

Monterey County

*Monterey County Government Center
Board of Supervisors Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901*



Meeting Agenda - Final

Tuesday, February 23, 2021

10:30 AM

**IMPORTANT COVID-19 NOTICE ON PAGE 2-4
AVISO IMPORTANTE SOBRE COVID-19 EN LA PAGINA 2-4**

<https://montereycty.zoom.us/j/224397747>

East Garrison Community Services District

*Chair Director Wendy Root Askew - District 4
Vice Chair Director Mary L. Adams - District 5
Director Luis A. Alejo - District 1
Director John M. Phillips - District 2
Director Chris Lopez - District 3*

Important Notice Regarding COVID 19

Based on guidance from the California Department of Public Health and the California Governor's Office, in order to minimize the spread of the COVID 19 virus, please do the following:

- 1. While the Board chambers remain open, you are strongly encouraged to observe the live stream of the Board of Supervisors meetings at http://monterey.granicus.com/ViewPublisher.php?view_id=19, <http://www.mgtvonline.com/>, www.youtube.com/c/MontereyCountyTV or <https://www.facebook.com/MontereyCoInfo/>**

If you attend the Board of Supervisors meeting in person, you will be required to maintain appropriate social distancing, i.e., maintain a 6-foot distance between yourself and other individuals.

- 2. If you choose not to attend the Board of Supervisors meeting but desire to make general public comment, or comment on a specific item on the agenda, you may do so in three ways:**

- a. submit your comment via email by 5:00 p.m. on the Monday prior to the Board meeting. Please submit your comment to the Clerk of the Board at cob@co.monterey.ca.us. In an effort to assist the Clerk in identifying the agenda item relating to your public comment please indicate in the Subject Line, the meeting body (i.e. Board of Supervisors Agenda) and item number (i.e. Item No. 10). Your comment will be placed into the record at the Board meeting.**

- b. if you are watching the live stream of the Board meeting, you may submit your comment, limited to 250 words or less, to the Clerk of the Board at publiccomment@co.monterey.ca.us. General public comment must be received during the General Public Comment item on the agenda, and comments on specific agenda items must be received as it is being heard. In an effort to assist the Clerk in identifying the agenda item relating to your public comment please indicate in the Subject Line, the meeting body (i.e. Board of Supervisors Agenda) and item number (i.e. Item No. 10). Every effort will be made to read your comment into the record, but some comments may not be read due to time limitations. Comments received after an agenda item will be made part of the record if received prior to the end of the meeting.**

- c. you may participate through ZOOM. For ZOOM participation please join by computer audio at: <https://montereycty.zoom.us/j/224397747>**

OR to participate by phone call any of these numbers below:

**+1 669 900 6833 US (San Jose)
+1 346 248 7799 US (Houston)
+1 312 626 6799 US (Chicago)
+1 929 205 6099 US (New York)
+1 253 215 8782 US
+1 301 715 8592 US**

Enter this Meeting ID number: 224397747 when prompted. Please note there is no Participant Code, you will just hit # again after the recording prompts you.

You will be placed in the meeting as an attendee; when you are ready to make a public comment if joined by computer audio please Raise your Hand; and by phone please push *9 on your keypad.

- 3. You are encouraged to participate via Zoom as the Monterey Room on the 2nd floor of the County Government Center will not be available for overflow seating during this meeting.**

Aviso importante sobre COVID 19

Basado en la guía del Departamento de Salud Pública de California y la Oficina del Gobernador de California, para minimizar la propagación del virus COVID 19, haga lo siguiente:

- 1. Mientras las cámaras de la Junta permanecen abiertas, le recomendamos que observe la transmisión en vivo de las reuniones de la Junta de Supervisores en http://monterey.granicus.com/ViewPublisher.php?view_id=19, <http://www.mgtvonline.com/>, www.youtube.com/c/MontereyCountyTV o <https://www.facebook.com/MontereyCoInfo/>**

Si asiste a la reunión de la Junta de Supervisores en persona, deberá mantener un distanciamiento social apropiado, es decir, mantener una distancia de 6 pies entre usted y otras personas.

- 2. Si elige no asistir a la reunión de la Junta de Supervisores pero desea hacer un comentario público general o comentar un tema específico de la agenda, puede hacerlo de tres maneras:**
 - a. envíe su comentario por correo electrónico antes de las 5:00 p.m. el lunes anterior a la reunión de la Junta. Envíe su comentario al Secretario de la Junta a cob@co.monterey.ca.us. En un esfuerzo por ayudar al Secretario a identificar el ítem de la agenda relacionado con su comentario público, indique en la línea de asunto, el cuerpo de la reunión (es decir, la agenda de la Junta de Supervisores) y el número de ítem (es decir, el ítem No. 10). Su comentario se colocará en el registro en la reunión de la Junta.**
 - b. Si está viendo la transmisión en vivo de la reunión de la Junta, puede enviar su comentario, limitado a 250 palabras o menos, al Secretario de la Junta en publiccomment@co.monterey.ca.us. Los comentarios del público en general deben recibirse durante el elemento de Comentarios del público en general en la agenda, y los comentarios sobre los elementos específicos de la agenda deben recibirse mientras se escuchan. En un esfuerzo por ayudar al Secretario a identificar el ítem de la agenda relacionado con su comentario público, indique en la línea de asunto, el cuerpo de la reunión (es decir, la agenda de la Junta de Supervisores) y el número de ítem (es decir, el ítem No. 10). Se hará todo lo posible para leer su comentario en el registro, pero algunos comentarios pueden no leerse debido a limitaciones de tiempo. Los comentarios recibidos después de un ítem de la**

agenda serán parte del registro si se reciben antes del final de la reunión.

c. Puedes participar a través de ZOOM. Para participar en ZOOM, únase por audio de computadora en: <https://montereycty.zoom.us/j/224397747>

O para participar por teléfono, llame a cualquiera de estos números a continuación:

+1 669 900 6833 EE. UU. (San José)
+1346248 7799 EE. UU. (Houston)
+1312626 6799 EE. UU. (Chicago)
+1929205 6099 EE. UU. (Nueva York)
+1 253 215 8782 EE. UU.
+1301715 8592 EE. UU.

Ingrese este número de ID de reunión: 224397747 cuando se le solicite. Tenga en cuenta que no hay un Código de participante, simplemente presionará # nuevamente después de que la grabación lo solicite.

Se lo colocará en la reunión como asistente; cuando esté listo para hacer un comentario público si se une al audio de la computadora, levante la mano; y por teléfono presione * 9 en su teclado.

3. Se le anima a participar a través de Zoom ya que la sala Monterey en el segundo piso del Centro de Gobierno del Condado no estará disponible para asientos adicionales durante esta reunión.

NOTE: All agenda titles related to numbered agenda items are live web links. Click on the title to be directed to the corresponding Board Report.

PUBLIC COMMENT: Members of the public may address comments to the Board concerning each agenda item. The timing of public comment shall be at the discretion of the Chair.

Pursuant to Governor Newsom's Executive Order No. N-29-20, some or all Supervisors may participate in the meeting by telephone or video conference.

Please refer to the separate agenda for the Board of Supervisors

10:30 A.M. - Call to Order

Roll Call

Consent Calendar

1. Acting as the Board of Directors of the East Garrison Community Services District (EGCSD), approve and authorize the Chair to sign Amendment No. 3 to Agreement No. A-12423, a Temporary Maintenance Agreement by and between EGCSD and UCP East Garrison, LLC., relating to temporary maintenance obligations for

improvements at the East Garrison development, in an amount not to exceed \$845,000 in Fiscal Year 2020-21 and \$780,000 in Fiscal Year 2021-22.

