

MEMORANDUM

DEPARTMENT OF PUBLIC WORKS
County of Placer

TO: BOARD OF SUPERVISORS DATE: May 7, 2013
FROM: ^{KD} KEN GREHM / PETER KRAATZ
SUBJECT: AUBURN FOLSOM ROAD WIDENING PROJECT; NORTH PHASE
SAN JUAN WATER DISTRICT UTILITY CONSTRUCTION COOPERATIVE AGREEMENT

ACTION REQUESTED / RECOMMENDATION

1. Adopt a Resolution authorizing the Chair of the Board, with County Counsel and Risk Management review and approval, to execute a Utility Construction Cooperative Agreement with San Juan Water District in an estimated amount of \$980,000 to construct their water distribution system improvements within the County roadway in conjunction with the Auburn Folsom Road Widening North Phase Project. All San Juan Water District water distribution system improvement construction costs will be reimbursed by San Juan Water District with no net County cost.

BACKGROUND / SUMMARY

The San Juan Water District (SJWD) would like to construct improvements to their current water distribution system. The water distribution system is past its useful life and is insufficient to serve the community's needs. The water distribution system is currently located in the Auburn-Folsom Road highway easement. DPW staff and SJWD agree that it would be advantageous to perform the utility installation work concurrently with the Auburn Folsom Road Widening North Phase project. SJWD has hired the County's project design consultant, Dokken Engineering, to design the new water distribution system improvements. The new water distribution system plans have been incorporated with the County's Auburn Folsom Road Widening North Phase plans. Construction for the water distribution system will be performed under the County's construction contract. Work related to the installation of the water distribution system improvements will have separate contract line items which can be easily tracked. Per the Utility Construction Cooperative Agreement, the SJWD will pay 100% of the costs for designing and constructing the water distribution system improvements plus an additional 15% to cover the utility share of traffic control, construction staking and construction management. SJWD will provide inspection for the water distribution system improvements during construction.

ENVIRONMENTAL

The Board of Supervisors certified and approved the Final Environmental Impact Report with findings on June 22, 2004.

FISCAL IMPACT

All San Juan Water District water distribution system improvement construction costs will be reimbursed by San Juan Water District with no net County cost. The Department of Public Works has budgeted for this agreement and funding is available in the FY 2013-14 and the anticipated FY 2014-15 budgets with no net County cost.

Attachments: Resolution
Location Map
Copy of Agreement

**Before the Board of Supervisors
County of Placer, State of California**

In the matter of:

Resol. No: _____

ADOPT A RESOLUTION AUTHORIZING THE CHAIR OF THE BOARD TO EXECUTE A UTILITY CONSTRUCTION COOPERATIVE AGREEMENT WITH SAN JUAN WATER DISTRICT IN AN ESTIMATED AMOUNT OF \$980,000 TO CONSTRUCT THEIR WATER DISTRIBUTION SYSTEM IMPROVEMENTS WITHIN THE COUNTY ROADWAY IN CONJUNCTION WITH THE AUBURN FOLSOM ROAD WIDENING NORTH PHASE PROJECT.

The following Resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held on _____ by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chair, Board of Supervisors

Attest:
Clerk of said Board

WHEREAS, the San Juan Water District would like to construct improvements to their current water distribution system, and

WHEREAS, the new water distribution system plans have been incorporated with the County's Auburn Folsom Road Widening North Phase plans, and

