

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Chief Executive Office

BOARD AGENDA # B-9

Urgent

Routine

AGENDA DATE June 5, 2007

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval of the First Quarter Status Report and Recommendations for the 12-Month Exclusive Negotiation with PCCP West Park, a Master Developer preparing a Reuse Project Description and Proposal at the Former Crows Landing Air Facility and adjacent properties located on the West Side of Stanislaus County

STAFF RECOMMENDATIONS:

1. Accept the Ad Hoc Committee First Quarter Status Report and Project Update.
2. Review and Accept Exclusive Negotiation Time Line and Deliverables including Quarterly Milestones and Full Board Reporting Dates.
3. Review and Approve the project area boundary map of 4,800 total acres, which includes the 1,521-acre Crows Landing Air Facility property as the Phase I development objective.

(Continued on Page 2)

FISCAL IMPACT:

The County acquired the former Crows Landing Air Facility from the Federal government in late 2004. Funds to support the ongoing planning and development process at the Crows Landing project area were established in a Crows Landing Development budget unit. The property will generate approximately \$780,000 through a three-year agricultural lease of 1,112 acres with a Hollister-based grower, Pride of San Juan. This agricultural lease expires in December 2008.

(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2007-446

On motion of Supervisor Monteith, Seconded by Supervisor Grover

and approved by the following vote,

Ayes: Supervisors: Mayfield, Grover, Monteith, DeMartini, and Chairman O'Brien

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2)        Denied

3)        Approved as amended

4)        Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

**STAFF RECOMMENDATIONS CONTINUED:**

4. Approve and Authorize the Chairman of the Board to sign a Pre-Development Agreement that outlines project managers, key staff participants, information exchange, and identifies PCCP West Park as the responsible fiscal party for all consultant analysis that may be necessary during the Exclusive Negotiation time line.

**FISCAL IMPACT CONTINUED:**

The initial general plan amendment, master planning process, airport layout plan and subsequent environmental impact analysis was awarded to ESA Airports in March of 2006. The total contract amount (\$499,740) was encumbered in the Crows Landing budget unit. In September 2006 the ESA contract was formally suspended after completing several key planning steps including a master development reuse scenario document. To date, ESA has been compensated \$155,032.34 (31.5%) for work performed.

Should the Board concur with the language stated in the Pre-Development Agreement as part of this report, all third-party consultant work and independent analysis required during the exclusive negotiation period will be born by the master developer candidate. Staff costs associated with this negotiation process will be born by the various County departments that are participant to this process, as these costs have been anticipated and budgeted for the development of the County-owned properties at the former Crows Landing Air Facility.

**DISCUSSION:**

On September 26, 2006, the Board of Supervisors directed staff to issue a Request for Proposals (RFP) for a Master Developer for the Crows Landing Air Facility. The intention of the RFP was to solicit private development interests to submit development proposals for the former air facility that would be consistent with the guiding principles outlined by the Crows Landing Steering Committee. Staff received two proposals, one from PCCP West Park, LLC (West Park), and another from Hillwood, a Ross Perot Company. A screening committee and the full Crows Landing Steering Committee reviewed each proposal.

As part of the RFP evaluation process, staff originally intended to bring an item to the Board of Supervisors recommending which "top proposers" should be invited to submit a much more detailed Phase II proposal. However, both firms indicated that they

First Quarter Status Report and Recommendations for the 12-Month Exclusive Negotiation with PCCP West Park, a Master Developer preparing a Reuse Project Description and Proposal at the Former Crows Landing Air Facility and adjacent properties located on the West Side of Stanislaus County

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required an “exclusive right to negotiate” with the County prior to spending the time and money necessary to complete a Phase II proposal.

Because only two firms responded, both of whom were highly qualified, and because both had requested exclusivity, the Board of Supervisors invited both firms to provide an informational presentation on February 13, 2007. On February 27, 2007, the Board of Supervisors approved a 12-month exclusive negotiation with West Park.

Subsequently, at the Board of Supervisors meeting on March 6, 2007, the Chairman of the Board appointed Supervisor Monteith (District 4) and Supervisor DeMartini (District 5) as an Ad Hoc Committee to oversee the negotiation process.

Staff from the County Crows Landing Development Team (multiple County departments) and West Park (Developer planning team) have been working with the Board Ad Hoc since the March 6 formation.

On March 20<sup>th</sup>, the Board of Supervisors approved support of short haul rail and commuter rail transportation opportunities as an inland port linkage between the Port of Oakland and the Crows Landing Air Facility development. This approval took the form of a resolution, which identified plans for designating 150 acres of the Crows Landing site (or adjacent sites) for a future intermodal transportation facility.