Attachments: [Board Report](#)

[Attachment A-03-26-2013 EGCSD TMA to Agreement A-12423](#)

[Attachment B-09-12-2017 Amendment 1 to A-12423](#)

[Attachment C-06-11-2019 Amendment 2 to A-12423](#)

[Attachment D-Proposed Amendment 3 to A-12423](#)

Public Comments

Adjournment



Monterey County

Item No.1

Board Report

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

Legistar File Number: EGCSD A 21-001

February 23, 2021

Introduced: 1/21/2021

Version: 1

Current Status: Agenda Ready

Matter Type: East Garrison CSD
Agreement

Acting as the Board of Directors of the East Garrison Community Services District (EGCSD), approve and authorize the Chair to sign Amendment No. 3 to Agreement No. A-12423, a Temporary Maintenance Agreement by and between EGCSD and UCP East Garrison, LLC., relating to temporary maintenance obligations for improvements at the East Garrison development, in an amount not to exceed \$845,000 in Fiscal Year 2020-21 and \$780,000 in Fiscal Year 2021-22.

RECOMMENDATION:

It is recommended that the Board of Supervisors, acting as the Board of Directors of the East Garrison Community Services District (EGCSD), approve and authorize the Chair to sign Amendment No. 3 to Agreement No. A-12423, a Temporary Maintenance Agreement by and between EGCSD and UCP East Garrison, LLC., relating to temporary maintenance obligations for improvements at the East Garrison development, in an amount not to exceed \$845,000 in Fiscal Year 2020-21 and \$780,000 in Fiscal Year 2021-22.

SUMMARY/DISCUSSION:

East Garrison is an unincorporated community in Monterey County, California. A Community Services District (CSD) was established for the East Garrison community in 2005. On March 26, 2013, the Board of Supervisors, acting as the Board of Directors of the East Garrison Community Services District (EGCSD), approved the First Amendment to the Urban Services Agreement between the County and EGCSD to further define and clarify the allocation of infrastructure maintenance responsibilities to facilitate the continued achievement of the fiscal neutrality requirement.

On March 26, 2013, the Board of Supervisors, acting as the Board of Directors of EGCSD, approved a Temporary Maintenance Agreement (Agreement No. A-12423, also A-12423) with UCP East Garrison, LLC (UCP), the East Garrison Developer (Developer). A-12423 acknowledged that due to delays in the housing development, the Developer was completing and dedicating infrastructure to EGCSD in accordance with the Urban Services Agreement faster than EGCSD could accrue special tax revenue to maintain it. As such, the parties agreed that the Developer would temporarily maintain the EGCSD-owned facilities at its sole cost until EGCSD had the financial resources to fund and perform this maintenance on its own. The original terms of A-12423 (Attachment A) required EGCSD to reassume its duties no later than the issuance of the Certificate of Occupancy for the 315th market-rate residential unit in Phase 1 or within 120 days of EGCSD having sufficient revenues from the Special Tax for Services to fund the maintenance obligations (including reserves).

On September 12, 2017, the Board of Supervisors, acting as the Board of Directors of EGCSA, approved Amendment No. 1 to A-12423 (Attachment B) to reimburse UCP for maintenance work as of March 1, 2017, an agreed-upon date within the financial capability of EGCSA. By this date, EGCSA was generating sufficient funds to pay the maintenance costs, and those payments were an appropriate use of EGCSA funds consistent with the fiscal neutrality requirement. UCP's maintenance obligations would still end upon the issuance of the 315th market-rate residential unit in Phase 1, provided that, with the exception of Lincoln Park, EGCSA could terminate A-12423 within sixty (60) days of EGCSA's approval of a new Agreement with a selected vendor to provide for these maintenance services. For Lincoln Park, UCP would continue to maintain the park for a period of one (1) year following the latest of: a) the issuance of the 315th market-rate residential unit Certificate of Occupancy in Phase 1, b) the approval of an Agreement between EGCSA and a selected vendor to provide maintenance services, or c) EGCSA providing notice to UCP of the approval of such an Agreement. These revised provisions would allow EGCSA to control the extent of UCP's maintenance (and reimbursements therefore).

On July 19, 2018, the East Garrison Community Association executed a Grant Deed, which transferred the Phase I and Phase II parks (four (4) neighborhood parks) to EGCSA.

On June 11, 2019, the Board of Supervisors, acting as the Board of Directors of EGCSA, approved Amendment No. 2 to A-12423 (Attachment C) to provide maintenance of the Phase I and II neighborhood parks and Phase III parks, open space, and facilities. Upon EGCSA's acceptance of the deed(s) transferring title of such parks, open space, and facilities, the Developer would begin maintenance, and EGCSA would begin reimbursing the Developer for said maintenance.

The Temporary Maintenance Agreement, per the proposed Amendment No. 3 (Attachment D), provides budgets for Fiscal Years 2020-21 and 2021-22 for reimbursement of temporary maintenance costs. The budgets cover reimbursement for parks, public roads, stormwater/flood control, and optional services.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel, acting as Counsel for EGCSA, has reviewed and approved the proposed Amendment No. 3 as to form.

FINANCING:

Funding for staff time to prepare the report and fund the proposed Amendment No. 3 is available in EGCSA's Fiscal Year 2020-21 Adopted Budget, Fund 181, Appropriation Unit RMA106. This funding is derived from a special tax imposed upon residential properties within East Garrison.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The recommended action supports the Board of Supervisors' Infrastructure Strategic Initiative to "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 effective management of the parks and open spaces within the East Garrison development.

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

Prepared by: Dawn Yonemitsu, Management Analyst I (831) 755-5304

Reviewed by: Dalia Mariscal-Martinez, Management Analyst III

Reviewed by: Melanie Beretti, Housing and Community Development Services Manager

Approved by: Shawne E. Ellerbee, Assistant Director of Public Works, Facilities, & Parks

Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities, & Parks

Attachments:

Attachment A-03/26/2013 EGCSA Temporary Maintenance Agreement (A-12423)

Attachment B-07/25/2017 Amendment 1 to A-12423

Attachment C-06/11/2019 Amendment 2 to A-12423

Attachment D-Proposed Amendment 3 to A-12423

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



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

Prepared by: Dawn Yonemitsu, Management Analyst I (831) 755-5304

Reviewed by: Dalia Mariscal-Martinez, Management Analyst III

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Approved by: Shawne E. Ellerbee, Assistant Director of Public Works, Facilities, & Parks 

Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities, & Parks

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Attachment D-Proposed Amendment 3 to A-12423

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

Attachment A

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Monterey County

Board Order East Garrison Community Service District

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

Agreement No.: A-12423

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

Acting as the Board of Directors of the East Garrison Community Services District, approved and authorized the Chair to sign 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.

PASSED AND ADOPTED on this 26th day of March 2013, by the following vote, to wit:

AYES: Directors Armenta, Calcagno, 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 76 for the meeting on March 26, 2013.

Dated: March 28, 2013
File Number: EGCSD A 13-004

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

By Denise Hancock
Deputy

**TEMPORARY MAINTENANCE AGREEMENT
BY AND BETWEEN
EAST GARRISON COMMUNITY SERVICES DISTRICT AND
UCP EAST GARRISON, LLC**

This TEMPORARY MAINTENANCE AGREEMENT ("AGREEMENT") is made and entered into on March 26, 2013 by and between EAST GARRISON COMMUNITY SERVICES DISTRICT, a community services district formed pursuant to Government Code Section 61000 *et seq* ("EGCSD"), and UCP EAST GARRISON, LLC a Delaware limited liability company ("UCP" or "Developer") (each a "Party" and collectively, the "Parties").

RECITALS

A. UCP acquired all rights, title and interest to the East Garrison development project, including the *Disposition and Development Agreement* (DDA) pursuant to a foreclosure process as evidenced in that certain Trustee's Deed Upon Sale ("Trustee's Deed") recorded September 9, 2009 in the Official Records under Recorder's Series Number 2009-057220. The DDA was subsequently assigned to and assumed by UCP by that certain *First Implementation Agreement to Disposition and Development* by and among the County of Monterey ("County"), the Redevelopment Agency of the County of Monterey (now known as "Successor Agency") and UCP dated June 28, 2011 ("First Implementation Agreement").

