

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

DEPT: Planning and Community Development

BOARD AGENDA # *D-1

Urgent Routine

AGENDA DATE January 10, 2012

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval of the Finding that the City of Ceres Sphere of Influence Expansion for the West Landing Specific Plan is Logical and Orderly

STAFF RECOMMENDATIONS:

1. Approve the finding that the City of Ceres' proposed sphere of influence expansion is logical and orderly; and,
2. Direct the Chief Executive Officer to notify the Local Agency Formation Commission of the County's agreement with the expansion request.

FISCAL IMPACT:

On March 13, 1990, Stanislaus County entered into an agreement with the City of Ceres to ensure the collection of County Public Facilities Fees (PFF) prior to the issuance of city building permits. Per the agreement, the City of Ceres could elect to either collect the fees on behalf of the County or implement a voucher system to assist in the payment of the fees. The City of Ceres has elected to collect the PFF on behalf of the County, and will continue to do so for development within the West Landing area.

(Continued on page 2)

BOARD ACTION AS FOLLOWS:

No. 2012-015

On motion of Supervisor De Martini, Seconded by Supervisor Chiesa
and approved by the following vote,

Ayes: Supervisors: Chiesa, Withrow, Monteith, De Martini 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:

This Item was removed from the consent calendar for discussion and consideration.



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No. C-2-C-2

FISCAL IMPACT: (Continued)

The expansion of a city's sphere of influence by itself does not trigger any changes in property tax distributions. The change in the distribution of property taxes only occurs upon future annexations of properties within the sphere and is governed by the existing master property tax agreement. Upon a jurisdictional change, that agreement calls for the county to retain 100% of the existing base valuation with future increment growth of the county's share split 30% to the city and 70% to the county.

DISCUSSION:

California Government Code Section 56425 requires that at least 30 days prior to submitting an application to the Local Agency Formation Commission (LAFCO) for an expansion of a sphere of influence, that representatives of the city meet with county representatives to discuss the proposed sphere and its boundaries. These discussions are intended to help the city and county reach agreement on proposed boundaries, development standards, and zoning requirements within the sphere. They are further intended to ensure that development within the sphere reflects the concerns of the city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere. If an agreement is reached, the agreement is to be forwarded to the LAFCO.

Project Description

The City of Ceres has adopted a Specific Plan ("Plan") to guide annexation and development of 960 acres located on the west side of Ceres. Approval of the Specific Plan as proposed will also require amendment of the City's General Plan. The project also includes rezoning of the western portion of the project area as a prerequisite to the sphere of influence amendment and annexation of the property. A Financing Plan is proposed for adoption to guide the financing of public facilities required by the project.

The plan area covers 960 acres bounded by Whitmore Avenue on the north, the Union Pacific Railroad on the east, Service Road on the south, and Ustick Road on the west. The northern portion of the site, east of Crows Landing Road, is substantially developed by G3 Enterprises, Inc. and includes warehouse and office facilities as well as a small partially-developed shopping center at the southeast corner of Crows Landing Road and Whitmore Avenue. The southern portion of the site east of Crows Landing Road is substantially developed with the facilities of Stanislaus County, including the County Jail, Thomas W. Mayfield Regional Animal Services Facility, and Community Services Agency Facility. The portion of the site west of Crows Landing Road is largely in agricultural use with a few scattered home sites and one rural residential subdivision along Carol Lane off of Whitmore Avenue. The Carol Lane development includes the Whitmore Church of Christ at the southeast corner of Carol Lane and Whitmore Avenue. A flea market, El Rematito, occupies the northwest corner of Hackett Road and Crows Landing Road.

Approval of the Finding that the City of Ceres Sphere of Influence Expansion for the West Landing Specific Plan is Logical and Orderly

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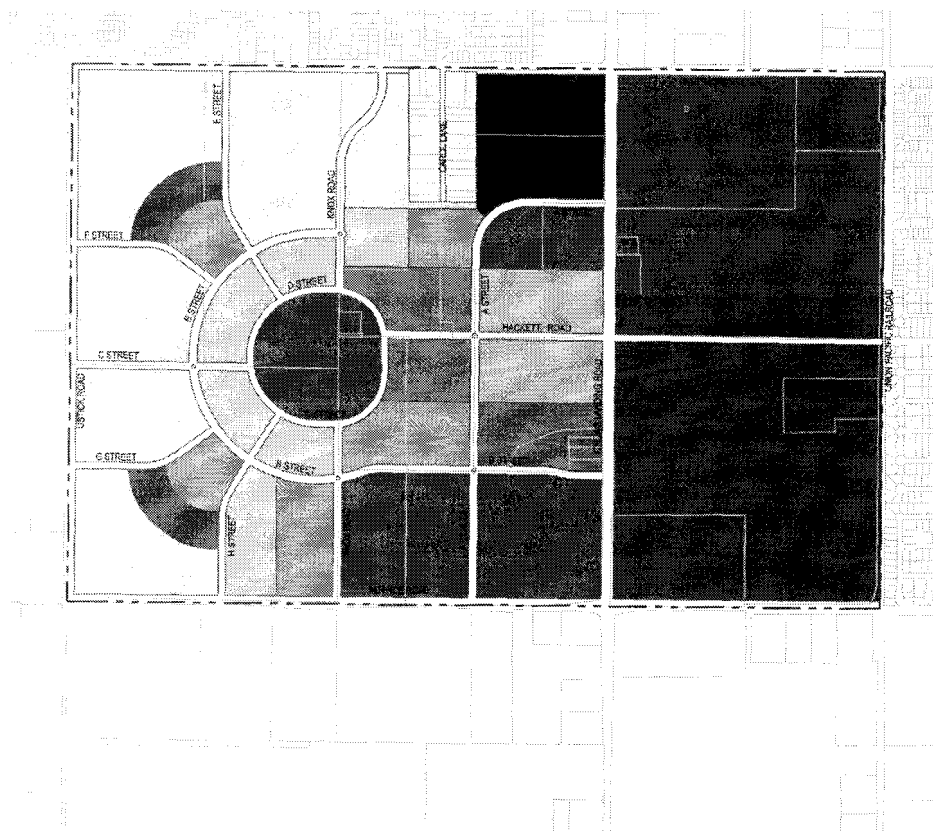
The West Landing Specific Plan provides a vision for the development of the area along Crows Landing Road between Whitmore Avenue and Service Road, from the Union Pacific Railroad tracks on the east, to Ustick Road on the west, totaling about 960 acres. Of this area, 320 acres are on the east side of Crows Landing Road and are largely developed, with the G3 Enterprises, Inc. industrial/retail development on the north, and the Stanislaus County government facilities on the south. The 640 acres on the west side of Crows Landing Road are designated for development of a rich mixture of uses as depicted on the Land Use Plan, Figure 4.1 of the Specific Plan. These uses include employment and shopping as well as residential neighborhoods. The residential neighborhoods are arranged around school/park sites and the entire area is served with a network of pedestrian/cycling paths.

