



# Monterey County

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

## Board Report

Legistar File Number: EGCSO RES 19-002

June 11, 2019

Introduced: 5/29/2019

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Matter Type: East Garrison CSD  
Resolution

Acting as the Board of Directors of the East Garrison Community Services District:

- a. Approve and authorize the Chair to sign Amendment No. 2 to Agreement No. A-12423, a Temporary Maintenance Agreement by and between East Garrison Community Services District and UCP East Garrison, LLC relating to temporary maintenance obligations for improvements at the East Garrison development; and
- b. Review the East Garrison Advisory Committee's recommendations and consider taking one or more of the following actions:
  - a. Accepting from East Garrison Community Association, a Grant Deed for ownership of the Neighborhood Parks in Phase One and Two at East Garrison (APN 031-163-150-000/Parcel P1.1, APN 031-162-129-000/Parcel P1.2, APN 031-169-059-000/Parcel P2.1 and APN 031-169-060-000/Parcel P2.2); and
  - b. Authorizing the Chair to execute the Certificate of Acceptance and Consent to Recordation of the Grant Deed; and
  - c. Authorizing and direct the Clerk of the Board to submit the executed Grant Deed to the County Recorder; and
  - d. Adopting a Resolution to:
    - i. Establish uses and fees waived for the Phase One and Phase Two Neighborhood Parks; and
    - ii. Allow specific events at the Phase One and Phase Two Neighborhood Parks to continue as sponsored events for a period of at least five (5) years and may continue thereafter on the recommendation of the East Garrison Community Advisory Committee.

### RECOMMENDATION:

It is recommended that the Board of Supervisors, acting as the Board of Directors of the East Garrison Community Services District, take the following actions:

- a. Approve and authorize the Chair to sign Amendment No. 2 to Agreement No. A-12423, a Temporary Maintenance Agreement by and between East Garrison Community Services District and UCP East Garrison, LLC relating to temporary maintenance obligations for improvements at the East Garrison development; and
- b. Review the East Garrison Advisory Committee's recommendations and consider taking one or more of the following actions:
  - a. Accepting from East Garrison Community Association, a Grant Deed for ownership of the Neighborhood Parks in Phase One and Two at East Garrison (APN 031-163-150-000/Parcel P1.1, APN 031-162-129-000/Parcel P1.2, APN 031-169-059-000/Parcel P2.1 and APN 031-169-060-000/Parcel P2.2); and

- b. Authorizing the Chair to execute the Certificate of Acceptance and Consent to Recordation of the Grant Deed; and
- c. Authorizing and direct the Clerk of the Board to submit the executed Grant Deed to the County Recorder; and
- d. Adopting a Resolution to:
  - i. Establish uses and fees waived for the Phase One and Phase Two Neighborhood Parks; and
  - ii. Allow specific events at the Phase One and Phase Two Neighborhood Parks to continue as sponsored events for a period of at least five (5) years and may continue thereafter on the recommendation of the East Garrison Community Advisory Committee.

SUMMARY:

On December 12, 2017, the Board of Supervisors, acting as Board of Directors of the East Garrison Community Services District (EGCSD), approved the *Second Amendment to the Urban Services Agreement* to reassign maintenance responsibilities for the neighborhood parks from the East Garrison Community Association (Association) and Developer to East Garrison Community Services District (EGCSD). On July 19, 2018, the Association executed a Grant Deed transferring the Phase One and Phase Two parks to the EGCSD, a total of four parks including: Cordell Hull Park, Eleanor Roosevelt Park, West Camp Park and Douglas McArthur Park (Phases I/II Neighborhood Parks). To complete the transfer of the Phases I/II Neighborhood Parks from the Association to the EGCSD, the Board, acting as the Board of Directors of the EGCSD, is required to accept and execute the Certificate of Acceptance and Consent to Recordation of the Grant Deed (Attachment 1).

