COUNTY OF PLACER
Community Development/Resource Agency

Michael J. Johnson, AICP
Agency Director

PLANNING SERVICES DIVISION

E.J. Ivaldi, Deputy Director

MEMORANDUM

TO: Honorable Board of Supervisors

FROM: Michael J. Johnson, AICP
Agency Director

By: Loren E. Clark, Assistant Agency Director

DATE: November 18, 2014

SUBJECT: **REGIONAL UNIVERSITY SPECIFIC PLAN BACKBONE INFRASTRUCTURE AND FEDERAL CLEAN WATER ACT SECTION 404 PERMIT**

ACTION REQUESTED

1. Authorize County staff to work with the Regional University Specific Plan proponents to prepare application materials for a permit to discharge fill into waters of the United States pursuant to Section 404 of the Federal Clean Water Act for the purpose of constructing the backbone infrastructure to, and within, the Regional University Specific Plan project site.

2. Authorize the County Executive Officer to execute an agreement with University Development Trust for all activities associated with the filing, processing and subsequent implementation of a wetland discharge permit, including indemnification and reimbursement provisions, subject to approval of County Counsel and Risk Management.

3. Authorize the CD/RA Director to sign an application for the County to be the Project Applicant for a permit to discharge fill into waters of the United States pursuant to Section 404 of the Federal Clean Water Act for the purpose of constructing the backbone infrastructure to, and within, the Regional University Specific Plan project site, once the above agreement is executed.

BACKGROUND

The 1,158-acre Regional University Specific Plan (RUSP) was approved on December 9, 2008. In addition to the Specific Plan, the Board also amended the Placer County General Plan, certified a Final Environmental Impact Report (FEIR) and approved a Development Agreement, Urban Services Plan, and a Financing Plan.

The 2008 approval provided for the following land uses:

- University (600 acres) including a core campus, faculty housing, student housing, and administrative facilities. The campus would accommodate ~6,000 students with 800 professors and staff. The University area also includes 1,155 housing units including student housing.
- Community (558 acres) including a higher density university village with mixed-use commercial/residential and low-medium density residential villages. The Community includes 3,157 housing units and 75 acres of commercial land uses.

- Open Space in both communities for recreation, flood water conveyance, drainage, and natural resource conservation.

Since the project was approved in 2008, a number of events have occurred:

- Litigation was initiated and subsequently settled via a settlement agreement executed by the Board of Supervisors on December 10, 2013.
- The property has been donated to W.M. Corporation, a 501(c)(3) non-profit organization, for the purpose of locating a university within the 600-acre University land use designation of the Specific Plan. The donations occurred in December 2012 and May 2013.
- The County relinquished its potential contractual interest in the Regional University donation property on February 25, 2014.
- An application for a pre-development review of a revised Specific Plan land use plan was submitted on October 24, 2014 (Attachment A).

DISCUSSION

In the summer of 2014, discussions were initiated with County staff regarding the possibility of the County of Placer being a co-applicant or sole applicant on a wetland fill permit with the U.S. Army Corps of Engineers (COE) for the backbone infrastructure that would serve the RUSP project. The primary purpose for the County's participation is to facilitate the issuance of a COE permit for the infrastructure that would serve the RUSP property and the University site in particular. While other components of the project will utilize the backbone infrastructure, the County's interest in facilitating the permitting would be to facilitate a university being developed on the property. Obtaining a COE permit is a significant regulatory milestone that must be resolved before any development can proceed on the University site. While the County has played a role of facilitation in the past; this would be first instance where the County would be the permit applicant for backbone infrastructure for a private development project and as such it was determined to be an important policy matter requiring Board direction prior to moving forward with any such commitment.

If the Board provides direction to move forward with this permit process, the next step would be to prepare and execute an agreement that provides assurances to the County that the County will not be responsible for any financial obligations associated with the wetlands permit or any litigation or enforcement actions that might ensue as a result of this venture. Once that agreement is executed, it is anticipated that the filing of wetland fill permits would occur shortly after. The wetland fill permits would be filed for three broad categories of activity: 1) backbone infrastructure (the County as applicant); 2) construction of the University site (with the property owner as applicant): and 3) construction of the Community site (with the property owner as applicant). All three sets of permits would be filed concurrently with the COE. The project proponents would specifically be responsible for permits for the University and Community sites; the County permit would only be on the backbone infrastructure.