This report is a summary of the Ad Hoc process through the first quarter milestone.

## **QUARTER ONE MILESTONES**

Throughout the first three months of the exclusive negotiation process the Ad Hoc Committee has met with the West Park team on five occasions. Progress through the first quarter has been consistent with project scope and intention, and the committee reached concurrence on several of the major project components.

### **1. Project Time Line – 12-month Exclusive Negotiation**

The first major deliverable that the Ad Hoc Committee completed is the negotiation time line, critical content/analysis issues and the major report out junctures. The process suggests four key milestone points where the Ad Hoc will report out to the full Board of Supervisors for input and feedback regarding project direction. The time line (attachment A) identifies four (4) key dates:

- June 5, 2007 (Quarter One report)
- August 28, 2007 (Quarter Two report)
- December 18, 2007 (Quarter Three report)
- April 8, 2008 (Quarter Four – final report and recommendation)

The major deliverables identified in Quarter One include:

- Hold kick-off meeting and site visit
- Schedule and initiate bi-monthly meetings with all parties
- Revisit (develop) a 12-month schedule with appropriate milestones
- Identify the development footprint
- Data review and analysis
- Coordinate and perform market analysis
- Identify existing County rail structure
- Perform environmental constraints analysis (biology, hydrology, geotechnical, etc.)
- Prepare a pre-development agreement for Board of Supervisor approval
- Begin to identify feasible items for a Master Developer Agreement
- Prepare an ownership plan

The basic logistical issues of identifying core meeting participants, time and meeting location, and formal negotiation process strategies have been completed. A kick-off meeting was held on March 12, 2007, one week after the Ad Hoc Committee was formed. All core participants from both teams have been active contributors to this discussion.

West Park has taken the lead on data review/analysis, market analysis, the identification of existing rail infrastructures, and all environmental constraints analysis including a preliminary wetlands analysis. West Park has shared language with the Ad Hoc Committee that identifies the levels of detail and scope anticipated through the various preliminary analyses, and it has hosted a planning retreat with public sector partners that are participant to the Altamont Short Haul Rail Infrastructure Bond (I-bond) funding application process.

At this reporting juncture, West Park has yet to share the preliminary marketing, existing rail, or environmental analyses with the Ad Hoc Committee or County support staff. West Park has indicated that these early analyses are nearing completion and will be shared with the Ad Hoc for review over the next two reporting cycles.

In addition, the current delivery timetable for State of California I Bond/Short haul rail funding remains uncertain. West Park has clearly stated that the short haul rail component and State Infrastructure Bond fiscal support are key components to the success of this project. In that light, the I Bond and short haul rail funding issue will continue to be monitored and reported on at the quarterly milestone markers.

The County initially contracted with ESA in March of 2006, as much of the early environmental constraints analysis including the Navy/NASA environmental clean up documentation was available at that time. ESA has provided West Park with site-specific data and a list of reports and data in its project library that will be made available to West Park and its contractors upon request. In addition, ESA was retained as a third-party resource for the entirety of this exclusive negotiation. All ESA and additional third-party analysis required during this negotiation will be the fiscal responsibility of West Park, the candidate developer. (See item #3. Pre-Development Agreement for further discussion.)

The decision pertaining to property ownership has been moved into the list of Quarter Two deliverables. An independent third-party analysis will be prepared by ESA to identify and discuss the opportunities and constraints of retaining ownership of the County's 1,521 acres versus some combination of long-term lease and/or sale. Staff anticipates that analysis to be reviewed by mid-July, with Ad Hoc Committee recommendations forward for the Quarter Two milestone report of August 28, 2007.

## **2. Project Area Boundary and Related Development Assumptions**

Consistent with the presentations made by the West Park development team, the footprint agreed upon by the Ad Hoc Committee identifies a 4,800-acre total development area (see Attachment #2).

The project boundary includes the 1,521 acres of County-owned property composed of the former Crows Landing Air Facility. The preliminary designations are industrial (including distribution and manufacturing), rail intermodal, business park, and aviation and aviation support uses.

The Ad Hoc Committee has identified several key land use and scope issues:

- The footprint and project study area will not encompass County-owned properties west of the former Crows Landing Air Facility at Fink Road (current land fill properties);
- The project study area will not consider residential uses of any capacity;
- The County-owned properties at the former Crows Landing Air Facility will be considered Phase I development and will be designated as a first development priority; and
- The project study area will include key infrastructure improvements for the unincorporated community of Crows Landing. These infrastructure improvements will include: roadway/transportation, water, wastewater, and sewer improvements.