B. On July 18, 2006, an *Urban Services Agreement* by and between EGCSD and the County of Monterey was approved to comply with Condition of Approval No. 199 to Combined Development Permit No. PLN 303204 (the East Garrison Development Project). The Urban Services Agreement defined each party's responsibilities for owning, operating, and maintaining specific portions of public infrastructure improvements in the East Garrison development. On March 26, 2013, *Amendment No. 1 to the Urban Services Agreement* was approved to further define and clarify each party's roles and responsibilities therein. UCP is a party to the Amended *Urban Services Agreement*.

C. On July 18, 2006, an *Interim Funding Agreement* was approved by and between EGCSD and East Garrison Partners I, LLC (EGP), the then-Developer of the East Garrison development and UCP's predecessor in interest. The Interim Funding Agreement provides for Developer to advance funding to EGCSD to pay for any revenue shortfalls for the cost to fulfill EGCSD's responsibilities under the Urban Services Agreement as defined in the approved *Operations and Maintenance Plan for the East Garrison Development* ("OMP").

D. On June 12, 2007, the County approved a *Subdivision Improvement Agreement Re East Garrison Phase 1 Onsite and Offsite Improvement Plans* (SIA) between the County and EGP. In accordance with the SIA, the Developer completed prepared Improvement Plans which included street, storm drain, sewer, and water system improvements necessary for the development, received an Encroachment Permit for those portions to be constructed within the public road right-of-way, received a Grading Permit for the on-site improvements, and provided

the financial securities and bonds required therefore. The Improvements have been constructed. The County Board of Supervisors accepted the Improvements as complete on March 26, 2013.

E. On March 26, 2013, the Board of Supervisors, acting as the Board of Directors of EGCSO, and concurrent with the approval of this AGREEMENT, accepted the completed East Garrison Phase 1 public On-Site storm drain improvements into EGCSO maintenance system, and committed to performing the operation and maintenance of said improvements in accordance with the approved OMP.

F. In conjunction with said acceptance, the Parties agree that as UCP has existing maintenance staff on site it is most efficient and cost effective for UCP to temporarily perform EGCSO maintenance obligations in accordance with the guidelines established in the OMP. UCP is agreeable to perform all EGCSO maintenance obligations accepted as part of Phase 1 on a temporary basis as outlined herein.

NOW THEREFORE, in consideration of the promises contained herein, EGCSO and UCP agree as set forth below:

1. Term. Subject to applicable law, the term ("Term") of this AGREEMENT shall commence on the date EGCSO accepts the completed East Garrison Phase 1 improvements described in the *Urban Services Agreement* as amended on March 26, 2013, into the EGCSO maintenance system, and shall remain in effect until issuance of the Certificate of Occupancy for the three hundred fifteenth (315th) market-rate residential unit in Phase 1 of the East Garrison development. Provided, however, that the temporary maintenance obligations described herein shall be transferred to EGCSO within 120 days following certification from EGCSO that revenues generated from the Special Tax for Services are sufficient to fund all EGCSO maintenance obligations, including a fully funded reserve.

2. Temporary Maintenance of the CSO Property by UCP. Throughout the term of this AGREEMENT, UCP shall perform at its sole cost all maintenance obligations on the above-described EGCSO Phase 1 improvements in accordance with the scope and schedule set forth in the OMP, including but are not limited to:

- a. Drainage, stormwater facilities and systems, and retention basins for flood control as shown in Exhibit 3 of the *First Amendment to Urban Services Agreement* approved by the Board of Supervisors on March 26, 2013.
- b. Lincoln Park and other Open Space as shown in Exhibit 4 of the *First Amendment to Urban Services Agreement* approved by the Board of Supervisors on March 26, 2013.

3. Inspections by EGCSO. EGCSO may periodically inspect the Improvements to confirm that maintenance is being performed in accordance with the OMP. Any deficiencies noted by EGCSO will be communicated to UCP. Inspections by EGCSO in no way relieve the responsibility of UCP to perform the maintenance activities provided for in this AGREEMENT. EGCSO will not be responsible for maintenance means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the work, and it will not be responsible for the UCP's failure to carry out the work in accordance with the OMP.

4. Final Inspection Prior to Transfer. Prior to the end of the term of this AGREEMENT as defined by paragraph 1 above, EGCSO shall inspect the Improvements to confirm said Improvements have been properly maintained prior to the return of responsibility for maintenance of the Improvements from UCP to EGCSO. The Parties shall resolve all maintenance issues prior to the transfer of responsibility to EGCSO. Parties agree to use their best efforts to complete any transfer of maintenance obligations to EGCSO within 90-days of the termination of UCP obligations, pursuant to Paragraph 2, above. UCP will not be required to post additional warranty bonds for EGCSO maintenance costs or obligations at transfer.

5. Reports. UCP shall provide quarterly reports to EGCSO as to the performance of maintenance. These reports shall include any extraordinary damage or failure as well as identification of the completion of significant maintenance events.

6. Reimbursement of Temporary Maintenance Costs. Any costs associated with UCP's maintenance obligations pursuant to this Agreement shall not be charged to EGCSO, but shall instead be included as "Project Costs" as that term is used in the DDA. Notwithstanding the above, however, after the transfer of maintenance obligations from UCP to EGCSO pursuant to Paragraphs 1 and 4, should EGCSO seek interim funding of EGCSO costs, EGCSO shall be obligated to reimburse UCP for all interim funding provided pursuant to the existing approved Interim Funding Agreement dated July 18, 2006.

7. Cost of Maintenance/Retention of Funds. As stated above, UCP shall solely bear the cost to perform the maintenance obligations in accordance with the scope and schedule set forth in the OMP. Any revenues accrued by EGCSO during the term of this AGREEMENT shall be kept by EGCSO and shall be used for and restricted to the following purposes: to pay for costs related to law enforcement services authorized to be paid through EGCSO special taxes; to establish and fund a capital replacement reserve for EGCSO; to pay for the direct administrative costs associated with the implementation and monitoring of this Agreement; to pay for the costs of inspections associated with this Agreement; to pay for direct costs associated with the management of the EGCSO; and to pay for any other EGCSO-associated costs (with the written concurrence of UCP).

8. Notices. All notices, statements, or other documents which any party shall be required or desire to give to any other party hereunder must be in writing and shall be given by the party only in one of the following ways: (i) by personal delivery, or (ii) by addressing it as indicated below, and by depositing it, registered or certified mail, postage prepaid, in the United States mail. If so delivered or mailed, each such notice, statement, or other document shall be conclusively deemed to have been given when personally delivered, or forty-eight (48) hours after the date of mailing (excluding Saturdays, Sundays, and federal holidays), as the case may be. The addresses for notices and other communications, until further notice, are:

UCP: UCP East Garrison, LLC
6489 Camden Avenue, Suite 204
San Jose, CA 95120
Attn: James W. Fletcher
Phone: (408) 323-1113
Fax: (408) 323-1114

With a copy to: W. Allen Bennett, Esq.
Vice President & General Counsel
548 W. Cromwell, Suite 104
Fresno, CA 93711
Phone: (559) 439-4464
Fax: (559) 439-4477

CSD: General Manager, East Garrison Community Services District
c/o Director of Public Works
County of Monterey
Resource Management Agency
168 W. Alisal Street, 2nd Floor
Salinas, CA 93901

9. Resolution of Certain Disputes

a. Informal Resolution. If any dispute arises between or among the Parties as to interpretation or application of any of the terms of this AGREEMENT, the Parties shall attempt to resolve the dispute in accordance with this AGREEMENT prior to judicial reference or formal court action. As to any such dispute, the Parties shall first meet and confer in good faith to resolve the matter between themselves. Each Party shall make all reasonable efforts to provide to the other Party or Parties all information relevant to the dispute, to the end that all Parties will have appropriate and adequate information to resolve the dispute.

b. Mediation. Before pursuing any administrative or judicial remedies to resolve any dispute or claim under this AGREEMENT, the Parties hereto shall attempt in good faith to resolve any such dispute by mediation conducted by a mediator mutually selected by the Parties or in the absence of mutual agreement, a panel of three (3) mediators where each Party selects one mediator, and those two mediators select the third mediator. The third mediator shall serve as chairperson and shall adhere to the Commercial Mediation Rules of the American Arbitration Association.

c. Judicial Reference. If mediation is not required under the provisions of this AGREEMENT or mediation has not resolved the dispute and any Party to this AGREEMENT commences a lawsuit relating to a dispute arising under this AGREEMENT, all the issues in such action, whether of fact or law, shall be resolved by judicial reference pursuant to the provisions of California Code of Civil Procedure Sections 638.1 and 641 through 645.1. The Parties shall cooperate in good faith to ensure that all necessary and appropriate parties are

included in the judicial reference proceeding unless it is satisfied that all necessary and appropriate parties will participate. The following shall apply to any such proceedings:

(i) The proceeding shall be brought and held in Monterey County, unless the Parties agree to an alternative venue.