The recommended action to approve Amendment No.2 of the Temporary Services Agreement (Attachment 2) provides that for the maintenance of the Phases I/II Neighborhood Parks, the Phase Three parks, open space and facilities, upon EGCSD's acceptance of the deed(s) transferring title of such parks, open space and facilities, the Developer will begin maintenance and the EGCSD will begin reimbursing the Developer for said maintenance.

With the transfer of the Phases I/II Neighborhood Parks to the EGCSD, the East Garrison community identified a number of events that had been held in previous years at the Phases I/II Neighborhood Parks and requested that these uses be retained upon transfer to the EGCSD. The proposed draft resolution (Attachment 3) will allow the EGCSD to establish continued use of the Phases I/II Neighborhood Parks for these events and waives fees in Article V with respect to these events; Phases I/II Neighborhood Parks will otherwise be operated on a first come first serve basis.

Since first learning that the Phases I/II Neighborhood Parks were intended to transfer to from the Association to the EGCSD, members of the East Garrison community expressed significant concern in particular regarding the management and operation of the parks. Based on public feedback and discussions of this matter with the EGCSD Advisory Committee, the community has expressed a strong desire to develop EGCSD-specific rules and regulations to govern the parks. It was determined that parks and open space areas owned by the EGCSD are subject to the rules and regulations under Monterey County Code Chapter 14.12, which codifies regulations for publicly owned parks and open space within Monterey County. Under the current Chapter 14.12, the only way to develop

EGCSO-specific rules and regulations is by ordinance amending Chapter 14.12. In tandem with this recommendation to the EGCSO BOD, at its June 11 meeting, the Monterey County Board of Supervisors will receive a recommendation to introduce, waive reading, and set for adoption on June 25, 2019, a draft ordinance repealing and replacing Monterey County Code Chapter 14.12. If adopted as proposed, the replacement of Monterey County Code Chapter 14.12 will allow the Board to establish rules and regulations for the parks and open space areas owned by the EGCSO by resolution, with input from the EGCSO Advisory Committee.

On or following the effective date of the replacement of MCC Chapter 14.12 (thirty days following Board adoption, which is anticipated June 25, 2019), it is anticipated that staff will bring forth a draft resolution to establish additional rules and regulations, developed with community input and recommendation by the EGCSO Advisory Committee, for the Phases I/II Neighborhood Parks to the EGCSO BOD.

At its March 21, 2019 meeting, the EGCSO Advisory Committee voted 5-0 to support *in concept* the amendment to the Temporary Maintenance Agreement, acceptance of the Phases I/II neighborhood parks, and adoption of resolution establishing certain community sponsored events; However, the Advisory Committee's support is contingent upon the adoption of park-specific rules for the Phases I/II neighborhood parks being adopted and in place prior to acceptance of the Phases I/II neighborhood parks.

If the Board wishes to delay acceptance of the Phases I/II neighborhood parks and resolution for community-sponsored events pending adoption of Phases I/II neighborhood park-specific rules, as desired by the EGCSO Advisory Committee, staff recommends that the Amendment No. 2 to the Temporary Maintenance Agreement be approved at this time without delay. Staff anticipates bringing forward the acceptance of the Phase 3 open space and two dog parks to the Board by the end of June or first meeting in July, and the Temporary Maintenance Agreement amendment is necessary to enable the developer to maintain and EGCSO to reimburse for maintenance of those parks/open space once accepted.

#### DISCUSSION:

##### BACKGROUND

The *East Garrison Specific Plan* and *Combined Development Permit* for the East Garrison development at the former Fort Ord, approved by the Board of Supervisors on October 4, 2005, provided for park and recreational facilities sufficient in size and topography to meet the requirements of the new community. In addition to a 6.7-acre community park (Lincoln Park), the Specific Plan provided for seven "neighborhood" parks, two in each Phase of development plus the Town Center Park, totaling 6.0 acres to conform to the requirements of the County Code and the Quimby Act.

