

6.

RESOLUTION NO. 12-12

**RESOLUTION OF THE LOS ALTOS HILLS COUNTY FIRE DISTRICT APPROVING
THE COST SHARING AGREEMENT FOR THE NEARY TANK UTILIZATION
PROJECT
BETWEEN THE LOS ALTOS HILLS COUNTY FIRE DISTRICT
AND PURISSIMA HILLS WATER DISTRICT**

WHEREAS, the Board of the Los Altos Hills County Fire District (ADistrict@) has read and considered the Cost Sharing Agreement for the Neary Tank Utilization Project ("Agreement") between the District and Purissima Hills Water District, a copy of which is attached hereto as Exhibit A.

NOW, THEREFORE, the District Board does **RESOLVE** as follows:

1. Public interest and convenience require the Los Altos Hills County Fire District enter into the Agreement to upgrade the Neary tanks to provide additional fire protection resources.

2. The Los Altos Hills County Fire District hereby approves the Agreement and the Board President is hereby authorized on behalf of the Los Altos Hills County Fire District to execute the Agreement between the District and the Purissima Hills Water District.

PASSED AND ADOPTED this ____ day of _____, 2012.

By: _____
David Bergman
Board President

ATTEST:

District Clerk

COST SHARING AGREEMENT FOR THE NEARY TANK UTILIZATION PROJECT

This Cost Sharing Agreement for the Neary Tank Utilization Project ("Agreement") is made as of this ___ day of _____, 2012 ("Effective Date") by and between Purissima Hills Water District ("Water District") and Los Altos Hills County Fire District ("Fire District").

RECITALS

- A. Water District will be designing and constructing a construction project known as the Neary Tank Utilization Project ("Project"), which is described in the Project Description of this Agreement; and
- B. Construction on the Project is currently estimated to commence in September of 2013, as indicated in the Preliminary Project Schedule attached as Exhibit A to this Agreement; and
- C. The Project will provide benefits for both water service and fire service; and
- D. Water District and Fire District (collectively the "Parties") estimate that 80% of the benefits of the Project will go toward fire service, while the remaining 20% of the benefits of the Project will go toward water service; and
- E. The Parties have agreed to share the costs of the Project in the same proportion as the benefits, with Fire District contributing 80% of the total Project cost up to a sum not to exceed \$2,400,000.00.

NOW, THEREFORE, the Parties agree as follows:

1. Scope of Agreement. This Agreement embodies the terms and conditions for sharing the costs of the design, construction and construction support for the Project. This Agreement may be amended only with the mutual written consent of the Parties.
2. Project Description. This Project involves the design and construction of 6,600 linear feet of 12-inch ductile iron pipe, 8 service connections, and the seismic upgrade of Neary Tank No. 2. All facilities are located in the City of Los Altos Hills, California.

The Project may be awarded and performed pursuant to two separate construction contracts. One contract will be for the installation of the 6,600 linear feet of ductile iron pipeline from Altamont Court to the Altamont Tank site at the end of Byrne Park Lane, along with 8 service connections. The second contract will be for the seismic upgrade of the Neary Tank. Collectively, these two contracts will be referred to as the "Project" for purposes of this Agreement. The Project is described in more detail in Exhibit B.

3. Project Management. Water District shall be solely responsible for the design and construction of the entire Project including any legally applicable bidding requirements, managing the environmental review process under the California Environmental Quality Act, and daily inspection during the Project's construction phase. Water District will award the construction contract pursuant to its contract award procedures. Water District will be the sole owner of all facilities constructed in conjunction with the Project, unless Minor Work on Fire District facilities is added to the scope as discussed below in paragraph 7.

The Parties are entering into this Agreement prior to receiving bids for construction of the Project. Fire District may review the design for the Project, and provide comments and suggestions to the Water District before the Project is advertised for construction bids. Water District will use best efforts to incorporate any changes. When the Water District receives the construction bids, it shall, within 48 hours of determining the winning bid, forward the winning bid via email to Fire District for review and approval.

4. Sharing of Costs. It is the intent of this Agreement to provide for the sharing of costs for the design, construction and construction inspection services, required for the completion of the Project. Fire District hereby agrees to provide funding for 80% of the actual total cost for the Project, up to a sum not to exceed \$2,400,000.00. The estimated total cost for the Project is currently \$2,700,000.00 including a 10% contingency, although the actual total cost may vary depending on design costs, construction bids, and other unforeseen circumstances.

The Parties will bear the cost of their own internal administrative and legal consultant costs. The Parties will share the costs for design services, construction and any other outside technical consultants required on the Project due to unforeseen conditions. In addition, the Parties will also share the cost of construction inspection services, whether performed by Water District staff or external consultants.