(ii) The Parties shall use the procedures adopted by JAMS/ENDISPUTE ("JAMS") for judicial reference and selection of a referee (or any other entity offering judicial reference dispute resolution procedures as may be mutually acceptable to the Parties).

(iii) The referee must be a retired judge or a licensed attorney with substantial experience in relevant real estate matters.

(iv) The Parties to the litigation shall agree upon a single referee who shall have the power to try any and all of the issues raised, whether of fact or of law, which may be pertinent to the matters in dispute, and to issue a statement of decision thereon. Any dispute regarding the selection of the referee shall be resolved by JAMS or the entity providing the reference services, or, if no entity is involved, by the court in accordance with California Code of Civil Procedure Sections 638 and 640.

(v) The referee shall be authorized to provide all remedies available in law or equity appropriate under the circumstances of the controversy and consistent with this AGREEMENT, other than punitive damages.

(vi) The referee may require one or more pre-hearing conferences.

(vii) The Parties shall be entitled to discovery, and the referee shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge.

(viii) A stenographic record of the trial shall be made.

(ix) The referee's statement of decision shall contain findings of fact and conclusions of law to the extent applicable.

(x) The referee shall have the authority to rule on all post-hearing motions in the same manner as a trial judge.

(xi) The Parties shall promptly and diligently cooperate with each other and the referee and perform such acts, as may be necessary for an expeditious resolution of the dispute.

(xii) The costs of such proceedings, including the fees of a referee, shall be borne equally by the Parties to the dispute.

(xiii) The statement of decision of the referee upon all of the issues considered by the referee shall be binding upon the Parties, and upon filing of the statement of decision with the clerk of the court, or with the judge where there is no clerk, judgment may be entered thereon.

The decision of the referee shall be appealable as if rendered by the court. Except for actions for indemnification, the Parties acknowledge and accept that they are waiving their right to a jury trial to the extent such waiver is authorized by the Legislature in response to the decision of the California Supreme Court in *Grafton Partners v. Superior Court of Alameda County* (2005) 36 Cal.4th 944.

10. Indemnity. UCP shall indemnify, defend, and hold harmless EGCSO, its officers, agents, and employees, and the County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this AGREEMENT, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with UCP's performance of this AGREEMENT, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of EGCSO or County. "UCP's performance" includes UCP's action or inaction and the action or inaction of UCP's officers, employees, agents and subcontractors.

11. Insurance.

a. Evidence of Coverage:

Prior to commencement of this AGREEMENT, UCP shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, UCP upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. UCP shall not receive a "Notice to Proceed" with the work under this AGREEMENT until it has obtained all insurance required and such, insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of UCP.

b. Qualifying Insurers:

All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

c. Insurance Coverage Requirements: Without limiting UCP's duty to indemnify, UCP shall maintain in effect throughout the term of this AGREEMENT a policy or policies of insurance with the following minimum limits of liability:

Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform Property Damage, Independent Contractors, Products

and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this AGREEMENT, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Workers' Compensation Insurance, if UCP employs others in the performance of this AGREEMENT, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, UCP shall, upon the expiration or earlier termination of this AGREEMENT, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this AGREEMENT.

d. Other Insurance Requirements.

All insurance required by this AGREEMENT shall be with a company acceptable to EGCS and County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this AGREEMENT, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date UCP completes its performance of services under this AGREEMENT.

Each liability policy shall provide that EGCS and County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for UCP and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this AGREEMENT, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming EGCS, its officers, agents, and employees, and the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of UCP'S work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by UCP'S insurance. The required endorsement form for Commercial General Liability Additional

Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this AGREEMENT by the County, UCP shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that UCP has in effect the insurance required by this AGREEMENT. UCP shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this AGREEMENT, which shall continue in full force and effect.

UCP shall at all times during the term of this AGREEMENT maintain in force the insurance coverage required under this AGREEMENT and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify UCP and UCP shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by UCP to maintain such insurance is a default of this AGREEMENT, which entitles County, at its sole discretion, to terminate this AGREEMENT immediately.

e. Notwithstanding anything to the contrary in this AGREEMENT, the parties hereby agree that the EGCSO and UCP may enter into this AGREEMENT and it shall become effective without the delivery of the insurance policy required by this Section 11, if the following occurs:

i. UCP delivers to the EGCSO, and the EGCSO, in its sole and absolute discretion, approves a pro forma copy of the insurance policy required by this Section 11;

ii. UCP delivers a written certificate or other written evidence satisfactory to the EGCSO (in its sole and absolute discretion), from an Insurance Carrier meeting the requirements of this Section 10 stating that such Insurance Company intends to issue an insurance policy substantially in the form of the pro forma policy delivered pursuant to this Section 11 above; and

iii. UCP delivers evidence satisfactory to the EGCSO (in its sole and absolute discretion), that the premium for the insurance policy required for 2012-2013 in accordance with this Section 10 has been paid in full.

12. Recordation. This AGREEMENT and any amendment thereto shall be recorded within the records of the Office of the Recorder for the County of Monterey and shall constitute a covenant running with the land for all the parcels within the Project and shall be binding on UCP, all property owners, administrators, executors, assigns, heirs, and all other successors in interest.

13. Default and Remedies. In the event UCP fails to perform its maintenance obligations, or fails to obtain the insurance required under Section 11 hereof, or fails to take any

other required action under this AGREEMENT, EGCSO may take whatever action at law or in equity or under this AGREEMENT to which it is entitled, including but not limited to an action for damages or for specific performance or otherwise to enforce performance and observance of any obligation, condition or covenant of UCP under this AGREEMENT. Notwithstanding anything else in this AGREEMENT, if UCP fails to obtain the insurance required under Section 11 hereof, EGCSO may obtain such insurance insuring EGCSO and County, and charge UCP for the cost. In addition, EGCSO shall be entitled to all of its costs associated with enforcing the terms of this AGREEMENT, including, without limitation, attorneys' fees and costs, and court costs. Any costs associated with activities required by EGCSO to cure a default or enforce an obligation of UCP pursuant to this provision shall not be eligible for reimbursement to UCP, whether as "Project Costs" or otherwise.

14. Miscellaneous. As used in this AGREEMENT, all words in the masculine, feminine, or neuter gender, and the plural or singular number, shall each be construed to include the others whenever the context so requires. This AGREEMENT shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto. This AGREEMENT shall be governed by and construed in accordance with the laws of the State of California. Time is of the essence of this AGREEMENT. No change in or addition to, or waiver or termination of this AGREEMENT or any part thereof, shall be valid unless in writing and signed on behalf of each of the Parties hereto. Every provision of this AGREEMENT is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or unenforceability shall not affect the validity of the remainder of this AGREEMENT. This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT as of the Effective Date set forth below.

