

Attachment B

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EAST GARRISON COMMUNITY SERVICES DISTRICT DISCUSSION

The East Garrison Community Services District (EGCSD) was established in 2006 to provide certain services in the proposed East Garrison development. The Monterey County Board of Supervisors (BOS) currently serves as the Board of Directors (BOD) of the EGCSD pursuant to Government Code Section 61029.5, which states that when certain conditions are met, an election shall be held presenting East Garrison voters with the option of becoming independent from the County and electing their own board.

On September 22, 2020, the Board of Supervisors adopted a resolution directing the Registrar of Voters to conduct a special election on May 4, 2021 (see Attachment A-BOS Resolution No. 20-305).

On January 13, 2021, County Counsel determined that a May election date created legal inconsistencies with structuring new Board terms and that a November election would resolve those inconsistencies.

Community Services District Law (CSDL) (Government Code section 61000 et seq.) contains a provision regarding elections for EGCSD independence. It states that “*the Board of Supervisors of the County of Monterey shall adopt a resolution, placing the question of having an elected board of directors on the ballot when any of the following occurs: (1) When the registrar of voters certifies in writing that the number of voters in the East Garrison Community Services District has reached or exceeded 500.*” (Section 61029.5) Additional conditions are listed for triggering an election. There is no additional language in this code section stating when such an election is to occur.

Utilizing the authority granted by the CSDL, the BOS adopted a series of resolutions related to the EGCSD on March 14, 2006, including a resolution containing bylaws. The bylaws describe the establishment of a future independent BOD as follows: *Section 2.03 Elections. So long as the Monterey County Board of Supervisors serves as the Board, the election of members of the Board shall be governed as they would be for the County Board of Supervisors. When the conversion to a directly elected independent Board is accomplished under Government Code Section 61029.5, elections will be conducted pursuant to state law. Members of the Board shall be classified into two classes. One class shall have three members and the other class shall have two members. For the class that has three members, the terms of office that begin after the first general District election pursuant to Government Code Section 61029.5 shall be four years. For the class that has two members, the initial terms of office that begin after the first general District election pursuant to Section 61029.5 shall be two years. Thereafter, the terms of all members shall be four years.*

The CSDL Part 2, Chapter 3, entitled “Board of Directors”, lays out the requirements for structuring community services district boards. Section 61042 includes the following provisions: *(a) The term of office of each member of a board of directors is four years or until his or her successor qualifies and takes office. Directors shall take office at noon on the first Friday in December following their election. (b) For districts formed before January 1, 2006, where the members of the board of directors are not serving staggered terms, at the first meeting after January 1, 2006, the members shall classify themselves by lot into two classes. One class shall have three members and the other class shall have two members. For the class that has three members, the terms of the offices that begin after the next general district election shall be four years. For the class that has two members, the initial terms of the offices that begin after the next general district election shall be two years. Thereafter, the terms of all members shall be four years.*

This provision requires Board terms to commence on the first Friday of December following the election. It also contains a procedure to establish staggered terms, consistent with the EGCSD bylaws, which appear to have utilized language from this code section.

Finally, Adopted Resolution No. 20-305 ordering the election provides that “*upon certification by the Monterey County Registrar of Voters that a majority vote of EGCSD registered voters had decided that EGCSD shall have a directly elected board or directors, it would become effective immediately*” In order to take effect immediately, Board terms would need to commence immediately as well, otherwise the independent CSD would be incapable of operating. This would result in a term of office that is inconsistent with Section 61042 cited above.

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