The City Council approved this project at their June 27, 2011 meeting by a 4-0 vote.

The West Landing Specific Plan, City Council and Planning Commission Reports and Resolutions, and Final EIR documents with appendices are currently available on the City web site at:

<http://www.ci.ceres.ca.us/40634.html>

The Land Use and Circulation diagram is provided below:



Legend			
V-LDR	Very Low Density Residential	Regional Commercial	
LDR	Low Density Residential	Community Commercial	
MDR	Medium Density Residential	Neighborhood Commercial	
		General Industrial	
		S	School (Elementary)
			Community Facilities

Assessment

On June 8, 2011 and October 17, 2011, staff from both the City of Ceres and Stanislaus County met to review the City's proposed sphere expansion and annexation. This included staff from the Chief Executive Office and Departments of Planning and Community Development and Public Works representing the County and staff, and a consultant, from the Planning Division and the Deputy City Manager/Finance Manager representing the City. Staff also met with several City staff including the City Manager on December 7, 2011 in regards to the annexation of the Public Safety Center site and future plans for expansion of facilities on that site. The City was supportive of the expansion and had included the plans for expansion of the facilities in their assumptions in the West Landing environmental review process.

Two primary issues were identified at the initial meeting in June 2011. First, the City's original Environmental Impact Report (EIR) and Financing Plan did not include adequate mitigation for impacts to County roadways and intersections. Subsequent meetings between the County and Cities of both Ceres and Modesto resulted in concurrence that the most equitable and efficient approach would be to rely on a regional/zonal approach to mitigate impacts to facilities that overlap jurisdictions. A process is currently underway focusing on modification of the Regional Transportation Funding programs (RTIF) to establish a zonal or regional fee approach to these issues. Due to uncertainty about the eventual adoption of the zonal fee structure, a modification of the West Landing Financing Plan was proposed that provides a methodology to take effect in the event that the current process leading to zonal fees does not take effect in a timely basis. The Ceres City Council adopted the modified Financing Plan on October 24, 2011, and this adequately addresses the County's traffic mitigation concerns.

The second concern was in relation to the status and financial stability of the Westport Fire Protection District. Typically, at annexation to a city, the area would "detach" from special districts, such as a fire district, as the city would take over responsibility for providing services once provided by the special district. The West Landing Specific Plan Area intends to detach from the Westport Fire Protection District with fire safety services provided by the City of Ceres instead of the District. Originally, the City had proposed to "keep the District whole", in that the base amount of revenue that is currently received by the District through property tax revenue generated from the Specific Plan area would continue to be provided to the Fire District with a modest escalator for inflation.

Additional discussions between the District and the City had resulted in what all parties believed was a tentative agreement wherein the City would have provided additional funding (beyond keeping the District whole) to the District through the Capital Facilities District to be formed in connection with the West Landing project. The Ceres City Council met on November 14, 2011, and ratified the formal cooperative agreements. However, the Westport Fire Protection District Board met on December 12, 2011 and did not approve the formal agreements.

In light of the Fire District's action, or lack thereof, the City of Ceres has sent a letter dated December 16, 2011, to the County requesting consideration of the Sphere of Influence expansion (See Attachment 3). In part, the letter states:

"The (*City's*) proposal went well beyond any arrangement that has been established elsewhere in the County with annexation. Unfortunately, the District Board has declined to enter into this Agreement and MOU. Please note that the District's rejection of the proposed Agreement does not change Ceres' commitment to keep Westport whole after the detachment and annexation ..."

"The City will then proceed to LAFCO and will incorporate a request that LAFCO impose a requirement that the City make transfer payments to the District to make the District "whole," consistent with Stanislaus LAFCO policy and precedent."

Staff is in concurrence with the City's statements and acknowledges that the City has offered to provide financial support to the District well beyond that which is suggested by LAFCO policy and precedent.

As such, and based on the discussion above, County staff is in agreement that the proposed City of Ceres Sphere of Influence expansion is both logical and orderly, regardless of the lack of a finalized formal financing arrangement between the City and the Fire District. Staff assumes that LAFCO will exercise its authority through its public hearing process to impose whatever financing conditions it believes is appropriate. If the Board of Supervisors concurs, it is recommended that it direct County staff to notify LAFCO of the County's agreement with this application.

POLICY ISSUES:

The Board should determine if the review and conclusions in the proposed sphere of influence expansion are consistent with its priorities of striving for the Efficient Delivery of Public Services and Effective Partnerships.

STAFFING IMPACTS:

There are no staffing impacts associated with this item.

CONTACT PERSON:

Kirk Ford, Planning and Community Development Director. Telephone: (209) 525-6330

ATTACHMENTS:

1. City of Ceres Council Agenda Report modifying the Public Facilities Financing Plan to provide for certain traffic improvements.

Approval of the Finding that the City of Ceres Sphere of Influence Expansion for the West Landing Specific Plan is Logical and Orderly

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2. City of Ceres letter dated October 20, 2011, inclusive of proposed modifications to the West Landing Capital Facilities District funding for the Westport Fire District.
3. Letter from the City Ceres dated December 16, 2011

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COUNCIL AGENDA REPORT

COUNCIL MEETING Date: 10/24/11

CITY COUNCIL

Chris Vierra, Mayor
Ken Lane
Guillermo Ochoa
Bret Durossette

Report Preparation Date: 09/29/11

TO: Mayor and City Council

FROM: Tom Westbrook, Planning, Building and Housing Division Manager

SUBJECT: Consider a proposal to amend the West Landing Specific Plan Public Facilities Financing Plan to Provide for Certain Traffic Improvements

CONTACT: Tom Westbrook, Planning, Building and Housing Division Manager,
tom.westbrook@ci.ceres.ca.us, 209.538.5789

RECOMMENDED COUNCIL ACTION:

1. Approve Finance Plan Amendment #1 subject to the findings contained in the attached Draft Resolution 2011-_____.

I. BACKGROUND:

At the City Council meeting of June 27, 2011 at which the West Landing project was approved, the Stanislaus County Public Works Director, Mr. Matt Machado, raised concerns regarding the status and financing of street intersections which are projected to receive traffic from the land uses included in the plan area. In response to Mr. Machado's concerns, staff proposed and the Council approved the following language to Chapter 2 of the Financing Plan under City Principles for Backbone Infrastructure:

- It is the City's intention to work cooperatively with the City of Modesto and County of Stanislaus where required traffic infrastructure improvements have cross-jurisdictional implications to identify and implement equitable mechanism(s) for the funding of such improvements and include Project participation in such mechanism(s).

