



Monterey County

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Board Report

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Approve and authorize the Chair to sign an Advanced Funding Agreement with BMC EG TOWNS, LLC funding County costs for monitoring and reporting on compliance with prevailing wage obligations in construction of the East Garrison project in the former Fort Ord area of the County.

RECOMMENDATION:

It is recommended that the Board of Supervisors approve and authorize the Chair to sign an Advanced Funding Agreement with BMC EG TOWNS, LLC relating to the provision of funds to cover County costs for monitoring and reporting on prevailing wages obligations.

SUMMARY:

The recommended action will provide for the vertical developer of the Townhouse product type in the East Garrison Project to provide funding to cover the County's costs of monitoring and reporting on the developer's responsibilities to pay prevailing wages for construction, consistent with the terms of the East Garrison Disposition and Development Agreement.

DISCUSSION:

In 2006, the County's Redevelopment Agency entered into a Disposition and Development Agreement ("DDA") and the County entered into a Development Agreement ("DA") with East Garrison Partners I, LLC ("EGP") for a development (the "East Garrison Project") of up to 1,470 dwelling units, some 34,000 square feet of commercial, retail and community uses, and the rehabilitation of the Historic District. The entire area was graded, a final subdivision map for Phase I was recorded, and Phase I infrastructure for "wet" utilities (e.g., water, sewer and storm drain) was installed.

During the "Great Recession", the East Garrison Project was acquired by Union Community Partners ("UCP"), which became the new Master Developer pursuant to a First Implementation Agreement approved in June, 2011. UCP has been working to fulfill the terms of the DDA and DA since that time.

Under the DDA, the Master Developer is allowed to transfer portions of the Project to third party builders, including affiliated entities, for the actual construction of residences ("vertical developers"). To date UCP has transferred ownership of 260 lots in Phase 1 and 237 lots in Phase 2 to five separate affiliate LLCs, each for construction of a separate "product type" of market-rate single family homes. UCP is now preparing to transfer ownership of nine lots in Phase 1 and fifteen lots in Phase 2 for construction of a total of 150 condominium units called the "Townhouse" product type. The Townhouse units will provide a mixture of Moderate Income, Workforce 2 and market rate units for sale.

Pursuant to Section 321 of the DDA and the FORA Master Resolution, vertical developers have the obligation to pay prevailing wages for all construction on the parcels. The Assignment and Assumption Agreement for these parcels expressly reaffirms the prevailing wage obligations and requires an Advanced Funding Agreement to pay for the County's monitoring efforts.

The purpose of the recommended Board Action is to approve the Advance Funding Agreement for the Townhouse product type, and to require the vertical developer to make a deposit in the amount of Two Thousand Four Hundred Dollars (\$2,400) to cover the County's costs. If the deposit goes below \$500 the vertical developer must replenish the deposit.

Benchmark Communities continues to retain a consulting firm, Contractor Compliance and Monitoring, Inc. (CCMI), to collect and analyze the wage data on all construction activity on East Garrison and to resolve complaints and address instances of non-compliance. Prior to finalizing for occupancy any individual structure constructed in East Garrison, the County requires the builder of each home to certify in writing that the unit was built in accordance with prevailing wage requirements.

County staff or a consultant retained by the County visits the developer's consultant's office monthly to review their files and verify that proper procedures for reviewing certified payrolls and resolving any worker complaints are adhered to. In the event the County ascertains that a complaint is not being resolved in a timely way, the County has authority to stop work or take other remedial action (e.g. withhold final inspection/occupancy) until the complaint is resolved.

OTHER AGENCY INVOLVEMENT:

The office of the County Counsel has approved the recommended Advanced Funding Agreement as to form. Many departments, including RMA divisions and the CAO, are involved in monitoring compliance with the conditions of the East Garrison project and implementations of the DDA.

FINANCING:

The recommended action will have no impact on the County General Fund. Pursuant to the East Garrison DDA and this Agreement, the vertical developer is required to provide funding for the County's obligations to monitor and report on the developers' prevailing wage obligations.

Prepared by: G.H. Nichols, P.E., Special Projects Engineer
Reviewed by: Melanie Beretti, Special Programs Manager
Approved by: Carl P. Holm, AICP, Resource Management Agency Director

The following attachment is on file with the Clerk of the Board:

Attachment A Advanced Funding Agreement with BMC EG TOWNS, LLC