5. Payment Procedures. Water District shall pay all invoices for design, construction and construction support submitted in conjunction with Project.

Fire District shall make an initial deposit to Water District in the amount of \$500,000.00 within 45 days of the notice to proceed for construction. The deposit will collect interest paid to the Fire District, equal to the LAIF quarterly interest rate to be paid on January 15, April 15, July 15, and October 15. Water District will use this initial deposit for cash flow purposes, and will pay invoices submitted for construction and construction support services provided on the Project from these funds.

Simultaneously, Water District will also submit monthly invoices to Fire District to replenish the deposit, each invoice reflecting 80% of the amount of the invoices submitted to the Water District on the Project during that month. Fire District shall pay the invoices within 30 days of receipt. Once the sum of the invoices for the Fire District have totaled One Million Five Hundred Thousand Dollars (\$1,500,000.00), the Water District will use the deposit as reimbursement of Project costs, starting in the following

month. Water District will continue to issue invoices reflecting that Fire District's 80% reimbursement payments have been made from the deposit. The remaining balance of the deposit will continue to collect interest calculated monthly and paid quarterly to the Fire District. Once the deposit has been spent, Fire District will resume payment of Water District's invoices reflecting 80% of the invoices submitted on the Project during that month, until the Project is completed, or until Fire District has paid its not to exceed sum of \$2,400,000.00.

6. Change Orders. Water District shall keep Fire District aware of the progress of the work by monthly written status reports. All construction change orders or change notices for the Project shall be submitted to Fire District for review.

Fire District's contribution is limited to 80% of the total Project cost, for a sum not to exceed \$2,400,000.00, regardless of the number or amount of change orders issued on the Project.

7. Inclusion of Minor Work for Fire District. Fire District may propose to add Minor Work on its facilities to the scope of the Project at any time during the Project. If Minor Work is incorporated into the scope of the Project, Fire District shall reimburse Water District for the costs incurred with regard to the design and construction of the Minor Work, which reimbursement will be separate from, and in addition to, the Fire District's cost sharing obligations set forth in Section 4 of this Agreement.

The Minor Work shall be included as a separate bid item on the construction bid form, or in the form of a change order. The construction cost of the Minor Work shall not exceed the bid price for the Minor Work and any additional costs reasonably necessary to complete the Minor Work (including, but not limited to, costs related to unforeseen site conditions).

8. Inspection Prior to Final Acceptance. Prior to final acceptance of the construction work on the Project, the Parties shall conduct a joint inspection of the work.

9. Insurance. Water District shall ensure that its design consultant and all contractors provide appropriate types and amounts of insurance for the Project, as required by the Water District, and that the design consultant and contractors each name the Fire District as an additional indemnified party and an additional insured. Water District shall provide the Fire District with documentation evidencing the above.

10. Indemnity. Water District shall indemnify, defend, keep and save harmless the Fire District, and its directors, officers, agents, employees and independent contractors against any and all liability, damages, costs, claims or actions, including reasonable attorney fees and charges, arising out of any injury to persons or property that may occur, or that may be alleged to have occurred, in the course of the Project caused by any act or omission of the Water District or its employees. This indemnification obligation shall survive the termination or suspension of this Contract

11. Warranty Work. Water District shall ensure that contractor performs all warranty work during the one year warranty period. Fire District shall notify the Lead

Agency promptly if any warranty work is required on the Minor Work. Fire District shall cooperate with Water District as may be necessary to have contractor complete all warranty work.

12. Acceptance of Minor Work. Fire District shall have the right to inspect and determine that the Minor Work has been completed in a manner reasonably satisfactory to Fire District. Ownership of the Minor Work will transfer automatically to the Fire District after Water District accepts the construction contract as complete and files a Notice of Completion.

13. Notice. All notices given pursuant to this Agreement shall be given in writing, sent by U.S. mail, postage prepaid, and addressed as follows:

Water District: General Manager
26375 Fremont Road
Los Altos Hills, CA 94022
fax:
phone:
email:

Fire District: Fire Consultant
P.O. Box 1766
Los Altos, CA 91023
fax:
phone:
email:

Copy to: Dan Siegel
Jorgenson, Siegel, McClure &
Flegel, LLP
1100 Alma Street, Suite 210
Menlo Park, CA 94025-3392

14. Severability. If any part of this Agreement is held unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Agreement.

15. Attorneys' Fees. In the event that any legal action is commenced to enforce the terms of this Agreement, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs.

16. Entire Agreement. This Agreement constitutes the complete expression of the agreement between the Parties. There are no other agreements between the Parties concerning the subject matter of this Agreement except those set forth in this Agreement. Only a writing signed by both Parties may modify this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year referenced above.