The East Garrison Community Services District (EGCSO) was established in 2006, and the Board of Supervisors was established as the governing board until and if the EGCSO members elect to have an independent Board of Directors. On July 18, 2006, the Board of Supervisors, acting on behalf of both the County and as Board of Directors of the EGCSO, approved an *Urban Services Agreement* between the two parties which allocated responsibility for financing and maintenance of certain public services within East Garrison among the County, EGCSO, and HOA.

On March 26, 2013, the Board of Supervisors, acting on behalf of both the County and as Board of Directors of the EGCSO, approved the *First Amendment to the Urban Services Agreement* to clarify and modify the allocation of infrastructure and maintenance responsibilities. One provision of that amendment was to reassign responsibility to fund and provide maintenance for the Neighborhood Parks from EGCSO to the Association.

Also on March 26, 2013, the Board of Supervisors, acting as Board of Directors of the EGCSO, approved a *Temporary Maintenance Agreement* with the Developer. On September 12, 2017, the Board of Supervisors, acting as Board of Directors of the EGCSO, approved the *First Amendment to the Temporary Maintenance Agreement* with the Developer to incorporate maintenance responsibilities for Lincoln Park and open space areas.

An inadvertent result occurred with the passage of the *First Amendment to the Urban Services Agreement* which authorized transfer of ownership and maintenance responsibility of the Neighborhood Parks from EGCSO to the Association, in that members of the public could be possibly excluded due to private ownership of the Neighborhood Parks.

After nearly two years of exploring alternatives to allow for public use of the Neighborhood Parks, EGCSO, the County, and Developer agreed that it was in the best interest of the public, and consistent with intent of the *East Garrison Specific Plan* and *Combined Development Permit*, for all the Neighborhood Parks within East Garrison to be maintained by EGCSO, rather than the Association. On December 12, 2017, the Board of Supervisors, acting as Board of Directors of the EGCSO, approved the *Second Amendment to the Urban Services Agreement* transferring maintenance responsibilities and ownership for the Neighborhood Parks from the Association and Developer to EGCSO.

Since December 2017, County staff and Developer have worked towards implementing the *Second Amendment to the Urban Services Agreement* to transfer the completed Neighborhood Parks to EGCSO. County staff and the Developer have worked cooperatively with the Association to transfer signed deed documents to be in compliance with the *Second Amendment to the Urban Services Agreement*; deeds signed by Association Board of Directors President on July 19, 2018.

The acceptance and execution of the Grant Deed transferring ownership of the Neighborhood Parks will complete the acceptance and transfer of ownership of the completed Neighborhood Parks from the Association to EGCSO in accordance with the *Specific Plan*, approved *Final Subdivision Map for East Garrison Phase One and Two*, the *Urban Services Agreement* as amended and the approved *Operations and Maintenance Plan*.

#### TEMPORARY MAINTENANCE AGREEMENT

The *Temporary Maintenance Agreement*, per proposed Amendment No. 2, provides for the reimbursement of temporary maintenance costs for the Phase 1 and Phase 2 completed neighborhood parks (Cordell Hull Park, Eleanor Roosevelt Park, West Camp Park and Douglas McArthur Park) upon EGCSO's acceptance of the deed(s) transferring title of the parks, open space and facilities. Staff has vetted the anticipated costs of maintenance, and EGCSO has sufficient revenues to assume

maintenance duties of its currently owned facilities as well as the Phase One and Phase Two neighborhood parks and future additional facilities yet to be completed.

EGCSO facilities are currently maintained through the *Temporary Maintenance Agreement* with the Developer until the hiring of staff or a long-term maintenance vendor is selected through a public Request for Proposal process. Until a vendor can be selected and brought under contract, it is necessary to amend the *Temporary Maintenance Agreement* to provide for the continued proper, efficient, and cost-effective maintenance of the East Garrison Project, including the Neighborhood Parks, in a manner that promotes the continued development of the Project. There are terms in the proposed Amendment that allow for review and monitoring of such costs by EGCSO.

