

RESOLUTION NO. 1290

**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION  
OF THE COUNTY OF SAN MATEO  
ADOPTING THE MUNICIPAL SERVICE REVIEW FOR THE CITY OF EAST PALO ALTO,  
EAST PALO ALTO SANITARY DISTRICT,  
AND WEST BAY SANITARY DISTRICT AND  
REAFFIRMING EXISTING SPHERE OF INFLUENCE DESIGNATIONS**

RESOLVED, by the Local Agency Formation Commission of the County of San Mateo, State of California, that

**WHEREAS**, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, set forth in Government Code Section 56000 et seq., governs the organization and reorganization of cities and special districts by local agency formation commissions established in each county, as defined and specified in Government Code Section 56000 et seq.,

**WHEREAS**, Government Code Section 56425 et seq. requires the Local Agency Formation Commission (LAFCo or Commission) to develop and determine the sphere of influence of each local governmental agency within the County; and

**WHEREAS**, the Commission conducted a Municipal Service Review pursuant to Government Code Section 56430 for the City of East Palo Alto, East Palo Alto Sanitary District, and West Bay Sanitary District;

**WHEREAS**, the Executive Officer prepared a written report of the Municipal Service Review that was provided to the Commission and affected agencies; and

**WHEREAS**, the Executive Officer set a public hearing date for June 15, 2022, for the consideration of the final Municipal Service Review and caused notice thereof to be posted, published and mailed at the times and in the manner required by law at least twenty-one (21) days in advance of the date; and

**WHEREAS**, the Commission heard and fully considered all the evidence presented at a public hearing held on June 15, 2022; and

**WHEREAS**, a public hearing by this Commission was held on the report and at the hearing this Commission heard and received all oral and written protests, objections and evidence which were made, presented or filed, and all persons present were given an opportunity to hear and be heard with respect to the proposal and the Executive Officer's report; and

**WHEREAS**, the Commission is required pursuant to Government Code Section 56430 to make statement of written determinations with regards to certain factors; and

**WHEREAS**, the Commission is required pursuant to Government Code Section 56425 and local Commission policy to make statement of written determinations

**WHEREAS**, based on the results of the MSR, staff has determined that the SOIs for the City of East Palo Alto, East Palo Alto Sanitary District, and West Bay Sanitary District are reaffirmed;

**WHEREAS**, the Municipal Service Review is categorically exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) under Section 15303, Class 6, which allows for basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. The Municipal Service Review collects data for the purpose of evaluating municipal services provided by an agency. There are no land use changes or environmental impacts created by this study.

The Municipal Service Review also is exempt from CEQA under the section 15061(b)(3), the common-sense provision, which states that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it is certain that the activity will have no possible significant effect on the environment, the activity is exempt from CEQA; and

**NOW, THEREFORE**, the Local Agency Formation Commission of the County of San Mateo DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

Section 1. By Resolution, the Commission accepts the Executive Officer’s Report dated June 15, 2022, Final Municipal Service for the City of East Palo Alto, East Palo Alto Sanitary District, and West Bay Sanitary District, and all written comments and attachments incorporated herein and contained in attached “Exhibit A.”

Section 2. Pursuant to Government Code Section 56430, the Commission adopts the Municipal Service Review determinations set forth in “Exhibit B” which is attached and hereby incorporated by reference

Section 3. Pursuant to Government Code Section 56425(i), the Commission adopts an inventory of active services for East Palo Alto Sanitary District and West Bay Sanitary District contained in “Exhibit C.”

Section 4. The Commission adopts the sphere of influence determinations contained in "Exhibit D" and reaffirms the Sphere of Influences for the City of East Palo Alto, the East Palo Alto Sanitary District, and the West Bay Sanitary District.

Regularly passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_.

Ayes and in favor of said resolution:

Commissioners: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Noes and against said resolution:

\_\_\_\_\_

Commissioners Absent and/or Abstentions:

Commissioners: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

Chair  
Local Agency Formation Commission  
County of San Mateo  
State of California

ATTEST:

Date: \_\_\_\_\_

Executive Officer  
Executive Officer

Local Agency Formation Commission

I certify that this is a true and correct copy of the resolution above set forth.

