



# County of Monterey

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

## Board Report

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**File #:** A 13-053, **Version:** 1

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- a. Approve Amendment 1 to the Monterey County Subdivision Improvement Agreement Fox Creek Ranch, Phase II, with Carmel Cutting Horses, Inc to update the Engineer's Estimate to complete the subdivision improvements, extend the time for completion of the improvements, and substitute the type of security for the improvements;
- b. Accept the Deed of Trust as security for performance of the amended Monterey County Subdivision Improvement Agreement Fox Creek Ranch, Phase II;
- c. Authorize the Chair of the Board to execute Amendment 1 to the Monterey County Subdivision Improvement Agreement Fox Creek Ranch Phase II; and
- d. Approve the release of the Faithful Performance Bond in the amount of \$1,621,620 and the Laborers and Materialmen Bond in the amount of \$810,810 issued by the Insurance Company of the West (Bond No. 2187518) for infrastructure improvements.

### RECOMMENDATIONS:

- a. Approve Amendment 1 to the Monterey County Subdivision Improvement Agreement Fox Creek Ranch, Phase II, with Carmel Cutting Horses, Inc to update the Engineer's Estimate to complete the subdivision improvements, extend the time for completion of the improvements, and substitute the type of security for the improvements;
- b. Accept the Deed of Trust as security for performance of the amended Monterey County Subdivision Improvement Agreement Fox Creek Ranch, Phase II;
- c. Authorize the Chair of the Board to execute Amendment 1 to the Monterey County Subdivision Improvement Agreement Fox Creek Ranch Phase II; and
- d. Approve the release of the Faithful Performance Bond in the amount of \$1,621,620 and the Laborers and Materialmen Bond in the amount of \$810,810 issued by the Insurance Company of the West (Bond No. 2187518) for infrastructure improvements.

### SUMMARY/DISCUSSION:

On July 10, 2007, the Board of Supervisors approved the Final Map and Subdivision Agreements for the Fox Creek Ranch Subdivision, Phases I and II. The Subdivider, Carmel Cutting Horses, Inc., has fulfilled the conditions of the Subdivision Agreement for Phase I, and the Subdivider's consulting engineer has inspected the improvements and certified their completion as to conformance with the approved plans. On December 13, 2011, the Board accepted the Phase I improvements as complete and authorized release of bonds for Phase I.

The Subdivider has also completed the majority of the water system improvements required in the conditions of the Subdivision Agreement for Phase II, and the Subdivider's consulting engineer has inspected the improvements and certified their completion as to conformance with the approved plans. However, completion of the remaining Phase II improvements has been delayed because of the need for the Subdivider to enter into an agreement with the U.S. Fish and Wildlife Service regarding a Habitat Conservation Plan (HCP). The date of obtaining the HCP is uncertain, and because the remaining Phase II improvements are contingent on the HCP, it is uncertain when those improvements can be completed. Consequently, the Subdivider has requested that the Phase II subdivision improvement agreement be amended to extend the time for completion of the Phase II improvements. The Subdivider has also requested that the bonds submitted for security for these

improvements be released and substituted with a Deed of Trust to the County as security for the Phase II improvements. Substitution of the bonds will help the Subdivider reduce expenses related to payment of premiums for the bonds while they continue working on the agreement for the HCP. Also, because many of the Phase II improvements have been completed with the Phase I improvements, the amended agreement will reduce the amount of the security required based on the amount of Phase II improvements constructed. The amended agreement will still require security for the remaining road and water system improvements that have not been constructed. The current estimated cost of the remaining improvements is \$584,751. Per the amended agreement, when the Subdivider is ready to commence construction of the Phase II improvements, a revised engineer's estimate will be prepared and new bonds will be reposted for security corresponding to the revised estimate. The County will then release the Deed of Trust upon filing of the bonds.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel has reviewed and approved the Deed of Trust and Subdivision Improvement Agreement Amendment as to form. Due to the late submission of this Board Report, the CAO Budget and Analysis Division was not provided adequate time to fully review for potential fiscal, organizational policy, or other implications to the County of Monterey.

FINANCING:

There is no financial impact to the General Fund. Sufficient appropriations are available in the County Surveyor budget (Fund 001, Unit 8196, Appropriation Unit RMA010) to finance RMA- Public Works staff costs to process the bond release in an amount not to exceed of \$2,000.

Prepared by: Chad Alinio, P.E., Civil Engineer, (831) 755-4937

Approved by:

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Robert K. Murdoch, P.E., Director of RMA - Public Works

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Benny J. Young, RMA Director

Dated: April 12, 2013

Attachments: Monterey County Subdivision Improvement Agreement Fox Creek Ranch - Phase II Amendment 1; Deed of Trust; Subdivision Improvement Agreement Fox Creek Ranch - Phase II; Notice of Completion from Engineer; Location Map (attachments on file with the Clerk of the Board)