#### COMMUNITY CONCERNS

During EGCSO Advisory Committee meetings held in 2018, RMA staff received comment and concern from members of the East Garrison community, EGCSO Advisory Committee, and Monterey County District Four Supervisor's office, regarding the transfer of the Phases I/II Neighborhood Parks to EGCSO. In general, the East Garrison community and EGCSO Advisory Committee have expressed the desire to have a high degree of independence in the operations and oversight of the EGCSO, and staff and the Advisory Committee have reiterated to the community that the EGCSO can, through election, decide to have an independently elected Board of Directors. In 2017, an election was conducted of the property owners at that time to determine if the EGCSO would like to have an independently elected Board, however, that election determined that the County Board of Supervisors would remain acting as the Board of Directors for the EGCSO. As such, to change this make up would require a vote of the property owners. Meanwhile, staff has worked with the stakeholders to address concerns that have been raised regarding the Phases I/II neighborhood park transfers and other issues related to the operations and management of the EGCSO to the extent possible given County policies, procedures and staff priorities. The Phases I/II neighborhood park issues are summarized below.

##### *Public Use*

It has been determined by staff that the *East Garrison Specific Plan, Conditions of Approval, Final Maps* and the recorded *East Garrison Parks Plan*, all require the neighborhood parks to be open to the public. Members of the East Garrison community and EGCSO Advisory Committee have voiced two primary concerns regarding the general public (non-East Garrison community members) using the Phases I/II Neighborhood Parks.

The first concern is regarding the impacts of the general public utilizing the parks, and the associated maintenance costs of roads surrounding the parks which are owned and maintained by the Association. It is understandable why the Association and community members would have this concern, since the Association had been maintaining the parks for exclusive use by the East Garrison community. However, since the East Garrison development documents listed above were taken into consideration when the maintenance responsibilities were assigned in the original Urban Services Agreement, the Second Amendment to the Urban Services agreement simply returned the maintenance responsibilities for the neighborhood parks to the EGCSO and therefore there is no change from the envisioned requirement that those parks be open to the public.

The second concern that has been raised is the fact that the East Garrison home sale documents stated that the Phases I/II Neighborhood Parks were private parks, owned and maintained by the Association for exclusive use by the Association members and their guests. Now that the Phases I/II Neighborhood Parks will be transferred to EGCSO and open to the public, some homeowners that purchased adjacent to these parks have expressed that they feel that they were misinformed and that their home prices may decline. Neither the County or the EGCSO have been privy to nor are party to these private agreements.

If it were the desire of the Board to consider making the Phases I/II Neighborhood Parks private in light of these concerns, such action would require amendment by the Board of Supervisors to the East Garrison plans and entitlements. Amending the East Garrison documents would require a public process upon making the required findings, which may not be possible due to the fact that many of the lots are now privately owned, predicated upon the approved entitlements.

#### *Rules and Regulations*

Residents in Phase One and Phase Two have become accustomed to events that the community has held at the Phases I/II Neighborhood Parks, which include: egg hunts, holiday and/or religious celebrations, parades, community yard sales and developer events. It is staff's understanding that the Association does not charge community members for the use of the park for events, nor do they require insurance, portable restrooms or security. Comments received by RMA staff including suggested rules and regulations from the EGCSO Advisory Committee, include waiver of permits, fees and County requirements for events, allowing these events to be continued uses, and exclusion of the Phases I/II Neighborhood Parks from Monterey County Code Chapter 14.12 so that the EGCSO, with community input, can establish EGCSO-specific rules and regulations.

It was determined that parks and open space areas owned by the EGCSO are be subject to the rules and regulations under Monterey County Code Chapter 14.12, which codifies regulations for publicly owned parks and open space within Monterey County. Under the current Chapter 14.12, the only way to develop EGCSO-specific rules and regulations is by ordinance amending Chapter 14.12.

In fall 2019, the EGCSO Advisory Committee formed a Park Rules and Regulations Ad Hoc Committee to begin drafting suggested rules and regulations for the full Committee to consider. It was then suggested by County Supervisor Parker's staff that a more robust public outreach campaign should be coordinated to receive as much public input as possible regarding rules and regulations. Recently, the Ad Hoc Committee in collaboration with Supervisor Parker's staff, conducted a community survey to solicit input from the community regarding desired rules and regulations for the Phases I/II Neighborhood Parks. Staff has been working with the Advisory Committee and Supervisor Parker's office to consider the proposed rules and regulations and identify a pathway for the Board to consider them for adoption.