WATER DISTRICT

FIRE DISTRICT,

By: _____
President
Board of Directors

By: _____
President
Board of Commissioners

Attest:

Attest:

District Secretary

District Clerk



Pakpour Consulting Group, Inc.

MEMO – EXHIBIT A

Agency:	Purissima Hills Water District Los Altos Hills County Fire District	Date 10/5/12
Attn:	Patrick Walter / Stu Farwell	
Project Name:	Neary Tank Utilization Project	Project No. 10002.23
Reference:	Preliminary Project Schedule	
From:	Joubin Pakpour, P.E.	

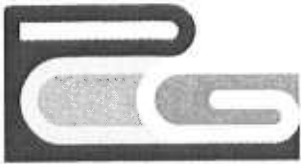
The following schedule should be used for planning purposes only.

Preliminary Project Schedule	Completed Date
Receive Notice to Proceed	November 1, 2012
Route selection and preliminary engineering	November 2012
Right-of-Way research and topographic survey	December 2012
50% preliminary plans, specifications and cost estimate	February 28, 2013
80% preliminary plans, specifications and cost estimate	April 30, 2013
100% plans, specifications and cost estimate	June 30, 2013
Signed and Sealed plans, specifications and cost estimate	July 28, 2013
PHWD Board of Directors Approval to Advertise Project	August 14, 2013
Bid Opening (4 weeks of Advertisement)	September 3, 2013
PHWD Board of Directors Awards Project	September 11, 2013
Start of Construction	October 2013

Preliminary Project Budget (FY 12-13)	
Topographic Survey	\$45,000
Structural Engineering (Neary Tank Seismic Retrofit)	\$35,000
Civil design through final plans, specifications and cost estimate	\$250,000
Total FY 12-13:	\$330,000

Preliminary Project Budget (FY 13-14)	
Support during advertise period and construction inspection	\$270,000
6,600 linear ft of 12-inch DIP @ \$200 LF	\$1,320,000
8 service connections	\$22,000
Neary Tank No. 2 Seismic Upgrades	\$500,000
Contingency 10%	\$258,000
Total FY 13-14:	\$2,370,000

Total Preliminary Project Budget:	\$2,700,000
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Pakpour Consulting Group, Inc.

MEMO – EXHIBIT B

Agency: Purissima Hills Water District
Los Altos Hills County Fire District
Date 9/14/12

Attn: Patrick Walter / Stu Farwell

Project Name: Neary Tank Utilization Project
Project No. 10002.23

Reference: Project Background and Scope of Work

From: Joubin Pakpour, P.E.

The Neary Tank Site is District's largest storage facility and has a capacity of 3,200,000 gallons split between Neary No. 1 (200,000 gallons) and Neary No. 2 (3,000,000 gallons). Due to smaller diameter piping, only a fraction of the available storage is used. The existing storage is adequate for the District's day to day operations but may not be adequate for fire protection. Since the site is located at the southwestern edge of the District, water travels through the entire District from the San Francisco PUC connections at Veterans Hospital to reach the tanks.

Currently, during the summer months the average storage at the Neary Tank Site is approximately 700,000 gallons. During the winter months, the District takes Neary No. 2 out of service due to water quality concerns and uses only an average of 100,000 gallons of storage at the site leaving a portion of the District with potentially inadequate fire and emergency storage (shown in red hatch on Sheet 1 of this exhibit) should a major fire occur during the winter operational season.

In 2000, as part of the Mains 1999-2000 Project, the District installed 7,700 LF of 12-inch seismically designed ductile iron pipe (DIP) from Altamont Court to the Neary Tank driveway on La Loma Drive. The Neary Tank Utilization Project would extend a 12-inch DIP approximately 6,600 LF from Altamont Court to the Altamont Tank Site. There are no water mains currently in this area. The Mains 1999-2000 Project greatly promoted usage of the Neary Tanks and the proposed Neary Tank Utilization Project will close the missing link in connecting the two Zone 3 tank sites.

Hydraulic modeling indicates upon completion of the Neary Tank Utilization Project, average storage in the site can feasibly increase to 2,000,000 gallons during the summer months and to 1,000,000 gallons during the winter months while maintaining water quality. The larger diameter pipe will allow the District to keep Neary No. 2 in service during the winter months by back feeding the water into the rest of Zone 3.

As part of this project, Neary No. 2 will be seismically retrofitted to withstand a 975 year earthquake. This is a higher level of motion than essential structures in California are designed to and corresponds to the design criteria of the SFPUC Hetch Hetchy Seismic Upgrades.