

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

DEPT: Chief Executive Office

BOARD AGENDA # B-8

Urgent

Routine

AGENDA DATE August 21, 2012

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Consider and Provide Direction Whether to Terminate the Cost Reimbursement, Deposit and Forfeiture Agreement and the Developer Relationship with West Park Holdings, LLC or Waive the Breach of the Cost Reimbursement, Deposit and Forfeiture Agreement between West Park Holdings, LLC and Stanislaus County Allowing the Continuance of a Development Time Extension Through January 31, 2013

STAFF RECOMMENDATIONS:

1. Select options for proceeding with the development of the Crows Landing Air Facility project, including either:

- (a) Terminate the Cost Reimbursement, Deposit and Forfeiture Agreement between West Park Holdings, LLC and Stanislaus County, dated June 19, 2012, based upon the failure to deposit the Escrow Funds on or before July 10, 2012; terminate the relationship with the Master Developer - West Park Holdings, LLC and direct staff to return with strategic alternatives for proceeding with the development of the County-owned former Crows Landing Air Facility; or

(Continued on Page 2)

FISCAL IMPACT:

A Cost Reimbursement, Deposit and Forfeiture Agreement was signed and committed to as part of the developer request for time extension on June 19, 2012 requiring the Master Developer to deposit \$2,750,000, of which \$2,000,000 would be used during the extension period (through January 2013) to defray costs associated with completion of the Draft EIR with the remainder \$750,000 to be utilized on airport facility improvements upon completion of CEQA certification and the land entitlement process. These monies have not been deposited in the County Treasury as of publication of this item.

BOARD ACTION AS FOLLOWS:

No. 2012-427

On motion of Supervisor Chiesa, Seconded by Supervisor O'Brien, and approved by the following vote,

Ayes: Supervisors: Chiesa, Monteith, De Martini, and Chairman O'Brien

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: Withrow

1) \_\_\_\_\_ Approved as recommended

2) \_\_\_\_\_ Denied

3) \_\_\_\_\_ Approved as amended

4)  X  Other:

MOTION: THIS ITEM WAS CONTINUED TO THE AUGUST 28, 2012 BOARD OF SUPERVISORS MEETING

*Christine Ferraro*

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Consider and Provide Direction Whether to Terminate the Cost Reimbursement, Deposit and Forfeiture Agreement and the Developer Relationship with West Park Holdings, LLC or Waive the Breach of the Cost Reimbursement, Deposit and Forfeiture Agreement between West Park Holdings, LLC and Stanislaus County Allowing the Continuance of a Development Time Extension Through January 31, 2013

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**STAFF RECOMMENDATIONS: (Continued)**

- (b) Waive the breach of the Cost Reimbursement, Deposit and Forfeiture Agreement and proceed with the preparation of the Draft Environmental Impact report (EIR), Draft Specific Plan components to support the EIR, and draft land use documents and ground leases due January 31, 2013.
- 2. If the Board elects to terminate the Cost Reimbursement, Deposit and Forfeiture Agreement dated June 19, 2012, direct the County Treasurer to promptly return to West Park Holdings, LLC all of the Escrow Funds on deposit with the County Treasury, less any bank fees and/or costs incurred by the County in returning the Escrow Funds, and any funds owed to the County by West Park Holdings, LLC for staff, consultant and legal fees as of August 22, 2012.

**DISCUSSION:**

On June 19, 2012 the Stanislaus County Board of Supervisors authorized a time extension through January 31, 2013, for the Master Developer, West Park Holdings, LLC, to complete the following: preparation of a complete Draft Environmental Impact Report (EIR), Draft Specific Plan, Draft Development Agreement (DA), and Draft Ground Leases; and approved the associated draft Reimbursement, Deposit and Forfeiture Agreement (see **Attachment 1**).

West Park Holdings, LLC and the County entered into a Cost Reimbursement, Deposit and Forfeiture Agreement dated June 19, 2012 (Agreement). Section 4 of the Agreement required the Master Developer, on or before July 10, 2012, to deposit with the County Treasury the following funds: (1) \$2,000,000 in the CEQA (California Environmental Quality Act) Escrow Account and (2) \$750,000 in the Airport Improvement Escrow Account (hereafter collectively referred to as "Escrow Funds"), both of which are held by the County and the funds are to be applied to specified tasks and activities related to continued economic development of the Crows Landing Air Facility project (Project) and preparation of a Draft Environmental Impact Report (EIR).