Subsequent to the meeting, staffs of the City, County, and City of Modesto have met to discuss the most equitable and efficient way to ensure that necessary street improvements are provided when required, and the role of the project in this provision. The City of Ceres is committed to the concept that development will participate in providing infrastructure in proportion to its contribution to the need for such infrastructure. The City strongly feels that a broadly-based approach to such funding is required to ensure nexus, proportionality, equity, and a complete funding system that will result in the ability to accomplish the desired and required improvements. All parties agree that the most equitable and efficient approach is to rely on a regional/zonal approach to facilities which overlap jurisdictions. A process is currently

underway to establish a zonal fee approach for facilities which have less than a county-wide impact but broader than an individual City impact. Due to uncertainty about the eventual adoption of this approach, the County has requested that as an interim measure that the West Landing project be obligated to a measure of participation in intersections surrounding the project but currently in the County's jurisdiction. This approach is seen as a stopgap and it is hoped that implementation of a complete, proportional approach will preclude the necessity for it to take effect.

The proposed amendment to the Financing Plan provides a backup mechanism to take effect in the event that the current process leading to a zonal fee does not take effect in a timely basis.

II. PROPOSED AMENDMENT

In implementation of the language of Chapter 2 noted above, it is proposed to add the following Item 6 to the list of Financing Mechanisms set forth in the Implementation Plan section of Chapter 2 of the Financing Plan.

6. Prior to any development in the Plan Area, adopt an Interim Traffic Fee based on the following principles and provisions:
 - a. Establish an Interim Fee to fund traffic improvements which could generate about \$6,500,000 to fund traffic improvements in the vicinity of the project but beyond the area for which the project is providing fronting improvements. Based on the project projection of 7,746 PM peak hour trips, this would translate into a fee generating about \$840 per PM peak hour trip. It is anticipated that the fee would be allocated to land uses in accordance with the formula used in the City's PFF.
 - b. In the event that a zonal fee applicable to the project is adopted prior to the adoption of the Specific Plan implementation program, then that fee will supersede the provisions of this proposal. In the event that a zonal fee is adopted subsequent to the adoption of the Specific Plan financing implementation program, then that fee will supersede and replace the traffic fee adopted pursuant to this proposal. In that event, any interim fees collected but not yet disbursed will be used to implement traffic improvements as identified by and at the sole discretion of the City of Ceres. Expenditures from the Interim Fee Fund shall be subject to the approval and discretion of the Ceres City Council.
 - c. Establish the following initial list of eligible intersections:
 - I. **Intersections which are currently in the County, and which will remain in the County indefinitely**
 - 3 Carpenter/Whitmore (south half in County, north half in Modesto SOI, see below)
 - 11 Carpenter/Service
 - II. **Intersections which are currently in the County, but which are in the Modesto SOI**
 - 2 Crows Landing/Hatch
 - 3 Carpenter/Whitmore (north side in Modesto SOI, see above)
 - 19 Carpenter/Maze
 - 20 Carpenter/Paradise
 - 24 Crows Landing/Glenn
 - 25 Crows Landing/El Paso

26 Crows Landing/7th

III. Intersections which are currently in the County, but which are in the Ceres SOI

15 Central/Service

27 South 9th/River

III. REASONS FOR RECOMMENDATION:

This first amendment is proposed as a clean-up amendment to the West Landing Specific Plan Public Facilities Financing Plan in response to concerns raised by Stanislaus County Public Works Director Matt Machado and reflects discussion and agreement among staff representing the Cities of Ceres and Modesto and Stanislaus County. It will make provision for assistance with funding improvements to intersections not abutting the West Landing project but which will receive trips from and be affected by the project.

III. POLICY ALTERNATIVES:

1. Deny the amendment and allow the Financing Plan to stand as adopted.

IV. FISCAL IMPACTS:

Adoption of the proposed amendments will result in addition of traffic improvement projects to the project list to be funded by the Financing Plan. These funds will be generated by the project financing mechanisms and fees, no General Fund money will be required. Addition of these projects may impact the feasibility of the project and/or the City's ability to finance other improvements with the project.

V. PUBLIC PARTICIPATION:

Public noticing was posted on October 12, 2011 and sent to property owners within 300 feet of the proposed development and all those who provided comment on the Draft EIR, in addition to a notification in the Ceres Courier.

VI. COMMITTEE RECOMMENDATION:

Not applicable.

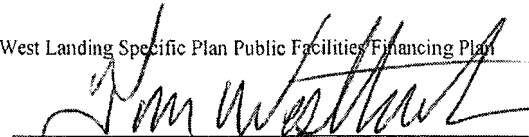
VII. ENVIRONMENTAL REVIEW:

On June 27, 2011, the City Council certified the Environmental Impact Report, SCH # 2008122087, for the West Landing Specific Plan project, making findings as required. No additional environmental review is required for this amendment to the Financing Plan.

VIII. STEPS FOLLOWING ACTION:

Prior to development, establish funding mechanism for Specific Plan Area fees, to include the specifically identified traffic portion that is the subject of this amendment.

Prepared by:



Tom Westbrook, Planning, Building and Housing Manager,
tom.westbrook@ci.ceres.ca.us, 209.538.5789

Submitted by:



Sheila Cumberland, Deputy City Manager

Approved by:

Art de Werk, Acting City Manager

Attachment: Resolution

DRAFT
RESOLUTION NO. 2011-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CERES
APPROVING AMENDMENT #1 TO THE WEST LANDING SPECIFIC PLAN
FINANCING PLAN, .**

THE CITY COUNCIL
City of Ceres, California

WHEREAS, an application was received from B. S. Boyle, Jr. Family L. P., G3 Enterprises, Inc, and Rutland Properties, Inc. for a Specific Plan (“SPA”) for adoption of a Specific Plan to guide the development of property bounded by Whitmore Avenue on the north, UPRR right-of-way on the east, Service Road on the south, and Ustick Road on the west; and,

WHEREAS, in conjunction with adoption of proposed Specific Plan a Financing Plan was proposed and a General Plan amendment, and rezoning/Sphere of Influence amendment/annexation was proposed; and,

WHEREAS, on June 27, 2011, the City Council approved the West Landing Specific Plan and the Financing Plan thereto, and,

WHEREAS, in connection with the hearing regarding the West Landing Specific Plan and Financing Plan the City Council received testimony from the Stanislaus County Director of Public Works regarding the effect of project traffic on surrounding roadways and directed staff to work with the County Director of Public Works to formulate a solution to this issue; and,

WHEREAS, following the City Council meeting of June 27, 2011, the staffs of the affected agencies met and determined a proposed approach to funding of required improvements; and,

WHEREAS, the City Council held a duly noticed public hearing on October 24, 2011 at 7:00 p.m. and considered all testimony and comment presented whether orally or in writing.

