

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

DEPT: Chief Executive Office

BOARD AGENDA # \*B-5

Urgent

Routine

*ph*

AGENDA DATE August 19, 2008

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Authorization to Amend an Existing Agricultural Lease with Pride of San Juan Foods for Approximately 1112 Acres of County Owned Property at the Crows Landing Air Facility to allow for a One Year Lease Extension with Option to Extend the Lease for Additional One Year Terms Provided Both Parties Mutually Agree

STAFF RECOMMENDATIONS:

1. Approve Amendment No. 1 to Farm Lease Agreement to authorize continuation of the existing Farm Lease with Pride of San Juan Foods of approximately 1,112 Acres of County-owned Property at the Crows Landing Air Facility for a one-year extension with an option to extend the lease for additional one-year terms upon mutual agreement.
2. Authorize the Chief Executive Officer to Execute Amendment No. 1 to the Farm Lease Agreement on Behalf of the County.

FISCAL IMPACT:

When the County acquired the former Crows Landing Air Facility from the Federal government in late 2004, NASA was leasing approximately 1,100 acres of agricultural land to Michelena Farms. That lease was assigned to the County when the County acquired title to the Crows Landing Air Facility. In that assumed landlord position the County received \$100,080 annually in rental income from Michelena Farms through the pre-existing lease agreement. The Michelena lease expired at the end of 2005.

(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2008-592

On motion of Supervisor DeMartini, Seconded by Supervisor Grover  
and approved by the following vote,

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

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:

*Christine Ferraro*

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Authorization to Amend an Existing Agricultural Lease with Pride of San Juan Foods for Approximately 1112 Acres of County Owned Property at the Crows Landing Air Facility for a One Year Extension with Option to Extend the Lease for Additional One Year Terms Provided Both Parties Mutually Agree  
Page 2

### **FISCAL IMPACT (CONTINUED):**

Through a competitive Request for Proposals (RFP) process in late 2005, the County approved a three-year agricultural lease beginning in 2006 through calendar year 2008 with Pride of San Juan Foods, a Hollister based commercial grower of organic produce. The winning Pride of San Juan bid identified a \$251.00 per acre lease rate or \$279,112.00 in year one of three. This rate was adjusted initially (year one) for plant back restrictions affecting the property. In all three years the base lease rate has been adjusted down by \$6,800 for weed control, which the tenant has agreed to perform twice per year around the airstrip and the airstrip entrance. The Third year included a 2 percent escalation and this escalation percentage has been added to the proposed additional year (and any subsequent years) should the lease extension continue into 2010.

### **DISCUSSION:**

The Federal Government transferred title to the former Crows Landing Air Facility to Stanislaus County in October 2004. When the County acquired title to Crows Landing, an existing lease with Michelena Farms was assigned to Stanislaus County. The lease terminated at the end of 2005. On August 16, 2005, the Board of Supervisors authorized staff to solicit proposals for leasing the agricultural land.

The Crows Landing planning team staff moved quickly to request proposals from potential tenants through a Request for Proposal (RFP) process. Of the three proposals received, the highest proposer, Pride of San Juan, submitted a proposal to lease the facility for \$279,112 per year. The lease is for a period of three years, with a provision to extend the lease upon the mutual agreement of all parties.

Now that the pre-development process is entering the California Environmental and Quality Assurance (CEQA) analysis stages it is most prudent to consider extending the existing Ag lease agreement with our tenant (Pride of San Juan Foods) for an additional one year through calendar year 2009 with provision to extend the lease for additional one year intervals upon mutual agreement of all parties.

Staff recommends that the Board of Supervisors award an agricultural lease extension to Pride of San Juan, and authorize the Chief Executive Officer to execute the farm lease amendment agreement.

Authorization to Amend an Existing Agricultural Lease with Pride of San Juan Foods for Approximately 1112 Acres of County Owned Property at the Crows Landing Air Facility for a One Year Extension with Option to Extend the Lease for Additional One Year Terms Provided Both Parties Mutually Agree  
Page 3

**POLICY ISSUE:**

The Board should determine if the award of this lease extension supports the Board's priority of supporting a Strong Local Economy on the west side of Stanislaus County by maintaining the Crows Landing Air Facility in a productive agricultural state until the redevelopment/master planning process for the facility is complete.

**STAFFING IMPACT:**

Existing staff in the Chief Executive Office will administer The Crows Landing agricultural lease.

**AMENDMENT NO. 1  
TO  
FARM LEASE AGREEMENT**

**(Crows Landing Air Facility Agricultural Properties)**

This Amendment No. 1 to Farm Lease Agreement ("Amendment No. 1") by and between the County of Stanislaus ("Landlord") and Pride of San Juan, Inc., a California corporation ("Tenant") is made and entered into on July \_\_\_\_, 2008.

Whereas, the Landlord and Tenant entered into a Farm Lease Agreement dated January 1, 2006 (the "Lease"), a copy of which is attached as Exhibit A; and

Whereas, Section 1 of the Lease provides that the Lease will terminate on December 31, 2008, and Section 2 of the Lease provides that the Lease may be renewed on mutually agreeable terms and conditions; and

Whereas, the Landlord and the Tenant desire to extend the term of the Lease subject to modification of certain terms and conditions of the Lease; and

Whereas, this amendment is for the mutual benefit of Landlord and Tenant;

Now, therefore, the Landlord and Tenant agree as follows:

1. Pursuant to Section 2 of the Lease, the parties mutually agree to extend the term of the Lease for a one year period commencing on January 1, 2009 and terminating on December 31, 2009 (the "First Extended Term"). The parties may mutually agree to extend the Lease for additional one-year terms commencing on January 1 of each year and terminating on December 31 of that same year ("Additional Extended Term").