On July 10, 2012, the Master Developer failed to deposit the Escrow Funds into the County Treasury. The Stanislaus County Chief Executive Officer sent Developer Principal, Gerry Kamilos, West Park Holdings, LLC, notification on July 11, 2012 of the failure to deposit the Escrow Funds by July 10, 2012, which is grounds for termination of the Agreement and that the Stanislaus County Board of Supervisors may elect to

Consider and Provide Direction Whether to Terminate the Cost Reimbursement, Deposit and Forfeiture Agreement and the Developer Relationship with West Park Holdings, LLC or Waive the Breach of the Cost Reimbursement, Deposit and Forfeiture Agreement between West Park Holdings, LLC and Stanislaus County Allowing the Continuance of a Development Time Extension Through January 31, 2013

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terminate that agreement unless the Escrow Funds are deposited into the County Treasury by July 11, 2012 (see **Attachment 2**). Pursuant to the Agreement, the County could not take action to terminate the Agreement before 30-days after notice of default was given to the Developer. The 30-day period expired on August 10, 2012, and as of that date, the Escrow Funds had not been received.

The Master Developer breached the Agreement when it failed to deposit the Escrow Funds on July 10, 2012. The Agreement provides that "This Agreement may be terminated for cause at any time by any Party". It is the opinion of County Counsel that failure to deposit the funds by the deadline is cause to terminate the agreement because the timely deposit of the Escrow Funds by the July 10, 2012 deadline was a material part of the Agreement and a significant inducement to the Board of Supervisors in approving the extension to complete a Draft Environmental Impact Report (EIR). In addition on June 19, 2012, Mr. Kamilos represented to the Board of Supervisors that he understood the deadline and that if West Park Holdings, LLC did not meet the July 10, 2012 deadline, the Master Developer could no longer proceed and that the Board of Supervisors may seek other alternatives. The timely deposit of the Escrow Funds was critical to produce a Project EIR by the January 31, 2013 deadline, and the failure to deposit the Escrow Funds by July 10, 2012, is cause to terminate the Agreement.

The Board of Supervisors may also elect to waive the breach of the Agreement and allow the Developer to proceed with the preparation of the Draft EIR under the terms of the Agreement.

## **CONCLUSION**

The former Crows Landing military air facility continues to present a tremendous opportunity for Stanislaus County and the Central Valley as a whole. Its location near Interstate 5, existing infrastructure (including runways), and potential regional connections to both Sacramento and the San Francisco Bay Area present economic development opportunities that continue to support the County in its vision to "create a regional job center that provides good paying job opportunities for Stanislaus County residents and for the region." If the Board elects to terminate the Agreement, staff will return at a later date with recommended next steps for the project site.

Consider and Provide Direction Whether to Terminate the Cost Reimbursement, Deposit and Forfeiture Agreement and the Developer Relationship with West Park Holdings, LLC or Waive the Breach of the Cost Reimbursement, Deposit and Forfeiture Agreement between West Park Holdings, LLC and Stanislaus County Allowing the Continuance of a Development Time Extension Through January 31, 2013

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**POLICY ISSUES:**

The development of the Crows Landing property supports the Board's priority of promoting A Strong Local Economy through business park development and job creation objectives for the community.

**STAFFING IMPACT:**

Existing County staff, facilitated through the Chief Executive Office and including the Department of Planning and Community Development, Public Works' Department, Department of Environmental Resources, and County Counsel (County Crows Landing development team) will continue to support and oversee the County's day-to-day interests in the development process for the Crows Landing property.

**CONTACT PERSON:**

Keith D. Boggs, Assistant Executive Officer. Telephone: (209) 652.1514

Attachments:

1. Cost Reimbursement, Deposit and Forfeiture Agreement
2. Letter from Stanislaus County CEO dated July 11, 2012

6/12/2012

**COST REIMBURSEMENT, DEPOSIT AND FORFEITURE AGREEMENT**

THIS COST REIMBURSEMENT, DEPOSIT AND FORFEITURE AGREEMENT (this "**Agreement**"), dated and made effective as of June \_\_\_\_, 2012 (the "**Effective Date**"), is entered into by and between the County of Stanislaus, a political subdivision of the State of California ("**County**") and West Park Holdings, LLC, a Delaware limited liability company ("**Developer**"). County and Developer are hereinafter collectively referred to as the "**Parties**."