Attachments B and C depict the primary features of the backbone infrastructure associated with the revised Specific Plan. These Attachments are for illustrative purposes only for this policy direction. The precise location and alignments of these facilities may change as a result of project review before a COE permit is processed. As currently proposed, the backbone infrastructure to be included in the County's permit application includes the following elements:

- Emergency vehicle access
- Offsite roadway connection for that portion of Watt Avenue that is not already covered by COE permits (e.g., Sierra Vista Specific Plan in Roseville)

- Sewer pump station
- Storm water conveyance and detention facilities
- Offsite utilities (e.g., sewer to the Pleasant Grover Wastewater Treatment Plant)
- Onsite utilities (not including in-tract improvements)
- Public facilities parcel improvements
- Recycled water transmission line from the Pleasant Grove Wastewater Treatment Plant.
- One of three alternatives for treated water transmission to the site is depicted in Attachments B and C. The other two alternatives connect through the Sierra Vista Specific Plan and impacts to wetlands for a transmission facility will be covered by permits processed on behalf of that project, not the RUSP.

Collectively these elements of the backbone infrastructure account for approximately 5.65 acres of impact on jurisdictional waters. These jurisdictional waters also include endangered species and any permits will require a consultation with the U.S. Fish and Wildlife Service (Attachment D).

Benefits Associated with the County Being the Permit Applicant for the Backbone Infrastructure
For the project proponents of the RUSP, there are a number of benefits associated with the County's participation. For the County there are distinct benefits to having a four-year university be established on the subject site. The shared primary objective is to have the COE's permitting process to be as efficient and expeditious as possible. The following benefits are anticipated:

1. Schedule -- County participation should expedite the completion of environmental review, including the preparation and review of a NEPA document. The County can help assist the COE with all aspects of environmental review and assessment due to its significant experience with preparing documents pursuant to CEQA and its experience as acting as a lead agency.

2. Quality/Cost Control – As a co-lead agency, the County will be able to see and participate in creation of administrative drafts of the environmental documents. Private sector developers typically do not have this prerogative with the COE. A private development interest generally only has limited access to the screencheck draft of the Environmental Impact Statement prepared by the COE just prior to public distribution.

3. Public Purpose – Having the County as both applicant and co-lead agency will be helpful in focusing the COE on the public benefits associated with the project as expressed by the Placer County Board of Supervisors. Given the public interest and public benefits associated with this project, it is easier to bring the project to fruition when compared to a traditional land development project. The County's direct participation will also add to the public/charitable nature of the venture itself.

4. Trust/Credibility – Placer County has a long history of working well with the state and federal regulatory agencies on the PCCP and the Placer Legacy program. In particular, the County's presence will allow a coordination of efforts on these three COE permits that builds on existing levels of trust in a productive way.

5. Consistency – Assuring that local, state and federal mitigation and other substantive requirements are coordinated and consistent.

These benefits are more distinctly apparent today because of the negotiations with Warwick University about the potential to locate a private university on the subject property.

Wetland Discharge Permit - Agreement Terms

As discussed above, the Regional University representatives have asked whether the County would be willing to assist with the 404 permit processing. An individual 404 permit can take years for a private party to accomplish. In some instances, "partnering" with a public agency can accelerate the permit process. The expeditious issuance of a 404 permit is important because it will identify the time frame in which a university campus could be developed. That time frame is also important for higher education providers who might be interested in this site. While the County is interested in supporting this endeavor to move a university project forward, the County does not wish to incur expenses or liabilities in its role as a 404 permittee.

