

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

DEPT: Chief Executive Office

BOARD AGENDA # \*B-3

Urgent

Routine

AGENDA DATE March 31, 2009

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval to Adjust the 12th Street Parking Garage Parking Allocation and Cost Sharing with Westland Development Corporation Pursuant to the Provisions of the Amended Parking License Agreement

STAFF RECOMMENDATIONS:

Authorize the Chief Executive Officer or his designee to adjust the 12<sup>th</sup> Street Parking Garage parking allocation and cost sharing with Westland Development Corporation pursuant to the provisions of the Amended Parking License Agreement between the County and Westland Development Corporation.

FISCAL IMPACT:

Currently Westland Development Corporation is entitled to the use of 103 parking spaces in the 12<sup>th</sup> Street Parking Garage, in accordance with the Amended Parking License Agreement between Westland and the County. In September, 2007 Westland agreed to return 35 spaces to the County, for further licensing to the Gallo Center for the Arts. The recommended modification will allow the County to license an additional 20 spaces to another entity, such as Stanislaus County Office of Education.

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BOARD ACTION AS FOLLOWS:

No. 2009-189

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

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

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

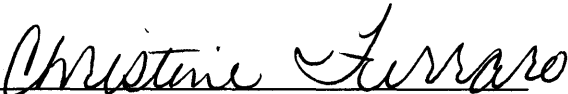
1)  Approved as recommended

2)  Denied

3)  Approved as amended

4)  Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

**FISCAL IMPACT (Continued):**

It is anticipated that any agreement entered into for the 20 spaces would include the debt service fee for the spaces, as well as the operation and maintenance fees for those spaces. The annual debt service for the 12<sup>th</sup> Street Parking Garage is \$63.07 per space per month, for a total of \$15,137 annually for 20 spaces. Operation and maintenance fees are determined annually by the General Services Agency, and for Fiscal Year 2008-2009 the annual rate is approximately \$57 per space for use Monday through Friday, 6 am to 6 pm.

As part of the construction of the 12<sup>th</sup> Street facility, the County was responsible for the core and shell costs, and the developer (Westland) was responsible for tenant improvements. During the final reconciliation of costs, it was identified that both the County and Westland had incurred some expense to accommodate changes to the electrical main distribution and tenant metering, not previously settled; however, Westland has been invoiced by the contractor for these changes. Staff is requesting the Board's approval to modify the debt service payment agreement for a 24-month period for the remaining 48 spaces assigned to Westland, to complete the final reconciliation of all costs. Staff recommends waiving a portion of the debt service fees collected from Westland, over a 24-month period equivalent to this amount, effective April 1, 2009.

**DISCUSSION:**

The 12<sup>th</sup> Street Office Building is jointly owned by Stanislaus County, Stanislaus County Employees Retirement Association (StanCERA), and a private developer, Westland Development Corporation. The facility was completed and opened in 2006. The 12<sup>th</sup> Street Parking Garage was constructed adjoining the 12<sup>th</sup> Street Office Building and is owned and used by Stanislaus County. The parking structure provides parking to StanCERA, Westland and the Gallo Center for the Arts through parking license agreements. Limited public parking is available as well.

Upon completion of the parking garage in 2006, Westland entered into a Parking License Agreement for a total of 103 spaces. On August 28, 2007, the Board of Supervisors authorized the Chief Executive Officer to make modifications to Westland's Parking License Agreement, which resulted in the ability to allow adjustments to the number of spaces designated for Westland's use, as follows:

“3.1 Licensee Parking License. Subject to the terms and conditions of the Agreement, Westland shall have an exclusive license to use and occupy 103 parking spaces (“Licensee Spaces”) from 6:00 a.m. to 6:00 p.m. on weekdays during working hours (“Licensee Time Period”), and a nonexclusive license to use and occupy the Licensee Spaces from 6:00 p.m. to 6:00 a.m. during weekdays and weekends. If mutually acceptable to the County and Licensee, Licensee may license an additional 10 spaces on the same terms and conditions

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as set forth herein. *The Parties may mutually agree to adjust the number of Licensee Spaces from time to time on terms and conditions acceptable to both parties to this Agreement.*" (Italics added for emphasis)

In September 2007, Westland and the County agreed to an interim return of 35 spaces to the County. Those 35 spaces were subsequently designated for use by the Gallo Center for the Arts, who entered a separate Parking License Agreement to pay the County for the use of these spaces.

At this time Westland is requesting to return an additional 20 spaces to the County on an interim basis, to be made available for another entity's use through a separate Parking License Agreement. It is anticipated that any agreement for the 20 available spaces will include a 30-day out clause as well as terms equivalent to the terms set forth in the agreements with StanCERA and Westland, in that the licensee will be charged a monthly debt service fee per space as well as an annual maintenance and operations fee per space. The debt service fee is \$63.07 per month per space, and totals \$15,137 annually for 20 spaces. The maintenance and operations fee is determined annually by the General Services Agency, and is approximately \$57 per space for use Monday through Friday, 6 am to 6 pm, for a total of \$1,140 per year for 20 spaces. Westland would not be charged debt service or maintenance and operations fees for the 20 spaces upon their return to the County. The County is in discussions with Stanislaus County Office of Education and the Superior Court, to determine their needs for downtown parking.

As part of the construction of the 12<sup>th</sup> Street facility, the County was responsible for the core and shell costs, and the developer (Westland) was responsible for tenant improvements. During the final reconciliation of costs, it was identified that both the County and Westland had incurred some expense to accommodate changes to the electrical main distribution and tenant metering, not previously settled. The County spent \$6,995 toward these changes while Westland spent \$56,118, resulting in a net exposure of \$49,123 to the County. Staff is requesting the Board's approval to modify the debt service payment agreement for a 24-month period for the remaining 48 spaces assigned to Westland, to complete the final reconciliation of all costs. Staff recommends waiving a portion of the debt service fees collected from Westland, over a 24-month period equivalent to this amount, effective April 1, 2009. This will have a minimal impact on revenues for the period affected.

**POLICY ISSUE:**

Approval of this action supports the Board of Supervisors' priority of *Effective partnerships*.

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**STAFFING IMPACT:**

There is no staffing impact as a result of this action. County staff is dedicated to the management of the 12<sup>th</sup> Street Office Building and Parking Garage.