



Legislation Details (With Board Report)

**File #:** ORD 20-008      **Name:** Public hearing to consider an ordinance amending the Development Agreement between the County of Monterey and UCP East Garrison, LLC to extend the term for 15 years (to October 4, 2035) and to establish a fee on remaining building permits for the East Gar

**Type:** Ordinance      **Status:** Scheduled PM

**File created:** 6/9/2020      **In control:** Board of Supervisors

**On agenda:** 6/16/2020      **Final action:** 6/16/2020

**Title:** Public hearing to consider an ordinance amending the Development Agreement between the County of Monterey and UCP East Garrison, LLC to extend the term for 15 years (to October 4, 2035) and to establish a fee on remaining building permits for the East Garrison Project to replace the Fort Ord Reuse Authority Community Facilities District Special Tax.  
 Proposed CEQA Action: Addendum together with previously certified Final Subsequent Environmental Impact Report for the East Garrison Specific Plan (FSEIR)  
 Project Title: REF200021/East Garrison Development Agreement Amendment (UCP East Garrison, LLC and County of Monterey)  
 Project Location: East Garrison Specific Plan area, former Fort Ord

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Board Report, 2. Attachment A-Addendum to Previously Certified FSEIR, 3. Attachment B-Ordinance & Exhibit 1, 4. Attachment C-East Garrison DA, 5. Attachment D-PC Resolution No. 20-013, 6. Attachment E-Detailed Discussion, 7. Attachment F-Link to FSEIR, 8. MS PowerPoint Presentation (Presented at Hearing), 9. DSEIR from Attachment A (Entire Document), 10. Attachment 7: DSEIR (Entire Document), 11. 1st Amended to Development Agreement (Recorded on 07-14-2020), 12. Item No. 12 Completed Board Order, Ordinance No. 5333 and 1st Amendment to Development Agreement

Date	Ver.	Action By	Action	Result
6/16/2020	1	Board of Supervisors		

Public hearing to consider an ordinance amending the Development Agreement between the County of Monterey and UCP East Garrison, LLC to extend the term for 15 years (to October 4, 2035) and to establish a fee on remaining building permits for the East Garrison Project to replace the Fort Ord Reuse Authority Community Facilities District Special Tax.

**Proposed CEQA Action:** Addendum together with previously certified Final Subsequent Environmental Impact Report for the East Garrison Specific Plan (FSEIR)

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**RECOMMENDATION:**

It is recommended that Board of Supervisors:

- a. Consider an Addendum (Attachment A) together with the Final Subsequent Environmental Impact Report (FSEIR) for the East Garrison Specific Plan, pursuant to Section 15164 of the California Environmental Quality Act Guidelines;
- b. Adopt an Ordinance (Attachment B) to approve the First Amendment to Development Agreement between

the County and UCP East Garrison, LLC, which would extend the Agreement for 15 years (to October 4, 2035) and establish a fee on remaining building permits for the East Garrison Project to replace the Fort Ord Reuse Authority Community Facilities District Special Tax.

The proposed Ordinance is Attachment B. The First Amendment to Development Agreement (Amendment) is Exhibit 1 to the Ordinance.

SUMMARY:

The East Garrison Development Agreement (DA) [Attachment C] was approved by the County Board of Supervisors on October 4, 2005, concurrent with approval of the East Garrison Specific Plan and approval of a Combined Development Permit and other entitlements for the East Garrison project on the former Fort Ord in the unincorporated area of the County. The existing DA requires the developer to comply with the conditions of approval, which include the payment of a Community Facilities District (CFD) Special Tax (aka FORA Fee) to the Fort Ord Reuse Authority (FORA). The FORA fee has been paid by developers upon issuance of a building permit and has been used to fund infrastructure projects included in the FORA Capital Improvement Program (CIP). On June 30, 2020, FORA will dissolve by operation of law, and the CFD fee will terminate. Additionally, the current DA will expire on October 4, 2020, and development of the East Garrison project is not yet complete. Progress was slowed due in large part to the 2008 recession.

Currently the DA imposes limitations on the County's ability to change or add new fees, and the Combined Development Permit makes specific reference to the FORA fee, which will terminate on June 30, 2020. UCP East Garrison, the owner and developer of the East Garrison project, and County staff have negotiated an Amendment to the DA, which will enable the County to collect a FORA CFD replacement fee (Replacement Fee) upon issuance of the remaining building permits after June 30, 2020 for the East Garrison project. In addition, the Amendment will extend the DA for fifteen years, to October 4, 2035, the time frame requested by the developer. Per Section 9. 3(c) of the DA, the Amendment to the DA applies only to the portion of the East Garrison project site for which the County has not approved a residence or building for occupancy and for which a building permit has not issued as of June 30, 2020.