2. Section 5 of the Lease is amended to add the following subsections (d) and (e) to reflect lease payments during the First Extended Term and subsequent Additional Extended Terms:

(d) During the First Amended Term, Tenant agrees to pay Landlord and Landlord agrees to accept as payment for the use and possession of the Property the sum of TWO HUNDRED SEVENTY-SEVEN THOUSAND EIGHT HUNDRED NINETY FOUR DOLLARS (\$277,894) to be paid quarterly at the rate of SIXTY-NINE THOUSAND FOUR HUNDRED SEVENTY-THREE DOLLARS AND FIFTY CENTS (\$69,473.50) on January 1, 2009, April 1, 2009, July 1, 2009 and October 1, 2009 to the office of the Stanislaus County Auditor-Controller, 1010 Tenth Street, Suite 5100/P.O. Box 770, Modesto, California 95353. This

amount was calculated by taking the Tenant's 2008 lease rate of \$279,112, adding 2-percent escalation (\$5,582), and subtracting \$6,800 for weed control which Tenant has agreed to perform twice per year around the airstrip entrance."

- (e) During each Additional Amended Term, if agreed to by the parties, Tenant agrees to pay Landlord and Landlord agrees to accept as payment for the use and possession of the Property an amount equal to the prior year's lease amount, plus two percent (2 %) inflation, minus \$6,800 for weed control to be performed by Tenant twice per year around the airstrip entrance. The total annual amount of the Lease payment shall be paid quarterly in equally divided amounts on January 1, April 1, July 1, and October 1 each year to the office of the Stanislaus County Auditor-Controller, 1010 Tenth Street, Suite 5100/P.O. Box 770, Modesto, California 95353."

3. Except as provided in this Amendment, all other terms and conditions of the Lease remain unchanged.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives, on the date and year first above written.

**COUNTY OF STANISLAUS**

**PRIDE OF SAN JUAN, INC.**

By: 

Richard W. Robinson  
Chief Executive Officer

By: 

Stephen Wyrick  
Chief Executive Officer

"Landlord"

"Tenant"

APPROVED AS TO FORM:

By: 

John P. Doering  
County Counsel

## CROWS LANDING FARM LEASE AGREEMENT

*This Farm Lease Agreement is made and entered into this 1st day of January, 2006, by and between the County of Stanislaus, a political subdivision of the State of California, herein called "Landlord", and Pride of San Juan, Inc., herein called Tenant. Landlord hereby leases to Tenant for agricultural purposes approximately 1112 acres of real property, herein called "Property", in the County of Stanislaus, State of California, described on Exhibit "1" attached hereto. Tenant is awarded this lease after being the highest responsible proposer to a Request for Proposal issued by the County ("RFP").*

- 1) **TERM OF LEASE:** The initial term of this lease shall be for a period of three years, commencing on January 1, 2006 ("Commencement Date"), and terminating on December 31, 2008.
- 2) **ADDITIONAL TERMS:** This lease may be extended by mutual agreement of Landlord and Tenant. Tenant agrees to contact Landlord prior to the termination date to consider renegotiating for an extension of the lease term. The terms and conditions of the Lease are subject to renegotiation during any extension periods. Any amendments or alterations to this lease shall be in writing and signed by both parties.
- 3) **EARLY TERMINATION:** Prior to the end of the lease term, the Landlord may terminate the lease on all or part of the Property. If the Landlord elects to terminate the lease on all or part of the Property, the Landlord shall reimburse Tenant all actual out of pocket costs relating to the property subject to termination, plus 15% of said costs, for the crop year in which termination occurs.
- 4) **NO PARTNERSHIP:** This lease shall not be deemed nor is it intended to give rise to a partnership relationship between the Landlord and Tenant.
- 5) **PAYMENT:**
  - a) For the first year of the Lease, Tenant agrees to pay to Landlord and Landlord agrees to accept as payment for the use and possession of the said Property the sum of **TWO HUNDRED THIRTY ONE THOUSAND FIVE HUNDRED TWENTY DOLLARS (\$231,520)**, to be paid quarterly at the rate of **FIFTY SEVEN THOUSAND EIGHT HUNDRED EIGHTY DOLLARS (\$57,880)**, on January 1, 2006; April 1, 2006; July 1, 2006; and October 1, 2006 to the office of the Stanislaus County Auditor-Controller, 1010 Tenth Street, Suite 5100 /P.O. Box 770, Modesto, California 95353. This amount was calculated by taking the Tenant's proposed lease rate of \$279,112, and deducting \$40,792 for plantback restrictions affecting the Property, and further deducting \$6,800 for weed control which Tenant has agreed to perform twice per year around the airstrip and the airstrip entrance. No further deductions for plantback restrictions will be allowed.

