



Monterey County

Item No.

Board Report

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

Legistar File Number: RES 21-144

August 24, 2021

Introduced: 8/6/2021

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Resolution

Adopt a resolution to authorize and direct the Auditor-Controller to:

- a. Increase appropriations in the General Fund Other Financing Uses, Appropriation Unit CAO017 by \$5,019.46, funded by a decrease in General Fund Contingencies, Appropriation Unit CAO020 (4/5th vote required); and
- b. Increase operating transfers in, in the East Garrison Community Services District (EGCSD), Fund 181, Appropriation Unit PFP006, by \$5,019.46 (4/5th vote required); and
- c. Transfer \$5,019.46 from General Fund Other Financing Uses, Appropriation Unit CAO017 to the EGCSD Fund 181, Appropriation Unit PFP006 (4/5th vote required).

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution to authorize and direct the Auditor-Controller to:

- a. Increase appropriations in the General Fund Other Financing Uses, Appropriation Unit CAO017 by \$5,019.46, funded by a decrease in General Fund Contingencies, Appropriation Unit CAO020 (4/5th vote required); and
- b. Increase operating transfers in, in the East Garrison Community Services District (EGCSD), Fund 181, Appropriation Unit PFP006, by \$5,019.46 (4/5th vote required); and
- c. Transfer \$5,019.46 from General Fund Other Financing Uses, Appropriation Unit CAO017 to the EGCSD Fund 181, Appropriation Unit PFP006 (4/5th vote required).

SUMMARY/DISCUSSION:

When the State Legislature authorized the creation of the EGCSD, it allowed the Board of Supervisors (BOS) to serve as its initial Board of Directors (BOD). The State Legislature required that the BOS call for an election to determine if the voters within EGCSD wished to establish an independent board when certain triggers were met, including the passage of ten (10) years after its formation, and when the Elections Department (ED) certified that 500 voters were registered within EGCSD. This is per Government Code 61029.5 (Attachment A).

On October 4, 2005, the Memorandum of Disposition and Development Agreement (DDA) was made by and between Redevelopment Agency of the County of Monterey and East Garrison Partners I, LLC. The DDA reflects the terms of fiscal neutrality under which the County's general fund would not be negatively impacted by the East Garrison development.

On October 10, 2005, the Local Agency Formation Commission of Monterey County (LAFCO) adopted Resolution No. 05-20 approving the EGCSD formation. Section 4 of the Resolution

approved the formation subject to terms and conditions. Item b. of Section 4 states “No property tax revenues will be transferred from the County of Monterey, or any other agency, to the District as a result of this action.”

On July 18, 2006, the Urban Services Agreement (Agreement) was executed by the parties and contains the following provision in the recitals, paragraph E, *The County desires assurance that the development of East Garrison will proceed in a timely manner and that the CSD will provide those public services allocated to the CSD by this Agreement to permit East Garrison to proceed in a manner that does not have a negative fiscal impact on the county, pursuant to Part F of Attachment 4 to the DDA. This Agreement satisfies this condition of fiscal neutrality.* Furthermore, paragraph six of the Agreement contains the following provision: *The CSD will reimburse the County for all reasonable and necessary costs of the staffing from the funds available to the CSD under this section 6.* Finally, section F of Attachment 4 of the DDA contains the following statement: *[The developer shall advance the reasonable costs for the formation (including LAFCO approval if needed) of the CSD to comply with the Development Approvals subject to reimbursement by the CSD. County and agency staff shall diligently pursue the enactment of state legislation and shall support the formation of a CSD in a timely manner.* This provision for EGCS D to pay for its own formation demonstrates that the terms of fiscal neutrality go beyond the costs of merely providing public services in the community and extend to all costs associated with EGCS D. For this reason, the County charges EGCS D for expenses related to EGCS D elections.

On August 29, 2017, an election was held to meet the requirement of holding an election ten (10) years after formation; however, EGCS D only had 498 registered voters. The August 29, 2017 EGCS D election’s measure to have a directly elected BOD failed and the BOS continues to serve as the EGCS D BOD. The cost of this election was \$27,723.74, paid by EGCS D.

During the EGCS D Advisory Committee (AC) Meeting on March 11, 2020, the Vice-Chair requested the timeline and process for another independence election. Staff responded they would look into it and provide information at their May meeting. Attachment B provides an AC detailed communication timeline.

