



County of Monterey

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

Board Report

File #: BCSD RES 20-003, **Version:** 1

Acting as the Board of Directors for the Boronda County Sanitation District approve a resolution to:

- a. Approve a Funding Agreement with Café Tori Investments, LLC (Café Tori) to provide funding to the County of Monterey, acting as the Board of Directors of the Boronda County Sanitation District (BCSD), for staff time and materials to process a Grant of Easement Deed and a Maintenance of Developer Improvements Agreement for the Harvest Moon Agricultural Employee Housing Development Project (PLN190127), where the Base Budget is \$6,480 and Contingency Budget is \$972, for a total amount not to exceed \$7,452, and for a term retroactive to July 13, 2020 to June 30, 2021;
- b. Approve a Maintenance of Developer Improvements Agreement by and between BCSD and Café Tori, included as Exhibit D to the Grant of Easement Deed,
- c. Find that the proposed Grant of Easement Deed is in the public interest and constitutes a public benefit that will not substantially conflict or interfere with the use of the property by BCSD;
- d. Approve a Grant of Easement Deed to grant Café Tori an easement over an established fee strip owned by the BCSD located on a portion of Assessor's Parcel No. (APN) 261-011-026-000;
- e. Authorize the Resource Management Agency (RMA) Director or designee to execute the Funding Agreement and future amendments to the Agreement where the amendments do not significantly alter the scope of work or increase the approved Agreement amount;
- f. Authorize the Chair of the Board, acting as Chair of the Board of Directors of BCSD, to execute the Grant of Easement Deed and Maintenance of Developer Improvements Agreement;
- g. Authorize the RMA to separately record the Grant of Easement Deed and Maintenance of Developer Improvements Agreement; and
- h. Recommend the Monterey County Board of Supervisors authorize and direct the Auditor-Controller to amend the Fiscal Year 2020-21 Adopted Budget for BCSD, Fund 156, Appropriation Unit RMA045, and increase revenue by \$7,452, financed by Café Tori pursuant to the Funding Agreement (4/5th vote required).

RECOMMENDATION:

It is recommended that the Board of Supervisors, acting as the Board of Directors of the Boronda County Sanitation District, approve a resolution to:

- a. Approve a Funding Agreement with Café Tori Investments, LLC (Café Tori) to provide funding to the County of Monterey, acting as the Board of Directors of the Boronda County Sanitation District (BCSD), for staff time and materials to process a Grant of Easement Deed and a Maintenance of Developer Improvements Agreement for the Harvest Moon Agricultural Employee Housing Development Project (PLN190127), where the Base Budget is \$6,480 and Contingency Budget is \$972, for a total amount not to exceed \$7,452, and for a term retroactive to July 13, 2020 to June 30, 2021;
- b. Approve a Maintenance of Developer Improvements Agreement by and between BCSD and Café Tori, included as Exhibit D to the Grant of Easement Deed,
- c. Find that the proposed Grant of Easement Deed is in the public interest and constitutes a public benefit that will not substantially conflict or interfere with the use of the property by BCSD;
- d. Approve a Grant of Easement Deed to grant Café Tori an easement over an established fee strip owned by the BCSD located on a portion of Assessor's Parcel No. (APN) 261-011-026-000;
- e. Authorize the Resource Management Agency (RMA) Director or designee to execute the Funding Agreement and future amendments to the Agreement where the amendments do not significantly alter the scope of work or increase the approved Agreement amount;

- f. Authorize the Chair of the Board, acting as Chair of the Board of Directors of BCSD, to execute the Grant of Easement Deed and Maintenance of Developer Improvements Agreement;
- g. Authorize the RMA to separately record the Grant of Easement Deed and Maintenance of Developer Improvements Agreement; and
- h. Recommend the Monterey County Board of Supervisors authorize and direct the Auditor-Controller to amend the Fiscal Year 2020-21 Adopted Budget for BCSD, Fund 156, Appropriation Unit RMA045, and increase revenue by \$7,452, financed by Café Tori pursuant to the Funding Agreement (4/5th vote required).