ESA Airports will work closely with the County and West Park to ensure that the internal land uses and project buffers remain consistent with the Board approved reuse scenario, such as the retention of the prevailing wind runway for general aviation uses. All preliminary land use acreages identified in the base footprint are subject to modification as the project continues to come into focus.

### **3. Pre-Development Agreement**

As part of the 12-month exclusive negotiation process, West Park has agreed to fiscal responsibility for all third-party consultancy costs and analysis. A key Quarter One deliverable has been the development of a Pre-Development Agreement to outline this process and to establish project guidelines for cost reimbursement and major logistical and procedural protocols. The purpose of the Pre-Development Agreement is to outline the respective roles and obligations of the County and West Park and identify the steps to be taken to prepare a project description for master development of the Crows Landing Air Facility and surrounding area. Key components of the Pre-Development Agreement (see attachment #3 for full agreement language) include:

#### **Deliverables and Process**

- i. Project Managers for both County and developer teams have been formally identified.
- ii. Roles and responsibilities for project monitoring have been identified.
- iii. County staff costs shall be the sole responsibility of and paid by the County.
- iv. Regarding Airport uses - West Park and County shall advise one another of all contacts regarding potential uses or users of the airport and keep one another apprised of discussions related to potential use of the airport.

#### **County Consultants**

- i. The County may (in its sole discretion) determine that it is necessary to obtain additional assistance from external consultant sources to expedite project review and provide subject matter expertise. West Park agrees to reimburse the County for all costs associated with retaining consultants related to the Crows Landing project.
- ii. West Park will be provided a copy of all contract proposals and amendments, including the scope of work and pricing for all consultants that the County intends to retain. West Park input will be sought and taken into consideration on the scope of the work, pricing and deliverables, but final determination on the scope of work, pricing and deliverables will reside with the County Project Manager.
- iii. Exchange of information between West Park and the County will be coordinated through the County Project Manager.

- iv. With the exception of privileged attorney-client communications, County agrees to deliver to West Park copies of all consultant work-product for which West Park is reimbursing the County.

**No Liability**

- i. West Park acknowledges and agrees that the County has no obligation whatsoever to accept or approve any project proposed by West Park during the negotiation period, and that the County has no obligation whatsoever to reimburse West Park for any costs incurred by West Park during the term of the Pre-Development Agreement.

**Confidentiality**

- i. Any specific information that is claimed by West Park to be “Confidential Information” must be clearly identified as such by West Park. To the extent consistent with State law, the County will maintain the confidentiality of all such information marked as such.
- ii. West Park acknowledges that the Pre-Development Agreement and documents associated with it shall be a public record under State law.

**Miscellaneous Provisions**

- i. The term of the agreement – upon Board approval is retroactive to February 27, 2007, and shall continue until the earlier of:
  - 1. The execution of a Disposition and Development Agreement
  - 2. A mutual written agreement of the parties, or
  - 3. One (1) year from the date of this agreement.
- ii. Either party may terminate the agreement without cause upon 30 days prior written notice to the other party.
- iii. Termination of the agreement shall not affect West Park’s obligation to pay for all costs of consultants as provided in the agreement.

**NEXT STEPS: Quarter Two**

Key deliverables through summer 2007 will include the continuation of market and economic data collection and analysis; infrastructure analysis; and environmental data collection, review, and analysis. In addition, the Ad Hoc Committee will review a cost-benefit analysis prepared by ESA and third-party consultants that will help to identify best potential strategies for land ownership and/or sale options.

During the second quarter the County will begin a formal dialogue with the Federal Aviation Administration (FAA) and the Caltrans Division of Aeronautics to discuss future

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general aviation, airfield uses and limitations. These discussions will be shared with West Park through the County Project Manager and the Ad Hoc Committee process.

Also in Quarter Two, consistent with the 12-month time line, West Park will be asked to deliver an extensive public meeting plan and begin to hold preliminary public meetings with the west side communities and stakeholder groups. The County will continue to participate and assist with facilitation of this effort, as this is a critical component toward building project support and identifying community issues.

### **SUMMARY**

The exclusive negotiation by and between the County and West Park has started on a very positive, efficient note. All participants to this effort are committed to delivering a sound and viable regional job center project. In the months ahead these reports will begin to add increasing amounts of information and detail to what will ultimately serve as sufficient input for a Notice of Preparation pursuant to the California Environmental Quality Act (CEQA). At the conclusion of Quarter Four, the Board of Supervisors will receive a significant project proposal for review and action.