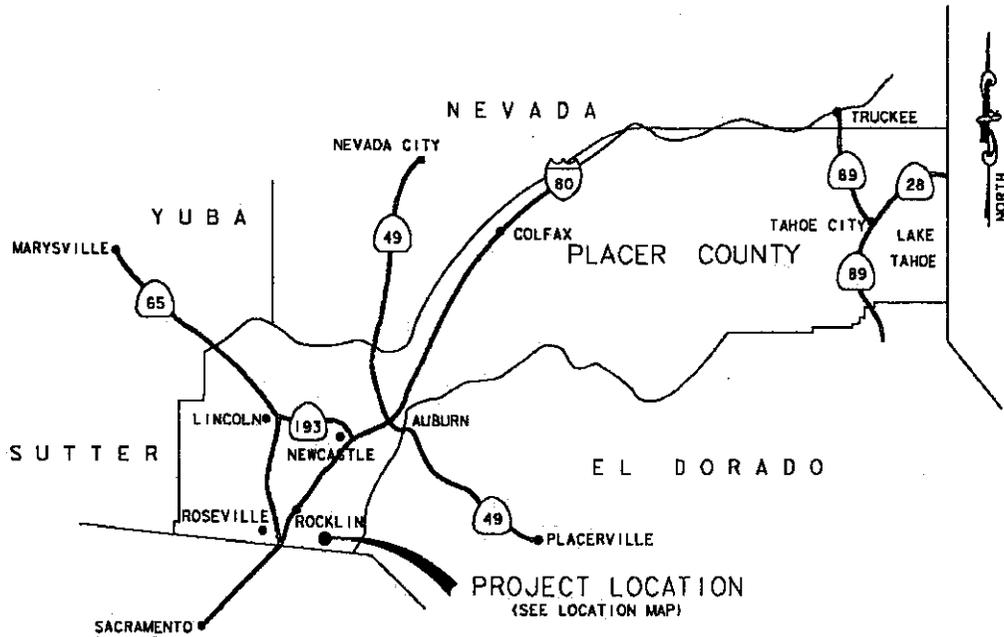
WHEREAS, Construction for the water distribution system will be performed under the County's Auburn Folsom Road Widening North Phase project construction contract; and

WHEREAS, All San Juan Water District water distribution system improvement construction costs will be reimbursed by San Juan Water District with no net County cost.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Placer, State of California, that this Board authorizes the Chair of the Board, with County Counsel and Risk Management review and approval, to execute a Utility Construction Cooperative Agreement with San Juan Water District in an estimated amount of \$980,000 to construct their water distribution system improvements within the County roadway in conjunction with the Auburn Folsom Road Widening North Phase project.

AUBURN FOLSOM ROAD WIDENING, NORTH PHASE

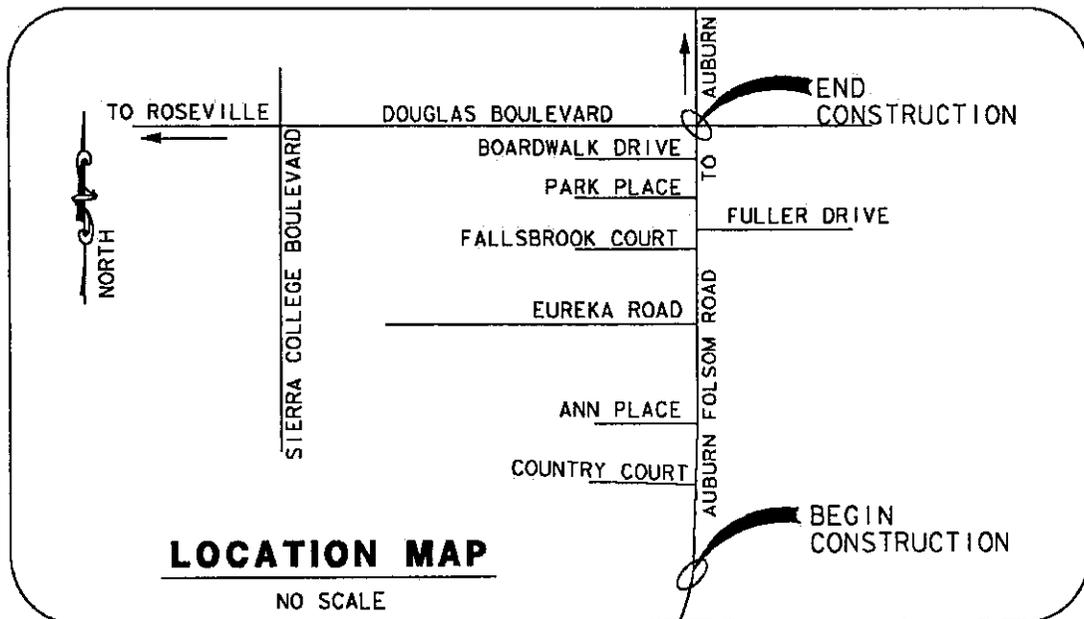
PROJECT LOCATION MAP



SACRAMENTO

VICINITY MAP

NO SCALE



LOCATION MAP

NO SCALE

**PLACER COUNTY AND
SAN JUAN WATER DISTRICT
UTILITY CONSTRUCTION COOPERATIVE AGREEMENT
AUBURN FOLSOM ROAD WIDENING – NORTH PHASE PROJECT**