- b) For the second year of the lease, Tenant agrees to pay to Landlord and Landlord agrees to accept as payment for the use and possession of the said Property the sum of TWO HUNDRED SEVENTY TWO THOUSAND THREE HUNDRED TWELVE DOLLARS (\$272,312) to be paid quarterly at the rate of SIXTY EIGHT THOUSAND SEVENTY EIGHT DOLLARS (\$68,078), on January 1, 2007; April 1, 2007; July 1, 2007; and October 1, 2007 to the office of the Stanislaus County Auditor-Controller, 1010 Tenth Street, Suite 5100/P. O. Box 770, Modesto, California 95353. This amount was calculated by taking the Tenant's proposed lease rate of \$279,112, and deducting \$6,800 for weed control which Tenant has agreed to perform twice per year around the airstrip and the airstrip entrance.
- c) For the third year of the lease, Tenant agrees to pay to Landlord and Landlord agrees to accept as payment for the use and possession of the said Property the sum of TWO HUNDRED SEVENTY-SEVEN THOUSAND SEVEN HUNDRED FIFTY EIGHT DOLLARS (\$277,758) to be paid quarterly at the rate of SIXTY NINE THOUSAND FOUR HUNDRED THIRTY NINE DOLLARS (\$69,439), on January 1, 2008; April 1, 2008; July 1, 2008; and October 1, 2008 to the office of the Stanislaus County Auditor-Controller, 1010 Tenth Street, Suite 5100/P. O. Box 770, Modesto, California 95353. This amount was calculated by taking the Tenant's proposed lease rate of \$279,112, and deducting \$6,800 for weed control which Tenant has agreed to perform twice per year around the airstrip and the airstrip entrance, and adding a 2% escalation (\$5,446) as specified in the RFP.
- 6) **LATE RENT:** If rent is not paid when due, Tenant agrees to pay interest on the amount of unpaid rent at the rate of 10% per annum from the due date until paid.
- 7) **USE OF THE PROPERTY:** The Property is leased to Tenant for the purposes of planting, growing and harvesting of row crops and for no other purposes.
- 8) **THE PROPERTY; LANDLORD'S RESERVED USE:** The Property consists of approximately 1112 acres of land within Area A as depicted on Exhibit 1. The Property excludes the runways and 25 feet surrounding the runways. Also, the property excludes a two acre area for access from Bell Road to the runway immediately south of Parcel C. The Landlord reserves the right to use or authorize the use of the runways for any purpose it deems appropriate.
- 9) **CONDITION OF THE PROPERTY:** Tenant hereby accepts the Property "as is" and in the condition existing as of the Commencement Date or the date that Tenant takes possession of the Property, whichever is earlier, and subject to all applicable zoning, county and state laws, ordinances and regulations governing and regulating the use of the Property, and any covenants or restrictions of record. Tenant has independently evaluated the condition of the Property and has determined that the Property is acceptable for Tenant's use. Tenant acknowledges that neither Landlord nor any agent or employee of Landlord has made any representation or warranty with respect to the Property; the condition of the property; the

improvements on the Property; the availability of utilities or sanitary sewer systems; the condition of the soil or the crops on the Property; the productivity of the land; the cost of production; the number of acres in production; the availability or suitability of federal, state or ground water for Tenant's use; or the suitability or fitness of the Property for the conduct of Tenant's business.

- 10) **FORMER MILITARY BASE:** Tenant is advised that the Property is a former military base. Portions of the former military base are the subject of ongoing remediation of existing hazardous soil and groundwater contaminants. Tenant shall allow access to the Property to all Federal, State and local officials relating to the ongoing remediation and cleanup on portions of the Property. Tenant shall not enter any remediation areas, and shall fully cooperate with ongoing remediation operations.
- 11) **MUNITIONS:** Tenant is advised that portions of the Property may contain munitions or exploded or unexploded ordnance. Tenant shall follow the Munitions Safety Procedures attached to the RFP as Exhibit 2 and any additional safety procedures approved by the Landlord from time to time.
- 12) **AGRICULTURAL PRACTICES:** Tenant shall follow the agricultural practices that are generally recommended for and that are the best adapted to this type of farm and appropriate for the locality. Additionally, Tenant shall follow all agricultural and conservation measures and plans approved by the West Stanislaus Resource Conservation District, other local Districts, and/or State agencies. Throughout the lease term, Tenant shall keep and maintain the Property in approximately the same condition as it is at the commencement of the lease term, normal wear and tear excepted.
- 13) **COSTS OF OPERATION:** Tenant shall pay for all costs associated with the Property, including but not limited to installation of necessary pumps, irrigation facilities, and related improvements and the payment of all costs associated with the use of the Property, including but not limited to, the cost of labor, utilities, water, power, machinery, equipment, fertilizer, insecticides, insurance, and applicable taxes which are necessary and/or appropriate to operate and manage the Property.
- 14) **WEEDS:** Tenant shall manage weeds to prevent reseeding. Tenant shall at its own expense accomplish weed control at least twice during each lease year, once prior to the maturing of weed seeds, and once again to control late growing weeds. Weed cutting or weed growth inhibitors shall be used. Additionally, Tenant agrees to control weeds twice a year around the airstrip and the airstrip entrance.
- 15) **FENCE MAINTENANCE:** Tenant shall repair and maintain all existing fences within or surrounding the Property.
- 16) **INSECTICIDES; PESTICIDES:** Tenant shall store and use pesticides, fertilizers and other chemicals, and dispose of containers in accordance with Federal, State and local laws and regulations. Nutrient and pesticide use shall be accomplished with the assistance of a registered PCA, a Farm Advisor and the County's Agricultural Commissioner.