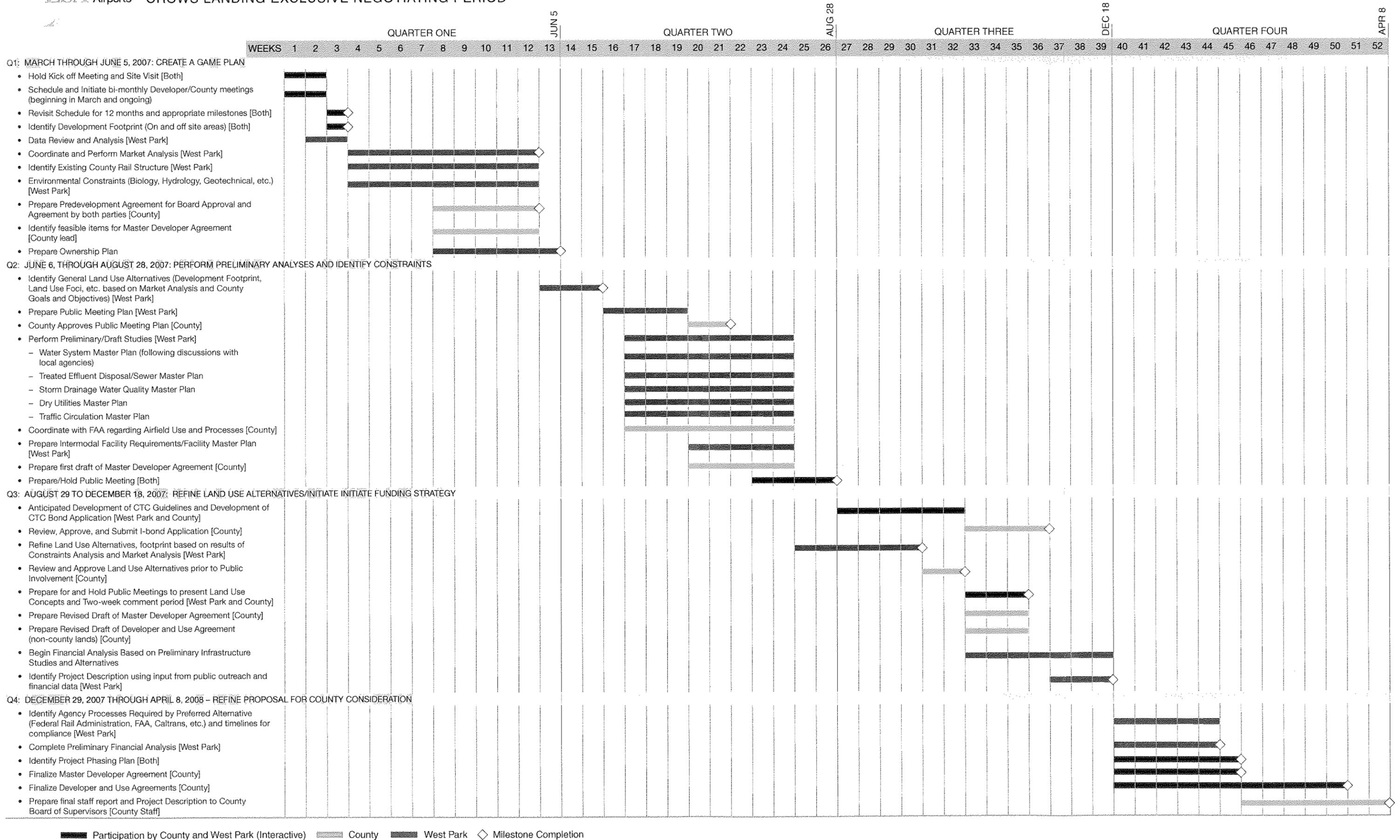
### **POLICY ISSUE:**

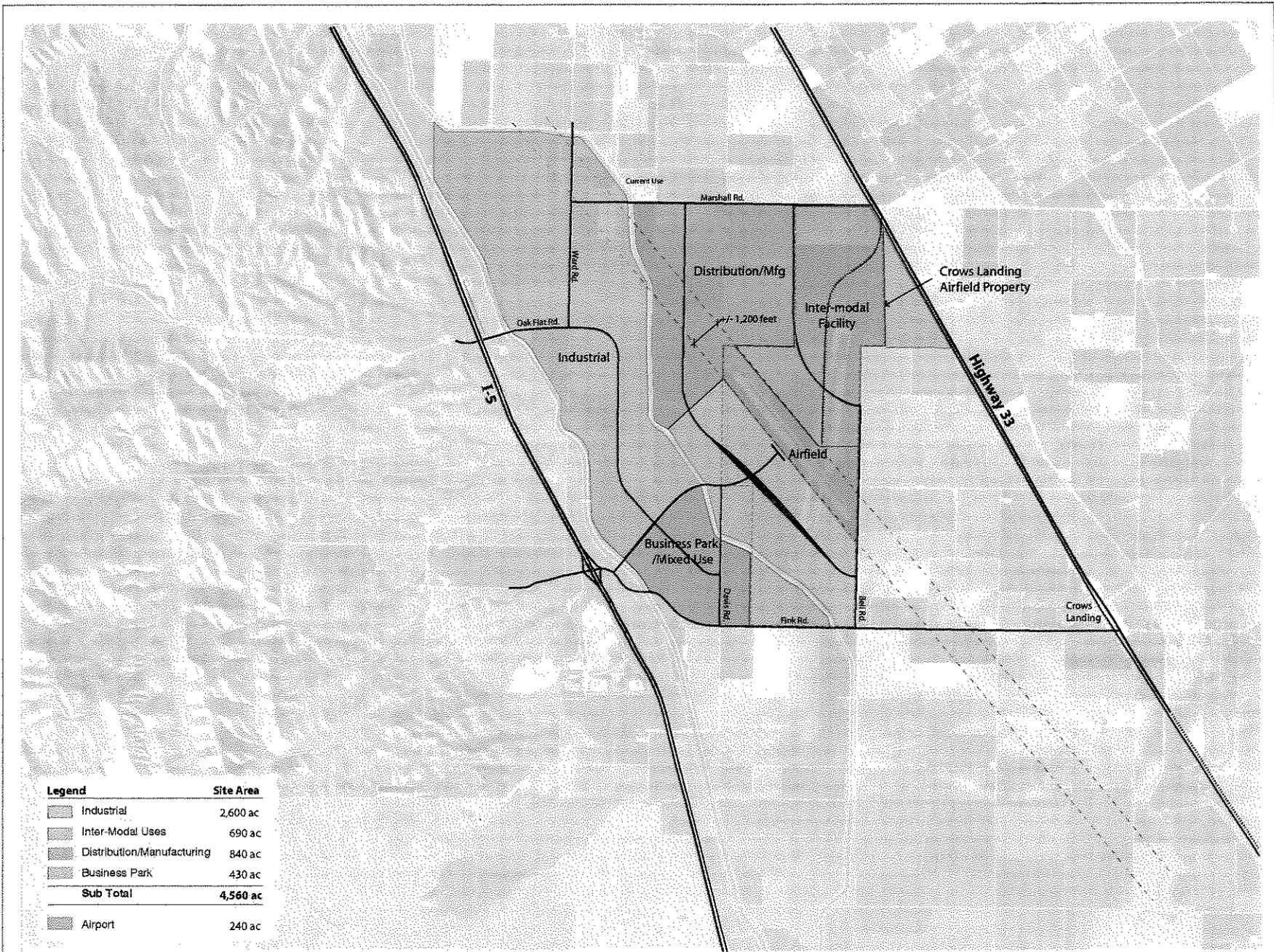
The Board should determine whether the direction and recommendations of the exclusive negotiation are consistent with Board direction and supportive of the Board's priority of ensuring a strong local economy through business park development and job creation objectives for the communities of Stanislaus County.

### **STAFFING IMPACT:**

Existing staff facilitated through the Chief Executive and including Planning and Community Development, Redevelopment, Public Works, Department of Environmental Resources, and County Counsel (County Crows Landing development team) will continue to act in a support capacity to the Ad Hoc Crows Landing Negotiation Committee.

Attachments: 12-Month Exclusive Negotiation Time Line  
Project Development Footprint  
Pre-Development Agreement





Legend	Site Area
Industrial	2,600 ac
Inter-Modal Uses	690 ac
Distribution/Manufacturing	840 ac
Business Park	430 ac
<b>Sub Total</b>	<b>4,560 ac</b>
Airport	240 ac

CROWS LANDING CONCEPTUAL LAND USE PLAN



## CROWS LANDING AIR FACILITY PRE-DEVELOPMENT AGREEMENT

### 1. Purpose.

On February 27, 2007, the Board of Supervisors of Stanislaus County ("**County**") authorized a 12-month exclusive negotiation with PCCP West Park, LLC, a Delaware limited liability company ("**West Park**"), for master development of the Crows Landing Air Facility. That decision may have direct fiscal impact on County Planning, Public Works, CEO, County Counsel, and other departments in the form of staff time and expenditure. As stated in all presentations and materials, the West Park proposal to the County stated that it intended to absorb the cost of entitling this project area, and has agreed that there would be no direct cost to the County during this negotiation phase or beyond. Consistent with other County economic development efforts, the Board adopted the requirement that a cost reimbursement agreement be included as part of an interim pre-development agreement with West Park.

