



MONTARA WATER AND SANITARY DISTRICT AGENDA

For Meeting Of: **August 17, 2023**

TO: BOARD OF DIRECTORS

FROM: Clemens Heldmaier, General Manager *CH*

**SUBJECT: Review and Possible Action Concerning
Establishing Division Based Elections System,
Approving Final Map of Electoral Divisions and
Setting Sequence of Division Elections**

Over the last several months, the District has been engaged in a transition from an at-large method of electing its Board members to a by-division electoral system. The District has completed its hearing process as required by Elections Code section 10010, this being the last of six (6) public hearings, where the District will chose an electoral division map and adopt a Resolution for the election of directors by-division, establish the boundaries and identification number of each electoral division and the order of election for each division.

Prior to this hearing, the District held five (5) public hearings for the public to provide input in creating five (5) election divisions that comply with both the Federal and California Voting Rights Acts. The purpose of the first two public hearings (held on April 20, 2023 and May 18, 2023) was to gather public input on the composition, population, geography and communities of interest within the District's service area and jurisdiction. Following these two initial hearings, and with the assistance of a demographer, Redistricting Partners, the District prepared, published and considered a series of draft maps as follows:

At the third public hearing on June 1, 2023, three (3) draft Maps marked A, B and C were presented and considered; per Board direction, Redistricting Partners thereafter prepared a revised map, known as Draft Map D, which was then presented and considered at the fourth public hearing on July 20, 2023. Per Board direction, Redistricting Partners prepared another revised map, known as Draft Map D2, along with a proposed election sequence, which was then presented and considered at the fifth public hearing on August 8, 2023. Per Board direction, Redistricting Partners prepared revised Draft Map D2B, along with the proposed election sequence, which will be presented and considered at this, the sixth and final public hearing (See **Draft Map D2B**, marked Exhibit A to the attached proposed Resolution.)



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In addition to selecting one of the draft maps, the Board will also need to determine an election sequence for Directors to be elected within their districts at different times to provide for staggered terms in the next two election cycles (2024 and 2026):

- In 2024, Director Boyd and Director Slater-Carter's 4-year terms will end, as well as Director Young's appointed 2-year term, since she filled the first half of Director Lohman's 4-year term following his passing. Therefore, two Director seats will be elected by-division, each for a 4-year term, and one Director seat will be elected at-large, to fulfill Director Lohman's remaining 2-year term.
- In 2026, Director Softky and Director Dekker's 4-year terms will end, as well as the Director who is elected in 2024 to fill Director Young/Lohman's seat.

The election sequence depends on various factors, such as the number of districts drawn, the number of incumbents located in each district, and the incumbents' existing terms. State law does not specifically prescribe the method for election sequencing when transitioning to district elections. However, the Board's exercise and scope of discretion is limited by other statutory requirements, which include:

- The expiration of terms of office can be considered in setting the election rotation.
- In determining the final sequence of the district elections, the District shall give special consideration to the purposes of the CVRA.
- The Board shall take into account the preferences expressed by members of the districts.

Based on the above, staff proposes the following election sequence should the Board adopt **Draft Map D2B**:

- Divisions 2 and 4 (green and purple, respectively) will stand for election in 2024, and thereafter every four years.
- Divisions 1, 3 and 5 (orange, red and brown, respectively) will stand for election in 2026, thereafter election every four years.



