



**Contra
Costa
County**

To: Board of Supervisors
From: Director of Airports
Date: January 11, 2022

Subject: Approve and Authorize a Settlem. Agmt btw the County and FM Aviation Inc., dba Sterling Aviation to Settle an Unlawful Detainer Action Brought by the

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Director of Airports, or designee, to execute, a settlement agreement with defendants FM Aviation Inc., dba Sterling Aviation, and its subtenants, substantially in the form attached, and execute and file any other documents, pleadings or agreements as may be needed to carry out the settlement agreement, to settle an unlawful detainer action filed as Case No. MS21-0026 in the Superior Court of California in connection with property located at Buchanan Field Airport at 145 and 161 John Glenn Drive.

FISCAL IMPACT:

There is no impact to the County General Fund. The settlement agreement will permit the Airport Enterprise Fund to continue to receive ground rent, a percentage of all gross receipts, and, if applicable, fuel flowage fees. In addition, the General Fund will continue to receive property, sales and possessory interest tax revenue from the lease.

BACKGROUND:

The County and FM Aviation, Inc. dba Sterling Aviation (Tenant) are parties to a lease dated June 7, 2011, under which Tenant is leasing the property located at 145 and 161 John

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **01/11/2022** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: January 11, 2022

Monica Nino, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Beth Lee,
925-681-4200

cc:

Glenn Drive at the Buchanan Field Airport. On November 10, 2020, the Board authorized termination

BACKGROUND: (CONT'D)

of the lease and initiation of an unlawful detainer action against Tenant and its subtenants. The action was precipitated by Tenant's failure to carry out a maintenance plan in accordance with the terms of the lease. The maintenance plan required Tenant to carry out certain improvements to one of the two 60-year-old buildings on the property by year-end 2019.

The settlement agreement includes a lease amendment that postpones and alters Tenant's maintenance and improvement obligations. The lease amendment incorporated into the settlement agreement does not extend the term of the lease or permit the property to be returned to the County at the end of the lease term in a lesser condition than was originally contemplated.

CONSEQUENCE OF NEGATIVE ACTION:

If the settlement agreement is not approved, the unlawful detainer action is likely to go to trial in January 2022.