The purpose of this Pre-Development Agreement ("**Agreement**") is to outline the respective roles and obligations of the County and West Park, and the steps to be taken to prepare a project description for master development of the Crows Landing Air Facility and surrounding area, and to prepare a Disposition and Development Agreement for consideration by the Board of Supervisors. The project area is initially designated to be the area shown on Exhibit A attached hereto, which totals 4,800 acres comprised of 1,284 acres of industrial development and 240 acres for airport uses at the Crows Landing Air Facility, and 3,276 acres of industrial/commercial development surrounding the Crows Landing Air Facility.

### 2. Deliverables and Processes.

2.1 Deliverable Schedule. The parties will cooperatively develop a Project Schedule that identifies interim tasks and objectives necessary to provide the ultimate project deliverables of (a) a project description for the Crows Landing Air Facility and surrounding area of sufficient detail to provide the Board of Supervisors information to determine if it is in the County's best interest to proceed with implementation of that project, and (b) a Disposition and Development Agreement suitable for consideration by the Board of Supervisors. The parties will work cooperatively to achieve the tasks and meet the milestones set forth in the Project Schedule. An initial Project Schedule, that may be amended in writing from time-to-time by mutual consent of the Project Managers, is attached hereto as Exhibit B.

2.2 Project Monitoring. On March 6, 2007, the Board of Supervisors established an ad hoc committee of Board members to oversee the twelve-month exclusive negotiation process between the County and West Park. The Crows Landing Air Facility Ad Hoc Committee (the "**Ad Hoc Committee**") will schedule regular meetings to occur every second and fourth Thursdays of each month to meet with West Park staff and County staff to monitor progress of planning efforts and to address issues as they occur during the process. The Ad Hoc Committee may meet in addition to the regularly scheduled meetings as it deems appropriate and necessary. County staff will take minutes at each of the scheduled Ad Hoc Committee meetings to reflect, at a minimum, attendance, status report on previous meeting deliverables, major topics of discussion, agreement points and anticipated deliverables for the next meeting. The minutes of the Ad Hoc Committee meetings shall be approved in writing by the Project Managers. The full

Board of Supervisors will be provided status updates each quarter and will provide interim guidance as necessary.

2.3 Project Manager. West Park and County will each designate a project manager ("**Project Manager**") to function as a central point of contact to distribute information from the County staff to West Park and from West Park to County staff. The County's Project Manager is the Chief Executive Officer or his designee. Other Department Heads have authority and responsibility for issues within their areas of concern, but all items and issues related to the Crows Landing Project shall be brought to the County Chief Executive Office and then forwarded to the appropriate department for resolution. West Park's Project Manager shall be Gerry N. Kamilos or his designee.

2.4 Roles and Responsibilities. The County, through its staff and the Ad Hoc Committee, shall be responsible to monitor project progress, provide oversight of project deliverables, and facilitate resolution of issues regarding project deliverables. West Park shall be responsible for providing all deliverables set forth in this Agreement.

2.5 Reimbursement for County's Staff. County staff costs shall be the sole responsibility of and paid by County.

2.6 Airport Uses. West Park shall advise the County Project Manager of all contacts regarding potential uses or users of the airport at the Crows Landing Air Facility, and shall keep the County's Project Manager fully apprised regarding discussions related to potential use of the airport. Likewise, the County shall advise West Park's Project Manager of all contacts regarding potential uses or users of the airport at the Crows Landing Air Facility, and shall keep West Park's Project Manager fully apprised regarding discussions related to potential use of the airport. Each party agrees to coordinate its efforts to create uses and developments at the airport which are mutually acceptable to the County and West Park, which mutually agreeable uses could include CALFIRE and others related to the creation of a "safety center" at the Crows Landing Airport.

### **3. County Consultants.**

3.1 Reimbursement of Consultant Costs. The County may in its sole discretion determine that it is necessary to obtain additional assistance from external consultant sources to expedite project review and provide subject matter expertise. Subject to the provisions of this Section 3, West Park agrees to reimburse the County for all costs associated with retaining consultants related to the Crows Landing project. The County shall forward invoices from consultants to West Park and upon receipt, West Park shall pay all invoices within thirty (30) days of receipt.

