



Legislation Details (With Board Report)

File #: 17-0523 **Name:** EG Advanced Funding Agreement
Type: General Agenda Item **Status:** Passed
File created: 5/16/2017 **In control:** Board of Supervisors
On agenda: 6/6/2017 **Final action:** 6/6/2017

Title:

- a. Approve and authorize the Chair to sign Amendment No. 2 to Advance Funding Agreement No. A-12424 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. 2 to Advance Funding Agreement No. A-12425 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. 2 to Advance Funding Agreement No. A-12426 with BMC EG VILLAGE, 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
- d. Approve and authorize the Chair to sign Amendment No. 1 to Advance Funding Agreement No. A-13024 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.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board Report, 2. Attachment 1 - Proposed Amend #2 to Advance FA A-12424, 3. Attachment 2 - Proposed Amend #2 to Advance FA A-12425, 4. Attachment 3 - Proposed Amend #2 to Advance FA A-12426, 5. Attachment 4 - Proposed Amend #1 to Advance FA A-13024, 6. Attachment 5 - Advance FA A-12424 BMC EG Garden LLC, 7. Attachment 6 - Am#1 to Advance FA A-12424 BMC EG Garden LLC, 8. Attachment 7 - Advance FA A-12425 BMC EG Bungalow LLC, 9. Attachment 8 - Am#1 to Advance FA A-12425 BMC EG Bungalow LLC, 10. Attachment 9 - Advance FA A-12426 BMC EG Village LLC, 11. Attachment 10 - Am#1 to Advance FA BMC EG Village LLC, 12. Attachment 11 - Advance FA A-13204 BMC EG Grove LLC, 13. Completed Board Order and Fully Executed Agreements

Date	Ver.	Action By	Action	Result
6/6/2017	1	Board of Supervisors	approved	

- a. Approve and authorize the Chair to sign Amendment No. 2 to Advance Funding Agreement No. A-12424 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. 2 to Advance Funding Agreement No. A-12425 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. 2 to Advance Funding Agreement No. A-12426 with BMC EG VILLAGE, 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

d. Approve and authorize the Chair to sign Amendment No. 1 to Advance Funding Agreement No. A-13024 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.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve and authorize the Chair to sign Amendment No. 2 to Advance Funding Agreement No. A-12424 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. 2 to Advance Funding Agreement No. A-12425 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. 2 to Advance Funding Agreement No. A-12426 with BMC EG VILLAGE, 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
- d. Approve and authorize the Chair to sign Amendment No. 1 to Advance Funding Agreement No. A-13024 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.

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 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 2 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 Advance 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 2016-17 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:

The recommended action complies with the Board's FY15-16 Strategic Initiative for Economic Development: "...Strengthen economic development to ensure a diversified and healthy economy" by "Creat(ing) better paying jobs...and increas(ing) the revenue base through business expansion..."

Check the related Board of Supervisors Strategic Initiatives:

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

Prepared by: G.H. Nichols, P.E., Special Projects Engineer, Special Programs Section, RMA-Land Use & Community Development Division

Reviewed by: Melanie Beretti, Special Programs Manager, RMA-Land Use & Community Development Division

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

The following attachments are on file with the Clerk of the Board:

- Attachment 1 - Proposed Amend. No. 2 to Advance FA No. A-12424 with BMC EG GARDEN, LLC
- Attachment 2 - Proposed Amend. No. 2 to Advance FA No. A-12425 with BMC EG BUNGALOW, LLC
- Attachment 3 - Proposed Amend. No. 2 to Advance FA No. A-12426 with BMC EG VILLAGE, LLC
- Attachment 4 - Proposed Amend. No. 1 to Advance FA No. A-13024 with BMC EG GROVE, LLC
- Attachment 5 - Advance FA No. A-12424 with BMC EG GARDEN, LLC
- Attachment 6 - Amend. No. 1 to Advance FA No. A-12424 EG GARDEN, LLC

Attachment 7 - Advance FA No. A-12425 with BMC EG BUNGALOW, LLC

Attachment 8 - Amend. No. 1 to Advance FA No. A-12425 with BMC EG BUNGALOW, LLC

Attachment 9 - Advance FA No. A-12426 with BMC EG VILLAGE, LLC

Attachment 10 - Amend. No. 1 to Advance FA No. A-12426 with BMC EG VILLAGE, LLC

Attachment 11 - Advance FA No. A-13204 with BMC EG GROVE, LLC