This agreement is made and entered into this _____ day of _____, 2013, between the COUNTY OF PLACER, a political subdivision of the State of California, herein called "COUNTY", and the San Juan Water District hereinafter called "UTILITY".

RECITALS

WHEREAS, the COUNTY is undertaking a project to widen Auburn-Folsom Road entitled Auburn-Folsom Road Widening North Phase Project (Project No. 1051); herein after referred to as "Project"; and

WHEREAS, the UTILITY has existing water distribution mains within the COUNTY right-of-way which will be impacted by the Project, and furthermore would need to be repaired or replaced in the future; and

WHEREAS, the UTILITY would like to install a new water transmission pipeline within the Project limits concurrent with the COUNTY's Project (collectively referred to herein after as the "Utility Installation Work"); and,

WHEREAS, the COUNTY and the UTILITY agree that it would be advantageous to perform the Utility Installation Work concurrently with the Project,

AGREEMENT

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS HEREIN PROVIDED, it is agreed as follows:

1. The COUNTY will expand the scope of the Project to include the Utility Installation Work. The COUNTY will incorporate into the Project plans and specifications the appropriate plans and technical specifications for the Utility Installation Work prepared by the UTILITY, in a form acceptable to the COUNTY.

2. The COUNTY will provide the construction documents (plans in AutoCad and specifications in MS Word) to the UTILITY in electronic form such that the Utility can use these documents as a basis for design of the Utility Installation Work.

3. The UTILITY will prepare the necessary plans and specifications showing the design for construction of and materials for the Utility Installation Work, including all backfill and trenching requirements for utility construction for incorporation in the final plans and bid and contract documents for the Project. Any corrections or revisions required by the COUNTY to these design documents will be made by the UTILITY to the mutual satisfaction of both the COUNTY and UTILITY prior to incorporation in the final Project plans and specifications by the COUNTY. COUNTY will provide UTILITY with customary and adequate opportunity to review, revise and approve the plans and specifications with respect to the Utility Installation Work prior to preparing the bid documents for release for public bidding. If COUNTY and UTILITY are unable to agree upon plans and specification for the Utility Installation Work, then either party may terminate this Agreement and upon such event the COUNTY shall remove the Utility Installation Work from the plans and specifications for the Project.

4. A. COUNTY shall prepare the bid and construction contract documents for the Project and include the approved Utility Installation Work and related plans and specifications. The COUNTY shall advertise, receive bids and award contract for Project. UTILITY shall be entitled to review each of the bids prior to award of contract by County. In its call for bids for the Project, and in consultation with UTILITY, the COUNTY shall provide separate bid items for each major component of the Utility Installation Work. UTILITY shall provide COUNTY with a list of bid items related to the Utility Installation Work for COUNTY's incorporation into the bid schedule for the Project.

B. If the bid is awarded, UTILITY shall reimburse to COUNTY 100% of the Utility Installation Work bid items as shown on Exhibit A. Reimbursement for construction costs will be based on the bid prices of the contractor awarded the construction contract by the COUNTY. Upon award of the contract, Exhibit A will be revised with actual costs based on the successful bid. All improvements constructed with UTILITY Funds will become the property of the UTILITY upon its acceptance as described below.

5. Within five (5) calendar days of bid opening, the COUNTY shall forward a copy of the bid summary to the UTILITY for review. The UTILITY may terminate this agreement if the UTILITY's cost portion of this Project as shown on the

low bidder's bid and based on the Utility Installation Work bid items as shown on Exhibit A exceeds \$1,000,000. If UTILITY opts to terminate the agreement, UTILITY must notify COUNTY in writing within five (5) calendar days of receipt of bid summary.

