of gases;
3. Identification of Crash Hazards : fluids from hydraulic and pneumatic accumulators for brakes landing gears, and auxiliary power units;
4. Identification of Crash Hazards: Pipe rupture: extensive damage to above/below grade utilities that can contaminate nearby soils and compromise air quality;
5. Site Specific Hazards: fuel farms used to fuel aircraft; high pressure, gas transmission main owned by SD Gas & Electric; several below grade LFG extraction wells and pipelines possibly leading to explosions depending on the concentration of methane and oxygen in the affected LFG pipelines affected by the crash; drainage of hazardous fluids through the on-site storm drain to other sites; under the worst case scenario a post-crash fire could theoretically aggravate this situation by serving as an ignition source to the potentially explosive LFG vapors.

The 2018 and 2021 SD County Palomar PMP and PEIR did not disclose or analyze the extent of these risks to onsite airport workers, tenants, or the public.

See Page 1 of the 10/15/13 Report on p. 10 below.

Environmental Consultants  
and Contractors

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## SCS ENGINEERS

October 15, 2013  
File No. 01213281.00

DRAFT

Mr. Jason Forga, P.E.  
County of San Diego  
Department of Public Works  
5510 Overland Avenue, Suite 210  
San Diego, CA 92123

**Subject: Evaluation of Possible Environmental Impacts of a Potential Aircraft Crash into the Landfill Cover at Palomar Airport Landfill, Carlsbad, California**

Dear Mr. Forga:

The County of San Diego (County) is currently evaluating the possibility of extending the east end of the existing runway at the McClellan-Palomar Airport (Airport). Since the Airport is constructed on a closed landfill site equipped with a below-grade landfill gas (LFG) collection and control system (GCCS), SCS Engineers (SCS) was retained to evaluate the possible environmental impacts of a potential aircraft crash into the landfill cover at the site. Please note that this report attempts to evaluate the worst case "what-if" scenario, and assumes that the impact from an aircraft crash into the landfill cover would result in uncovering buried solid waste materials and damage to the GCCS. Whether or not this scenario is possible, is beyond the scope of this report. Further analysis on whether or not the landfill cover could be penetrated by an aircraft impact, and to what degree, may be the subject of a future study. These services were approved by the County, and Task Order #250 was issued authorizing work on August 30, 2013.

### 1 BACKGROUND

Palomar Airport, located in Carlsbad, California, is owned and operated by the County (Figure 1: Location Map). The airport is partially located over a closed landfill site, which operated as a Class III municipal solid waste (MSW) disposal facility between 1962 and 1975. Over time, the anaerobic decomposition of the organic waste components buried in the landfill produces a by-product gas known as "LFG". LFG primarily consists of about 50 percent methane and 50 percent carbon dioxide. It also includes trace amounts of nitrogen and oxygen, and minute amounts of non-methane organic compounds (NMOCs) and inorganic compounds. Methane is a principle component of natural gas, and is explosive at concentrations of 5 percent and 15 percent by volume, in air. Hence, to prevent possible hazards associated with the migration of methane beyond the limits of the buried waste footprint, a below-grade GCCS has been installed on the site that collects and disposes the collected LFG in an enclosed flare.

