



Monterey County

Board of Supervisors
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Board Report

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- a. Acknowledge the Successor Agency to the Redevelopment Agency for the County of Monterey is accepting the Completion Guarantees by Casa Acquisition Corp. for East Garrison Phase 2 and Phase 3 very low and low-income rental affordable housing units, guaranteeing a completion date for Phase 2 and Phase 3 affordable units by no later than March 31, 2025 and providing a surety performance bond in the amount of \$17,500,000 for each of the Phase 2 and Phase 3 affordable housing units; and
- b. Authorize the Chair to execute the County acknowledgement of the Completion Guarantees for Phase 2 and Phase 3.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Acknowledge that the Successor Agency to the Redevelopment Agency for the County of Monterey is accepting the Completion Guarantees by Casa Acquisition Corp. for East Garrison Phase 2 and Phase 3 very low and low-income rental affordable housing units, guaranteeing a completion date for Phase 2 and Phase 3 affordable units by no later than March 31, 2025 and providing a surety performance bond in the amount of \$17,500,000 for each of the Phase 2 and Phase 3 affordable housing units; and
- b. Authorize the Chair to execute the County acknowledgement of the Completion Guarantees for Phase 2 and Phase 3.

SUMMARY/DISCUSSION:

The Disposition and Development Agreement for East Garrison (DDA) includes timing “triggers” or milestones by which the affordable housing apartments must be completed. The DDA is between the Successor Agency to the Redevelopment Agency of the County and Union Community Partners East Garrison, LLC (UCP). The Successor Agency is considering accepting the Completion Guarantees from Casa Acquisition Corporation (a parent company of UCP) to guarantee completion of the very low and low-income affordable housing units for Phases 2 and 3 by no later than March 31, 2025 and provide a surety performance bond in the amount of \$17,500,000 for each of the Phase 2 and Phase 3 affordable housing units. The County is not a party to the Completion Guarantees but is asked to acknowledge them.

UCP has hit the first milestone timing for the Phase 2 very low and low-income , and the next two milestones for Phase 2 and Phase 3 very low and low-income apartments by December 2019. Since fall of 2017 there has been concern by the UCP and the Successor Agency that the construction of the affordable units would not meet the timing requirements established by the DDA. UCP, the Successor Agency, and non-profit partners for Phase 2 Community Housing Improvement Systems and Planning Association, Inc. (CHISPA) and Phase 3 Artspace Projects, Inc. (Artspace) worked diligently to find

solutions to ensure that the DDA milestones are timely met. However, notwithstanding the best efforts of CHISPA and Artspace, and through no fault of UCP and or the Successor Agency, it is infeasible to meet the milestones for the Phase 2 and Phase 3 very low and low-income affordable housing requirements due to the lack of availability of local, state and/or federal funds to pay for the construction of the affordable units.

To enable the continued building and sale of market rate units in light of the affordable housing funding challenges, UCP requested that the County and Successor Agency accept a guarantee by Casa Acquisition Corporation (Casa) to complete the Phases 2 and 3 very low and low-income rental affordable housing units by March 31, 2025. Originally it was discussed that Century Communities would provide the guarantees for the rental affordable housing projects. However, in March, UCP learned that, due to certain loan covenants and debt ratio restrictions on Century Communities Inc.'s credit facility, it was infeasible for Century Communities, Inc. to deliver the Guaranties for the Phases 2 and 3 Affordable Housing requirements. As it turns out, Century Communities is the sole owner of another entity, Casa Acquisition Corp., that has over \$250M in net assets that can provide the Guaranties. Casa Acquisition Corp. is a parent of UCP East Garrison, LLC, the current Developer under the DDA - Casa Acquisition is the sole member of UCP, LLC, which is the sole member of UCP East Garrison, LLC.

The Completion Guarantee for Phase 2 is included with this report as Attachment 1 and a separate Completion Guarantee for Phase 3 is included as Attachment 2. By approving the Completion Guarantees, the Successor Agency agrees to waive UCP's compliance with the very low and low-income affordable housing milestones in the DDA, enabling the County to continue issuing building permits and certificates of occupancy for the market rate units.

The Fort Ord Committee supported approving the Completion Guarantees, but one Committee member requested the Phase 2 deadline be earlier (2023) as the Phase 2 very low and low-income affordable housing is intended to be completed ahead of the Phase 3 project so that the projects were not competing against each other for funding; and to consider requiring UCP to post a performance bond in addition to the Guarantees. Staff discussed these concerns further with the parties and County Counsel and recommends keeping the 2025 timeframe for both phases, as funding is unknown. In addition, each guarantee provides that the developer shall provide a surety performance bond in the amount of \$17,500,000 for each affordable housing project.