**RECITALS**

A. County is or will be the owner of one thousand five hundred twenty eight (1,528) acres of real property located in the County of Stanislaus and known as the Crows Landing Naval Air Facility as shown on the map attached hereto as Exhibit A and incorporated herein by this reference ("**County Property**"). Developer is the owner or has the legal right to acquire approximately one thousand two hundred forty (1,240) acres of real property adjacent to the **County Property** as shown on Exhibit A ("**Developer Property**").

B. On February 27, 2007, the Board of Supervisors of the County authorized an exclusive negotiation with Developer regarding the master development of the Property. County and Developer entered into a Pre-Development Agreement dated June 5, 2007 ("**Pre-Development Agreement**"), which set forth the respective roles and obligations of County and Developer and the procedures for developing a project description for master development of the Property.

C. The Parties have engaged and continue to engage in discussions and studies related to the infrastructure costs, fiscal impacts and economic feasibility of the Project.

D. County and Developer intend to negotiate a Development Agreement ("**DA**") and Ground Leases ("**Leases**"), which, following completion of an environmental impact report and all required public hearings would be considered by the Board of Supervisors. The **DA** and **Leases** will set forth terms and conditions relating to the development of the **County** and **Developer Property**. Developer's project application includes the proposed development of an intermodal inland port facility, commercial, industrial and business park improvements, and a solar energy facility, together with related infrastructure improvements (all of the foregoing, collectively, the "**Project**").

E. The County has determined that an Environmental Impact Report ("**EIR**") is required for processing the **Project** application pursuant to the California Environmental Quality Act ("**CEQA**"). This Agreement is intended to express the Parties' agreement regarding Developer's indemnification obligation and its obligation to pay costs incurred by the County and any consultants or attorneys retained by the County.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Incorporation of Recitals.** The Parties agree that the Recitals constitute the factual basis upon which the County and Developer have entered into this Agreement. County and Developer each

acknowledge the accuracy of the Recitals and agree that the Recitals are incorporated into this Agreement as though fully set forth at length.

**2. No Obligation to Certify EIR or Approve Project.** Nothing in this Agreement creates a binding obligation to approve or develop the **Project**. Each Party expressly acknowledges and agrees that this Agreement creates no obligation on the part of any Party to: (i) enter into a **DA**, (ii) certify any **CEQA** document, (iii) grant any approvals or authorizations required for the **Project**, (iv) agree to any specific terms or obligations, (v) provide financing for the **Project**, or (vi) proceed with the development of the Property. The Parties acknowledge that the **Project** may be revised as the environmental, financial and planning processes proceed. No promises, representations, or warranties have been made, expressly or implicitly, by the County, its officials, agents, or employees and, it is specifically agreed that no person has any authority to make such representation, promise, or warranty, to Developer that the Agreement will in any way influence the actions of the County with respect to the approval or denial of such applications, agreements, permits, or entitlements. The provisions of this section are hereby incorporated into each and every section of this Agreement as though set forth in their entirety in each such section.

**3. Term.** The term of this Agreement (the "**Term**") shall commence on the Effective Date, and shall terminate on January 31, 2013, unless earlier terminated as provided herein, but the provisions of **Sections 4, 6 and 7** shall survive termination of this Agreement and remain in effect until the obligations therein have been fully satisfied.

**4. Deposit of Escrow Funds; Use of Funds.** On or before July 10, 2012, Developer will deposit with the County Treasury the following funds:

4.1 **CEQA Escrow Account.** Developer shall deposit two million dollars (\$2,000,000) in a separate account to be held by the County ("**CEQA Escrow Account**"). Funds in this **CEQA Escrow Account** shall be used by the County to pay Consultant expenses incurred for the **Project services** provided to Developer by Consultants under this Agreement. Such **Project services** may include, but are not limited to:

(1) Completion of a Draft **EIR** pursuant to the California Environmental Quality Act, Public Resources Code § 21000 et seq., including all scientific, engineering, technical, and other analyses contained therein; and

(2) Developer's Consultant, financial and legal services related to the **EIR** and the **Project**, including airport and short-haul railroad consultants, above and beyond those services for which the Developer has already provided a deposit.

(3) Public outreach activities related to the Draft **EIR**.