- 17) **HAZARDOUS MATERIALS:** Tenant shall submit a Hazardous Materials Business Plan to the Stanislaus County Department of Environmental Resources. Tenant shall make the Property and its operations available for inspection regarding the storage of hazardous materials on the Property.
- 18) **WATER:**
- a) **WATER DISTRICT:** Water for Irrigation is available from the Del Puerto Water District. Tenant shall make its own independent investigation and arrangements for obtaining and paying for all water charges from the District. Tenant shall abide by all rules and regulations of the Del Puerto Water District.
  - b) **WELL COVENANT:** Attached to the RFP as Exhibit 3 is a covenant restricting the use of well water. Use of well water on the Property must comply with the Covenant.
  - c) **WELLS:** Attached to the RFP as Exhibit 4 is information concerning wells at the Crows Landing Flight Facility. Tenant shall abide by all applicable laws and regulations relating to well use. Tenant shall not construct any new wells without the express written permission of the Landlord.
  - d) **NO WARRANTY:** Tenant shall make its own independent investigation relating to the quantity, quality, availability or cost of water or the condition of the Property. Landlord makes no representation or warranty, express or implied, regarding the quantity, quality, availability, or cost of water from any source or the condition of the Property.
- 19) **IRRIGATION AND DRAINAGE CONTROL:**
- a) **FACILITIES:** Tenant shall provide, install and maintain, at its own expense, all irrigation facilities, pipes, pumps, and related facilities, which may be necessary or appropriate for its use of the Property. At the conclusion of the lease term, all temporary irrigation facilities shall remain the property of Tenant, and all facilities existing as of the Commencement Date and permanent fixtures installed by Tenant shall remain the Property of Landlord.
  - b) **REGIONAL WATER QUALITY CONTROL BOARD:** Tenant shall comply with all laws, rules and regulations of the Central Valley Regional Water Quality Control District, including but not limited to all laws and regulations pertaining to irrigated lands and Board Resolution R5-2003-0105, Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands within the Central Valley. Tenant shall obtain all permits relating to the discharge of water and pay all related fees and assessments imposed by the Central Valley Regional Water Quality Control District. Tenant shall be responsible for and pay any and all fines and penalties imposed as a result of a violation of such laws and regulations, by any and all State, Local Agencies, or Districts by Tenant, its employees, officers, agents or contractors.

- c) **DRAINAGE CONTROL:** Tenant, at its own expense, shall maintain all irrigation and drainage ditches essentially free of weeds, excessive vegetation, silt and debris. Tenant shall maintain all culvert outfall/outlets that discharge water into main or secondary drains or into the silt pond and shall provide discharge protection as necessary to assure a non-erosive condition. All irrigation and drainage ditches shall be constructed at least 8 feet from utility poles, survey monuments and manholes. Tenant shall immediately repair all leaking irrigation ditches to prevent soil erosion and to provide unimpaired vehicle access between fields. Borders and/or furrows shall be constructed as needed for an efficient distribution of irrigation water and collection of tail-water to be returned by the designated system. Permanent water control structures shall be maintained and repaired by the Tenant at its own expense. Permanent water control structures shall remain the property of Landlord upon the termination of the lease. Tenant shall control soil erosion; keep in good repair all terraces, ditches, inlets and outlets of drains, preserve all established watercourses and irrigation systems; and refrain from any practices which will injure such structures or systems. Tenant shall ensure that excess drainage water released does not flood County roads, Highway 33 or downstream land users. Tenant shall abide by all regulations and Management plans regarding water run-off and pesticide run-off by the West Stanislaus Conservation District and any other State or Local District.
- d) **TAILWATER SYSTEM:** An irrigation tailwater recovery system exists at the Northeast corner of the Property to conserve and recycle irrigation water and to prevent excessive tail-water from leaving the Property. All permanent improvements such as sumps and buried pipelines are the property of the Landlord that shall be used and maintained by Tenant at its own expense. The Tenant will be required to provide, at its own expense, pumping devices for the tail water sump and shall pay all associated operational costs. The Tenant, at its own expense, shall clean the sump of sediment, weedy material and debris and restore the sump to its original capacity and condition. Sediment cleaned from the sump shall be spread evenly on the fields. The Tenant shall maintain the system so that sediments settle and the sump can be operated in a functional condition. Tenant shall ensure that excess drainage water released from the sump does not flood County roads, Highway 33 or downstream land users.
- e) **MOSQUITO ABATEMENT:** In order to minimize mosquito breeding, Tenant shall not permit tail water runoff to stand in ditches between operations during the critical mosquito breeding seasons. Tenant is responsible for abatement of all mosquitoes.
- f) **FLOODPLAINS:** Tenant acknowledges that a portion of the Property, located on the western portion of the Property adjacent to Little Salado Creek, is designated as Flood Zone A, a zone that is expected to experience flooding during a 100-year storm. (See Exhibit 5 of the RFP). Activities contemplated for this portion of the Property by the Tenant are subject to any and all Federal, State and local laws, rules and ordinances governing land use in floodplain areas.