Originally, the Regional University representatives agreed to reimburse/indemnify the County for all expenses, obligations and liabilities associated with or arising from the 404 permit process, including all permit costs, costs of consultants retained for the permit process, costs obligations under the permit for compliance with permit conditions, mitigation and monitoring and full indemnification for any litigation, damages or liability. However, the applicant has informed staff that it wishes to discuss a "donation" by the County "of its staff time to this effort". Such a request was not considered during the prior discussions on this matter and would result in an impact to CD/RA's budget in an unknown amount. The 404 permit process is time consuming and expensive. Absent a written assurance of 100 percent reimbursement from the applicant, the County's costs to apply for a 404 permit that it is not otherwise obligated to pursue would negatively impact CD/RA's budget, at a minimum, for FY 2014-15 and 2015-16. It is anticipated that the County's participation would primarily impact staff at CD/RA and County Counsel. Overall it is estimated that the commitment would be one-quarter to one-half of a full-time equivalent staff person per year. This commitment would likely go beyond one year. Therefore staff does not recommend support of this request.

The Wetland Discharge Permit Agreement would be drafted to provide a number of protections for the County. The material terms of this agreement would include:

- The purpose for the County's role is to facilitate the development of the University site.
- Reimbursement to County for County-incurred costs including salary, benefits and overhead of County staff and outside support from contractors managed by Placer County (Resources Law Group).
- Invoicing/payment schedules for reimbursement.
- Reimbursement or up-front payment of all permit related expenses, including all consultant services required for said permit.
- Hold harmless provisions to ensure the County is not held liable for delays in processing of permit.
- Provisions for transfer of permit to a third-party applicant.
- Termination provisions with no on-going liability or obligations to County should processing on the other two permits or on the Specific Plan Amendments cease.
- Termination provisions that provide the right for the County to terminate and withdraw the permit at no cost or liability if Warwick University does not vote affirmatively to proceed with the university on the RUSP site by February 1, 2015.
- Full indemnification for any costs of litigation, claims or permit enforcement actions.
- The scope of the County's participation will be limited to backbone infrastructure. (See attachments).
- Assurances that obligations to satisfy permit conditions, monitoring and maintenance are solely borne by Regional.

If any of the above material terms are not agreed to, then staff will return to the Board for further direction and authority. In particular, if Warwick does not proceed, staff is concerned that the County is making a long term commitment of County tax dollars to a 404 permit for the RUSP site that may or may not result in a university being built.

Benefits to Placer County

The most direct benefit associated with this decision is a contribution that the County can make to move the RUSP from entitlement to reality. The Board's legislative intent to support this project was specifically identified in the Final EIR and used in the findings of overriding consideration for this project. The following three benefits that were previously considered by the Board when the project was approved and are relevant to this policy decision being considered by the Board.

- The establishment of a well-respected four-year University that will serve Placer County's residents, attract talented students and staff, and provide a catalyst for business, cultural, and athletic opportunities.
- The provision of both construction jobs and permanent jobs to residents of Placer County and surrounding areas.
- The facilitation of construction of new transportation infrastructure and the provision of new public facilities that will serve the future residents in the vicinity of the RUSP which are over and above the facilities required to mitigate for the impacts of the project.

Potential Use of a COE WRDA Position

The County has a contract with the US Army Corps of Engineers (COE), via the Water Resource Development Act (WRDA), for a half-time position, senior-level COE staff person to process 404 permits for public projects in the unincorporated area and to work on the Placer County Conservation Plan (PCCP). Because the County has paid a deposit for this WRDA-authorized position, the County's projects are a first priority for the person assigned to work on the County's public projects. It is possible that the WRDA position could be used to process the backbone infrastructure COE permit for the RUSP project. County staff will continue to coordinate with the COE on this potential option which will further expedite the processing of the backbone infrastructure permit.

CEQA COMPLIANCE

A Final Environmental Impact Report ("FEIR") for the RUSP was certified by the Board of Supervisors in 2008 via Resolution No. 2008-369. Potential impacts of the backbone infrastructure was analyzed in the FEIR. No new impacts are anticipated as a result of the requested action. If the Board concurs with this proposal, the 404 permit for the backbone infrastructure would be subject to separate NEPA review by the Corps of Engineers.