NOW THEREFORE, the City Council of the City of Ceres does hereby find as follows:

The proposed amendment to the West Landing Specific Plan Financing Plan maintains consistency with the Specific Plan and General Plan and provides appropriately for the funding of traffic improvements in the surrounding vicinity, and,

NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Ceres resolves as follows:

1. That the aforementioned findings are hereby approved.
2. The West Landing Specific Plan Public Facilities Financing Plan is hereby amended as follows:

Item 6 is added to the list of Financing Mechanisms set forth in the Implementation Plan section of Chapter 2 of the Financing Plan:

6. Prior to any development in the Plan Area, adopt an Interim Traffic Fee based on the following principles and provisions:

a. Establish an Interim Fee to fund traffic improvements which could generate about \$6,500,000 to fund traffic improvements in the vicinity of the project but beyond the area for which the project is providing fronting improvements. Based on the project projection of 7,746 PM peak hour trips, this would translate into a fee generating about \$840 per PM peak hour trip. It is anticipated that the fee would be allocated to land uses in accordance with the formula used in the City's PFF.

b. In the event that a zonal fee applicable to the project is adopted prior to the adoption of the Specific Plan implementation program, then that fee will supersede the provisions of this proposal. In the event that a zonal fee is adopted subsequent to the adoption of the Specific Plan financing implementation program, then that fee will supersede and replace the traffic fee adopted pursuant to this proposal. In that event, any interim fees collected but not yet disbursed will be used to implement traffic improvements as identified by and at the sole discretion of the City of Ceres. Expenditures from the Interim Fee Fund shall be subject to the approval and discretion of the Ceres City Council.

c. The following initial list of eligible intersections is established:

I. Intersections which are currently in the County, and which will remain in the County indefinitely

3 Carpenter/Whitmore (south half in County, north half in Modesto SOI, see below)
11 Carpenter/Service

II. Intersections which are currently in the County, but which are in the Modesto SOI

2 Crows Landing/Hatch
3 Carpenter/Whitmore (north side in Modesto SOI, see above)
19 Carpenter/Maze
20 Carpenter/Paradise

24 Crows Landing/Glenn
25 Crows Landing/El Paso
26 Crows Landing/7th

III. Intersections which are currently in the County, but which are in the Ceres SOI

15 Central/Service
27 South 9th/River

PASSED AND ADOPTED by the Ceres City Council at a regular meeting thereof held on the 24th day of October, 2011, by the following vote:

AYES:

NOES:

ABSENT:

Chris Vierra, Mayor

ATTEST:

Cindy Heidorn, City Clerk, CMC



OFFICE OF THE CITY MANAGER

CITY OF CERES
2720 SECOND STREET
CERES, CA 95307
209-538-5755 PH
209-538-5650 FAX

October 20, 2011

Mr. Dave Sundy
Chairman Westport Fire District Board
5160 S. Carpenter Road
Modesto, CA 95358

CITY COUNCIL

Chris Vierra, Mayor
Guillermo Ochoa
Ken Lane
Bret Durossette

Dear Dave:

On behalf of Ceres staff, please thank the Board for their time meeting with us to discuss the West Landing project. In follow up to our meeting with the Board, staff has met further with you, and in addition Board member Ed Amador and Chief Nicholes have discussed with Chief Hackett ways in which the two agencies can cooperate.

A fundamental principal of the City/District discussions is that we should work together toward a solution that will create a successful long-term future for the District.

After our meetings, it is evident that a revenue transfer maintaining the District's current level of revenue following annexation, or even one providing for some increase, cannot fix the underlying structural problems with the District's budget. Revenue solutions involving revenue from the project area as well as increased District revenue and other, "out of box" solutions will be required.

The City proposes the following measures:

1. The City recognizes the LAFCO requirement to maintain District revenues at the level currently experienced after annexation. For the G-3 property, this is accomplished by the current agreement. For the additional area, the City proposes that the parties execute an additional Agreement No. 2 to include this property. This Agreement No. 2 will be very similar to the prior Agreement, but will include a provision that the Agreement would terminate in the event that the District no longer maintains a station within its current boundaries and east of Vivian Road.
2. The City will, when formulating an operating CFD as required by the Finance Plan for West Landing, include a provision for a portion of the CFD fee to be dedicated to providing the amount required to replace District revenues. Contingent on an increased assessment in the District, the City will, when

formulating the operating CFD as required by the Finance Plan for West Landing, provide for the portion of the CFD fee to be dedicated to the District to be increased over the amount required for replacement. This amount will be justified on the mutual aid role the District will play and will be established at \$20/dwelling unit and \$10/1,000 square feet of non-residential development. This fee will be allocated as follows:

- 70% of the amount collected in each year will be allocated to payment of the consolidated Base Amount consisting of the total of the base amounts stated in the original Agreement and this Agreement No. 2. Once the Base Amount is reached, all further collections will be passed through directly to the District.
 - 30% of the amount collected in each year plus any amount collected over and above the consolidated Base Amount will be passed through to the District.
3. The City and the District will negotiate and execute a Cooperation Agreement to address matters which have been identified by the respective Staff of the City and the District.

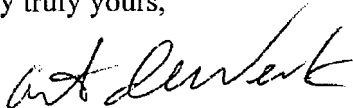
The attached Agreement No. 2 is provided to implement the financial part of these proposals, that is, items #1 and 2 including the establishment of the base payments and the establishment of a CFD with provision to supplement the base payments.

Also attached is a Memorandum of Understanding Regarding Cooperation Agreement which identifies the items for discussion and agreement. Working out the specific details of the Cooperation Agreement will require further staff meetings and discussions. Execution of the Memorandum of Understanding will formally commit the parties to the completion of this process.

The goal is to have these Agreements approved by both the District Board and the Ceres City Council prior to consideration of the annexation application by LAFCO. To stay on schedule we would request that your Board consider approval of the documents at its regular meeting of November 7, 2011.

Please review these documents, and if you have questions or concerns please advise.

Very truly yours,



Art de Werk, Acting City Manager

Attachments:

Proposed Agreement No. 2 between the City of Ceres and the Westport Fire District
Memorandum of Understanding Regarding Cooperation Agreement

**MEMORANDUM OF UNDERSTANDING REGARDING
COOPERATION AGREEMENT**

This Memorandum of Understanding Regarding Cooperation Agreement is made by and between the City of Ceres, a municipal corporation, hereinafter called "City" and the Westport Fire District, hereinafter called "District".