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TO: BOARD OF DIRECTORS

FROM: Clemens Heldmaier, General Manager

RECOMMENDATION:

Open the public hearing, hear relevant testimony, close the public hearing and adopt RESOLUTION NO. __ , RESOLUTION OF THE BOARD OF DIRECTORS OF THE MONTARA WATER AND SANITARY DISTRICT PROVIDING FOR THE ELECTION OF DIRECTORS BY DIVISION, ESTABLISHING THE BOUNDARIES AND IDENTIFICATION NUMBER OF EACH ELECTORAL DIVISION, AND ESTABLISHING THE ORDER OF ELECTION FOR EACH DIVISION

Attachments:

Proposed Resolution, including Draft Map D2B with proposed election sequence

RESOLUTION NO. _____

RESOLUTION OF THE BOARD OF DIRECTORS OF THE MONTARA WATER AND SANITARY DISTRICT PROVIDING FOR THE ELECTION OF DIRECTORS BY DIVISION, ESTABLISHING THE BOUNDARIES AND IDENTIFICATION NUMBER OF EACH ELECTORAL DIVISION, AND ESTABLISHING THE ORDER OF ELECTION FOR EACH DIVISION

WHEREAS, Montara Water and Sanitary District (“District”) is a Sanitary District duly organized under the Sanitary District Act of 1923 (Health & Safety Code §§ 6400 – 6830) and a public agency formed as a special district and authorized under California law, by a special election of August 11, 1992 and MWSD Resolution 978, to exercise all powers of a county water district in the same manner as county water districts formed under the County Water District Law (Division 12 (commencing with Section 30000) of the Water Code); and

WHEREAS, the Board of Directors of the District is an elected legislative public body serving the residents of the District; and

WHEREAS, pursuant to law and legislative acts which established the District, the five members of the District are currently elected through an at-large election where all voters within the District vote for each Director; in alternating even-numbered election years the District voters elect either two or three members to the Board of Directors by a plurality-win vote with the top vote-getters elected; and

WHEREAS, California Elections Code Section 10650 provides that notwithstanding any other law, the District Board of Directors may require, by resolution, that the members of its Board of Directors be elected using district-based elections, as defined in Elections Code Section 14026(b), without being required to submit the resolution to the voters for approval, and may further determine the potential sequence of said elections. (Elections Code § 10010(a)(2) &(b)). In a district-based elections system, a candidate for the District Board of Directors must reside in the voting district which he or she wishes to represent, and only the voters of that district are entitled to vote to decide who that district’s representative will be; and

WHEREAS, the California Voting Rights Act (“CVRA”) was enacted by the State of California subsequent to the establishment of the District; and

WHEREAS, although the District submits that its election system has been in compliance with the CVRA and all other provisions of law influencing the Federal Voting Rights Act and asserts that its election system has been and is legal in all respects, the Board of Directors has determined that the public interest will be well served by initiating a process for transition to a by-district election system; and

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WHEREAS, pursuant to California Election Code 10650, the Board of Directors has determined that the change in the method of electing members of the Board and determining the final sequence of elections to provide for staggered terms of office, is being made in furtherance of the purposes of the CVRA; and

WHEREAS, the District's legal counsel retained an experienced demographer, Redistricting Partners, to assist the District with the process of analyzing the District's population, developing draft maps, and gathering input from residents on the possible maps; and

WHEREAS, at public hearings on April 20, 2023 and May 18, 2023, the public was invited to provide input regarding the composition of the District's divisions before any draft map(s) was drawn, and the Board of Directors discussed and considered the same; and

WHEREAS, Redistricting Partners prepared three (3) draft maps, known as Draft Maps A, B and C, that were published at least seven (7) days in advance of the District's next public hearing on June 1, 2023; and

WHEREAS, at a public hearing on June 1, 2023, the public was invited to provide input regarding Draft Maps A, B and C; and

WHEREAS, following the June 1, 2023 hearing, Redistricting Partners prepared a revised map for consideration, known as Draft Map D, and the District published the map for public review at least seven (7) days in advance of its next public hearing on July 20, 2023; and

WHEREAS, at a public hearing on July 20, 2023, the public was invited to provide input on Draft Map D, and the District published Draft Map D2, along with the proposed election sequence, for public review at least seven (7) days in advance of its next public hearing on August 8, 2023; and