Staff recommends that the Board of Supervisors of the County acknowledge the Completion Guarantees by Casa Acquisition Corp. that provide for completion of the very low and low-income affordable housing units for Phases 2 and 3 by no later than March 31, 2025. In addition, each guarantee provides that the developer shall provide a surety performance bond in the amount of \$17,500,000, as security for the faithful performance of the construction, equipment and completion and payment for the Phase 2 and Phase 3 Guaranteed Units, respectively.

The DDA allows for the proposed Completion Guarantees. While the County is not a party to the DDA, the County consented to the DDA, which provided for the possibility of such delays and provided the developer the opportunity to provide a completion guarantee for the rental affordable housing units. Additionally, pursuant to a Development Agreement between the County and East

Garrison Partners, LLC (the predecessor in interest to UCP), the County acknowledged that the developer has the vested right to develop the East Garrison project in the order and at such rate and at such times as the developer deemed appropriate, subject to the timing requirements in the DDA, and the County acknowledged that the Agency (now Successor Agency) will administer the phasing, timing, and financial requirements pertaining to development, including affordable housing. (Sec. 2.5 of Development Agreement.) Additionally, the Inclusionary Housing Agreement between the Redevelopment Agency, the predecessor of the Successor Agency, and East Garrison Partners, LLC, the predecessor in interest of UCP, (dated June 20, 2007) states that the County has delegated to the Agency the authority and responsibility to enforce and administer the County's inclusionary housing requirements contained in Chapter 18.40, in accordance with the terms of the DDA. Accordingly, the County is not a necessary party to the Completion Guarantees, but for the documentary record, it is useful for the County to acknowledge the Completion Guarantees.

OTHER AGENCY INVOLVEMENT:

The Completion Guarantees are being presented concurrently to the Successor Agency to the Redevelopment Agency for the County of Monterey on July 9, 2019 for approval. The Office of County Counsel has reviewed the Completion Guarantee as to form. CHISPA and Artspace are the non-profit affordable housing developers identified in the DDA for the Phase 2 and Phase 3 rental apartment units, respectively.

This item was presented to the Board's Fort Ord Committee on February 11, 2019. The Fort Ord Committee supported approving the Completion Guarantees, and one Committee member requested the Phase 2 deadline be earlier (2023) as it is intended to be completed ahead of the Phase 3 project so that the projects were not competing against each other for funding; and to consider requiring UCP to post a performance bond in addition to the Guarantees. Staff discussed this further with the parties and counsel. While Phase 2 would likely be the first to proceed and it is UCP's and CHISPA's intent to bring the project in sooner, funding sources are unknown, so they request to retain the 2025 timeframe to complete both Phase 2 and Phase 3 projects. Staff and UCP did, however, negotiate that a surety performance bond in the amount of \$17.5 million be provided for each of the Phase 2 and Phase 3 affordable housing projects. The proposed bond amount was reviewed by the Chief Building Official and deemed sufficient to cover the cost of construction of the affordable housing projects, should it be necessary that UCP step in and complete the projects.

FINANCING:

The East Garrison Disposition and Development Agreement (DDA) obligates the (now) Successor Agency to use tax revenues ("tax increment") generated from the East Garrison project to provide financial assistance for DDA administration, affordable housing, public facilities, and historic building rehabilitation. There is no impact to the County General Fund to acknowledge the guarantees. Staff time to process this report is included in the RMA's baseline budget for fiscal year 2019-20.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Acknowledging the Completion Guarantees for Phases 2 and 3 very low and low-income housing developments at the East Garrison development achieves the following Board of Supervisors' Strategic Initiatives:

- *Economic Development*, “Through collaboration, strengthen economic development to ensure a diversified and healthy economy”, by helping to reduce poverty and economic hardships of low and very-low income residents.
- *Health and Human Services*, “Improve health and quality of life...and promoting access to equitable opportunities for healthy choices and healthy environments”, by providing affordable housing opportunities at East Garrison, designed to be a walkable community with many acres of parks and open space designed within it, and located adjacent to the habitat and open space lands of the former Fort Ord and the Fort Ord National Monument.

Economic Development

Administration

Health & Human Services

Infrastructure

Public Safety

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Attachments

Attachment 1 - Completion Guarantee for Phase 2 Affordable Rental Housing Units

Attachment 2 - Completion Guarantee for Phase 3 Affordable Rental Housing Units