6. The COUNTY shall award the contract to the lowest responsible bidder for the entire Project. "Responsible bidder" includes the requirement that the selected contractor, or its subcontractor performing the Utility Installation Work, meet the UTILITY's and County's minimum requirements for installation of water facilities, including possessing and maintaining the appropriate state contractor's license. Upon award of the construction contract, Exhibit A will be revised to match the costs of the contractor whose bid was accepted by the COUNTY and awarded the construction contract. COUNTY shall be the lead agency for the Project and will manage the construction contract and be responsible for all payments to the contractor. The UTILITY will reimburse the COUNTY for construction costs based on the contract award in accordance with Exhibit A and sections 4(B), 7, 8 and 12(A) of this agreement, plus 15% of that amount to cover the UTILITY'S share of traffic control, construction staking and construction management. Except for these payment and reimbursement obligations and any liabilities under section 12(B), 12(C) or 13(A), UTILITY shall have no other financial obligations toward the Project (including the Utility Installation Work).

7. The UTILITY shall pay the COUNTY 50% of the UTILITY's share of the Project costs (as determined in accordance with section 4(B)) within 30 calendar days following the notification by the COUNTY that the Notice to Proceed has been issued.

8. The COUNTY will bill the remaining 50% of UTILITY's share of the Project costs (as determined in accordance with section 4(B)) along with any other additional costs as provided for herein after completion of all Utility Installation Work within the County right of way. If the final request for reimbursement is accurately calculated in accordance with this Agreement, UTILITY shall reimburse the COUNTY the remaining costs within 30 calendar days of receipt of the COUNTY'S request for reimbursement. The bill for reimbursement will include the remaining 50% of the funds due the COUNTY for UTILITY's share of the Project costs as described in Exhibit A. The UTILITY also shall reimburse the COUNTY for any additional work on the Utility Installation Work required and approved by the UTILITY during construction. Should

any portion of the Utility Installation Work be deleted during construction it shall also be deducted in the COUNTY's final reimbursement request.

9. The UTILITY shall assist with the oversight of the COUNTY's contractor to facilitate the installation of the Utility Installation Work within the allotted number of days specified in the construction contract documents and in accordance with the COUNTY and UTILITY approved contractor prepared construction schedule for the Project. This oversight provision shall be defined and included in the Special Provisions of the construction contract.

10. Prior to the award of the construction contract, the COUNTY and the UTILITY shall mutually agree on a method to coordinate construction administration, construction engineering, construction surveying, shop drawing review, communications and meetings, traffic control, scheduling, and inspection of the work with the UTILITY being responsible for any special inspections, special materials testing, special surveying and special witnessing of testing of the Utility Installation Work. If the parties are unable to agree upon a method to coordinate inspection, then either party may terminate this Agreement up to 2 days prior to the award of the construction contract. All reviews for approval including materials proposed to be used; contract change orders and extra work bills related to UTILITY work shall be performed within two weeks unless otherwise agreed to or provided for in the special provisions. If the UTILITY does not comment within two weeks, the item in review will be considered to have been approved by the UTILITY.

11. Upon completion of construction, the UTILITY shall determine whether the Utility Installation Work was satisfactorily performed in accordance with the construction contract and UTILITY requirements and notify the COUNTY in writing of approval and acceptance of the completed Utility Installation Work. UTILITY shall coordinate with the COUNTY to bring the completed Utility Installation Work into service. After UTILITY acceptance of the completed Utility Installation Work, the UTILITY shall own and be responsible for the operation and maintenance of the completed Utility Installation Work pursuant to the encroachment permit obtained from the COUNTY at the time of construction of the Project. Such acceptance of the completed work shall not relieve the contractor of any liability or modify the contractor's guarantee.

12. Upon completion of construction and acceptance of the Project by the COUNTY, the COUNTY will provide as-constructed drawings ("as-built" plans) to the UTILITY in AutoCAD electronic form.

