



Monterey County

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Board Report

Legistar File Number: A 18-330

July 17, 2018

Introduced: 6/28/2018

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Agreement

- a. Approve and authorize the Chair to sign Amendment No. 3 to the Advanced Funding Agreement with BMC EG GARDEN, 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;
- b. Approve and authorize the Chair to sign Amendment No. 3 to the Advanced Funding Agreement with BMC EG BUNGALOW, 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;
- c. Approve and authorize the Chair to sign Amendment No. 1 to the Advanced Funding Agreement with BMC EG BLUFFS, 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;
- d. Approve and authorize the Chair to sign Amendment No. 2 to the Advanced Funding Agreement with BMC EG GROVE, 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; and
- e. Approve and authorize the Chair to sign Amendment No. 1 to the 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:

- a. Approve and authorize the Chair to sign Amendment No. 3 to the Advanced Funding Agreement with BMC EG GARDEN, 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;
- b. Approve and authorize the Chair to sign Amendment No. 3 to the Advanced Funding Agreement with BMC EG BUNGALOW, 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;
- c. Approve and authorize the Chair to sign Amendment No. 1 to the Advanced Funding Agreement with BMC EG BLUFFS, 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;
- d. Approve and authorize the Chair to sign Amendment No. 2 to the Advanced Funding Agreement with BMC EG GROVE, 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; and
- e. Approve and authorize the Chair to sign Amendment No. 1 to the 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.

SUMMARY:

The recommended action will provide for developer at the East Garrison Project to continue 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 and the Fort Ord Reuse Authority (FORA) Master Resolution.

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" of 2008-9, 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 and has transferred certain parcels for sale to affiliated entities for the actual construction and sale of homes.

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"). In order to do so, the vertical developers must agree to assume obligations of the DDA with respect to the parcels transferred. Pursuant to Section 321 of the DDA, the Master Developer (UCP) or any successor or assign (e.g. BMC EG for vertical development) have the obligation to pay prevailing wages for all construction on the parcels as well as the obligation to bear the County's costs of monitoring and reporting to ensure compliance with prevailing wage requirements. The Fort Ord Reuse Authority Master Resolution requires that all initial development on the former Fort Ord (including construction of residences developed by the East Garrison vertical developers) is subject to the requirement to pay prevailing wages. The payment of prevailing wages for vertical development is assumed by UCP's affiliated BMC EG as required by the FORA Master Resolution.

The referenced Advance Funding Agreements formalize this obligation and require a deposit be made to cover the County's costs for monitoring the developer's compliance. As UCP continues to transfer ownership of additional lots in Phase 3 of the development, it is necessary to amend the Agreements to include the new lots being sold.

OTHER AGENCY INVOLVEMENT:

The Office of County Counsel has reviewed the Amendments to the Advanced Funding Agreements and approved them as to form.

FINANCING:

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

There are sufficient appropriations within the FY 2018-19 adopted Budget in the East Garrison Fund 182-1070-8431-DEO028 to pay for the County's initial costs for this work, subject to reimbursement from the required deposits.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Compliance with prevailing wage obligations in construction of the former Fort Ord area is meant to ensure a diversified and healthy economy by creating better paying jobs and increasing the revenue base through business expansion.

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

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Reviewed by: Melanie Beretti, RMA Service Manager

Approved by: Carl P. Holm, AICP, Director, Resource Management Agency

Attachments:

- Attachment 1 - Amendment 3 to Advanced Funding Agreement with BMC EG GARDEN, LLC
 - Attachment 2 - Amendment 3 to Advanced Funding Agreement with BMC EG BUNGALOW, LLC
 - Attachment 3 - Amendment 1 to Advanced Funding Agreement with BMC EG BLUFFS, LLC
 - Attachment 4 - Amendment 2 to Advanced Funding Agreement with BMC EG GROVE, LLC
 - Attachment 5 - Amendment 1 to Advanced Funding Agreement with BMC EG TOWNS, LLC
- (Attachments on file with the Clerk of the Board)