

MEMORANDUM

DATE: November 17, 2015

TO: Honorable Board of Supervisors

FROM: Michael J. Johnson, AICP, Agency Director
E.J. Ivaldi, Deputy Planning Director

BY: Loren E. Clark, Assistant Agency Director

SUBJECT: Regional University Specific Plan Backbone Infrastructure and Federal
Clean Water Act Section 404 permit

ACTION REQUESTED

1. Authorize the County Executive to execute a modification to the Regional University Specific Plan (RUSP) Reimbursement and Indemnification Agreement related to permits required to discharge of fill into Waters of the United States pursuant to Section 404 of the Clean Water Act.
2. Approve a Board of Supervisors Resolution providing general support for the Regional University project and support for the sequencing of Section 404 permitting that would place the RUSP Community and its backbone infrastructure as the first priority.

BACKGROUND

The 1,158-acre Regional University Specific Plan was approved on December 9, 2008. In addition to the Specific Plan, the Board also 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:

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- 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 the W.M. Corporation, a 501(c)(3) non-profit organization, now referred to as the University Development Foundation, 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 Campus portion of the property was subsequently transferred to Placer University Project, LLC and the Community portion of the property was subsequently transferred to Placer University Community Property, LLC.
- 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.
- The University of Warwick located in Coventry, United Kingdom, decided in February 2015 to initiate the establishment of a private university on the RUSP property.
- A Reimbursement and Indemnification Agreement was executed on December 29, 2014 as a result of the Board's actions on November 18, 2014.
- In December of 2014, The Placer University Project, LLC and the Placer University Community Property, LLC filed permit application materials with the U.S. Army Corps of Engineers to seek authorization for the fill or discharge into Waters of the United States that are present on the property.
- On September 8, 2015, the Placer University Project, LLC submitted a letter to the U.S. Army Corps of Engineers (COE) requesting that their application for a permit for the Campus portion of the project and its attendant backbone infrastructure, be withdrawn.
- In subsequent discussion with the County, the applicant has stated their preference to advance the Section 404 permitting for the Community as the first priority.

DISCUSSION

In the summer of 2014, discussions were initiated with County staff regarding the possibility of the County being a co-applicant or sole applicant on a wetland fill permit with the 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 Community and University portions of the RUSP property. Obtaining a COE permit is a significant regulatory milestone that must be achieved before any development can proceed on the RUSP site.

The wetland fill permits are necessary 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 were initially filed concurrently with the COE in December of 2014.

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Attachment C depicts the primary features of the backbone infrastructure associated with the revised Specific Plan. 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 (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 Attachment 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.

When the Board considered this item in November of 2014, there were a number of benefits associated with the County being the permit applicant for the backbone infrastructure. The primary objective is to ensure that the COE's permitting process is as efficient and expeditious as possible. Through the County's participation it is assumed that the County can have a positive influence on the schedule, quality/cost control, and consistency with other local, state and federal objectives. The County can also help keep a focus on the public benefits of the project.

Reimbursement and Indemnification Agreement–Modification of the Agreement Terms
Over the past couple of months there has been a discussion with the property owners' representatives about the need to prioritize the Clean Water Act Section 404 permitting on the Community portion of the overall project in advance of the University area. The reasoning is simple, the Community portion of the project is beneficial to financing the endowment that will help establish the university. Although there may be other means of financing available, this approach is the preferred option.

Given the improvement in local real estate conditions with the end of the Great Recession, it was determined, with the University of Warwick's concurrence, that it would be beneficial to the overall project to advance the sale of the Community portion of the project as soon as possible. In order for a project to be marketable in today's regulatory environment, it is not only necessary to obtain all CEQA clearances and the local entitlements but also to obtain all regulatory clearances for the Clean

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Water Act and the Federal Endangered Species Act. Because the University of Warwick's focus is on developing curriculum and locating office space in the Sacramento area there is not a pressing need to obtain a Section 404 on the University portion of the project at this time. Once funding for the University is more secure, and the curriculum and overall scope of the physical site improvements have been determined, it will then be necessary to proceed with the Section 404 permitting for the University project.

The result of this sequencing of the Section 404 permits is that the County will split its involvement the backbone infrastructure over two separate time periods with the Community proceeding immediately with its own standalone backbone infrastructure, followed by the University with an expansion and extension of the remaining backbone infrastructure for the University portion of the project.

Because the original Reimbursement and Indemnification Agreement was drafted to address the filing of three Section 404 permits concurrently, it has been determined that it is necessary to modify the agreement to account for the sequential filing of the permits. Attachment A is Amendment Number One to the agreement for the Board's consideration. The modified agreement includes a timing element that requires the filing of permits for the University within five years of the execution of the amended agreement.