Per State law and County Code, a Development Agreement is adopted by ordinance and any amendment to it requires a recommendation to the Board from the Planning Commission. On May 27, 2020, the Monterey County Planning Commission held a noticed public hearing on the proposed Amendment and recommended that the Board of Supervisors approve the First Amendment to DA. (Planning Commission Resolution No 20-013. (Attachment D).) The process for amending the DA requires a public hearing before the Board of Supervisors, followed by adoption of the Ordinance. The Ordinance becomes effective 30 days after adoption. There will be a short gap between the dissolution of FORA and the effective date of the proposed Amendment. The Amendment has a provision that any building permit issued during this short gap is subject to the Replacement Fee, which must be paid within 15 days of the effective date of the Amendment. Assuming adoption of the Ordinance on June 16, 2020, the Amendment will go into effect on July 17, 2020.

Monterey County Code Section 18.62.110 requires making certain findings when adopting or amending a Development Agreement. The proposed Ordinance includes the required findings.

DISCUSSION:

The proposed Amendment to DA, which is attached to the Ordinance as Exhibit 1, describes in full the background and reasons for the Amendment. See also Attachment E for detailed discussion.

CEQA

The Board of Supervisors certified the FSEIR (Attachment F) for the East Garrison Specific Plan on October 4,

2005 (Board of Supervisors Resolution No. 05-264). Pursuant to Section 15164 of the California Environmental Quality Act (CEQA) Guidelines, an Addendum has been prepared to make minor technical changes to the certified FSEIR based on the proposed Amendment to the DA described above. The Amendment does not include substantial changes to the project, so no major revisions to the previous EIR are required. The amendment does not allow any new development not approved under the previous EIR, and there are no substantial changes to the circumstances or new information of substantial importance that would require major revisions of the FSEIR due to new significant environmental impacts or substantial increase in the severity of previously identified significant effects.

OTHER AGENCY INVOLVEMENT:

FORA is legislatively scheduled to dissolve on June 30, 2020. Supervisors Parker and Phillips serve on the County Board of Supervisors Fort Ord Committee, which reviewed the proposed approach to adopting the replacement fee; Supervisors Adams, Parker, and Phillips serve on the FORA Board; and Supervisor Phillips serves as Chair of the FORA Legislative Committee. The County Administrative Office, the Office of the County Counsel, and Resource Management Agency (RMA) are part of the County FORA transition team and have been involved in the negotiations for the Amendment to the East Garrison DA. County Counsel participated in negotiating and drafting the proposed Amendment and related documents and has approved the First Amendment to DA and the proposed Ordinance as to form.

FINANCING:

Based on the proposed Replacement Fee and the number of building permits remaining to be issued, staff and the County fiscal consultant, have calculated that the Replacement Fee will yield total revenues of \$4,991,951 (\$2,825,958 , for habitat management; \$1,398,682 for TAMC transportation improvements; and \$757,281, for County local road improvements).

RMA staff time to evaluate FORA transition matters and prepare this report is funded as part of the FY 2019-20 Adopted Budget for the Redevelopment Obligation Retirement Fund, Fund 406, Appropriation Unit RMA109. The Management Specialist and consultant costs associated with analysis of FORA transition matters are funded by Board-approved operating transfers from General Fund Contingencies, Fund 001, Appropriation Unit CAO020, totaling \$150,000. These funds were transferred and appropriated in RMA, General Fund 001, Appropriation Unit CAO013 (\$50,000), and CAO, General Fund 001, Appropriation Unit CAO004 (\$100,000). RMA will work with CAO-Budget to true-up actual expenditures at the end of FY 2019-20 to ensure that any unexpended funds for outside consultants and expertise are returned to General Fund Contingencies, Fund 001. The Management Specialist and the Financial Advisor have been involved in calculating the replacement fee.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Extending the DA term and establishing a Replacement Fee for the FORA Fee support the Board of Supervisors' Strategic Initiatives for Economic Development and Infrastructure by continuing to support and facilitate the redevelopment of the former Fort Ord area at East Garrison and collecting necessary fees for infrastructure improvements and habitat management.

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

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Attachments

Attachment A-Addendum to Final Certified FSEIR for East Garrison Specific Plan  
Attachment B-Ordinance & Exhibit 1-First Amendment to Development Agreement  
Attachment C-East Garrison Development Agreement  
Attachment D-Planning Commission Resolution No. 20-013  
Attachment E-Detailed Discussion  
Attachment F-Link to Final Subsequent EIR for the East Garrison Specific Plan (2005)  
(Attachments are on file with the Clerk of the Board)