WHEREAS, at a public hearing on August 8, 2023, the public was invited to provide input on Draft Map D2, and Redistricting Partners prepared a revised Draft Map D2B that was published, along with the proposed election sequence, for public review at least seven (7) days in advance of its next and final public hearing on August 17, 2023; and

WHEREAS, following the conclusion of the August 17, 2023 public hearing, the Board of Directors gave direction to legal counsel to finalize a Resolution to transition the District to by-district elections, including the Voting Divisions Map

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prepared by the demographer, and putting Divisions 2 and 4 on the November 2024 ballot for the District's first regular election of Board members following adoption of this Resolution, with the remaining Divisions 1, 3, and 5 on the ballot for the November 2026 election; and

WHEREAS, in addition to satisfaction of all legal prerequisites, the District engaged in a significant amount of public outreach and engagement above and beyond the public hearings and other procedures required by California Elections Code Section 10010, including but not limited to launching the District's *Elected Community Service Academy*, providing remote access to all public meetings and hearings, translating materials into Spanish, making all materials available on the District's website, posting an interactive map drawing tool for the benefit of the public on the District website, and posting notices of public hearings in the newspaper and at the Post Office(s) located at 2315 Carlos Street, Moss Beach, California, 94038 and 215 7th Street, Montara, California 94037; and

WHEREAS, in order to further the purposes of the CVRA, the District now wishes to move from its current at-large electoral system to a district-based election system for members of the Board of Directors, and to adopt a Resolution providing that the members of the Board of Directors shall be elected by-district in five divisions, beginning at the November 2024 general Statewide election in accordance with the terms of this Resolution; and

WHEREAS, the District Board of Directors finds and determines that the election districts reflected on the Electoral Division Map, attached as **Exhibit A** to this Resolution and on file with the District, create fair and reasonable districts from which Directors can be elected, and that such map and the district-based system for election of Directors adopted by this Resolution complies with and furthers the purposes of the CVRA; and

WHEREAS, the District Board of Directors finds and determines that the sequence of elections provided for in this Resolution as described in the Sequence of Elections, attached to this Resolution as **Exhibit B** and on file with the District, is fair and reasonable and adequately addresses all legal requirements and considerations; and

WHEREAS, the adoption of a division based electoral system will not affect the term of any sitting Board member, each of whom will serve out his or her current term. Director Ric Lohman's four (4) year at-large seat, left vacant due to his untimely passing, was filled by appointment of Director Carlisle Ann (Cid) Young on March 2, 2023 pursuant to Government Code Section 1780. Because Director

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Lohman's vacancy occurred within the first half of his term of office (elected by at-large voting in November 2022), appointed Director Young holds office until the next District general election cycle in November 2024, at which time the seat will be filled by at-large voting for a period of two (2) years, which represents the unexpired balance of Director Lohman's full four (4) year term of office; and

WHEREAS, by the adoption of this Resolution and in accordance with the requirements of Elections Code §10010, the District Board of Directors desires to provide for the election of directors by division, establish the boundaries and identification number of each electoral division, and establish the order of election for each division.

NOW, THEREFORE, be it resolved by the Board of the Montara Water and Sanitary District, a public agency in the County of San Mateo, California, as follows:

Section 1. Incorporation of Recitals. The recitals stated above are true and correct and the Board of Directors so finds and determines the recitals set forth are incorporated herein and are effective.

Section 2. By-District Elections. The District finds that its election system will transition from at-large to by-district elections, beginning with the November 2024 regularly scheduled Statewide general election of members for the Board of Directors.

Section 3. Establishment of Divisions. The District hereby establishes five (5) divisions within the District's jurisdiction. The boundaries and identifying number of each division shall be described on the Electoral Division Map attached hereto as **Exhibit "A"** and incorporated herein by this reference, a copy of which shall also be on file in the District's administrative office.