SUMMARY:

Café Tori Investments, LLC (Project Applicant) received County approval for entitlements (PLN190127) to develop the Harvest Moon Agricultural Employee Housing Project (Housing Project) on June 24, 2020 (Planning Commission Resolution No. 20-019). The Housing Project is located within the unincorporated area of the County of Monterey, off the northwest intersection of West Rossi Street and Davis Road. The Housing Project will provide housing for up to 1,200 seasonal agricultural employees during the April to November harvest season. RMA determined that this is a high priority project because it provides critically needed housing for agricultural employees.

The Boronda County Sanitation District (BCSD) owns a fee strip with a sewer pipeline buried underneath, located on Assessor's Parcel Number (APN) 261-011-024-000, which runs through what will be the main entrance to the Housing Project site. To enable the Housing Project to move forward while protecting the BCSD property and facilities, BCSD required that the Project Applicant adhere to Conditions of Approval (COA) Nos. 39 and 40, which require the Maintenance of Developer Improvements Agreement (Maintenance Agreement) (Exhibit D to Attachment B) and Grant of Easement Deed (Easement) (Attachment B), respectively. Staff time to process these agreements will be fully reimbursed by the Project Applicant through the associated Funding Agreement, included as part of the recommended actions (Attachment C).

The Applicant is trying to get the housing built in time to occupy for the 2021 growing season (occupancy by April 2021). In an effort to keep this high priority project on track, the Resource Management Agency (RMA) issued the permits for this Housing Project while the Funding Agreement, Maintenance Agreement and Easement are being processed for Board approval, allowing the Developer to begin work as planned on Monday July 20, 2020. The background and justification for this decision was communicated to the Board on July 17, 2020 (Attachment D). In return, the Developer provided a letter stating that they accept responsibility for any new damage to the district facilities (sewer line) and any damage that may be caused if they break the line (e.g., environmental damage), while the Easement and Maintenance Agreement are processed for the July 28th Board meeting (Attachment E).

It is recommended that the Board, acting as the Board of Directors for the BCSD, approve the Funding Agreement and the Maintenance Agreement and recommend the County Board of Supervisors authorize and direct the Auditor-Controller amend the Fiscal Year 2020-21 Adopted Budget for BCSD to increase revenue by \$7,452, financed by Café Tori pursuant to the Funding Agreement. It is also recommended that the Board find that granting the Easement is in the public interest and approve the Easement.

For a detailed background and discussion, see Attachment F.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel and Auditor-Controller's Office have reviewed and approved the Funding Agreement as to form and fiscal provisions, respectively. The Office of the County Counsel has also approved the Grant of Easement Deed and the Maintenance of Developer Improvements Agreement as to form. On July

22, 2020, Budget Committee Chair Supervisor Parker approved this item to go directly to the Board of Supervisors, thereby bypassing the Budget Committee.

FINANCING:

RMA staff time to process and review the Easement and Maintenance Agreement is funded as part of the Fiscal Year (FY) 2020-21 Adopted Budget for the RMA, Fund 001, Appropriation Unit RMA013. The funding for staff time will be paid by the Project Applicant through the Funding Agreement in an amount not to exceed \$7,452 (\$6,480 Base Budget and \$972 Contingency Budget). Correspondingly, if approved, staff's recommendation would increase the FY 2020-21 Adopted Budget for BCSD, Fund156, Appropriation Unit RMA045, revenue by \$7,452 to reimburse RMA for staff time and materials. There is no impact to the General Fund.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The action supports the Board of Supervisors' Strategic Initiatives for Economic Development and Infrastructure by continuing to robustly support and develop needed safe housing availability for essential farmworkers while protecting critical County sewer infrastructure.

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

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Reviewed by: Shawne Ellerbee, Assistant RMA Director

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

Attachments:

Attachment A-Draft Resolution

Attachment B-Grant of Easement Deed

Attachment C-Funding Agreement

Attachment D-July 17, 2020 RMA Memo to the Board

Attachment E-July 20, 2020 Letter from the Developer

Attachment F-Detailed Background and Discussion

(Attachments are on file with the Clerk of the Board)