- g) **WETLANDS:** Tenant acknowledges that the Property contains approximately 34.5 acres of wetlands. (See Exhibit 6 of the RFP). Activities contemplated for the Property by the Tenant are subject to any and all Federal, State and local laws, rules, and ordinances governing land use in wetland areas. No work by the Tenant on the Property, including filling, excavation, digging, or dredging is permitted in this area without a permit from the U.S. Army Corps of Engineers. Tenant's activities shall not cause degradation of the banks along wetland areas.
- 20) **AVIGATION EASEMENTS:** Tenant shall not store any equipment, vehicles or materials or construct any temporary or permanent improvements, within the avigation easement areas as shown on Exhibit 7 of the RFP, without the express approval of the Landlord.
- 21) **HARVESTED CROP STORAGE:** Tenant may store harvested crops only in areas approved by the Landlord.
- 22) **MINIMUM TILLAGE AND DUST CONTROL:** Tenant shall practice "minimum tillage" where practical and feasible for farming operations. To reduce possible hazard to aircraft, tillage operations shall be scheduled to minimize the time during which soil will be subject to wind erosion and dust production. Tenant shall control excessive dust through the application of water at its own expense.
- 23) **SOIL RIPPING:** Tenant shall exercise extreme caution when ripping, chiseling or slip plowing to avoid damaging Landlord improvements or utilities. Tenant shall be responsible for payment for any damage to Landlord owned structures, utilities, monuments, and improvements which result from Tenant's agricultural activities.
- 24) **ROAD DAMAGE PREVENTION:** Tenant shall not maneuver "track-laying" or "spike wheeled" vehicles over paved roads unless road protective measures are taken. Tenant shall be responsible for payment for any damage to roads which result from Tenant's agricultural activities.
- 25) **FIRE PREVENTION:** Tenant shall comply with applicable fire control and prevention rules, practices and regulations. All equipment, fuel and oil may be stored in an appropriate storage area. A 20 foot firebrake of bare disced soil shall surround all flammable materials.
- 26) **CROP RESIDUE:** Crop stubble or residue shall be disced into the soil within two weeks after harvest. Grazing and fire shall not be used to eliminate residue.
- 27) **DEBRIS REMOVAL:** Tenant, at its own expense, shall dispose of all debris and empty containers generated on the Property.
- 28) **FALLOW LAND MANAGEMENT:** If Tenant elects to lay fallow any portion of the Property, Tenant shall be responsible for weed control. All fallowing practices shall be born by Lessee at its expense.
- 29) **HUNTING:** Hunting is not allowed on the Property at any time.

- 30) **UTILITIES:** Landlord makes no representation relating to the availability of utilities to the Property. Tenant shall pay for all water, sewer, gas, electricity, telephone, and all other services supplied to the Property. Tenant shall comply with all rules and regulations of the Del Puerto Water District.
- 31) **MAINTENANCE AND REPAIRS:** Tenant shall keep in good order, condition and repair the Property, including all buildings, irrigation systems, pumps, fencing, drains, and all other improvements to the Property. Tenant shall, at his own cost and expense, keep the Property in as safe and clean a condition as it was when received by him from Landlord. Tenant expressly waives the benefits of any statute now or hereafter in effect which would otherwise afford Tenant the right to make repairs at Landlord's expense or to terminate this Lease because of Landlord's failure to keep the Property in good order, condition and repair.
- 32) **COMPLIANCE WITH LAWS AND REGULATIONS:** Tenant, at Tenant's expense, shall comply promptly with all applicable statutes, ordinances, rules, regulations, orders, covenants and restrictions of record, and requirements (including but not limited to any requirements of the Del Puerto Water District; the Regional Water Quality Control Board, the San Joaquin Air Pollution Control District, and the West Stanislaus Conservation District) in effect during the term or any part of the term hereof, regulating the use by Tenant of the Property. Tenant shall pay any and all fines and penalties, from any local agency, district, or State Agency, arising from a violation of any applicable statute, ordinance, rule, regulation, order, covenant or restriction of record relating to the Property by Tenant, its employees, officers, agents or contractors. Tenant's willful violation of applicable laws and regulations shall constitute grounds for termination of the lease without compensation upon 15 days prior written notice.
- 33) **WASTE OR NUISANCE:** Tenant shall not commit or permit the commission by others of any waste on the Property; Tenant shall not maintain, commit or permit the maintenance or commission of any nuisance as defined in Section 3479 of the California Civil Code; and Tenant shall not use or permit the use of the Property for any unlawful purpose.
- 34) **TAXES AND OTHER CHARGES:** It is understood that the property interest created by this lease may be subject to property taxation and that Tenant will be subject to the payment of property taxes levied on such interest. Tenant shall pay all taxes, assessments or other charges levied or made as a result of Tenant's possession or use of the Property without contribution by Landlord.
- 35) **INSURANCE:** Tenant shall obtain the following insurance:
- a) **GENERAL LIABILITY:** \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project, or the general aggregate limit shall be twice the required occurrence limit.