UCP:
UCP EAST GARRISON, LLC, a
Delaware limited liability company

EGCSD:
East Garrison Community Services
District

By: UCP, LLC, a Delaware Limited
Liability Company, its sole member

By: Fernando Armenta

Name: FERNANDO ARMENTA

By: James W. Fletcher

Title: Supervisor, Director

Name: JAMES W. FLETCHER

Title: COO

APPROVED AND CONSENTED TO:

SUCCESSOR AGENCY TO THE REDEVELOPMENT
AGENCY OF THE COUNTY OF MONTEREY

By: Fernando Armenta

Title:

Nicholas E. Chiles
Asst. County
Administrative Officer

APPROVED AS TO FORM:

Kay Reimann

Kay Reimann
Sr. Deputy County Counsel

Date: 3/22/13

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Attachment B

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East Garrison Community Services District

Board Order

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

Agreement No. A-12423

Upon motion of Director Parker, seconded by Director Alejo and carried by those members present, the Board of Directors hereby:

Approved and authorized the Chair to sign Amendment No. 1 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 in an amount not to exceed \$80,000 in FY16-17, \$699,300 in FY17-18, \$714,800 in FY18-19, and \$731,400 in FY19-20, and with a term to end within sixty (60) days of the District's approval of an agreement with a selected vendor to provide these maintenance services.

PASSED AND ADOPTED this 12th day of September 2017, by the following vote, to wit:

AYES: Directors Alejo, Phillips, Salinas, Parker and Adams

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 80 for the meeting September 12, 2017.

Dated: September 12, 2017
File ID: EGCSD 17-003

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

By Donnie Hancock
Deputy

**AMENDMENT NO. 1
TO
TEMPORARY MAINTENANCE AGREEMENT
BY AND BETWEEN
EAST GARRISON COMMUNITY SERVICES DISTRICT AND
UCP EAST GARRISON, LLC**

This AMENDMENT NO. 1 TO AGREEMENT No. A-12423, TEMPORARY MAINTENANCE AGREEMENT by and between EAST GARRISON COMMUNITY SERVICES DISTRICT and UCP EAST GARRISON, LLC ("Amendment No.1") is made and entered into as of July 25, 2017.

RECITALS

- A. On March 26, 2013, the EAST GARRISON COMMUNITY SERVICES DISTRICT ("District") and UCP EAST GARRISON, LLC ("UCP" or "Developer") entered into an agreement (the "Temporary Maintenance Agreement" or "Agreement") whereby UCP agreed to provide all maintenance obligations on Phase 1 District improvements, in accordance with the scope and schedule of the approved *Operations and Maintenance Plan for the East Garrison Development* ("OMP") related to the East Garrison Disposition and Development Agreement ("East Garrison DDA").
- B. Paragraph 1 ("Term") of the Temporary Maintenance Agreement provides that it shall remain in effect until the issuance of the Certificate of Occupancy for the three hundred fifteenth (315th) market-rate residential unit in Phase 1 of the East Garrison development. The Term also contained a proviso that the temporary maintenance obligations are to be transferred to the District within one hundred twenty (120) days of a certification from the District that revenues generated from the Special Tax for Services are sufficient to fund all District maintenance obligations, including a fully funded reserve.
- C. Paragraph 2 ("Temporary Maintenance of the CSD Property by UCP") of the Agreement identifies certain improvements included in the scope of UCP's maintenance responsibilities, but is unclear as to the scope of all improvements to be maintained by UCP pursuant to the Agreement.
- D. Paragraph 6 ("Reimbursement of Temporary Maintenance Costs") of the Agreement provides that UCP's maintenance obligations pursuant to the Agreement are not to be charged to the District, but instead included as "Project Costs" as that term is used in the East Garrison DDA. Paragraph 7 ("Cost of Maintenance/ Retention of Funds") of the Agreement further provided that any revenues accrued by the District pursuant to the Agreement are to be kept by the District and used for restricted purposes as set forth in the Agreement.
- E. Development pursuant to the East Garrison DDA has proceeded, and the District is preparing to solicit a consultant to provide maintenance and related services, including the types of services described in the Temporary Maintenance Agreement undertaken by UCP. The

District believes sufficient revenues are being generated to assume maintenance duties, however, it is not known at this time if a consultant will be selected within the 120-day time frame contemplated by Paragraph 1. The District also recognizes the original intent of the parties to the East Garrison Disposition and Development Agreement was for the District to assume costs of maintenance of District property when it was financially capable.

F. UCP recognizes the marketing benefits of the obligations it assumed to maintain District improvements during critical stages of the development of East Garrison, as well as the continued benefits of control of maintenance of improvements by UCP, but does not wish to assume responsibility for continued costs if the District is financially capable.

G. Accordingly, in order to continue the proper, efficient and cost-effective maintenance of the East Garrison Project in a manner that promotes the continued development of the Project, the District and UCP wish to amend the Agreement to provide for the reimbursement of services performed by UCP under the Agreement as of the date set forth below.

NOW, THEREFORE, in consideration of the promises contained herein, the District and UCP agree to amend the Temporary Maintenance Agreement as follows:

1. Paragraph 1 ("Term") of the Temporary Maintenance Agreement is amended to read as follows:

1. Term. Subject to applicable law, the term ("Term") of this AGREEMENT shall commence on the date EGCSO accepts the completed East Garrison Phase 1 improvements described in the *Urban Services Agreement* as amended on March 26, 2013, into the EGCSO maintenance system, and shall remain in effect until issuance of the three hundred fifteenth (315th) market-rate residential unit in Phase 1 of the East Garrison development. Provided, however, that the temporary maintenance obligations described herein, with the exception of Lincoln Park, as set forth below in Paragraph 1.1, shall be transferred to EGCSO within sixty (60) days of the approval of an agreement between EGCSO and a selected vendor to provide maintenance services.

2. Paragraph 1.1 is hereby added to the Temporary Maintenance Agreement to read as follows:

1.1 Lincoln Park. Notwithstanding anything to the contrary in the AGREEMENT, UCP shall continue to maintain Lincoln Park for a period of one (1) year following the later of: (a) the issuance of the three hundred fifteenth (315th) market-rate residential unit Certificate of Occupancy in Phase 1 of the East Garrison development; or (b) the approval of an agreement between EGCSO and a selected vendor to provide maintenance services, or (c) the EGCSO providing notice to UCP of such approved agreement.

3. Paragraph 2 ("Temporary Maintenance of the CSD Property by UCP") of the Temporary Maintenance Agreement is amended to read as follows:

Throughout the term of this AGREEMENT, UCP shall perform all maintenance obligations on ESCSD improvements in all Phases of the Project in accordance with the scope and schedule of the applicable OMP, including but not limited to all drainage, stormwater facilities and systems, and retention basins for flood control; Lincoln Park and other Open Space as shown in Exhibits 3 and 4 of the *First Amendment to Urban Services Agreement* approved by the Board of Supervisors on March 26, 2013.

4. Paragraph 6 (“Reimbursement of Temporary Maintenance Costs”) of the Temporary Maintenance Agreement is amended by replacing Paragraph 6 with the following:

6. Reimbursement of Temporary Maintenance Costs.

(a) Any costs associated with UCP’s maintenance obligations pursuant to this Agreement prior to the date of March 1, 2017, shall not be charged to EGCSO, but shall instead be included as “Project Costs” as that term is used in the DDA. In addition, unless through a future amendment past costs are reimbursed, the Project Costs incurred by UCP pursuant to this Agreement shall be chargeable only to the Successor Agency to the Redevelopment Agency of the County of Monterey and not to the Fort Ord Reuse Authority.