Developer has entered into contracts with the consultants identified in **Exhibit B ("Consultants")** to prepare the **EIR**. With funding solely from the **CEQA Escrow Account**, County will pay **Consultant** invoices related to preparation of the **EIR** and upon submission by Developer of a complete copy of the **Consultant** invoice and written authorization by the Developer to pay the invoice. Under no circumstances, shall County be obligated to pay any amount that exceeds the available balance in the **CEQA Escrow Account**. County shall make such payments within fifteen (15) days of receipt of such written request from Developer. In the event that any portion of the funds deposited in the **CEQA Escrow Account** are subject

to any subsequent court order or lien and not available for use by the County, the County may suspend payments to **Consultants** until such time as the court order is no longer in effect and/or the lien is no longer effective.

Developer further acknowledges the **CEQA Escrow Account** payment does not include any additional fees and charges as required by law, ordinance, or resolution to be paid to County by Developer, such as application fees, inspection fees, and other processing fees for entitlements or permits that may be required for the **Project** generally including staff processing costs, county-retained consultants (including but not limited to short haul, **CEQA** peer review, and/or financial consultants) and legal services related to the Draft **EIR** and the **Project** entitlements which shall be the subject of a separate agreement between the County and Developer.

In the event that the Board of Supervisors certifies the **EIR**, any funds remaining in the **CEQA Escrow Account** shall be retained by the County for on-going **Project** expenses, including staffing costs. Use of such funds shall be in the complete discretion of the County.

4.2 Airport Improvement Escrow Account. Developer shall deposit seven hundred and fifty thousand dollars (\$750,000) in a separate account to be held by the County ("**Airport Improvement Escrow Account**"). In the event that the Board of Supervisors certifies the **EIR** and approves the **Project**, these funds shall be credited against any financial obligation the Developer has for the general aviation airport.

5. Draft EIR Deadline. Developer has advised the County that Draft **EIR** can be completed by **Consultants** prior to January 31, 2013. Based on this representation, Developer either by itself or in association with **Consultants** shall deliver to the County a hard copy and an electronic file of the Draft **EIR** in a form adequate for commencement of the public review period required by **CEQA**, as determined in the sole and reasonable discretion of the County Executive Director or her designee, no later than January 31, 2013. The electronic file of the Draft **EIR** shall be provided in its original and modifiable form. In the event Developer fails to satisfy its obligations under this Section, the provisions of Section 6 shall take effect.

6. Forfeiture. In the event the Draft **EIR** is not complete in a form adequate, as determined in the sole and reasonable discretion of the County Executive Director or her designee, for commencement of the public review period required by **CEQA** by the deadline identified in Section 5, the following forfeiture terms shall be implemented and govern disbursement of the escrow funds deposited pursuant to Section 4. Developer further agrees that all **EIR** drafts, technical studies and related materials will be forfeited to the County. County may use such drafts, studies and related materials for any purposes County desires, including a subsequent and separate proceeding related to the **County Property**.

6.1 CEQA Escrow Account. All unused funds in the **CEQA Escrow Account** shall be forfeited by Developer and retained by County. Developer will receive no reimbursement. County will use the funds for any further environmental, engineering, legal and financial analysis applicable to the County obtaining land use entitlements for development on the **County Property**.

6.2 Airport Improvement Escrow Account. Fifty percent (50%) of the **Airport Improvement Escrow Account** funds (\$375,000) shall be forfeited by Developer and retained by County. Fifty percent (50%) of the **Airport Improvement Escrow Account** funds (\$375,000) shall be returned to Developer.

County will use the funds for any further environmental, engineering, legal and financial analysis applicable to proposed general aviation airport proposed to be located on the **County Property**.

7. **No Liability.**

7.1 **Project Costs.** Developer hereby acknowledges and agrees that County has no obligation whatsoever to approve of any general plan amendment, zone change, **DA, Leases** or related land use entitlements for the **Project**. County has no obligation whatsoever to reimburse Developer for any costs incurred by Developer during the term of this Agreement, including reimbursement costs for County retained consultants.

7.2 **Indemnification.**

(a) Developer hereby covenants, on behalf of itself and its permitted successors and assigns, to indemnify, hold harmless and defend County and its elected and appointed officers, officials, employees, agents and representatives ("**Indemnitees**") from and against all Claims and liability, arising out of or in connection with this Agreement provided however, Developer shall have no indemnification obligation with respect to the gross negligence or willful misconduct of any Indemnitee.