13. A. The UTILITY shall be responsible for all approved change orders, delays, and extra work incurred by the contractor and directly related only to the Utility Installation Work. COUNTY will be responsible for all other Project-related change orders, delays, and extra work incurred by the contractor. The UTILITY and COUNTY will jointly work to negotiate change orders and claims with the contractor to resolve any claims directly related to the Utility Installation Work in a timely manner, provided that neither the COUNTY nor the UTILITY shall agree to the resolution of the disagreements without the other's approval. In the event agreement cannot be reached related to active ongoing work within 24 hours of presentation of a request for direction, change order, or claim, the COUNTY reserves the right to proceed on a force account basis. The UTILITY will not unnecessarily delay progress of work or hold up final contract acceptance of the Project during the period of closeout.

The UTILITY shall bear no responsibility for contractor or COUNTY caused delays on work other than those directly related to only the Utility Installation Work. The UTILITY will not unnecessarily delay progress of work within the County right of way or delay notification of completion of Utility Installation Work. Performance by either party under this Agreement shall not be deemed to be in default where delays or default are due to Force Majeure when a party gives notice, in writing, with details of particulars to the other party as soon as possible. Force Majeure as used in this contract shall mean acts of nature, wars, insurrections, riots, epidemics, major landslides, earthquakes, fires, floods, and civil disturbances, which are not within the control for the party claiming suspension, which by the exercise of due diligence, such party may not have been able to avoid or overcome.

B. Costs or damages, in addition to the agreed upon contract amount, caused by any inaccuracy or miscalculation of information presented by UTILITY for the Utility Installation Work shall be the responsibility of the UTILITY.

C. Except as otherwise provided by section 13, costs arising from claims or lawsuits for personal injury or property damage which are alleged to have resulted from the Project, including the payment of damages pursuant to a final

judgment in favor of a claimant, shall be apportioned between the parties hereto according to the proration of costs of the affected bid items as indicated in Exhibit A. In the event of disagreement concerning the proper apportionment of any claim resolution costs related to the affected items of work identified in Exhibit A, the parties each expressly reserve the right to seek a judicial determination of the responsibility of each party with respect to any claim or lawsuit arising out of their performance under this agreement.

14. INDEMNITY

A. UTILITY agrees to save harmless and indemnify COUNTY from any liability, claim or demand which may be made by any person resulting from the negligence of UTILITY in the performance of its responsibilities under this Agreement, and further agrees, at its own cost and expense, to defend any action which may be brought against COUNTY resulting from such negligence of UTILITY, and further agrees to pay or satisfy any judgment which may result from such action. The foregoing provisions shall not be applicable to claims or actions that arise from the negligence of COUNTY in its performance of the terms of this Agreement.

B. The COUNTY agrees to save harmless and indemnify UTILITY from any liability, claim or demand which may be made by any person resulting from the negligence of COUNTY in the performance of its responsibilities under this Agreement, and further agrees, at its own costs and expense, to defend any action which may be brought against UTILITY resulting from such negligence of COUNTY, and further agrees to pay or satisfy any judgment which may result from such action. The foregoing provisions shall not be applicable to claims or actions that arise from the negligence of UTILITY in its performance of the terms of this Agreement.

15. This Agreement shall terminate after the project has been completed and accepted by the Placer County Board of Supervisors. However, such termination shall not relieve the contractor of any liability or modify contractor's guarantee or prohibit either the COUNTY or the UTILITY from enforcing any rights against, or seeking damages from the contractor.

16. The COUNTY shall incorporate the following language within the COUNTY'S specifications for the project:

"Contractor expressly understands and agrees that some of the work being done pursuant to this contract has been contracted by Placer County for the express benefit of the San Juan Water District, and the Contractor expressly agrees that warranties in this contract for said items may be enforced by either the Placer County or San Juan Water District."

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

Approved as to form:

COUNTY COUNSEL

Date: _____

"COUNTY"
COUNTY OF PLACER,
A Political Subdivision of
the State of California

By _____

Chair
Board of Supervisors

Date: _____

"UTILITY"
SAN JUAN WATER DISTRICT

By _____

GENERAL MANAGER
(Signature Notarized)

By _____
Print Name and Title

Date: _____