(b) Actual, direct costs associated with UCP’s maintenance obligations pursuant to this Agreement incurred on or after March 1, 2017, shall be reimbursed by EGCSO. The estimated cost of services provided under this Agreement shall not exceed the Total Annual Budget as is set forth below and as detailed in Exhibit 2 to this Amendment No. 1 (the “Total Annual Budget”):

ANNUAL BUDGET				
	FY16-17	FY17-18	FY18-19	FY19-20
Task 1: Public Road Annual Maintenance	\$ 7,500	\$ 65,200	\$ 66,600	\$ 68,100
Task 2: Stormwater/Flood Control Annual Maintenance	\$ 7,600	\$ 66,600	\$ 68,100	\$ 69,700
Task 3: Park & Open Space Annual Maintenance	\$ 57,600	\$ 503,900	\$ 515,100	\$ 526,700
Task 4: Optional Services as Assigned				
Non-Emergency Services	\$ 7,300	\$43,600	\$45,000	\$46,500
Emergency Services		\$20,000	\$20,000	\$20,000
TOTAL MAXIMUM ANNUAL COST	\$ 80,000	\$ 699,300	\$ 714,800	\$ 731,400

The parties acknowledge that the Annual Budget as stated herein is an estimate which may not reflect the actual cost of services, and while EGCSO shall have no obligation to pay any amount in excess of the Total Annual Budget, the parties agree to meet and confer in good faith on a semi-annual basis in order to review the Total Annual Budget and make reasonable adjustments to the Budget if necessary and mutually agreed upon by the parties. UCP shall submit monthly invoices which shall include details of service rendered and expenses incurred during the dates indicated. Detail of services shall describe the nature of the work, the scope line item from Exhibit 2, and the EGCSO

property or facility upon which the work was performed. Costs for purchased materials or for work performed by sub-contractors or sub-vendors shall be supported by attached invoices. No mark-up for materials or sub-contractor or sub-vendor costs will be allowed. Mileage costs shall be billed at the current County of Monterey mileage billing rate.

The effort anticipated to complete this work is based on the scope of work and cost estimates contained within the *Operation and Maintenance Plan, East Garrison Development*, rev April 26, 2013 and escalated to 2017 dollars. Cost estimates provided for tasks are the best estimates available at the time of Plan preparation; actual invoiced amounts may vary from the initial task estimates due to weather impacts, unanticipated repairs, inspection report recommendations, etc. An amendment to the Agreement is not required if the task allocated budget amount(s) do not exceed the overall Agreement not-to-exceed amount. In the event UCP costs are to exceed the task allocated budget amount(s), UCP shall notify EGCSO in advance and as soon as possible in writing and clearly describe how UCP will achieve net fiscal neutrality.

Work under Task 4, Optional Services, shall be provided only upon prior written authorization by EGCSO, and only if the cost of the work is within the indicated budget, excepting in the event of an emergency, in which case UCP may provide the response and repair services and notify EGCSO as soon as reasonably practicable. An "emergency" as used herein means only the following events: fire, flash flood, earthquake, Act of God, Act of War, and or an immediate unexpected threat to public health or safety which poses a substantial risk of serious bodily harm. The cost for such emergency services under this Agreement shall not exceed the Total Annual amount of \$20,000. Optional Services include work not anticipated in the Operation and Maintenance Plan which may be required to provide for public safety or compliance with statutes or regulations within the properties and facilities owned by the EGCSO. Except for emergency work, for any recommended work initiated by UCP, UCP shall provide EGCSO a written scope of work, justification of need, and detailed cost estimate for review by EGCSO prior to EGCSO issuing authorization to proceed with the work. For recommended work initiated by EGCSO, UCP shall provide upon request a detailed cost estimate for review by EGCSO prior to issuing authorization to proceed with the work.

Attached as Exhibit 1 to this Amendment No. 1 is a listing of incurred costs from March 1, 2017 to May 1, 2017. UCP represents that such costs are reasonable and consistent and not anticipated to increase over the anticipated term of this Agreement. All services provided during the period March 1 through June 30, 2017 must be invoiced not later than July 31, 2017.

5. Paragraph 8 ("Notices") of the Temporary Maintenance Agreement is amended by replacing the addresses for notices and other communications to read as follows:

UCP: UCP East Garrison, LLC
99 Almaden Blvd, Suite 400
San Jose, CA 95113

Attn: James Fletcher, Division President
Phone: 408-207-9499, Ext.405
Fax: 408-323-1114
E-mail: jfletcher@benchmarkcommunities.com

With copy to: Holly Traube Cordova, General Counsel
7815 North Palm Avenue, Suite 101
Fresno, CA 93711
Phone: 661-487-6080
E-mail: hcordova@benchmarkcommunities.com

CSD: General Manager, East Garrison Community Services District
c/o Deputy Director of Administrative Services
Monterey County Resource Management Agency
1441 Shilling Place South, 2nd Floor
Salinas, CA 93901
Phone: 831-755-4794
E-mail: EllerbeS@co.monterey.ca.us

6. Paragraph 12 ("Recordation") of the Temporary Maintenance Agreement is hereby deleted.

7. References in the Temporary Maintenance Agreement to UCP bearing the "sole cost" of maintenance obligations, including references found in Paragraphs 2 and 7, shall be modified by the provisions of this Amendment No. 1 to allow reimbursement of maintenance obligations performed by UCP on or after March 1, 2017.

8. All other terms and conditions of the Temporary Maintenance Agreement shall remain in full force and effect.

[Signatures on next page]

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the Temporary Maintenance Agreement as of the Effective date set forth above.

MASTER DEVELOPER:


UCP EAST GARRISON, LLC, a Delaware limited liability company

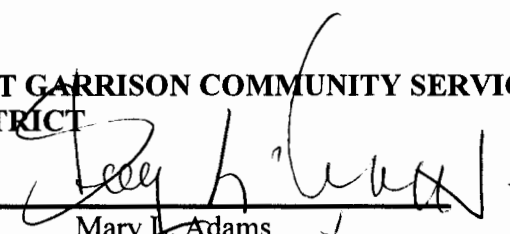
By: UCP, LLC, a Delaware Limited Liability Company, its sole member

By: 
Dustin L. Bogue
President

EAST GARRISON COMMUNITY SERVICES DISTRICT

Approved as to form:

By: 
Brian Briggs, Deputy
County Counsel

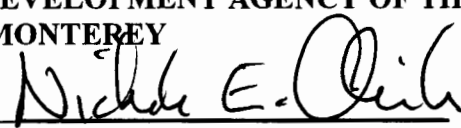
By: 
Mary L. Adams
Chair, Board of Directors

APPROVED AND CONSENTED TO

**SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY OF THE COUNTY
OF MONTEREY**

Approved as to form:

By: 
Brian Briggs, Deputy
County Counsel

By: 
Nicholas E. Chiulos
Assistant County Administrative Officer

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Attachment C

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Monterey County Board of Supervisors

168 W. Alisal Street, 1st Floor
Salinas, CA 93901
831.755.5066
www.co.monterey.ca.us

Board Order

Agreement No. A-12423, Amendment No. 2

A motion was made by Supervisor Jane Parker seconded by Supervisor Mary L. Adams to:

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

To postpone the rest of the action below until July 2019:

b. Review the East Garrison Advisory Committee's recommendations and consider taking one or more of the following actions:

a. Accept 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. Authorize the Chair to execute the Certificate of Acceptance and Consent to Recordation of the Grant Deed; and

c. Authorize and direct the Clerk of the Board to submit the executed Grant Deed to the County Recorder; and

d. Adopt a Resolution No. 19-248 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.

PASSED AND ADOPTED on this 11th day of June 2019, by the following vote, to wit:

AYES: Directors Parker, Adams, Lopez and Alejo

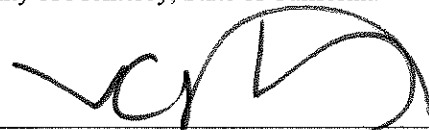
NOES: None

ABSENT: Director Phillips

I, Valerie Ralph, 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 82 for the meeting June 4, 2019.