RECITALS

A. The City has previously entered into an Agreement with the District approved by Council resolution on April 8, 2002, which Agreement insured that the District would not sustain a loss of revenue from the "Proctor and Gamble Site" when that area was annexed to the City.

B. The parties have entered into an Agreement No. 2 to insure that the District will not sustain a loss of revenue from the annexation by the City of property within the District boundaries located west of Crows Landing Road, south of Whitmore Avenue, east of Ustick and north of Service Road.

C. In addition to the maintenance of District revenue as provided in Agreement No. 2, the parties intend to enter into a Cooperation Agreement which will provide additional assistance to the District and improve the general level of cooperation and assistance between the fire services of the City and the District.

NOW THEREFORE, the parties agree that they will negotiate in good faith a Cooperation Agreement which will address the following matters:

1. The provision of routine maintenance (labor only) by the City on vehicles and apparatus owned by the District.
2. The provision of fire service coverage by the City on initial dispatch for certain types of calls within the District. Discussions will include limitations on area of response, type of calls and type of equipment and personnel dispatched.
3. The coordination of training programs to provide consistency between the departments.
4. The provision of a City Battalion Chief at certain fire incidents within the District which meet the threshold City requirements for Battalion Chief involvement.

5. The provision of City Staff expertise to assist the District with the processing of proposition 218 requirements for an increase to the current level of direct assessments in the District.

6. Such other items as may by mutual agreement of the parties be considered for discussion.

The parties agree that these matters will be promptly addressed and considered by the parties with the intent that a formal Cooperation Agreement will be developed and executed by the parties by January 31, 2012.

The City further agrees that it is willing to enter into discussions with the District in the future regarding the feasibility of a broader JPA or merger with the District to the extent such action can be accomplished without negative impact upon service to the citizens of Ceres and the economic burden of such action is acceptable to the City.

Dated: _____, 2011

WESTPORT FIRE DISTRICT

By: _____

Dated: _____, 2011

CITY OF CERES,
a municipal corporation

By: _____
Honorable Chris Vierra, Mayor

APPROVED AS TO FORM

Michael L. Lyons, City Attorney

**AGREEMENT NO. 2 BETWEEN THE CITY OF CERES
AND THE WESTPORT FIRE DISTRICT**

This Agreement is made by and between the City of Ceres, a municipal corporation, hereinafter called "City" and the Westport Fire District, hereinafter called "District".

RECITALS

A. The City has previously entered into an original Agreement with the District approved by Council resolution on April 8, 2002, which Agreement insured that the District would not sustain a loss of revenue from the "Proctor and Gamble Site" when that area was annexed to the City.

B. The City will now be submitting to the Local Agency Formation Commission for Stanislaus County (LAFCO) an annexation application for certain property which lies within the District's boundaries and is located west of Crows Landing Road, south of Whitmore Avenue, east of Ustick Road and north of Service Road. (the West Landing Specific Plan Area)

C. When the subject area is annexed to the City, property tax revenues and direct assessments of the District will be diminished, and the loss of revenue will impact the District's ability to provide fire protection services. In light of this circumstance, the City agrees that as a condition of approval by LAFCO of the City's proposed West Landing annexation, the City will hold the District financially harmless, as provided herein from any loss of ad valorem property tax revenue and direct assessments for special taxes imposed by the District received from the West Landing area as described above.

D. Following annexation, the District will continue to act as a mutual aid provider of service to the subject area.

NOW THEREFORE, in consideration of the mutual promises and conditions contained herein, the parties agree as follows:

1. PROPERTY AFFECTED. The property affected by this Agreement is that real property and the buildings, equipment and other tangible business property located thereon, encompassed within the area west of Crows Landing Road, south of Whitmore Avenue, east of Ustick Road, and north of Service Road. This property shall

hereafter be referred to in this Agreement as the “West Landing Specific Plan Area”, and a map of the area is attached hereto as Exhibit A.

2. BASE YEAR. For the purposes of this Agreement and the computations made herein, the “Base Year” shall be the property tax year 2011/2012.

3. TAX ASSESSMENTS FOR THE BASE YEAR / PERCENTAGE INCREASE. For the Base Year (2011/2012) the parties acknowledge and agree that the assessments against the West Landing Specific Plan Area for ad valorem property tax and direct assessment were as follows:

Direct Assessment	\$
Ad Valorem Taxes	
Total	\$

For the purpose of this Agreement, that portion of the tax assessments received for the Base Year for ad valorem taxes shall be increased by two percent (2%) annually.

4. OBLIGATION OF CITY TO MAINTAIN “BASE YEAR” ASSESSMENT LEVEL. After the annexation of the West Landing Specific Plan area to the City and the detachment of that area from the District, the City agrees to pay the District such sums as are necessary to maintain the “Base Year” assessment level increased by 2% annually for the portion of the assessment based upon ad valorem taxes.

5. EFFECTIVE DATE/AMOUNT OF PAYMENTS. The obligation of the City to maintain the “Base Year” assessment level shall commence upon the date that the City completes the annexation of the West Landing Specific Plan area. For the first year of this Agreement, the City shall pay the District the amount necessary to make the District whole for its loss of direct assessments and ad valorem taxes for the period from completion of annexation to the end of the fiscal tax year in which the annexation occurs. This amount shall not include the 2% annual increase in the ad valorem taxes if the annexation occurs in the base year. (2011/2012)

For each tax year following the completion of annexation, proceedings the City shall pay to the District an amount of money equal to the Base Year assessment as adjusted by the two percent (2%) annual increase for ad valorem taxes.

6. TERM. The terms and conditions of this Agreement shall remain in effect unless terminated or modified as hereafter provided.

a. Termination. This Agreement shall terminate upon the occurrence of any of the following events:

(1) The execution by the parties of a written document terminating the Agreement.

(2) The cessation of operations by the District, or the failure by the District to maintain an operating fire station within the portion of the District east of Vivian Road.

(3) Pursuant to a decision made under the provisions of subparagraph 6b.

b. Modification or Termination. The terms and conditions of this Agreement may be modified by an agreement in writing signed by both parties. In addition, the parties agree that they will negotiate in good faith a modification or termination of this Agreement in the event that the District should receive a significant increase in its revenues either from the location within the District of new large property tax and assessment generators, or from other sources of governmental funding, which new sources of revenue make further reliance upon the property tax and direct assessment revenue from the West Landing Specific Plan area no longer necessary to enable the District to provide adequate and effective fire protection services to the properties within the District. Grants, gifts, or subsequent direct assessments are excluded from the above limitation.

