



County of Monterey

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

Board Report

File #: 13-1319, **Version:** 1

Authorize Amendment No. 3 to Agreement with Aromas Water District for the funding of engineering and other work for the formation of an assessment district in the Oak Ridge and Via Del Sol areas, and connection to the Aromas Water District system. (ADDED VIA ADDENDUM)

RECOMMENDATION:

It is recommended that the Board of Supervisors authorize Amendment No. 3 to the Agreement with Aromas Water District for the funding of engineering and other work for the formation of an assessment district in the Oak Ridge and Via Del Sol areas, and connection to the Aromas Water District system.

SUMMARY/DISCUSSION:

In April of 2010, the Board authorized an agreement (“Agreement”) with the Aromas Water District (“District”) and approved the expenditure of \$155,000 from the County’s Capital Projects Fund 402 to the District for preparation of an Engineer’s Report to include surveying, engineering and design fees, Appraisers Fee, LAFCO Report Fee and Environmental Document costs for the connection of Oak Ridge Mutual Water Company and portion of Via Del Sol Drive Area to the Aromas Water System (the sum of \$7,500 was previously advanced under the authority of the CAO). That amount has been amended from time-to-time, most recently in January of 2013, the Board of Supervisors approved the additional sum of \$58,000 towards the project, for a total authorized expenditure of \$270,500.

The Agreement provided that upon the successful formation of an assessment district the County would be repaid from the proceeds of any bonds issued to finance the improvement. The assessment district has been successfully formed, and annexation to the District has also been approved. The improvements will be financed with the proceeds of a loan from the Federal Department of Agriculture (“FDA”) at very favorable rates. The FDA loan has certain requirements for the maintenance of reserves, and may not be sufficient to provide for all improvements necessary to implement the project. The District has thus requested a modification to the Agreement that will provide for the repayment to the County as and when funds become available from the financing. It is anticipated that the District will be able to immediately repay the County the sum of \$85,000, and that other repayments will be made over time. It is also anticipated that the sum of \$25,000 may not be available for repayment. The proposed Amendment No. 3 is enclosed as Attachment 1 with the changes underlined. A draft Board Order is enclosed as Attachment 2.

Because the project will contribute to the public health, safety, and welfare by contributing to the design and construction of a system to provide potable water to certain County residents in a situation where those citizens do not have a reliable source of potable water, and because the repayment of the funds to the County has always been based upon a contingency, the County Counsel’s Office is of the opinion that the Agreement, including Amendment No. 3 does not represent a gift of public funds.

OPTIONS FOR BOARD CONSIDERATION:

Alternatively, the Board may reject the proposed amendment, in which case it is unlikely that the FDA loan will be approved and the project may not be built.

OTHER AGENCY INVOLVEMENT:

The County Counsel's Office has reviewed and approved the amendment.

FINANCING:

Funds were previously approved from the Capital Projects Fund, and any repayment received would be deposited back into that fund.

Prepared by:

Approved by:

Leslie J. Girard
Chief Assistant County Counsel

Benny Young
RMA Director

cc: Lew Bauman, CAO

Michael J. Miller, Auditor-Controller

Attachment 1: Amendment No. 3

Attachment 2: Board Order