At this time, the proposed draft resolution (Attachment 3) will allow the EGCSO to establish continued use of the Phases I/II Neighborhood Parks for specific events and waives fees in Article V with respect to these events; Phases I/II Neighborhood Parks will otherwise be operated on a first come first serve basis. In tandem with the recommended actions before the EGCSO BOD today, at its June 11 meeting, the Monterey County Board of Supervisors will receive a recommendation to introduce,

waive reading, and set for adoption on June 25, 2019, a draft ordinance repealing and replacing Monterey County Code Chapter 14.12. If adopted as proposed, the replacement of Monterey County Code Chapter 14.12 will allow the Board to establish rules and regulations for the parks and open space areas owned by the EGCSO by resolution, with input from the EGCSO Advisory Committee.

On or following the effective date of the replacement of MCC Chapter 14.12 (thirty days following Board adoption, which is anticipated June 25, 2019), it is anticipated that staff will bring forth a draft resolution to establish additional rules and regulations, developed with community input and recommendation by the EGCSO Advisory Committee, for the Phases I/II Neighborhood Parks to the EGCSO BOD.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel, acting as Counsel for EGCSO, has reviewed and approved the proposed Amendment No. 2 as to form and legality.

The EGCSO Advisory Committee met a number of times to discuss the EGCSO Phases I/II Neighborhood Parks issue in 2018 and the first few months of 2019. At its March 21, 2019 meeting, the EGCSO Advisory Committee voted 5-0 to support *in concept* the amendment to the Temporary Maintenance Agreement, acceptance of the Phases I/II neighborhood parks, and adoption of resolution establishing certain community sponsored events; However, the Advisory Committee's support is contingent upon the adoption of park-specific rules for the Phases I/II neighborhood parks being adopted and in place prior to acceptance of the Phases I/II neighborhood parks.

On July 19, 2018, the East Garrison Community Association Board of Directors took the appropriate actions to legally convey the Phases I/II Neighborhood Parks to EGCSO and voted to extend Association funding of maintenance of the parks for a few months. On January 28, 2019 the Associated, recognizing the EGCSO has delayed bringing forward the deeds for acceptance to address community concerns, voted to extend Association funding of maintenance at the parks until April 30, 2019.

FINANCING:

Funding for EGCSO is budgeted in Fund 181, Appropriations Unit DEO027 and is derived from the special tax imposed upon residential properties within East Garrison. The adopted FY 2018-19 budget has sufficient appropriations to fund expenditures related to the *Temporary Maintenance Agreement* and the proposed Amendment.

For the next two years, staff will meet monthly with UCP to evaluate actual maintenance costs of the Phases I/II Neighborhood Parks and other EGCSO facilities compared to estimated costs, and should the appropriation of additional funds be required, staff will return to the Budget Committee and Board of Directors to request additional appropriations. There is sufficient fund balance in Fund 181, Appropriations Unit DEO027 to cover any foreseeable increase in appropriations.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The recommended action complies with the Board of Supervisors Strategic Initiative for Health &

Human Services and Infrastructure, “Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results,” by improving the quality of life of County residents through management of parks and open spaces within the East Garrison development.

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

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

Attachments:

Attachment 1 - Grant Deed

Attachment 2 - Proposed Amendment No. 2 to Temporary Maintenance Agreement No. A-12423

Attachment 3 - Draft EGCSO Park Fee and Use Resolution

Attachment 4 - Amendment No. 1 to Temporary Maintenance Agreement No. A-12423

Attachment 5 - Temporary Maintenance Agreement No. A-12423

Attachment 6 - Amendment No. 2 to Urban Services Agreement No. A-10550

(Attachments on file with the Clerk of the Board)