Benefits to Placer County – Board of Supervisors Resolution

The most direct benefit associated with this decision is the 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. There are a number of benefits that have been previously considered by the Board which are relevant to this decision.

- 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 establishment of a mixed-use community adjacent to the University that will incorporate smart-growth principles and be attractive to residents, employers, and commercial service providers.
- The provision of a diversity of housing choices with overall densities higher than historically developed in the unincorporated area.
- 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 residents of south Placer County which are over and above the facilities required to mitigate for the impacts of the project.

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In order to further demonstrate the Board's support for the project and the sequencing of the Section 404 permits, a resolution has been prepared for the Board's consideration. Attachment B is a Board of Supervisors Resolution in support of the University, the Community and the prioritization of the permitting as discussed in this report.

CEQA COMPLIANCE

The subject actions of the Board are not considered a project subject to review under the California Environmental Quality Act.

FISCAL IMPACT

There is no fiscal impact to the County. The Board's actions will authorize the County Executive Officer to sign a modification to an existing reimbursement agreement that will provide for 100 percent cost recovery of County staff time. The reimbursement agreement also provides for cost recovery for services provided by outside counsel (i.e., Resources Law Group) and/or consultants under contract to the County.

Attachment A: Amendment one to the Agreement for Reimbursement and Indemnification
Attachment B: Board of Supervisors Resolution
Attachment C: Backbone Infrastructure Figure and Community Figures

cc: Julie Hanson
Michael Faust, University Development Foundation
Chris Beale, Resources Law Group
Tim Taron, Hefner Law
Clark Morrison, Cox Castle & Nicholson

**AGREEMENT FOR REIMBURSEMENT AND INDEMNIFICATION
REGIONAL UNIVERSITY SPECIFIC PLAN PROJECT
CLEAN WATER ACT COMPLIANCE
AMENDMENT ONE**

This Amendment One to the Agreement for Reimbursement and Indemnification ("**Amendment One**") is made and entered into by and between the County of Placer ("**County**") and Placer University Community Property, LLC, a Limited Liability Corporation ("**Community**"), and Placer University Project, LLC, a Limited Liability Corporation ("**University**") (County, University and Community collectively, referred to as the "**Parties**").

Whereas, on November 18, 2014, the Placer County Board of Supervisors authorized the execution of the Agreement for Reimbursement and Indemnification ("**Agreement**"), which Agreement was subsequently fully executed by the parties on December 29, 2014; and

Whereas, in furtherance of the Agreement, on December 29, 2014, the County signed an application for the County to be the Project Applicant for the Regional University Backbone Infrastructure permit to discharge fill into the waters of the United States pursuant to Section 404 of the Federal Clean Water Act ("**404 Permit**"), which application was submitted concurrently and in conjunction with the University's 404 Permit application for the university campus ("**University 404 Permit**") and Community's 404 Permit application for the residential community ("**Community 404 Permit**"); and

Whereas, the purpose for the County's participation in the University and Community 404 Permits is to assist in expediting the 404 Permit process and the establishment of a four-year university in Placer County; and

Whereas, since submission of the University and Community 404 Permits, the University has determined that the cost of establishing the university would be best satisfied through the generation of revenue beyond what can be accomplished through donations; and

Whereas, the Parties have concluded that by separating out the 404 Permit to allow the Backbone Infrastructure for the Residential Community and the Community 404 Permit to move forward ahead of the University 404 Permit and Backbone Infrastructure for the University, such that revenue through sale of residential units on the residential community parcel can generate additional beneficial capital to allocate towards construction of the university; and

Whereas, the U.S. Army Corps of Engineers ("**COE**") has preliminarily indicated that it would allow the University 404 Permit to be placed on hold and/or withdrawn in order to expedite the Community 404 Permit and the 404 Permit for the Backbone Infrastructure for just the residential community; and

Whereas, the County is willing to continue as the applicant for the Backbone Infrastructure Permit for the residential community property as the first priority in order to allow University to generate revenue in order to promote the future establishment of a university in Placer County provided the University 404 Permit is re-initiated by University within five (5) years of this Amendment One.

Whereas, County is not obligated to be the applicant for any permit(s) for the Infrastructure Improvements and would not be the applicant for any necessary permit(s) under Section 404 unless University and Community agreed to reimburse County for all costs associated with Section 404 compliance and agreed to, and actually undertook, full and complete

ATTACHMENT A

indemnity for County against the costs of litigation or enforcement action or the threat of litigation or enforcement action related to Section 404 compliance.