FISCAL IMPACT

There will be no fiscal impact to the County if the reimbursement agreement is executed as proposed. The applicant has contended that due to the charitable and economic nature of this project, they would like to reserve the right to discuss the requirement for reimbursement further. As currently recommended by staff, the Board's actions will authorize the County Executive Officer to sign a reimbursement agreement that will provide for 100 percent cost recovery of County staff time. The reimbursement agreement will also provide for cost recovery for services provided by outside counsel (i.e., Resources Law Group) and/or consultants under contract to the County. If the Board agrees with applicant's request that the County not seek reimbursement of its staff and consultant's time, there will be a fiscal impact to the County as a result of unreimbursed staff time, in an amount that is that is difficult to predict at this time. However, given the assumption that is could

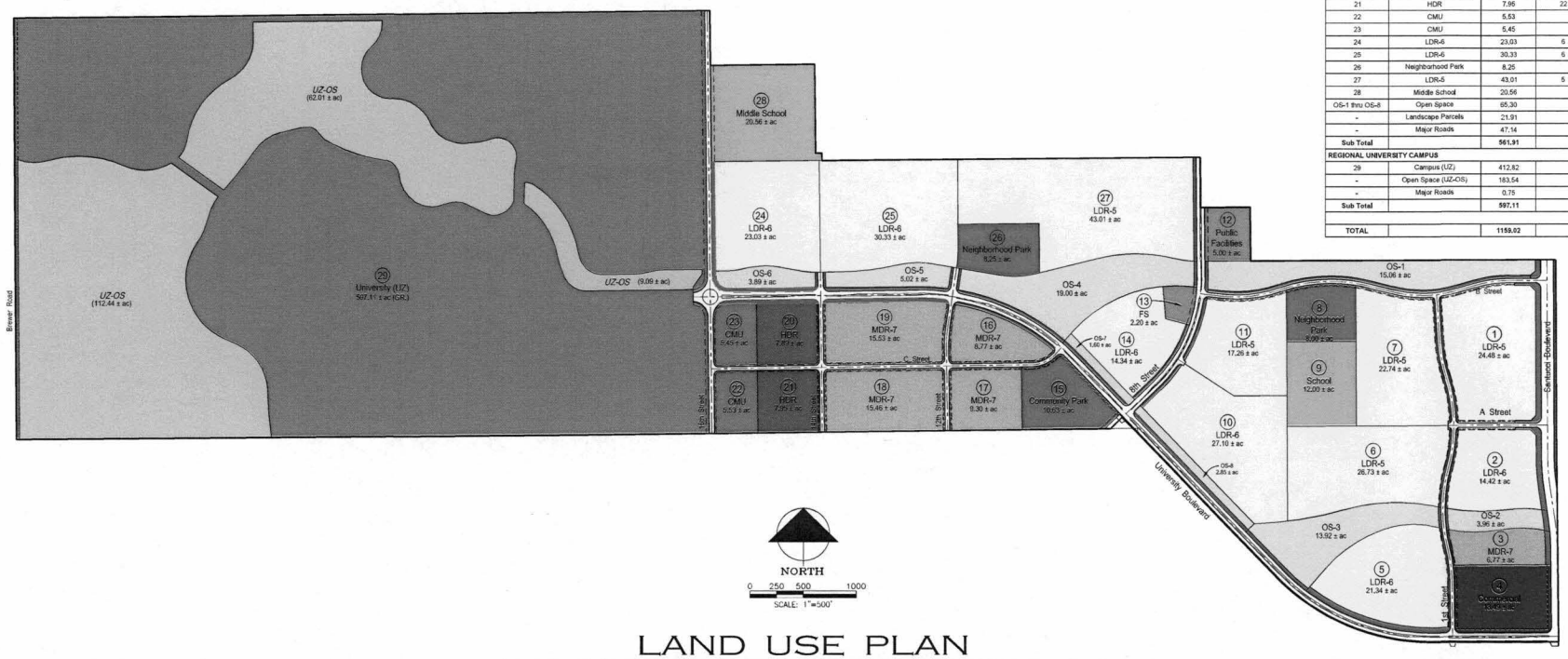
require a one-quarter to one-half FTE to help process this permit, the cost implications range between $75,000-$100,000 when salaries, benefits and overhead of the affected staff are considered.