(b) Developer specifically agrees to indemnify, hold harmless and defend Indemnitees from any and all administrative, legal or equitable actions or other proceedings instituted by any person not a party to this Agreement challenging the validity of this Agreement, "arising from" the County's processing of the application or implementation of this Agreement, the approval of any entitlement following certification of an **EIR**, and/or certification of the **EIR** for the **Project**. As used herein, "arising from" shall include any Claim regarding County's processing of the application brought before such time as the processing is complete as well as any liabilities for personal injury or death, or property damage, resulting from the planning, field analyses and approval of the **Project** or of operations by Developer, its officers, employees, agents or consultants under this Agreement. Prior to issuance of a Final **EIR**, Developer shall provide the County with a letter of credit with the County named as the payee in an amount approved by the County Executive Director and the County Counsel sufficient to pay the costs of a defense of any lawsuit filed challenging any potential action of the Board of Supervisors to certify the **EIR** or approve any related land use approvals or the **Leases**. Developer shall take all actions necessary to maintain the letter of credit in effect through the later of the applicable statute of limitations for any legal challenge to certification of the **EIR** or approval of the land use approvals for the **Project** or the **Leases** or the completion of any litigation challenging any potential action of the Board of Supervisors to certify the **EIR** or approve any related land use approvals or the **Leases**.

(c) The obligations of Developer under this indemnification shall survive the termination of this Agreement, regardless of whether any approvals, permits or entitlements are granted by County.

(d) County will promptly notify Developer of any Claim that is or may be subject to this indemnification and will cooperate fully in the defense.

(e) County may, in its respective unlimited discretion, participate in the defense of any Claim if the County defends the Claim in good faith. To the extent that the County uses any of its resources responding to a Claim, Developer shall reimburse County its respective reasonable expenses upon



demand. Such expenses include, but are not limited to, staff time, court costs, legal fees (County Counsel's time at their regular rate for external or non-County agencies or retained outside counsel), and any other direct or indirect cost associated with responding to the Claim. Managerial staff time shall not be reimbursable. Developer shall not pay or perform any settlement by the County of the Claim unless the settlement is approved in writing by Developer, which approval shall not be unreasonably withheld.

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

(g) Developer hereby covenants, on behalf of itself and its permitted successors and assigns, to indemnify, hold harmless and defend **Indemnitees** from and against all claims from any person or entity that may claim an interest or lien on the funds in the **CEQA Escrow Account** or the **Airport Improvement Escrow Account**, provided however, Developer shall have no indemnification obligation with respect to the gross negligence or willful misconduct of any Indemnitee.

**8. Termination; Effect of Termination.** This Agreement may be terminated for cause at any time by any Party. Upon thirty (30) days prior written notice and upon a showing of cause, each Party shall have the right to terminate this Agreement in its sole discretion. Upon termination as provided herein, or upon the expiration of the **Term**, this Agreement shall forthwith be void, and there shall be no further liability or obligation on the part of each Party or their respective officers, employees, agents or other representatives; provided, however, the provisions of Section 4 (Deposit of Escrow Funds; Use of Funds), Section 6 (Forfeiture) and Section 7.2 (Indemnification) shall survive such termination.

**9. Notices.** All notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other Parties in accordance with this section. All such notices shall be sent by:

(i) personal delivery, in which case notice is effective upon delivery; or

(ii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service.

**County:** County of Stanislaus  
1010 Tenth Street, Suite 6800  
Modesto, CA 95354  
Attn: Chief Executive Officer  
Telephone: (209) 525-6333  
Facsimile: (209) 525-6226

**with a copy to:** The Office of County Counsel  
1010 Tenth Street, Suite 6400  
Modesto, CA 95354  
Attention: County Counsel  
Telephone: (209) 525-6376  
Facsimile: (209) 525-4473

**Developer:** West Park Holdings, LLC  
111249 Gold Country Blvd, Suite 190  
Gold River, CA 95670  
Attn: Gerry Kamilos  
Phone: (916) 631-8440  
Facsimile: (916) 631-8445

**with a copy to:** Trainor Fairbrook  
980 Fulton Avenue  
Sacramento, CA 95825  
Attn: Charles W. Trainor  
Phone: (916) 929-7000  
Facsimile: (916) 929-7111

10. **Developer Expenses.** Developer shall pay for its own third-party costs and expenses (including, without limitation, all employee compensation and operational/project expenses) incurred in connection with processing the **Project** and related requested permits or approvals.