Should the parties be unable to reach an agreement through their good faith negotiations, the dispute shall be submitted to binding arbitration. The arbitrator shall be selected by the mutual agreement of both parties. If the parties cannot agree upon the selection of an arbitrator, then an arbitrator shall be selected through the State of California Mediation and Conciliation Service, applying that agency's rules

regarding the selection of an arbitrator. In any such arbitration, each party shall pay one-half of the arbitrator's fees and expenses.

7. ESTABLISHMENT OF CAPITAL FACILITIES DISTRICT. It is the City's intent to establish a Community Facilities District (CFD) in connection with the West Landing Specific Plan Finance Plan. If, prior to establishment of the CFD, the District has increased its Direct Assessment amounts above the rates in effect during 2010/2011, this CFD will include, to extent legally possible, a component to provide for operating costs of the Westport Fire District as a mutual aid provider of service to the West Landing area. At this time, it is contemplated that the CFD will include fees of \$20.00 per year per dwelling unit and \$10.00 per 1,000 square feet per year of non-residential (commercial, office, and industrial) buildings. Fees collected for this component of the CFD will first be allocated as follows:

- a. 70% of the amount collected in each year will be allocated to payment of the consolidated Base Amount consisting of the total of the base amounts stated in the original Agreement and this Agreement No. 2. Once the Base Amount is reached, all further collections will be passed through directly to the District.
- b. 30% of the amount collected in each year plus any amount collected over and above the consolidated Base Amount will be passed through to the District.

8. PAYMENTS. The City will make the payment required for the year in which annexation of the area is completed on or before June 30th of that fiscal year. For each fiscal year thereafter, the City will pay all sums due under this Agreement in two equal annual payments, which payments shall be made within thirty (30) days after receipt by the City of its two annual installments of property taxes from Stanislaus County.

9. ENTIRE AGREEMENT. This instrument contains the entire agreement between the parties and any agreement or representation respecting the duties of either party in relation thereto not expressly set forth in this instrument is null and void.

Dated: _____, 2011

WESTPORT FIRE DISTRICT

By: _____

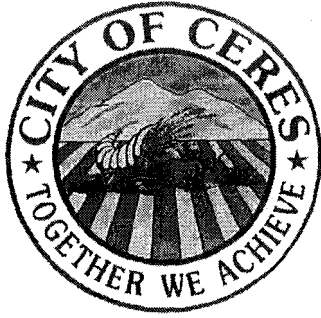
Dated: _____, 2011

CITY OF CERES,
a municipal corporation

By: _____
Honorable Chris Vierra, Mayor

APPROVED AS TO FORM

Michael L. Lyons, City Attorney



Planning and Building Division
2220 Magnolia Street
Ceres, CA 95307
209-538-5774
Fax 209-538-5759

CITY COUNCIL

Chris Vierra, Mayor

Ken Lane

Bret Durossette

Eric Ingwerson

Mike Kline

December 16, 2011

Kirk Ford, Director
Stanislaus County Department of Planning
and Community Development
1010 Tenth Street, Suite 3400
Modesto, CA 95354

Dear Mr. Ford,

The City of Ceres requests that you bring the matter of the West Landing Specific Plan Sphere of Influence (SOI) modification to the Board of Supervisors for action in order to finalize the consultation process as mandated by Government Code §56425(b).

City staff has provided you all necessary project documentation including the Specific Plan and project EIR. As part of the project approval process, the City also negotiated a traffic fee payment with the County's Public Works Department to address the County's concern regarding the impact of the project on County roadways. No remaining issues of concern exist between the County and the City as to either the SOI modification or annexation.

There is one unresolved issue that LAFCO will need to address with the annexation aspect of this project. The City has been in discussion for an extended period with the Westport Fire Protection District (WFPD) regarding the matter of "making the District whole," in conformance with Stanislaus LAFCO policy. This remains an unresolved issue to be addressed by LAFCO. Note that this Board consultation is relative to the SOI portion of this project and not to the annexation.

As the Westport Fire District would lose some revenue from property taxes and direct assessments relative to the area to be annexed, due the detachment of the West Landing area from its boundaries (since the new provider of an urban level of fire protection will be the City of Ceres), this loss of revenue will be a consideration at LAFCO. The County ERC mentioned this topic in its comment on the project environmental review, and stated that: "[f]urther study is required, on the impact of this project to the Westport Fire Protection District economic viability" and "[a]t a minimum, the existing agreement between the City of Ceres and Westport Fire Protection District should be extended and expanded to include all of the proposed area."

Kirk Ford
December 16, 2011
Page Two

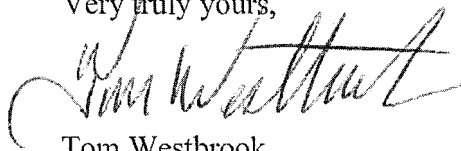
The City proposed an Agreement and MOU with the District which would have been more than fair and equitable to the District and provided a framework for an ongoing relationship between the District and the City and a means to address issues of long-term viability of the District. The proposal went well beyond any arrangement that has been established elsewhere in the County with annexation. Unfortunately, the District Board has declined to enter into this Agreement and MOU. Please note that the District's rejection of the proposed Agreement does not change Ceres' commitment to keep Westport whole after the detachment and annexation area to the City of Ceres.

Based on the District Board's action, the City is left with the need to proceed with the SOI amendment and annexation. We request that the staff bring this matter to the Board of Supervisors for action pursuant to Government Code §56425(b). The City will then proceed to LAFCO and will incorporate a request that LAFCO impose a requirement that the City make transfer payments to the District to make the District "whole," consistent with Stanislaus LAFCO policy and precedent. The City continues to regard the District as an important mutual aid partner and will continue to seek ways to promote cooperation with and assistance to the District outside the context of this annexation.

The City of Ceres has done everything requested by the County relative to this project and looks forward to both staff and the Board's support of the City's Sphere of Influence request.

Thank you for your consideration of this matter.

Very truly yours,



Tom Westbrook
Planning, Building & Housing Division Manager

TIMELINE

The West Landing Specific Plan was initiated by a group of property owners in summer, 2007.

A Notice of Preparation of an EIR to analyze the impacts of the project was circulated on December 22, 2008. The Stanislaus County ERC responded to the NOP including a note that the impacts on the Westport District's financial viability would need to be analyzed or the existing agreement with the District covering the G-3 property be expanded to include the entire project area. LAFCO also responded to this effect. The District did not respond directly to this referral.