- b) **AUTO LIABILITY:** Owned/Nonowned automobile liability insurance providing combined single limits covering bodily injury liability with limits of no less than \$100,000 per accident, and providing property damage liability of no less than \$100,000 per accident.
- c) **WORKERS COMPENSATION:** Workers' Compensation insurance as required by the Labor Code of the State of California.
- d) **DEDUCTIBLES:** Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by Landlord. At the option of the Landlord, either: the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds; or the Tenant shall provide a bond, cash or letter of credit guaranteeing payment of the self-insured retention, deductible, or payment of any and all costs, losses, related investigations, claim administration and defense expenses.
- e) **ENDORSEMENTS:** The insurance policies are to contain, or be endorsed to contain, the following provisions:
- i) **GENERAL LIABILITY:** Tenant shall provide a separate endorsement naming Landlord and Landlord's officers, officials, employees, and volunteers as additional insureds. The coverage shall contain no special limitations on the scope of protection afforded to the Landlord or Landlord's officers, officials, employees, or volunteers.
  - ii) **PRIMARY COVERAGE:** The Tenant's insurance coverage shall be primary insurance over any other insurance held by the Landlord and Landlord's officers, officials, employees and agents. Any insurance or self-insurance maintained by the Landlord or Landlord's officers, officials, employees, or agents shall be excess of the Tenant's insurance and shall not contribute with Tenant's insurance.
  - iii) **WORKERS COMPENSATION - SUBROGATION:** The Tenant's insurer shall agree to waive all rights of subrogation against the Landlord and Landlord's officers, officials, employees, and volunteers for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Tenant.
- f) **ALL INSURANCE:**
- i) Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to Landlord.
  - ii) Insurance shall be placed with a California admitted insurers (licensed to do business in California) or other insurer as approved by the Landlord. All insurance policies shall have a Best's rating of no less than B+:VII or as approved by the Landlord.
  - iii) Prior to the effective date of the Lease, Tenant shall furnish Landlord with certificates of insurance and with original endorsements effecting coverage required

by this section. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in Landlord's sole and absolute discretion, approved by Landlord before any other term or condition of this Agreement is performed by Tenant. Landlord reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

- 36) **INDEMNIFICATION:** Tenant shall indemnify, defend and hold harmless the Landlord, its officers, employees and agents, from any claims, liability, causes of action or costs arising from or related to the negligence or wrongful acts or omissions of Tenant, its officers, employees, contractors and agents.
- 37) **ALTERATIONS:** Tenant shall not make or permit any other person to make any permanent alterations to the Property or any improvement thereon without the prior written consent of the Landlord. Tenant shall not erect or permit to be erected any permanent structure to the Property. Tenant shall not remove any trees or structures located on the Property without the prior written consent of Landlord.
- 38) **TEMPORARY INSTALLATIONS.** Subject to the prior approval of the Landlord, Tenant may erect, at its own expense, temporary structures on the Property as may be necessary or incidental to its use under the lease. All such structures shall remain the property of Tenant and shall be removed from the Property prior to the expiration of the lease term.
- 39) **RESERVATION OF RIGHTS:** The Lease is subject to all outstanding easements and rights of way over, across and upon the Premises. The Landlord may grant additional easements or rights of way over, across, in and upon the Property as it shall determine to be in the public interest. The Landlord reserves all mineral rights in the Property together with any mineral deposits thereunder. Tenant acknowledges that the Property may be developed into an operational airfield and the Landlord retains the right to use the airfield.
- 40) **DAMAGE:** At the termination of the lease, Tenant shall pay to Landlord reasonable compensation for any damage to the Property caused by Tenant or its invitees, agents or employees, excepting ordinary wear and tear or depreciation.
- 41) **ENTRY BY LANDLORD:** Tenant shall permit Landlord, its employees, agents, representatives, invitees, as well as any Federal, State and Local officials responsible for remediation of hazardous conditions on the former military base, to enter the Property at all reasonable times.
- 42) **ENTRY BY OTHERS:** Tenant shall have the right to post signs forbidding trespass by persons other than Tenant or his employees upon the Property, and to deny entry upon the Property to unauthorized persons.
- 43) **ASSIGNMENT:** Tenant shall not have the right to or assign sublet any portion of the Property, without the Landlord's prior written approval.

- 44) **DEFAULT BY TENANT:** All covenants and agreements contained in this lease are declared to be conditions to this lease. Should Tenant default in the performance of any condition or agreement contained in this lease, Landlord may terminate and re-enter and regain possession of the Property in the manner then provided by the laws of the State of California then in effect.
- 45) **CONVEYANCE OF THE PROPERTY:** Upon conveyance or transfer of all or any portion of the Property by the Landlord, the Landlord shall be released from any further obligations under this lease, and Tenant shall look solely to the successor owner for the performance of the Landlord's obligations hereunder.
- 46) **NOTICES:** All notices required or permitted by this lease or by law to be served on or given to either party hereto by the other party, shall be in writing and personally delivered to the party to whom it is directed, or in lieu of personal service when deposited in the United States mail addressed as follows:

Landlord - Stanislaus County Purchasing Agent  
1010 Tenth Street/ P.O. Box 3229  
Modesto, CA 95353

With a copy to:  
Stanislaus County Chief Executive Office  
1010 10<sup>th</sup> Street, Suite 6800  
Modesto, CA 95354  
(209) 525-6333