Section 4. Election Process. The District establishes the following election process:

- a. Members of the Board of Directors shall be elected in the electoral divisions established by this Resolution and subsequently reapportioned as provided for in State law and as set forth in Section 6 of this Resolution. Elections shall take place by Divisions 1, 2, 3, 4, and 5, meaning that one (1) Director shall be elected from each division, by the voters of that respective division.

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- b. A Director elected or appointed to represent a division must reside within that division and be a registered voter within that division. Likewise, any candidate for the Board of Directors must reside in and be a registered voter within the division in which he or she seeks election at the time nomination papers are issued.
- c. Notwithstanding any other provision of this Resolution, the Directors in office at the time this Resolution takes effect shall continue in office until the expiration of the term to which he or she was elected. In the event a vacancy occurs before the end of an at-large term of a Director in office at the time this Resolution takes effect, any appointed or elected replacement shall be made by electoral division as established by this Resolution, unless such vacancy causes two or more Directors to be placed in the same election district, at which time this Board may change the election sequence set forth in Section 5 of this Resolution.
- d. The term of each Director elected to the Board of Directors shall remain a four (4) year term.

Section 5. Order of Elections. Members of the Board of Directors shall be elected from Divisions 2 and 4 at the November 2024 regularly scheduled Statewide general election, and every four years thereafter; also at the November 2024 regularly scheduled Statewide general election, Director Lohman's seat, currently held by Director Young, shall be elected for the remaining two (2) year term of said seat by a person residing anywhere within the boundaries of the District using an at-large voting election where all voters within the District may vote for said seat. Members of the Board of Directors shall be elected from Divisions 1, 3, and 5 at the November 2026 election, and every four years thereafter.

Section 6. Adjustment of Boundaries. Pursuant to Elections Code Section 22000, as it may be amended from time to time, the Board of Directors shall adjust the boundaries of any or all of the divisions following each Decennial Federal Census to ensure that the divisions are in compliance with all applicable provisions of law. If necessary to facilitate the implementation of this Resolution, the General Manager or the General Manager's designee is authorized to make technical adjustments to the voting district boundaries that do not substantively affect the populations of the districts, the eligibility of candidates, or the residence of elected officials within any voting districts.

Section 7. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, the remainder of the

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Resolution and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 8. Exemption from the California Environmental Quality Act. The approval of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 *et seq.*, “CEQA,” and 14 Cal. Code Reg. §§ 15000 *et seq.*, “CEQA Guidelines”). This action is not a project within the meaning of the CEQA Guidelines Sections 15378 and 15061(b)(3), as it is an organizational structure change that will not result in any direct or indirect physical change in the environment. Therefore, pursuant to CEQA Guidelines section 15060, CEQA analysis is not required.

Section 9. Effective Date. This Resolution shall become effective upon its adoption.

President, Montara Water and Sanitary District

COUNTERSIGNED:

Secretary, Montara Water and Sanitary District

* * * *

I HEREBY CERTIFY that the foregoing Resolution No. _____ duly and regularly adopted and passed by the Board of the Montara Water and Sanitary District, County of San Mateo, California, at a Special Adjourned Meeting thereof held on the 17th day of August 2023, by the following vote:

AYES, Directors:

ABSTENTION:

NOES, Directors:

ABSENT, Directors:

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Secretary, Montara Water and Sanitary District

EXHIBIT A

Electoral Division Map
Adopted by the Board of Directors of the
Montara Water & Sanitary District on August
17, 2023