3.2 West Park Approval. West Park will be provided a copy of all contract proposals and amendments, including the scope of work and pricing, for all consultants that the County intends to retain. West Park input will be sought and taken into consideration on the scope of work, pricing and deliverables, but the final determination on the scope of work, pricing and deliverables will reside with the County Project Manager. West Park shall approve the scope of work in written form (email, fax, memo, etc.), which approval shall not be unreasonably withheld by West Park, and West Park shall be liable for only those consultant costs that are approved by West Park and that support the project being developed and proposed by West Park.

At its sole cost and expense, West Park can hire and manage independent contractors to assist with preparation of its own plans without the need for County approval or oversight.

3.3 Coordination. The County will direct all of its consultants to maintain tight contract management, and will be the central point of contact for its consultant work as approved by the County. Exchange of information between West Park and the County's consultants will be coordinated through the County Project Manager.

3.4 Sharing of Consultant Information. With the exception of privileged attorney-client communications, County agrees to deliver to West Park copies of all consultant work-product for which West Park is reimbursing the County. Such studies, reports, maps, plans, etc. shall be promptly delivered upon receipt to West Park's Project Manager or others designated by him.

#### 4. **No Liability.**

4.1 Project Costs. This agreement covers the actions of the County and West Park during the exclusive negotiation period approved by the Board of Supervisors. West Park acknowledges and agrees that the County has no obligation whatsoever to accept or approve any project proposed by West Park during the negotiation period, and that the County has no obligation whatsoever to reimburse West Park for any costs incurred by West Park during the term of this Agreement, including reimbursement costs for County retained consultants.

#### 4.2 Process Indemnity.

(a) West Park shall defend, indemnify and hold harmless the County and its agents, officers and employees from any claim, action, or proceeding by third parties against the County or its agents, officers or employees to attack, set aside, void, or annul the project or any prior or subsequent development approvals regarding the project or project condition imposed by the County or any of its agencies, departments, commissions, agents, officers or employees concerning the said project, or to impose personal liability against such agents, officers or employees resulting from their involvement in the project, including any claim for private attorney general fees claimed by or awarded to any party from County.

(b) The obligations of West Park under this indemnification shall apply regardless of whether any permits or entitlements are issued and regardless of whether the Board of Supervisors determines to proceed with project implementation.

(c) The County will promptly notify West Park of any such claim, action, or proceeding that is or may be subject to this indemnification and will cooperate fully in the defense.

(d) The County may, within its unlimited discretion, participate in the defense of any such claim, action, or proceeding if the County defends the claim, actions, or proceeding in good faith. To the extent that County uses any of its resources responding to such claim, action, or proceeding, West Park will reimburse County its reasonable expenses upon demand. Such resources include, but are not limited to, staff time, court costs, County Counsel's time at their regular rate for external or non-County agencies, and any other direct or indirect cost associated with responding to the claim, action, or proceedings. Managerial staff time shall not be reimbursable.

(e) West Park shall not pay or perform any settlement by the County of such claim, action or proceeding unless the settlement is approved in writing by West Park, which approval shall not be unreasonably withheld.

(f) West Park shall pay all court ordered costs and attorney fees.

4.3 Premises Liability. In consideration for the County hereby granting to West Park and its employees, agents, or contractors, a limited right of access (except by aircraft) to enter upon County owned property on reasonable notice for the purpose of conducting work or studies related to the project, West Park agrees that (1) any entry upon County property by West Park, or its employees, agents or contractors, shall be at West Park's sole risk and expense; (2) West Park shall assume responsibility for damages resulting from negligence or improper actions by West Park, or its employees, agents or contractors occurring on the property and arising out of West Park's use of the property for the above stated purposes; (3) West Park agrees to return the property to its condition prior to such entry and to keep the property free of liens and encumbrances, including, but not limited to, mechanic's liens, arising out of the activities and conduct of West Park and its agents, employees and contractors thereon; and (4) to the fullest extent permitted by law, West Park agrees to indemnify, defend and hold the County and the property harmless from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorneys' fees, arising out of, resulting from, or in connection with West Park's use of the property resulting in or attributable to personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use.

## 5. Confidentiality.

A. During the term of the Agreement, County may have access to West Park's business, trade secret or proprietary information. Any specific information that is claimed by West Park to be "Confidential Information" must be clearly identified as such by West Park. To the extent consistent with State law, County will maintain the confidentiality of all such information marked Confidential Information to the same extent as it protects the confidentiality of its own proprietary information of like kind, but in no event with less than reasonable care.