Tenant - Pride of San Juan, Inc.  
P.O. Box 218  
San Juan Bautista, CA 95045-0218  
(831)623-4130  
(831)623-7779 fax

- 47) **FAILURE TO VACATE:** Tenant shall promptly vacate Property at the expiration of the lease term or upon the termination of the lease agreement, whichever occurs first. If Tenant fails to vacate as herein provided, Tenant agrees that Landlord, or its authorized agents, may enter upon the leased Property and remove all personal property therefrom and in this event, Tenant waives any and all claims for damages against Landlord, its agents or employees. Nothing herein shall be deemed a waiver of any rights of Landlord to demand and obtain possession of said Property in accordance with law in the event of a violation of Tenant part of any of the terms or conditions hereof.
- 48) **RESTORATION OF THE PREMISES:** Before the expiration or earlier termination of the Lease, the Tenant shall restore the Property to the condition existing at the time of Tenant's entry to the Property. In the event of damage or destruction to the Property or any portion thereof by Tenant, its agents, officers, employees, or invitees, Tenant shall promptly repair or

replace such property to the satisfaction of the Landlord or compensate the Landlord for the loss or damage to the Property, as the Landlord shall elect.

- 49) LIENS: Tenant shall promptly discharge or cause to be discharged any lien, claim or demand of any kind which at any time may arise or exist with respect to the Property or materials or equipment furnished therefor, and if the same shall not be promptly discharged, the Landlord may cause such lien or claim to be discharged at the expense of Tenant.
- 50) TIME OF ESSENCE: Time is expressly declared to be the essence of this lease.
- 51) WAIVER: The waiver of any breach of any of the provisions of this lease by Landlord shall not constitute continuing waiver or a waiver of any subsequent breach by Tenant either of the same or of another provision of this lease.

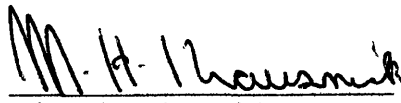
IN WITNESS WHEREOF, this lease is effective as of January 1, 2006.

"Landlord"

STANISLAUS COUNTY

Approved as to form:

BY: 

  
Michael H. Krausnick  
Stanislaus County Counsel

Title: CEO

"Tenant"

PRIDE OF SAN JUAN, INC.

BY: 