11. **Severability.** If any term or provision of this Agreement or the application thereof shall, to any extent, be held to be invalid or unenforceable, such term or provision shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining terms and provisions of this Agreement or the application of such terms and provisions to circumstances other than those as to which it is held invalid or unenforceable unless an essential purpose of this Agreement would be defeated by loss of the invalid or unenforceable provision.

12. **Entire Agreement; Amendments in Writing; Counterparts.** This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings, oral and written, between the Parties with respect to such subject matter. This Agreement may be amended only by a written instrument executed by the Parties or their successors in interest. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

13. **Successors and Assigns; No Third-Party Beneficiaries.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns; provided however, that neither Party shall transfer or assign any of such Party's rights hereunder by operation of law or otherwise without the prior written consent of the other Party, and any such transfer or assignment without such consent shall be void. Subject to the immediately preceding sentence, this Agreement is not intended to benefit, and shall not run to the benefit of or be enforceable by, any other person or entity other than the Parties and their permitted successors and assigns.

14. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.

15. **Relationship of Parties.** The Parties agree that nothing in this Agreement is intended to or shall be deemed or interpreted to create among them the relationship of buyer and seller, or of partners or joint venturers.


16. **Captions.** The captions used in this Agreement are for convenience only and are not intended to affect the interpretation or construction of the provisions hereof.

**SIGNATURES ON THE NEXT PAGE**

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date first written above.

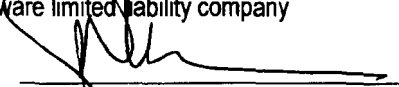
**COUNTY**

COUNTY OF STANISLAUS, a political subdivision of the State of California

By:   
William O'Brien  
Chair of the Board of Supervisors

**DEVELOPER**

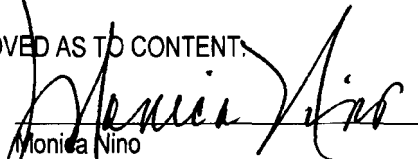
WEST PARK HOLDINGS, LLC,  
a Delaware limited liability company

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


**ATTEST:**

By:   
Christine Ferraro Tallman  
Clerk of the Board of Supervisors

**APPROVED AS TO CONTENT:**

By:   
Monica Nino  
Chief Executive Officer

**APPROVED AS TO FORM:**

By:   
John P. Doering  
County Counsel



**CHIEF EXECUTIVE OFFICE**

**Monica Nino**  
**Chief Executive Officer**

**Patricia Hill Thomas**  
**Chief Operations Officer/  
Assistant Executive Officer**

**Stan Risen**  
**Assistant Executive Officer**

**Keith D. Boggs**  
**Assistant Executive Officer**

1010 10<sup>th</sup> Street, Suite 6800, Modesto, CA 95354  
Post Office Box 3404, Modesto, CA 95353-3404

Phone: 209.525.6333 Fax 209.544.6226

July 11, 2012

Gerry Kamilos  
West Park Holdings, LLC  
111249 Gold Country Blvd., Suite 190  
Gold River, CA 95670

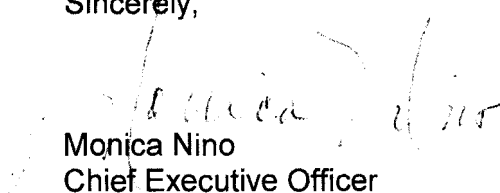
**RE: Cost Reimbursement, Deposit and Forfeiture Agreement dated  
June 19, 2012**

Dear Mr. Kamilos:

Section 4 of the above-referenced Agreement requires West Park Holdings to deposit on or before July 10, 2012 a total of \$2.75 million into the County Treasury for costs associated with the contemplated logistics center project at the Crows Landing Air Facility. As you know, the required funds were not deposited into the County Treasury as required on July 10, 2012. We understand that West Park Holdings is working to remedy this technical breach of the subject Agreement. The purpose of this letter is to notify West Park Holdings pursuant to Section 8 of the Agreement that the failure to deposit the required funds is ground for termination of the agreement, and that the Board of Supervisors may elect to terminate the Agreement unless funds are promptly deposited into the County Treasury by today, July 11, 2012.

Thank you for your anticipated cooperation in resolving this matter.

Sincerely,

  
Monica Nino  
Chief Executive Officer

cc: Board of Supervisors  
John P. Doering, County Counsel  
Charles W. Trainor, Esq.