Dated: July 2, 2019
Legistar File ID No. EGCSD 19-002
Agenda Item No. 1

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

A handwritten signature in black ink, appearing to read 'VR', is written over a horizontal line.

Valerie Ralph, Clerk of the Board

**AMENDMENT NO. 2
TO
TEMPORARY MAINTENANCE AGREEMENT
BY AND BETWEEN
EAST GARRISON COMMUNITY SERVICES DISTRICT AND
UCP EAST GARRISON, LLC**

This AMENDMENT NO. 2 to the Temporary Maintenance Agreement by and between EAST GARRISON COMMUNITY SERVICES DISTRICT, a community services district formed pursuant to Government Code Section 61000 *et seq* ("EGCSD") and UCP EAST GARRISON, LLC, a Delaware limited liability company ("UCP"), ("Amendment No. 2"), is made and entered into as of June 11, 2019.

RECITALS

A. On March 26, 2013, EGCSD and UCP entered into a Temporary Maintenance Agreement ("Agreement") whereby UCP agreed to provide all maintenance obligations on Phase 1 EGCSD improvements, in accordance with the scope and schedule of the approved Operations and Maintenance Plan for the East Garrison Development ("OMP") related to the East Garrison Disposition and Development Agreement (as amended, the "East Garrison DDA") and the Urban Services Agreement (as amended, the "Urban Services Agreement").

B. The Agreement was amended on July 25, 2017 ("Amendment No. 1") (Agreement, as amended by Amendment No. 1, is collectively referred to herein as the "Temporary Maintenance Agreement"). Except as otherwise defined herein, all capitalized terms shall have the meaning set forth in the Temporary Maintenance Agreement.

C. In the Second Amendment to Urban Services Agreement, amended by the Board of Supervisors, acting as the Board of Directors of the EGCSD on December 12, 2017, the Phase 1, 2 and 3 internal neighborhood parks were added to the areas to be owned and maintained by EGCSD (collectively, the "Neighborhood Parks").

D. The Neighborhood Parks have been constructed in Phases 1 and 2, and are currently owned by East Garrison Community Association (the "Association"). The Phase 1 and 2 Neighborhood Parks are currently maintained by the Association.

E. Effective upon EGCSD's acceptance of the deed(s) transferring title of each park, open space or facility to EGCSD (the "Effective Date"), EGCSD desires to retain UCP to maintain the Neighborhood Parks, in accordance with the terms of this Amendment No. 2 to the Temporary Maintenance Agreement.

F. Accordingly, in order to continue the proper, efficient and cost-effective maintenance of each park, open space and facility EGCSD and UCP wish to amend the Temporary Maintenance Agreement to provide for the reimbursement of services performed by UCP under the Temporary Maintenance Agreement as of the date set forth below.

NOW, THEREFORE, in consideration of the promises contained herein, EGCSO and UCP agree to amend the Agreement as follows:

1. Amend Paragraph 1 ("Term") of the Agreement to delete Paragraph 1.1 and replace Paragraph 1 with the following:

1. Term. Subject to applicable law, the term ("Term") of this AGREEMENT shall commence on the date EGCSO accepts the completed East Garrison Phase 1 improvements described in the *Urban Services Agreement* as amended on March 26, 2013, into the EGCSO maintenance system. Notwithstanding anything to the contrary in the AGREEMENT, upon the Effective Date UCP shall maintain the parks, open space or other facilities as described in paragraph 2 below, until the later of: (a) the approval of an agreement between EGCSO and a selected vendor to provide maintenance services, or (b) the EGCSO providing notice to UCP of such approved agreement.

2. Amend Paragraph 2 ("Temporary Maintenance of the CSO Property by UCP") of the Temporary Maintenance Agreement to read as follows:

Throughout the term of this AGREEMENT, UCP shall perform all maintenance obligations on EGCSO improvements in all Phases of the Project in accordance with the scope and schedule of the applicable OMP, including but not limited to all drainage, stormwater facilities and systems, and retention basins for flood control; Lincoln Park; and other Parks and Open Space as shown in Exhibit 4 of the Second Amendment to Urban Services Agreement.

3. Amend Paragraph 6 ("Reimbursement of Temporary Maintenance Costs") of the Temporary Maintenance Agreement to add the following:

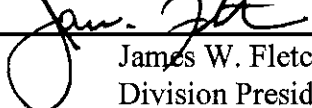
- (c) Actual, direct maintenance costs for services provided here under incurred by UCP on or after the Effective Date, shall be reimbursed by EGCSO.

4. All other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 2 to the Temporary Maintenance Agreement as of the effective date set forth above.

UCP EAST GARRISON, LLC, a Delaware limited liability company

By: UCP, LLC, a Delaware Limited Liability Company, its sole member

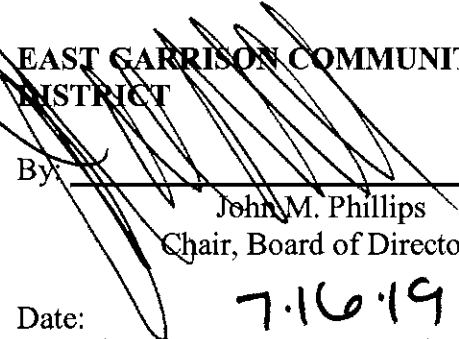
By: 
James W. Fletcher
Division President

Date: 5/29/19

Approved as to Form and Legality:

By: 
Brian P. Briggs
Deputy County Counsel

EAST GARRISON COMMUNITY SERVICES DISTRICT

By: 
John M. Phillips
Chair, Board of Directors

Date: 7.16.19

Date: 6-3-19

**AMENDMENT NO. 2
TO
TEMPORARY MAINTENANCE AGREEMENT
BY AND BETWEEN
EAST GARRISON COMMUNITY SERVICES DISTRICT AND
UCP EAST GARRISON, LLC**

This AMENDMENT NO. 2 to the Temporary Maintenance Agreement by and between EAST GARRISON COMMUNITY SERVICES DISTRICT, a community services district formed pursuant to Government Code Section 61000 *et seq* ("EGCSD") and UCP EAST GARRISON, LLC, a Delaware limited liability company ("UCP"), ("Amendment No. 2"), is made and entered into as of June 11, 2019.

RECITALS

A. On March 26, 2013, EGCSD and UCP entered into a Temporary Maintenance Agreement ("Agreement") whereby UCP agreed to provide all maintenance obligations on Phase 1 EGCSD improvements, in accordance with the scope and schedule of the approved Operations and Maintenance Plan for the East Garrison Development ("OMP") related to the East Garrison Disposition and Development Agreement (as amended, the "East Garrison DDA") and the Urban Services Agreement (as amended, the "Urban Services Agreement").

B. The Agreement was amended on July 25, 2017 ("Amendment No. 1") (Agreement, as amended by Amendment No. 1, is collectively referred to herein as the "Temporary Maintenance Agreement"). Except as otherwise defined herein, all capitalized terms shall have the meaning set forth in the Temporary Maintenance Agreement.

C. In the Second Amendment to Urban Services Agreement, amended by the Board of Supervisors, acting as the Board of Directors of the EGCSD on December 12, 2017, the Phase 1, 2 and 3 internal neighborhood parks were added to the areas to be owned and maintained by EGCSD (collectively, the "Neighborhood Parks").

D. The Neighborhood Parks have been constructed in Phases 1 and 2, and are currently owned by East Garrison Community Association (the "Association"). The Phase 1 and 2 Neighborhood Parks are currently maintained by the Association.

E. Effective upon EGCSD's acceptance of the deed(s) transferring title of each park, open space or facility to EGCSD (the "Effective Date"), EGCSD desires to retain UCP to maintain the Neighborhood Parks, in accordance with the terms of this Amendment No. 2 to the Temporary Maintenance Agreement.

F. Accordingly, in order to continue the proper, efficient and cost-effective maintenance of each park, open space and facility EGCSD and UCP wish to amend the Temporary Maintenance Agreement to provide for the reimbursement of services performed by UCP under the Temporary Maintenance Agreement as of the date set forth below.