The City then prepared the Specific Plan and EIR for the project, bearing in mind the LAFCO policy to keep rural fire districts "whole," and incorporated mitigation to this effect within the draft EIR and policy implementing this within the Specific Plan.

The City circulated the Draft EIR and on September 8, 2010 received a response to referral from the District noting that "Loss of tax revenue from this annexation project will have a significant effect on the continued operation of the Westport Fire Protection District," and requesting the following mitigation: "Allow annexation of this project without loss of revenue to the Westport Fire Protection District." The Final EIR and Specific Plan recognize this requirement.

On June 27, 2011 the City Council approved the West Landing Specific Plan, certified the EIR, and authorized initiation of the annexation and Sphere of Influence amendment needed to facilitate this annexation. At this meeting, Mr. Dave Sundy, chairman of the WFPD, appeared and indicated that the terms of agreement as proposed were not acceptable to the District, and that the District would prefer that the annexation be without detachment from the District.

The City and the District then held a series of meetings to discuss the terms of the agreement.

On August 5, 2011, staff met with Mr. Sundy to discuss the particulars of his concerns with the City's proposal to annex the project area with detachment from the District. Mr. Sundy indicated that the District had grave concerns about its future and looked upon development of the area in the West Landing Specific Plan, west of Crows Landing Road as a potential generator of revenue sufficient to ensure the future of the District.

On August 31, 2011 City staff met with Mr. Sundy and board member Ed Amador to obtain clarification of the specific parts of the agreement that were not acceptable to the District. Mr. Sundy indicated that the District had concern that the agreement as proposed would not allow for any revenue growth beyond the annual 2% and that the District looked to this area to provide growth in view of the fact that in the Board's view, the District is not financially viable in the long term as currently constituted. The District also objected to the termination clause as written and to the linkage of the new agreement to the existing agreement covering the G-3 property.

In follow up to this meeting, Ceres staff prepared and on September 20, 2011 provided to the District a revised draft agreement. This revision added a provision for formation by the City of a CFD to include a component to provide for the transfer payments to the District and to establish this component at a rate that would provide an enhanced amount at full development.

On October 3, 2011, the District Board considered the proposed agreement. City staff and project applicant representatives were present to clarify issues. After discussion, the City

Manager indicated that annexation without detachment was not acceptable to the City, as the entire area within City Limits should be served by the City's fire department and the City would not regard annexation without detachment as an "orderly arrangement." The City Manager further agreed that the City would separate the agreement for the "new" area from the existing agreement and that the City would model its termination clause on the existing agreement. The Manager stated that the City regards the District as an important mutual aid partner and regards its financial health as important. Both parties agreed that it would be beneficial to further explore ways in which the City can assist the District. The Board agreed that annexation without detachment would be "off the table" and no longer considered. The Board also requested that the City modify the portion of the agreement providing for additional revenue over and above making the district "whole," so that additional revenue would flow to the district earlier in the development process.

Staff met with Mr. Sundy on October 5, 2011 to further clarify the concerns of the Board. At this meeting Mr. Sundy reiterated his concerns for the future viability of the District, stating that at least a doubling of annual revenues would be necessary to ensure the future of the District. Mr. Sundy indicated that the District would seek an Agreement that would provide for increased revenue, beginning when new development begins and would like to explore any other ways the City and District can collaborate to assist the District.

In follow up to this meeting, City staff prepared and provided to Mr. Sundy a revised proposed agreement and a proposed Memorandum of Understanding (MOU) to provide for the following:

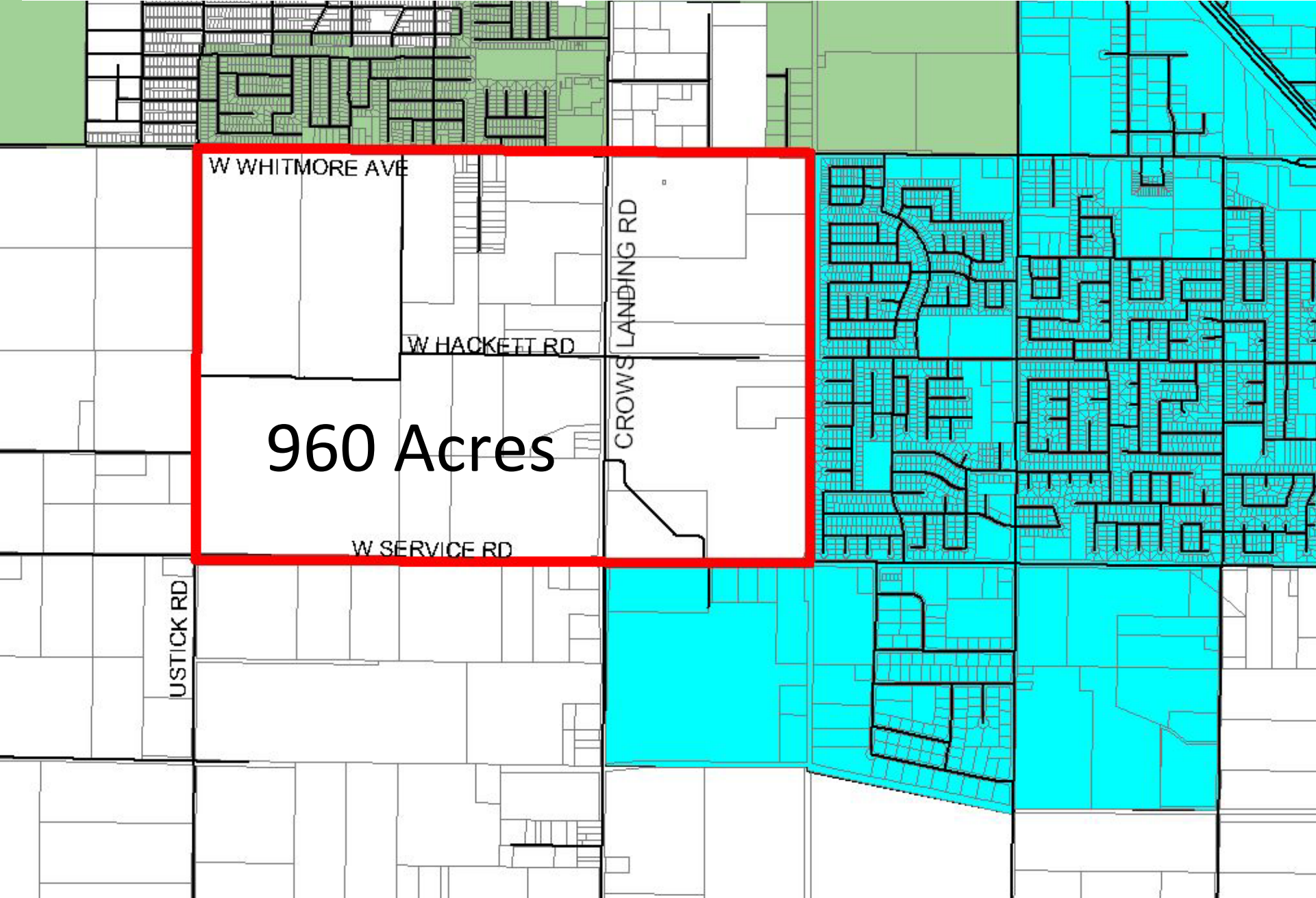
1. from the outset, keep the District "whole" through transfer payments to the District based on the highest of the revenues received in the last 3 years, with a provision for 2% annual increase in the ad valorem portion of this revenue.
2. prior to development of the area, the City would establish a Community Facilities District (CFD), one component of which would be to provide funding for the mutual aid provided by the District, with this funding phasing in from the beginning of the development process. This CFD would ultimately result in additional funding of about \$25,000 annually over and above the base amount needed to keep the District "whole" based on full development of the area.
3. agreement to negotiate in good faith a Cooperation Agreement to provide for matters including but not limited to the following:
 - a. provision of routine maintenance by the City of District vehicles
 - b. provision of fire service coverage by the City on initial dispatch for specified types of call within the District
 - c. coordination of training programs
 - d. provision of a Battalion Chief by the City at specified types of incidents in the District
 - e. City to assist the District with processing of 218 requirements for an increase to current assessments in the District