On July 23, 2020, the Monterey County Registrar of Voters (ROV) certified that as of the July 9, 2020 State Report of Registration, the number of registered voters within EGCS D was 1,280. On September 22, 2020, staff brought an action before the EGCS D BOD to recommend the BOS to direct the ROV to conduct a special election on May 4, 2021 with an estimated cost of \$45,000 (Later that day the BOS adopted Resolution No. 20-305 (Attachment C)).

On January 13, 2021, the Office of the County Counsel (CC) determined that a May 2021 election date created legal inconsistencies with structuring new Board terms. Staff concurred with cancelling the May special election and recommended moving the election to November 2021 to resolve those legal inconsistencies.

On January 26, 2021, staff brought an action before the EGCS D BOD to recommend the BOS to direct the ROV to cancel the special election on May 4, 2021 and remove the posting of the special

election. The recommendation also included to direct the EGCSB to reimburse the ED, in full, for costs associated with preparing the special election. Public comment was made requesting EGCSB BOD consider not having EGCSB pay full cost for preparing the election based on staff deciding to change the election date, and for holding a special election rather than a general election which commenters believed would cost less. EGCSB BOD pulled that request for staff to provide further information and only adopted the recommendation to cancel and remove the posting of the special election. Later that day the BOS adopted Resolution No. 21-027 (Attachment D).

On February 25, 2021, CC determined the County is justified in charging EGCSB the ED staff cost for preparing the special election. California Special Districts Law (CSDL) requires elections be held in odd-numbered years; therefore, a special election is the only option. ED provided estimated preparation costs for the May 4, 2021 election in the amount of \$5,000. The costs were provided to the EGCSB AC.

On March 10, 2021, staff reported at the EGCSB AC Meeting that one-third (1/3) of the election cost was for work performed that could be utilized for the November 2021 election and the remaining two-third (2/3) cost could be handled two (2) ways: 1) EGCSB pays the 2/3 cost; or 2) EGCSB AC submits a formal letter request to EGCSB BOD and BOS for the County to pay the remaining 2/3 cost. The EGCSB AC members expressed their desire for a 2022 election, therefore none of the costs would be recoverable.

On March 26, 2021, ED prepared an invoice for staff costs in the amount of \$5,019.46 (Attachment E). Payment to ED was processed on May 30, 2021 via an Internal Exchange Transaction (IET) in accordance to Resolution No. 20-307, which directed EGCSB reimburse the ED, in full, for costs associated with election.

On May 13, 2021, EGCSB AC Chair Short submitted a formal letter request to EGCSB BOD and BOS for the County to reimburse EGCSB \$5,019.46 for the costs of the cancelled election. (Attachment F).

OTHER AGENCY INVOLVEMENT:

On June 30, 2021, staff presented this item to the Monterey County Budget Committee (BC), where the BC unanimously voted in support of reimbursing EGCSB where the financing source should be GFC.

FINANCING:

The Fiscal Year 2020-21 General Fund Contingencies has enough appropriations to cover the reimbursement amount of \$5,019.46 to EGCSB to cover the preliminary election costs for the May 4, 2021 election which was cancelled. The FY 2020-21 General Fund Contingencies balance is \$25,000 and if approved the reimbursement will reduce Contingencies to \$19,980.54.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The recommended action complies with the Board of Supervisors' Strategic Initiatives for Economic Development to enhance the well-being and prosperity of Monterey County East Garrison Residents and Administration by maintaining good relations and responding to their request for reimbursement of

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the nominal election costs for the cancelled May 4, 2021 election.

Economic Development

Administration

Health & Human Services

Infrastructure

Public Safety

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

Reviewed by: Dalia Mariscal-Martinez, Management Analyst III

Reviewed by: Tom Bonigut, PE, Chief of Public Works

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

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

Attachment A - Government Code 61029.5

Attachment B - AC Detailed Communication Timeline

Attachment C - BOS Resolution No. 20-305

Attachment D - EGCSO BOS Resolution No. 21-027

Attachment E - Elections Department Invoice No. 210504

Attachment F - EGCSO AC Request for Election Reimbursement

Attachment G - Draft Resolution