NOW, THEREFORE, in consideration of the promises contained herein, EGCSO and UCP agree to amend the Agreement as follows:

1. Amend Paragraph 1 ("Term") of the Agreement to delete Paragraph 1.1 and replace Paragraph 1 with the following:

1. Term. Subject to applicable law, the term ("Term") of this AGREEMENT shall commence on the date EGCSO accepts the completed East Garrison Phase 1 improvements described in the *Urban Services Agreement* as amended on March 26, 2013, into the EGCSO maintenance system. Notwithstanding anything to the contrary in the AGREEMENT, upon the Effective Date UCP shall maintain the parks, open space or other facilities as described in paragraph 2 below, until the later of: (a) the approval of an agreement between EGCSO and a selected vendor to provide maintenance services, or (b) the EGCSO providing notice to UCP of such approved agreement.

2. Amend Paragraph 2 ("Temporary Maintenance of the CSO Property by UCP") of the Temporary Maintenance Agreement to read as follows:

Throughout the term of this AGREEMENT, UCP shall perform all maintenance obligations on EGCSO improvements in all Phases of the Project in accordance with the scope and schedule of the applicable OMP, including but not limited to all drainage, stormwater facilities and systems, and retention basins for flood control; Lincoln Park; and other Parks and Open Space as shown in Exhibit 4 of the Second Amendment to Urban Services Agreement.

3. Amend Paragraph 6 ("Reimbursement of Temporary Maintenance Costs") of the Temporary Maintenance Agreement to add the following:

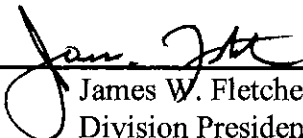
- (c) Actual, direct maintenance costs for services provided here under incurred by UCP on or after the Effective Date, shall be reimbursed by EGCSO.

4. All other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 2 to the Temporary Maintenance Agreement as of the effective date set forth above.

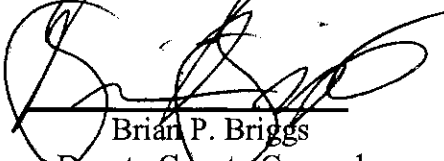
UCP EAST GARRISON, LLC, a Delaware limited liability company

By: UCP, LLC, a Delaware Limited Liability Company, its sole member

By: 
James W. Fletcher
Division President

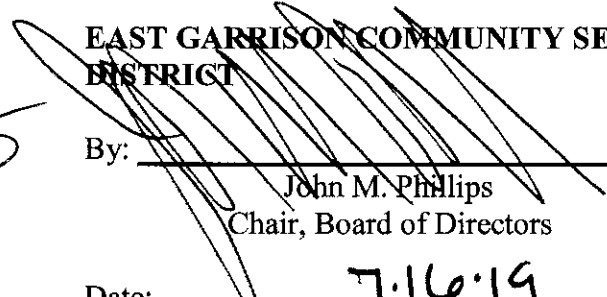
Date: 5/29/19

Approved as to Form and Legality:

By: 
Brian P. Briggs
Deputy County Counsel

Date: 6-3-19

EAST GARRISON COMMUNITY SERVICES DISTRICT

By: 
John M. Phillips
Chair, Board of Directors

Date: 7.16.19

Attachment D

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**AMENDMENT NO. 3
TO
TEMPORARY MAINTENANCE AGREEMENT
BY AND BETWEEN
EAST GARRISON COMMUNITY SERVICES DISTRICT AND
UCP EAST GARRISON, LLC**

This AMENDMENT NO. 3 to the Temporary Maintenance Agreement by and between EAST GARRISON COMMUNITY SERVICES DISTRICT, a community services district formed pursuant to Government Code Section 61000 et seq. ("EGCSD") and UCP EAST GARRISON, LLC, a Delaware limited liability company ("UCP"), ("Amendment No. 3"), is made and entered into as of _____, 2021:

RECITALS

- A. On March 26, 2013, EGCSD and UCP entered into a Temporary Maintenance Agreement ("Agreement") whereby UCP agreed to provide all maintenance obligations on Phase I EGCSD improvements, in accordance with the scope and schedule of the approved Operations and Maintenance Plan for the East Garrison Development ("OMP") related to the East Garrison Disposition and Development Agreement (as amended, the "East Garrison DDA") and the Urban Services Agreement (as amended, the "Urban Services Agreement").
- B. The Agreement was amended on July 25, 2017 ("Amendment No. 1") (Agreement, as amended by Amendment No. 1, is collectively referred to herein as the "Temporary Maintenance Agreement"). Except as otherwise defined herein, all capitalized terms shall have the meaning set forth in the Temporary Maintenance Agreement.
- C. In the Second Amendment to Urban Services Agreement, amended by the Board of Supervisors, acting as the Board of Directors of the EGCSD on December 12, 2017, the Phase 1, 2 and 3 internal neighborhood parks were added to the areas to be owned and maintained by EGCSD (collectively, the "Neighborhood Parks").
- D. The Agreement was amended on June 11, 2019 ("Amendment No. 2") (Agreement, as amended by Amendment No. 1 and Amendment No. 2, is collectively referred to herein as the "Temporary Maintenance Agreement").
- E. On July 18, 2019, EGCSD accepted Grant Deeds for ownership of the neighborhood parks, open space or facility in Phase 1, 2 and 3 at East Garrison. EGCSD retained UCP to maintain the Neighborhood Parks, Open Space or Facility, in accordance with the terms of Amendment No. 2 to the Temporary Maintenance Agreement.
- F. Accordingly, in order to continue the proper, efficient and cost-effective maintenance of each park, open space and facility EGCSD and UCP wish to amend the Temporary Maintenance

Agreement to provide for the reimbursement of services performed by UCP under the Temporary Maintenance Agreement as of the date set forth below.

NOW, THEREFORE, in consideration of the promises contained herein, EGCSO and UCP agree to amend the Agreement as follows:

1. Amend Paragraph 6 ("Reimbursement of Temporary Maintenance Costs") of the Temporary Maintenance Agreement to add the following:

(d) Actual, direct costs associated with UCP's maintenance obligations pursuant to this Agreement incurred on or after March 1, 2017, shall be reimbursed by EGCSO. The actual cost of services provided under this Agreement shall not exceed the Total Annual Budgets as set forth below:

TASKS	FISCAL YEAR 2020-21	FISCAL YEAR 2021-22
Task 1: Public Road Annual Maintenance	\$ 119,000	\$ 124,950
Task 2: Stormwater/Flood Control Annual Maintenance	\$ 84,000	\$ 88,200
Task 3: Park & Open Space Annual Maintenance	\$ 497,000	\$ 521,850
Task 4: Optional Services as Assigned		
Non-Emergency Services	\$ 125,000	\$ 25,000
Emergency Services	\$ 20,000	\$ 20,000
MAXIMUM ANNUAL SERVICE COSTS ALLOCATED	\$ 845,000	\$ 780,000

2. All other terms and conditions of the Temporary Maintenance Agreement shall remain in full force and effect.

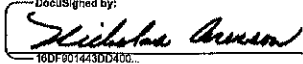
IN WITNESS WHEREOF, the Parties have executed this Amendment No. 3 to the Temporary Maintenance Agreement as of the effective date set forth above.

EAST GARRISON COMMUNITY SERVICES
DISTRICT

By: _____
Chair, Monterey County Board of Supervisors,
Acting as the Board of Directors of the EGCS

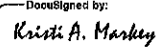
Date: _____

UCP EAST GARRISON, LLC,
a Delaware limited liability company

By:  _____
Its: Nicholas Arenson, Sole Manager
(Print Name and Title)

Date: 1/20/2021

APPROVED AS TO FORM
Office of County Counsel
Leslie J. Girard, County Counsel

By:  _____
Kristi A. Markey
Deputy County Counsel

Date: 1/21/2021

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