



Legislation Details (With Board Report)

**File #:** A 17-465      **Name:** PLN030204 - East Garrison (Indemnification Agreement)

**Type:** BoS Agreement      **Status:** Passed

**File created:** 11/17/2017      **In control:** Board of Supervisors

**On agenda:** 12/12/2017      **Final action:** 12/12/2017

**Title:** a. Approve and authorize the Chair to sign an Indemnification Agreement with UCP East Garrison, LLC related to erosion, flooding, stormwater runoff, grading, or discharge as a result of construction of East Garrison as required by Condition of Approval #235 of Combined Development Permit PLN030204; and  
b. Authorize the Clerk of the Board to record the executed Agreement.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Board Report, 2. Attachment 1 - Stormwater Indemnification Agreement, 3. Attachment 2 - Stormwater Indemnification Bond, 4. Completed Board Order & Recorded 1st page.

Date	Ver.	Action By	Action	Result
12/12/2017	1	Board of Supervisors	approved	

a. Approve and authorize the Chair to sign an Indemnification Agreement with UCP East Garrison, LLC related to erosion, flooding, stormwater runoff, grading, or discharge as a result of construction of East Garrison as required by Condition of Approval #235 of Combined Development Permit PLN030204; and  
b. Authorize the Clerk of the Board to record the executed Agreement.

**RECOMMENDATION:**

It is recommended that the Board of Supervisors:

- a. Approve and authorize the Chair to sign an Indemnification Agreement with UCP East Garrison, LLC related to erosion, flooding, stormwater runoff, grading, or discharge as a result of construction of East Garrison as required by Condition of Approval #235 of Combined Development Permit PLN030204; and
- b. Authorize the Clerk of the Board to record the executed Agreement.

**SUMMARY/DISCUSSION:**

On October 4, 2005, the Board of Supervisors approved the East Garrison development project (PLN030204), including the Specific Plan, Final Environmental Impact Report, Tentative Subdivision Map, and Combined Development Permit with 265 conditions of approval.

Condition of Approval No. 235, Storm Water Drainage, required the developer to complete an engineering and drainage study and design a system of final drainage improvements to retain all storm water runoff on the project site, so that no runoff or drainage from the newly developed land will impact downstream property owners. The condition also required the developer to complete erosion control plans for the grading permits stage of each phase of the development, which would provide for utilization of topsoil, soil supplements, planting of exposed slopes, irrigation requirements, drainage improvements, and implementation of erosion control measures within the graded areas. The condition further required the developer to enter into an agreement with the County providing for the protection of downstream facilities from sediment, maintenance of graded areas and drainage systems installed as part of the grading permits, and restoration of any on- and off-

site damages that may be caused by grading activities.

The Erosion Control and Maintenance Agreement was completed prior to issuance of the Grading Permit for Phases 1 and 2 in 2007. The overall engineering and drainage study, and the Phase 1 and 2 erosion control plans were also completed and approved in 2007, and the developer provided the requisite performance and labor and materials bonds. All required infrastructure improvements for Phases 1 and 2 were completed in 2016, and the erosion control bonds for those phases were released.

The developer completed the erosion control plan for the Phase 3 Grading Permit in March 2017, and the requisite erosion control bonds have been submitted.

This condition also requires the developer to enter into a separate agreement to "...defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees in connection with any erosion, flooding, stormwater runoff, grading or discharge as a result of the project...", and to secure this indemnification "...with a bond or irrevocable letter of credit from an accredited financial institution in the amount of one million dollars (\$1,000,000), in a form acceptable to the County.."

The recommended Indemnification Agreement has been developed to implement with the requirements of this Condition of Approval.

#### OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel has reviewed the recommended Indemnification Agreement as to form and legal effect.

The following agencies continue to participate in review of the East Garrison project:

- RMA-Land Use & Community Development Division (Planning, County Surveyor & Development Services, Environmental Services, Parks, Building Services)
- RMA-Public Works & Facilities Division (Traffic Engineering, Road & Bridge Engineering)
- Water Resources Agency
- Health Department/Environmental Health Bureau
- Monterey County Sheriff's Office
- Monterey County Agricultural Commissioner
- Monterey County Regional Fire District
- Marina Coast Water District
- Fort Ord Reuse Authority
- California Department of Fish & Wildlife

#### FINANCING:

There is no impact to the General fund as a result of approving the recommended action. Costs associated with administering the East Garrison development are budgeted in Fund 182, Unit 8431 (East Garrison Developer Reimbursements). The Board of Supervisors approved a Project Reimbursement Agreement among the County, the Redevelopment Agency, and the Developer relating to administrative staff and consulting costs during the project implementation. Funds received under this reimbursement agreement will be deposited into the same fund.

#### BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The recommended action complies with the following Board FY15-16 Strategic Initiatives:

- Strategic Initiative for Economic Development, "Through collaboration, strengthen economic

development to ensure a diversified and healthy economy”, by “Creating better paying jobs... (and) adding to the economic vitality of the County.”

- Strategic Initiative for Administration, “Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability, and transparency,” by “...sustaining core services and efficiently allocating resources,” and by “... Improve efficiency and effectiveness of County services.”
- Strategic Initiative for Infrastructure, “Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results”, by “Improving the conditions of ...roads...”, and by “Providing for adequate...infrastructure.”

Check the related Board of Supervisors Strategic Initiatives:

Economic Development

Administration

Health & Human Services

Infrastructure

Public Safety

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

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

Approved by: Carl P. Holm, AICP, RMA Director

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

Attachment 1 - Stormwater Indemnification Agreement

Attachment 2 - Stormwater Indemnification Bond