ATTACHMENTS

Attachment A: Revised Land Use Diagram for the Regional University Specific Plan
Attachment B: Backbone Utility Infrastructure
Attachment C: Backbone Roadway Infrastructure
Attachment D: Impacts to Jurisdictional Waters of the United States from Backbone Infrastructure

cc: Julie Hanson
Michael Faust, W.M. Corporation
Chris Beale, Resources Law Group
Tim Taron, Hefner, Stark & Marois LLP
Clark Morrison, Cox Castle & Nichol

LAND USE SUMMARY				
Parcel No.	Land Use	Acres	Density	DU
REGIONAL UNIVERSITY COMMUNITY				
1	LDR-5	24.48	5	122
2	LDR-5	14.42	6	87
3	MDR-7	6.77	7	47
4	Commercial	13.49		
5	LDR-6	21.34	6	128
6	LDR-5	26.73	5	134
7	LDR-5	22.74	5	114
8	Neighborhood Park	8.00		
9	Elem. School	12.00		
10	LDR-5	27.10	6	163
11	LDR-5	17.26	5	86
12	Public Facilities	5.00		
13	Fire Station	2.20		
14	LDR-6	14.34	6	86
15	Community Park	10.63		
16	MDR-7	8.77	7	61
17	MDR-7	9.30	7	65
18	MDR-7	15.46	7	108
19	MDR-7	15.53	7	109
20	HDR	7.89	22	174
21	HDR	7.96	22	175
22	CMU	5.53		50
23	CMU	5.45		25
24	LDR-6	23.03	6	138
25	LDR-6	30.33	6	182
26	Neighborhood Park	8.25		
27	LDR-5	43.01	5	215
28	Middle School	20.56		
OS-1 thru OS-8	Open Space	65.30		
-	Landscape Parcels	21.91		
-	Major Roads	47.14		
Sub Total		561.91		2269
REGIONAL UNIVERSITY CAMPUS				
29	Campus (UZ)	412.82		2118
-	Open Space (UZ-OS)	183.54		
-	Major Roads	0.75		
Sub Total		597.11		2118
TOTAL		1159.02		4387



NORTH

0 250 500 1000

SCALE: 1"=500'

LAND USE PLAN

REGIONAL UNIVERSITY
SPECIFIC PLAN

County of Placer, California

Scale: 1"= 500'

MACKAY & SOMPS
ENGINEERS PLANNERS SURVEYORS

September 22, 2014

ATTACHMENT 1

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ENVIRONMENTAL CONSULTANTS

Backbone Infrastructure

Placer County, California

Regional University Backbone Infrastructure Utility Components

Backbone Infrastructure Project Area
Parcel Development
Pump Station
Storm Water
Utilities

N
W E
S

0 625 1,250 2,500
Feet

Map Date: November 2014
Map By: Chris Zumwalt
Basemap: Esri Streaming

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ATTACHMENT 2

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ENVIRONMENTAL CONSULTANTS

Backbone Infrastructure

Placer County, California

Regional University Backbone Infrastructure Roadway Components

Backbone Infrastructure Project Area

Roadway Components

N
W E
S

0 625 1,250 2,500
Feet

Map Date: November 2014
Map By: Chris Zumwalt
Basemap: Esri Streaming

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ATTACHMENT 3

Impacts to Jurisdictional Features (acres)					
	Intermittent Drainage	Perennial Drainage	Seasonal Wetland	Vernal Pool	Total Impacts
Roadway Components	0.25	0.32	0.2	0.003	0.77
Utility Components	0	3.14	0.94	0.79	4.87
Total Impacts	0.25	3.46	1.14	0.793	5.64

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ENVIRONMENTAL CONSULTANTS

Backbone Infrastructure

Placer County, California

Regional University Backbone Infrastructure Jurisdictional Impacts

Backbone Infrastructure Project Area (232.38 acres)
Impacts to Wetlands and Waters (5.64 acres)

Utility Components
- Parcel Development
- Pump Station
- Storm Water
- Utilities

Roadway Components
- Roadway Combined

Jurisdictional Features
- Intermittent Drainage
- Perennial Drainage
- Seasonal Wetland
- Vernal Pool

N W E S

0 625 1,250 2,500
Feet

Map Date: November 2014
Map By: Chris Zumwalt
Basemap: Esri Streaming

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ATTACHMENT 4

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