

Attachment 9

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Monterey County

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Order

Agreement No.: A-12424; A-12425; A-12426; A-13023; A-13024

Upon motion of Supervisor Armenta, seconded by Supervisor Potter and carried by those members present, the Board of Supervisors hereby:

- a. Approved and authorized the Chair to sign an Advanced Funding Agreement with BMC EG BLUFFS, LLC funding County costs for monitoring and reporting on compliance with prevailing wage obligations in construction of the East Garrison project in the former Fort Ord area of the County (Agreement No.: A-13023);
- b. Approved and authorized the Chair to sign an Advanced Funding Agreement with BMC EG GROVE, LLC funding County costs for monitoring and reporting on compliance with prevailing wage obligations in construction of the East Garrison project in the former Fort Ord area of the County (Agreement No.: A-13024);
- c. Approved and authorized the Chair to sign Amendment No. 1 to Advanced Funding Agreement No. A-12424 with BMC EG GARDEN, LLC funding County costs for monitoring and reporting on compliance with prevailing wage obligations in construction of the East Garrison project in the former Fort Ord area of the County;
- d. Approved and authorized the Chair to sign Amendment No. 1 to Advanced Funding Agreement No. A-12425 with BMC EG BUNGALOW, LLC funding County costs for monitoring and reporting on compliance with prevailing wage obligations in construction of the East Garrison project in the former Fort Ord area of the County; and
- e. Approved and authorized the Chair to sign Amendment No. 1 to Advanced Funding Agreement No. A-12426 with BMC EG VILLAGE, LLC funding County costs for monitoring and reporting on compliance with prevailing wage obligations in construction of the East Garrison project in the former Fort Ord area of the County.

PASSED AND ADOPTED on this 15th day of December 2015, by the following vote, to wit:

AYES: Supervisors Armenta, Phillips, Salinas, Parker and Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 78 for the meeting on December 15, 2015

Dated: January 14, 2016
File ID: 15-1342

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By 

Deputy

**FIRST AMENDMENT TO
ADVANCE FUNDING AGREEMENT
BETWEEN BMC EG VILLAGE, LLC AND
THE COUNTY OF MONTEREY
FOR PREVAILING WAGE COMPLIANCE
AT THE EAST GARRISON PROJECT AT FORT ORD**

THIS FIRST AMENDMENT TO ADVANCE FUNDING AGREEMENT (this "Amendment") is entered into as of January 21, 2015 (the "Execution Date") by and among the County of Monterey ("County"), BMC EG Village, LLC a Delaware limited liability company ("Buyer") and UCP East Garrison, LLC ("UCP"). The Buyer and County may each be referred to herein as a "Party" or collectively as the "Parties".

RECITALS

A. The County and Buyer entered into that certain Advance Funding Agreement dated March 26, 2013 (the "Agreement"), in order to provide funding to the County for certain reasonable and necessary costs of County staff and consultants in ensuring compliance with certain the prevailing wage requirements. Unless otherwise defined herein all capitalized terms shall have the meaning set forth in the Agreement.

B. The County and Buyer desire to amend the Agreement to add to and amend the Parcels described on Exhibit 1 attached thereto.

C. UCP is the current owner of the Additional Parcels (as defined below), and the Buyer is under contract to acquire from UCP all of the rights, title and interest to the property and development rights for the Parcels.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED IN THIS AMENDMENT, COUNTY AND BUYER AGREE AS FOLLOWS:

1. Additional Parcels. The parcels more particularly described in Exhibit 1-B attached hereto are hereby added to and incorporated into the Parcels described in the Agreement (the "Additional Parcels").

2. Payment of Funds. Notwithstanding the fact that the number of Parcels have been increased, the County does not require an increase in the deposit amount held in "BMC EG Village East Garrison Prevailing Wage Services Fund," as described in Section 2.01 of the Agreement.

3. Buyer Obligations. The Parties acknowledge that (a) UCP is the current owner of the Additional Parcels, (b) Buyer is under contract with UCP to acquire the Additional Parcels from UCP, and UCP will convey the Parcels to Buyer, (c) some (but not all) of the building permits for the Parcels will be issued, and construction performed, prior to the conveyance of the Additional Parcels from UCP to Buyer, (d) UCP is responsible for delivering the certification of prevailing wage compliance prior to final inspection of a specific unit within the Additional Parcels until such time as the Additional Parcels are conveyed to Buyer, at which time Buyer will assume all such responsibility, and (e) Buyer is responsible for all other obligations of Buyer hereunder, both prior to and after the conveyance by UCP.

4. General. Except as expressly amended or modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect. This Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and such counterparts together shall constitute only on agreement.

IN WITNESS WHEREOF, the County and Buyer have executed this Advance Funding Agreement as of the day and year written below.

COUNTY:
COUNTY OF MONTEREY

Date: January 21, 2014



APPROVED AS TO FORM:

Cynthia L. Hasson
Cynthia L. Hasson
Deputy County Counsel

Date: 12-1-15

[signatures continued on next page]

BUYER:
BMC EG Village, LLC

Date: 11.30.15



Dustin L. Bogue, Manager and CEO

UCP East Garrison, LLC

Date: 11.30.15



Dustin L. Bogue, Manager and CEO

EXHIBIT 1-B

Legal Description

Additional Parcels for East Garrison - Village Lots (Partial), Phase 2

Real property in an unincorporated area, Monterey County, State of California, described as follows:

Lots 389 through 392, 427 through 433, 445 through 451, 562, 570 through 574, 577 through 581, 701 through 709, 714 through 727, as shown on that certain map entitled "Tract No. 1519, East Garrison Phase Two", filed for record on March 19, 2015, in Volume 24 of Cities and Towns, at page 41, filed in the Office of the County Recorder, County of Monterey, State of California.

Excepting therefrom all mineral rights with the right of surface entry as reserved in the "Quitclaim Deed for a Portion of Former Fort Ord, Monterey, California", executed by the United States of America, in favor of the Fort Ord Reuse Authority, recorded May 19, 2006, Instrument No. 2006-045190, Official Records, Monterey County. Said document was re-recorded and amended January 12, 2007, Instrument No, 2007-03370, Official Records, Monterey County.

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