Now, therefore, it is mutually agreed between County, University and Community as follows:

I. Section 4 of the Agreement is hereby amended to add subsection J as follows:

J. EARLY TERMINATION

This Agreement is subject to early termination by the County if (1) the University 404 Permit is not reactivated and/or resubmitted by University with the COE within five (5) years of the date of this Amendment or (2) if University decides to formally withdraw its application for a campus university through amendment to the Regional University Specific Plan to eliminate the university campus use; whichever is earlier.

II. All other provisions of the Agreement remain in full force and effect.

NOW THEREFORE, PARTIES EXECUTE THIS AMENDMENT ONE ON THE DATE WRITTEN BELOW:

COUNTY OF PLACER:

By: _____
David Boesch
Placer County Executive Officer

Dated: _____

PLACER UNIVERSITY COMMUNITY PROPERTY, LLC:

By: _____
University Development Foundation, Managing Member
Kyriakos Tsakopoulos, President

Dated: _____

PLACER UNIVERSITY PROJECT, LLC:

By: _____
University Development Foundation, Managing Member
Kyriakos Tsakopoulos, President

Dated: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Placer County Counsel's Office
Counsel for County

Counsel for University and Community

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

In the matter of:

Resol. No: _____

A RESOLUTION SUPPORTING THE ESTABLISHMENT OF A UNIVERSITY ON THE REGIONAL UNIVERSITY SPECIFIC PLAN PROPERTY AND RECOGNIZING NEED TO PRIORITIZE LOCAL, STATE AND FEDERAL PERMITS FOR THE COMMUNITY PHASE OF PROJECT

The following Resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held _____ 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, it is a priority of the Placer County Board of Supervisors to see the establishment of a 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; and

WHEREAS, the Regional University Specific Plan project was approved Placer County in 2008 and includes a University Property for a four-year university (including a core campus, faculty housing, student housing, and administrative facilities) and a Community Property (including a higher density university village with mixed-use commercial/residential and low-medium density residential villages); and

WHEREAS, the project will provide a diversity of housing choices with overall densities higher than historically developed in the unincorporated area; and

WHEREAS, the project will provide both construction jobs and permanent jobs for residents of Placer County and surrounding areas; and

WHEREAS, the project will facilitate construction of new transportation infrastructure and the provision of new public facilities that will serve the residents of south Placer County which are over and above the facilities required to mitigate for the impacts of the project; and

WHEREAS, the University of Warwick, ranked as the 6th top research university in the United Kingdom and consistently among the top 100 universities worldwide, will continue to pursue the establishment of a campus that will educate as many as 6,000 students annually on the University Property; and

WHEREAS, assisting in bringing University of Warwick to Placer County is of paramount importance to the County because the University of Warwick will bring a top-ranked academic and research university that will strengthen the County's vibrant regional economy; and

WHEREAS, the development of the University Property and the Community Property are being advanced in a manner consistent with the Placer County Conservation Plan (PCCP); and

WHEREAS, the development of the Regional University Specific Plan will require three permits for the discharge of fill into waters of the United States pursuant to Section 404 of the Federal Clean Water Act ("404 Permit"): 1) University Property, 2) Community Property, and 3) Backbone Infrastructure for both the University and Community Properties; and

WHEREAS, on December 29, 2014, the County agreed to be the Project Applicant for the Regional University Backbone Infrastructure 404 permits for the University Property and Community Property; and

WHEREAS, the purpose for the County's participation in the 404 Permit is to assist in expediting the 404 Permit process and the establishment of a four-year university in Placer County; and

WHEREAS, since submission of the 404 Permit, the project applicants have determined that the cost of establishing the university would be best satisfied through the generation of revenue beyond what can be accomplished through donations; and

WHEREAS, the Community Property can provide some of the financing required for the University of Warwick to be established through the donation of the net proceeds from the sale of the Community Property to the University Development Foundation, a nonprofit group formed to promote higher education opportunities in the Capital region; and

WHEREAS, separating out the 404 Permits will allow the Community Backbone Infrastructure and Community Property permits to move forward ahead of the University Property permits; helping to insure that the revenue raised through the sale of residential units on the Community Property will generate additional beneficial capital to allocate towards construction of the University Property; and

WHEREAS, the County is willing to continue as the applicant for the Community and University Backbone Infrastructure 404 Permit provided the University Property permit is re-initiated within five (5) years of the date of this resolution; and

WHEREAS, the County's continued participation as an applicant for the Backbone Infrastructure 404 Permit for the Community Backbone Infrastructure is intended to assist in expediting the completion of environmental review, including the preparation and review of a National Environmental Policy Act document; and

WHEREAS, the County can help assist the U.S. Army Corps of Engineers with all aspects of environmental review and assessment due to its significant experience with preparing documents pursuant to the California Environmental Quality Act and its experience as acting as a lead agency; and