B. The County may provide access to and use of the West Park's Confidential Information only to third parties that (a) provide services to that party, (b) have a need to use and access West Park's Confidential Information, and (c) have agreed to substantially similar non-disclosure obligations as those contained in this Section.

C. West Park acknowledges that this Agreement and documents associated with it shall be a public record under State law. If a request is made to view West Park's Confidential Information, County will notify West Park of the request and of the date that any such records will be released to the requester unless West Park obtains a court order enjoining that disclosure. If West Park fails to obtain the court order enjoining disclosure, County will release the identified requested information on the date specified.

D. The following information shall not be considered Confidential Information for the purposes of this Agreement: (a) information freely available to the general public; (b) information which now is or hereafter becomes publicly known without violation of this Agreement; (c) information which is developed by one party independently of any disclosures made by the other party of such information; or (d) information which is disclosed by a party pursuant to subpoena, court order or other legal process.

E. This Section 5 shall survive the termination of this Agreement.

**6. Miscellaneous Provisions.**

6.1 Term of Agreement. This Agreement shall be effective immediately upon approval by the parties, retroactive to February 27, 2007, and shall continue until the earlier of (a) the execution of a Disposition and Development Agreement, (b) a mutual written agreement of the parties, or (c) one (1) year from the date of this Agreement. Either party may terminate this Agreement without cause upon 30 days prior written notice to the other party. Termination of this Agreement shall not affect West Park's obligation to pay for all costs of consultants as provided in Section 3 of this Agreement that are incurred by the County prior to the date of termination.

6.2 Coordination with Agricultural Lease. Prior to entry upon the Crows Landing Air Facility by West Park or its employees, agents, representatives, subcontractors and consultants, West Park shall coordinate its activity with the County's lessee to minimize disruption or interference with agricultural operations. County agrees not to renew any such leases for longer than one (1) year, and will include an early termination provision in any such renewal. If West Park requests the County to terminate any of the agricultural leases in conjunction with the development of the project, West Park agrees to pay any costs associated with early termination of any agricultural lease.

6.3 Insurance. West Park shall take out, and maintain during the life of this Agreement, commercial general liability insurance covering bodily injury, personal injury and property damage with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence.

6.4 Amendment. This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to the original Agreement to maintain continuity.

6.5 Entire Agreement. This Agreement supersedes any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter.

6.6 Governing Law and Venue. This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.

6.7 Authorized Signature. By their respective signatures below, each party represents and warrants that the person or official signing this Agreement has the authority and power to represent and legally bind that party to this written Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives, on the dates set forth next to the signature blocks below. For reference purposes, the date of this Agreement is June 5, 2007.

**COUNTY OF STANISLAUS**

By:   
William O'Brien

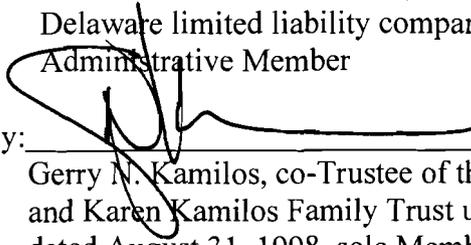
Chair of the Board of Supervisors

Date: JUN 05 2007

"County"

**PCCP WEST PARK, LLC**, a Delaware limited liability company

By: **WESTPARK HOLDINGS, LLC**, a Delaware limited liability company, Administrative Member

By:   
Gerry N. Kamilos, co-Trustee of the Gerry and Karen Kamilos Family Trust u/t/a dated August 31, 1998, sole Member

Date: 5-25-07

"West Park"

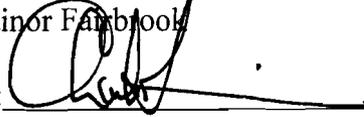
ATTEST: Christine Ferraro Tallman  
Clerk of the Board of Supervisors of the County of Stanislaus, State of California

By:   
Deputy Clerk

Date: JUN 05 2007

APPROVED AS TO FORM:

Trainer Farbrook

By:   
Charles W. Trainor, Esq.  
Attorneys for PCCP West Park, LLC

Date: 5-25-07

APPROVED AS TO CONTENT:

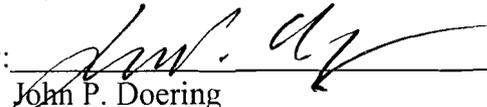
Chief Executive Office

By:   
Richard W. Robinson  
Chief Executive Officer

Date: 6/7/07

APPROVED AS TO FORM:

Michael H. Krausnick  
County Counsel

By:   
John P. Doering  
Assistant County Counsel

Date: 6/7/07

**EXHIBIT A**

**Initial Project Area**

**EXHIBIT B**

**Initial Project Schedule**