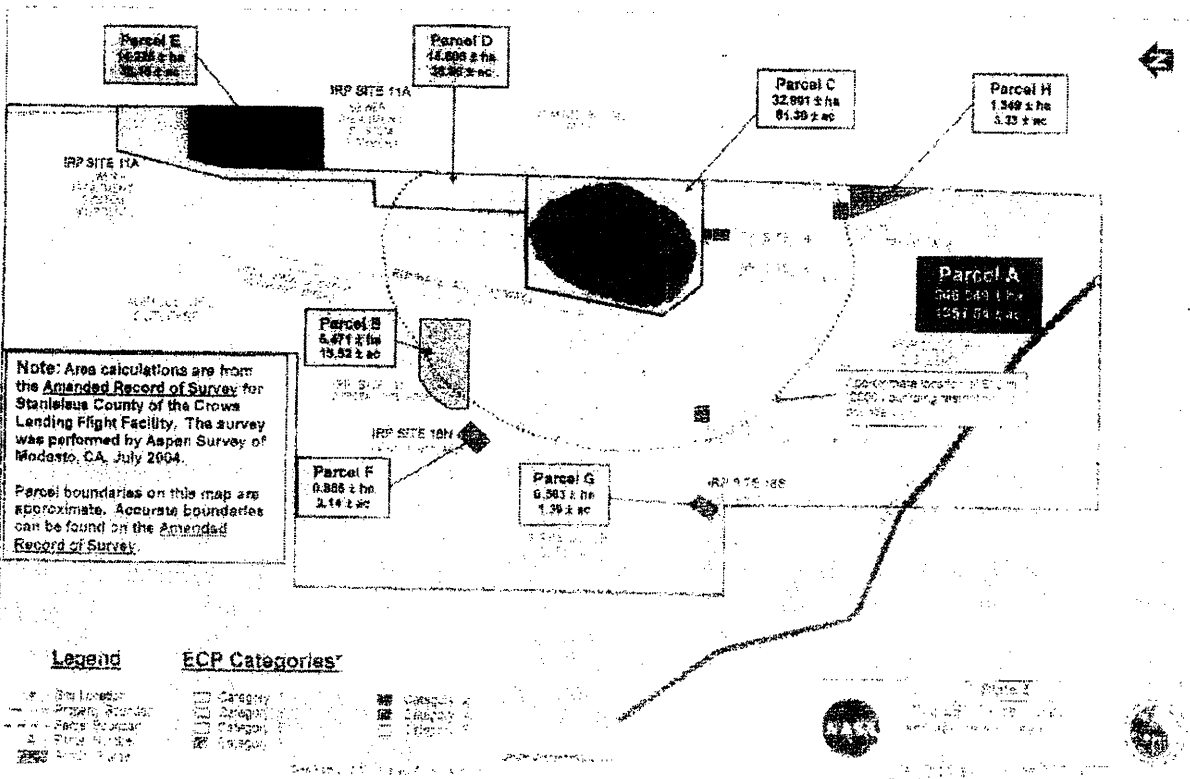
Title: CEO

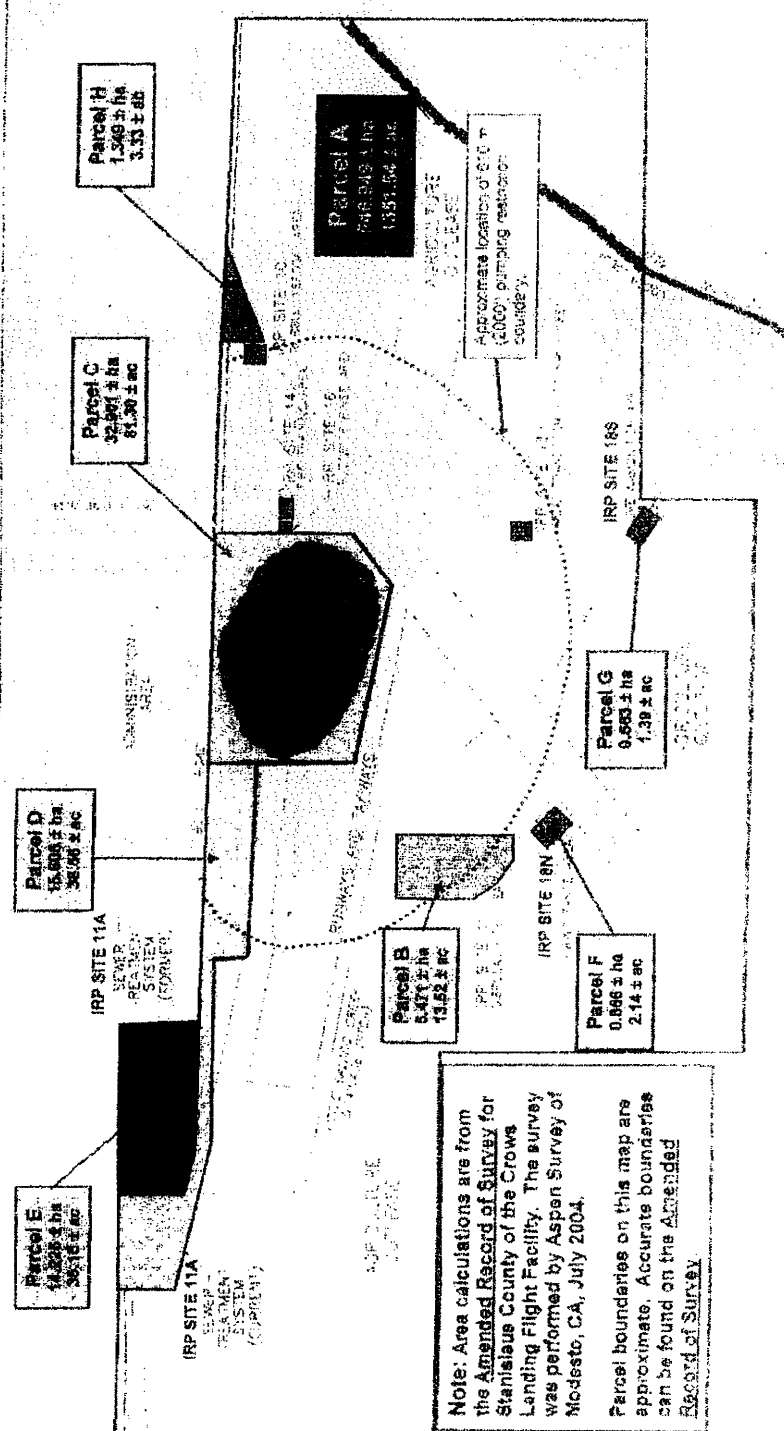


## **Exhibit 1**

### **Description of the Property**

**The Property consists of approximately 1112 acres of land within Area A as depicted on the attached diagram, excluding the runways and 25 feet surrounding the runways. Also, the Property excludes a two acre access area from Bell Road to the runway immediately south of Parcel C.**





**Parcel E**  
 14.20 ± ha  
 35.16 ± ac

**Parcel D**  
 15.00 ± ha  
 36.98 ± ac

**Parcel C**  
 39.00 ± ha  
 97.30 ± ac

**Parcel H**  
 1.348 ± ha  
 3.33 ± ac

**Parcel B**  
 6.47 ± ha  
 16.18 ± ac

**Parcel F**  
 0.866 ± ha  
 2.14 ± ac

**Parcel G**  
 9.863 ± ha  
 24.39 ± ac

**Parcel A**  
 248.848 ± ha  
 615.154 ± ac

IRP SITE 11A  
 TOWER  
 REMEDIATION  
 SYSTEM  
 (FORNED)

IRP SITE 11A  
 TOWER  
 REMEDIATION  
 SYSTEM  
 (FORNED)

Approximate location of 670' ±  
 (2000') pumping station  
 (county)

**Note:** Area calculations are from the Amended Record of Survey for Stanislaus County of the Crows Landing Flight Facility. The survey was performed by Aspen Survey of Modesto, CA, July 2004.

Parcel boundaries on this map are approximate. Accurate boundaries can be found on the Amended Record of Survey.



ASPI  
 2000 Linn Street, Modesto, CA  
 95208-2100

**Legend**

- Parcel Boundary
- IRP Site
- Runway
- Taxiway