Election Sequence
2024: Divisions 2 and 4
2026: Divisions 1, 3 and 5

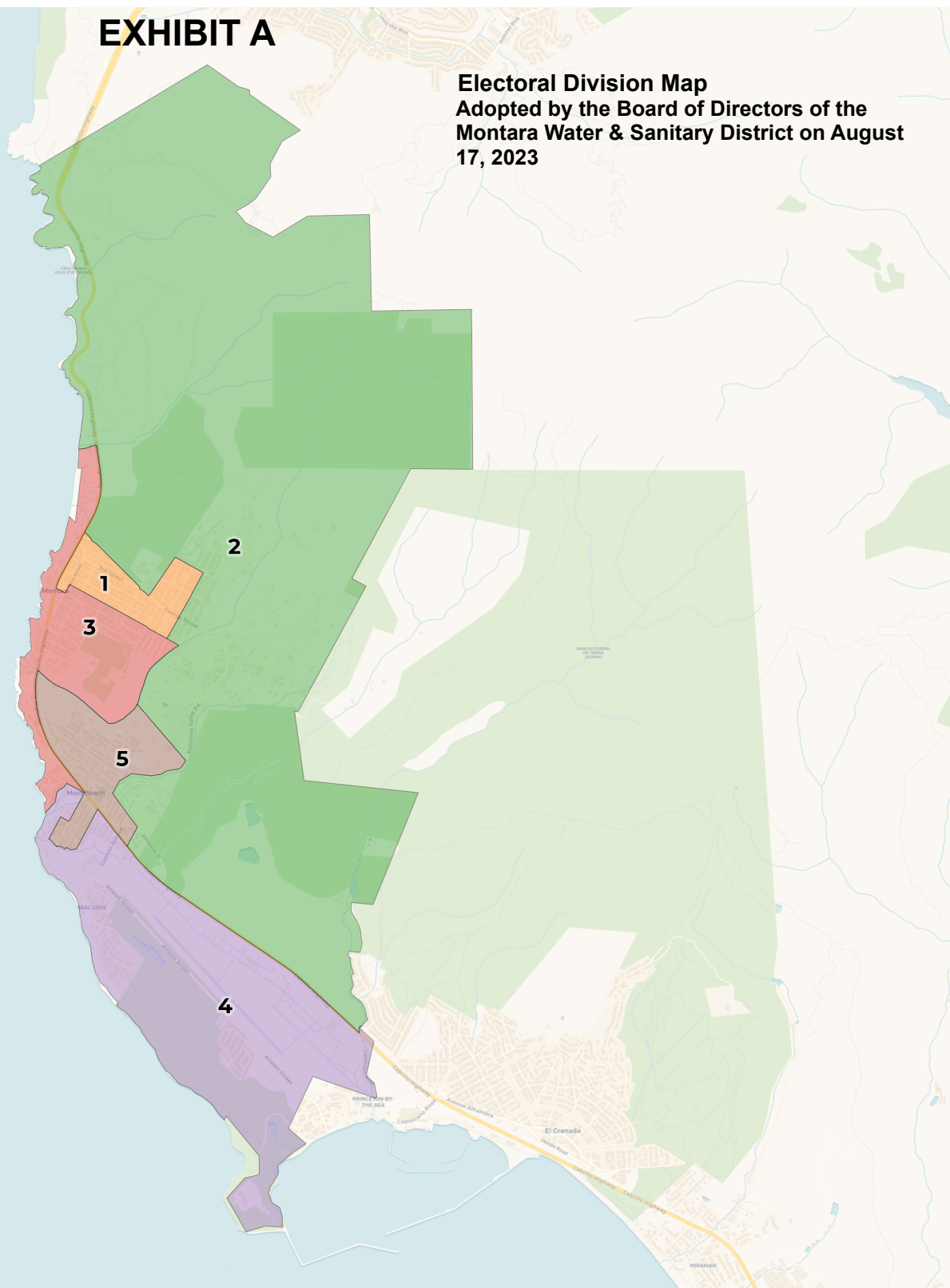


EXHIBIT B

SEQUENCING OF BY-DIVISION ELECTIONS

As shown on Exhibit A, *Electoral Division Map*, Divisions 2 and 4 (green and purple, respectively) will stand for election in 2024, and thereafter every four years.

As shown on Exhibit A, *Electoral Division Map*, Divisions 1, 3 and 5 (orange, red and brown, respectively) will stand for election in 2026, thereafter election every four years.