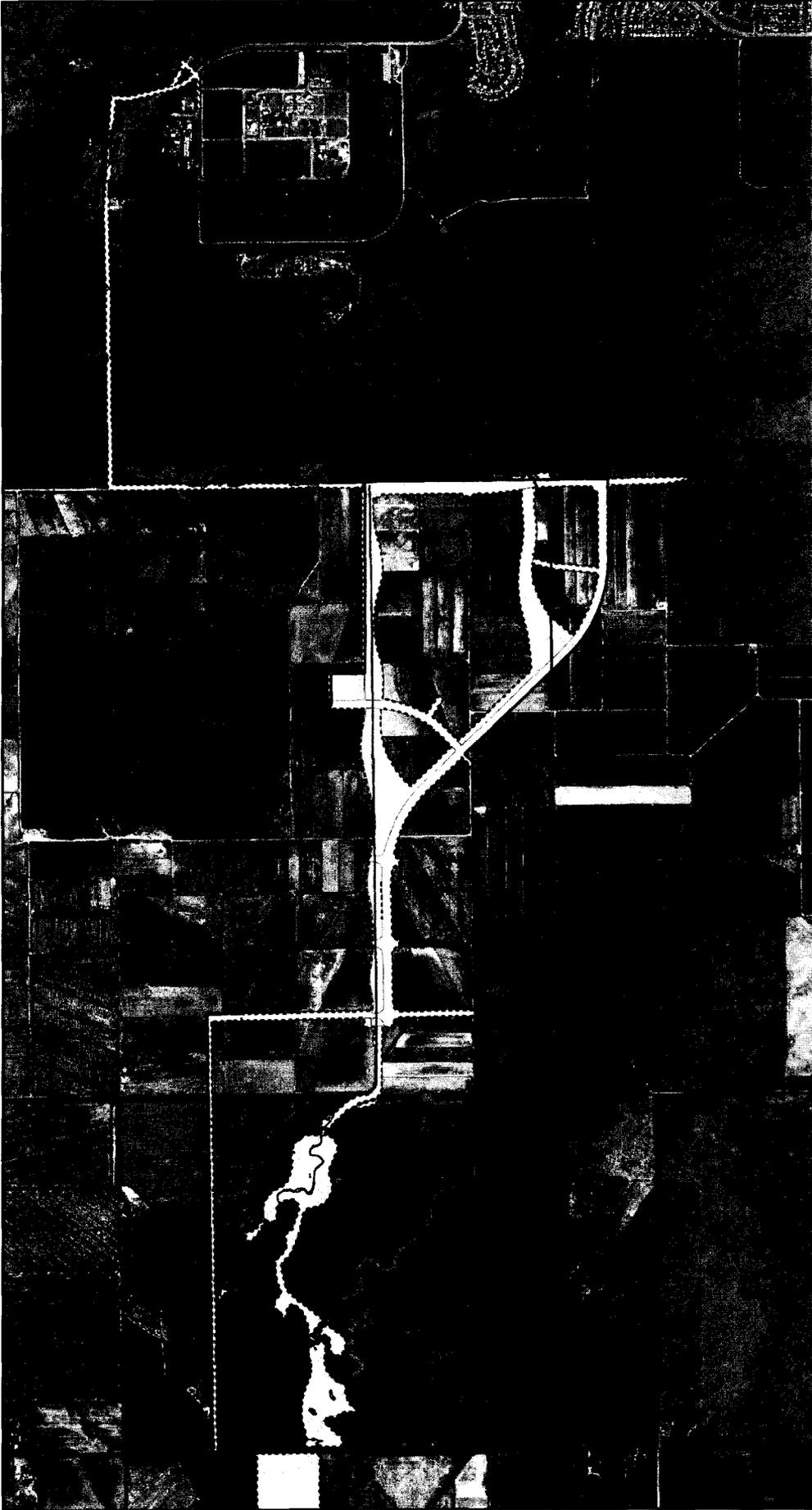
WHEREAS, having the County as both applicant and co-lead agency will be helpful in focusing the U.S. Army Corps of Engineers on the public benefits associated with the project as expressed by the Placer County Board of Supervisors.

NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER that:

(1) The County supports the establishment of a four-year University in south Placer County on the Regional University Specific Plan – University Property and a residential, commercial and mixed use project on the Community Property.

(2) The Board supports the County's direct participation in any local, state or federal permitting activity required before the University Property or Community Property can be developed due to the public benefits of the project to the County and due to charitable nature of the venture itself.

BE IT FURTHER RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER to respectfully request that the U.S. Army Corps of Engineers prioritize the review of Community Property 404 Permits prepared pursuant to the federal Clean Water Act to assist with the raising of capital for the construction of a new university, and that such review be processed expeditiously.



Infrastructure and Improvement Footprint