



County of Monterey

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

Board Report

File #: EGPFA 17-002, **Version:** 1

Approve a Water, Sewer, and Recycled Water Infrastructure Agreement for East Garrison Phase 3 among the East Garrison Public Financing Authority, the Marina Coast Water District, and UCP East Garrison LLC for the financing, construction, and transfer of water, sewer, and recycled water infrastructure related to Phase 3 of the East Garrison development project on the former Fort Ord.

RECOMMENDATION:

It is recommended that the Board of Directors of the East Garrison Public Financing Authority, approve a *Water, Sewer, and Recycled Water Infrastructure Agreement for East Garrison Phase 3* among the East Garrison Public Financing Authority, the Marina Coast Water District, and UCP East Garrison LLC for the financing, construction, and transfer of water, sewer, and recycled water infrastructure related to Phase 3 of the East Garrison development project on the former Fort Ord.

SUMMARY:

The purpose of this Agreement is to delineate the specific responsibilities of the UCP East Garrison, LLC, the current Developer of the East Garrison Project, the Marina Coast Water District (MCWD), and EGPFA relative to the implementation and payment of costs for public water, sewer, and recycled water infrastructure improvements required for Phase 3 of the East Garrison development.

The Agreement states that these improvements, including pipelines, pumps, storage tanks, etc. to deliver potable water, sewer, and recycled water services to the development, will be designed and constructed by the developer, and when completed will be owned and operated by MCWD. While the Agreement states that is anticipated that the acquisition, construction and installation of some or all of these improvements may be financed by the issuance of Mello Roos bonds by EGCFD the Agreement does not require the issuance of Mello-Roos bonds to reimburse infrastructure costs for the East Garrison development project. Instead the Agreement makes the water and sewer infrastructure improvement eligible for such reimbursement.

DISCUSSION:

On October 4, 2005 the County, the Redevelopment Agency of the County of Monterey (Agency) and East Garrison Partners I LLC (the Original Developer) entered into a Disposition and Development Agreement (DDA), wherein it was agreed that the County and Agency would consider forming a Community Facilities District, consistent with County CFD policy, to fund a portion of the Developer' s cost (not to exceed \$20 million net) to construct public infrastructure required for development of the East Garrison development project .

On October 10, 2005, the Local Agency Formation Commission of Monterey County (LAFCO) approved the formation of EGCS D.

On March 28, 2006, the County and the EGCS D approved the establishment of the East Garrison Public Financing Authority (EGPFA) pursuant to a *Joint Exercise of Powers Agreement*, in order to issue Mello-Roos bonds and levy special taxes consistent with state law and County CFD policy to pay for all or a portion of the cost to construct public infrastructure (not to exceed \$20 million net) and provide ongoing services to support the East Garrison project.

On May 16, 2006, the Board of Directors of the EGPFA approved a *Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure Agreement* among the EGPFA, MCWD, and the Original Developer for financing and construction of water, sewer, and recycled water improvements related to the East Garrison development. That Agreement:

- Confirmed the water and sewer capacity allocation for the entire East Garrison development;
- Provided that the developer would construct all off-site water and sewer improvements required to serve the development project in accordance with MCWD engineering standards at the developer's sole cost;
- Provided that the developer would reimburse MCWD for all costs incurred by MCWD related to the design and construction of the improvements;
- Provided that the completed improvements would become the property of MCWD; and
- Provided that MCWD would provide water and sewer service to the development.
- Provided that EGPFA may use bond monies to pay for all or a portion of the improvements and that EGPFA would execute a separate agreement with the developer for this purpose.

On June 20, 2006, the County, EGPFA, EGCSO, and the Original Developer of the East Garrison project entered into a *Funding Disclosure and Joint Community Facilities Agreement*, detailing the items for which bond monies may be used and how the payment process would work. That Agreement provided that EGPFA would use its best efforts to reimburse to the Developer for eligible costs of construction of the off-site water and sewer infrastructure related to the development.

On March 27, 2012, the Board of Directors of the EGPFA approved a *Construction and Transfer of Water, Sewer, and Recycled Water Infrastructure Agreement* among the East Garrison Public Financing Authority, the Marina Coast Water District and UCP East Garrison LLC for the financing, construction, and transfer of water, sewer, and recycled water infrastructure related to Phases 1 and 2 of the East Garrison development project on the former Fort Ord.

- The original 2006 Agreement covered the entirety of the proposed East Garrison development (Phases 1, 2, and 3). The new 2012 Agreement applied only to Phases 1 and 2 of the development. This is because when the 2006 Agreement was initially approved the parties anticipated the work for all phases would be completed within the two-year term of that Agreement. Given the new Developer's anticipated long-term schedule for project build-out, MCWD and the Developer concurred this was the best way to handle the issue of "term".

The proposed new Agreement for Phase 3 contains generally the same terms and provisions as the 2012 Agreement for Phases 1 and 2.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel, acting as Counsel for the EGPFA, has reviewed this report and the proposed Agreement as to form and legal effect.

On March 20, 2017, the Marina Coast Water District Board of Directors approved Resolution No. 2017-16 approving the *Water, Sewer, and Recycled Water Infrastructure Agreement for East Garrison Phase 3*. This version of the Agreement had not been previously reviewed by the Office of County Counsel acting as Counsel for the EGPFA, and at Counsel's direction, revisions were made to the Agreement and resubmitted by the Developer to the MCWD. On November 20, 2017, the MCWD Board of Directors adopted Resolution No. 2017-68 re-approving the Agreement subject to the approval of the EGPFA. Upon approval by the EGPFA, the Agreement will be returned to MCWD for final execution.

FINANCING:

The activities of the EGPFA will have no impact on the County General Fund or Successor Agency funds, including the associated operational costs of the EGCSO.

The developer will "cash-flow" the costs of infrastructure improvements, and may be reimbursed all or a portion of this cost from future Mello-Roos assessments insofar as the development's financial capacity and the County's Mello-Roos financing policies will permit.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The recommended action complies with the Board of Supervisors' FY 2015-16 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."

Check the related BOS Strategic Initiatives:

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

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

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

Attachment 1 - Water, Sewer, and Recycled Water Infrastructure Agreement for East Garrison Phase 3

Attachment 2 - MCWD Resolution No. 2017-68

Attachment 3 - Construction & Transfer of Water, Sewer & Recycled Water Infrastructure Agreement for East Garrison Phase 1 & Phase 2, March 27, 2012

Attachment 4 - Construction & Transfer of Water, Sewer & Recycled Water Infrastructure Agreement for East Garrison Development, July 11, 2006