Staff and the Mayor of Ceres then met with Mr. Sundy on October 27, 2011 to review the revised proposal. Mr. Sundy stated that the proposal appeared fair and equitable and that subject to review by outside counsel, he would be prepared to recommend it to his Board. Discussion clarified that review by counsel would be as to language but that the terms were acceptable.

On November 14, 2011, the Ceres City Council considered and approved entering into an Agreement and Memorandum of Understanding with the WFPD to provide for the District.

On December 12, 2011, the WFPD Board considered the proposed Agreement and MOU and while noting that the City offer seemed generally positive, by motion declined to enter into the proposed Agreement and MOU based on advice of their counsel. The Board Chair once again proposed that the annexation be without detachment.

PROPOSED WEST LANDING ANNEXATION AND SOI EXPANSION



W WHITMORE AVE

W HACKETT RD

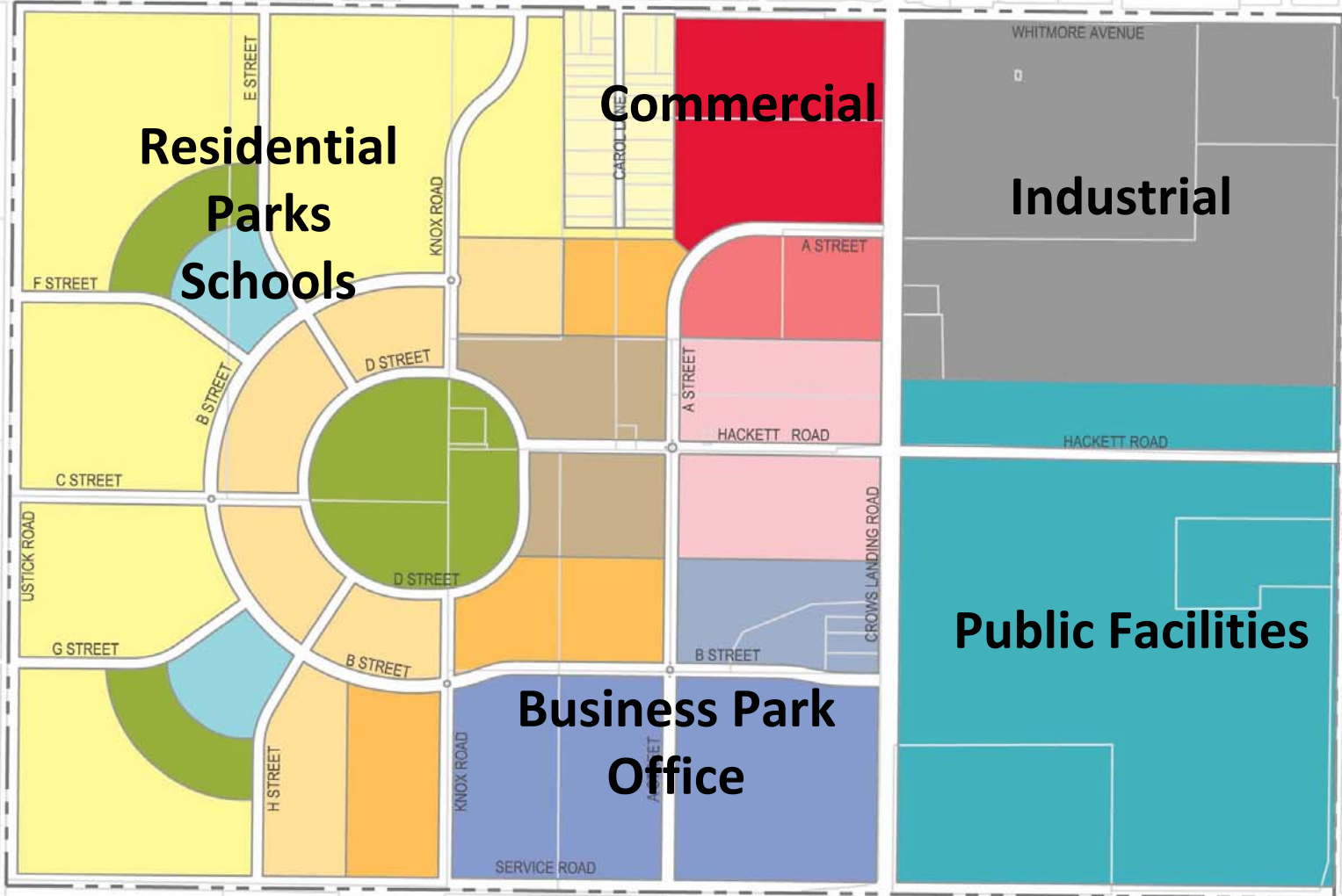
960 Acres

W SERVICE RD

CROWS LANDING RD

USTICK RD

PROPOSED WEST LANDING ANNEXATION AND SOI EXPANSION



PROPOSED WEST LANDING ANNEXATION AND SOI EXPANSION

1. Approve the finding that the City of Ceres' proposed sphere of influence expansion is logical and orderly; and,
2. Direct the Chief Executive Officer to notify the Local Agency Formation Commission of the County's agreement with the expansion request.