Date: \_\_\_\_\_

\_\_\_\_\_  
Clerk to the Commission  
Local Agency Formation Commission

## Exhibit B

Municipal Service Review Areas of Determination and Recommendations for the City of East Palo Alto, East Palo Alto Sanitary District, and West Bay Sanitary District

### Areas of Determinations

#### *City of East Palo Alto*

#### **Growth and population projections for the affected area.**

##### *Determination*

- The City of East Palo Alto's (EPA or the City) population has remained fairly static over the last two decades, fluctuating minimally from year to year. Most recently, there has been a slight decline in population from 2018 to 2020. The Census 2020 estimates that the population of the City was 30,034 as of April 2020.
- Over the period from 2020 to 2040, ABAG projects 17.7 percent population growth, which equates to 0.8 percent compound annual growth. Based on the City's Census 2020 population and ABAG's projected growth rate, the City is projected to have a population of 35,363 in 2040.
- As of December 2021, the City had 20 unconstructed development projects in some phase of the application and construction process consisting of 1,469 dwelling units and 4,244,139 square feet of nonresidential building space. A majority of the larger developments are located in the Ravenswood/4 Corners TOD Specific Plan area. There are several mixed-use proposals, the largest of which are Four Corners, the Landing, and East Palo Alto Waterfront.
- Regional Housing Needs Allocation mandates have an impact on the City's new development and intensification of density contributing to population growth. ABAG's most recent Regional Housing Needs Allocation (RHNA) for the City of East Palo Alto for the period from 2023-2031 is 829 units, almost double the previous allocation.
- In addition to the substantial number of sizeable developments, the City is experiencing intensification of uses on properties with existing dwelling units where a number of accessory dwelling units are being added. SB 9, which streamlines the permitting process for accessory dwelling units, will likely prompt a greater number of ADU additions.
- Lack of EPASD sewer collection system capacity is an impediment to development in the City. Developers have indicated concerns that the costs to connect are prohibitively expensive and that EPASD has been unwilling to discuss financing options to make connection more feasible. Efforts to-date to resolve this issue have been largely unsuccessful. Constrained development and growth deprive the City and its residents of increased tax revenues to maintain and improve public services, reduces future affordable housing and ability to meet RHNA housing allocations, and limits growth in job opportunities.

**The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the SOI.***Determination*

- According to the Department of Water Resource's Disadvantaged Communities mapping instrument, there are no communities within or contiguous to the City's SOI that meet the definition of a disadvantaged unincorporated community. However, there is a single Block Group (060816121002) within the City's incorporated territory to the west of Highway 101 that meets the definition of disadvantaged. The area has an estimated population of 2,232 with a median household income of \$45,731.

**Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the SOI.***Determination*

- Based on ISO ratings, response times, and stations per 1,000 population served, Menlo Park Fire Protection District's serviced provided within East Palo Alto appear to be adequate. Additionally, the City of East Palo Alto indicates it is satisfied with Menlo Park Fire Protection District's response times and that the District meets its outlined service goals.
- Law enforcement services are marginally adequate given the low clearance rate of property crimes within the City, which is likely attributable to staffing constraints within the Police Department. Additionally, the two police facilities are considered to some extent sufficient as identified by Police Department staff; however, no specific infrastructure needs were identified.
- The City has indicated that the current availability of parks and open space is not sufficient to meet demand. No parks exist in the Weeks, Kavanaugh, and Westside neighborhoods within EPA, despite having a higher population density that primarily consists of younger families residing in multi-family structures without backyards. With current and projected population estimates, service adequacy will not be sufficient unless an estimated 79 acres of parkland are added to the cityscape.
- The City provides adequate solid waste management services as indicated by per capita and per employee disposal rates that are well within its target disposal rates as dictated by the State. However, waste management services face challenges throughout the County, including 1) a decline in the recyclables market from contaminated sources, 2) new organics diversion requirements that will require major new programs, and 3) dwindling capacity at the Ox Mountain landfill.
- There are deficiencies in the City's stormwater collection system. There are two significant challenges to implementing planned improvements—lack of funding for \$37.5 million in infrastructure needs and location constraints limiting system expansion and rerouting alternatives. Improvements are necessary in order to reduce the risk of flooding.

- The City's PMS report has described pavement conditions as very good, with an average PCI of 71 out of 100. However, congestion and conditions that impact other modes of transportation continue to be a concern. In particular, there are areas without walkable sidewalks and many areas lacking sufficient capacity for bike lanes leading to high incidents of accidents.
- Wastewater services provided by EPASD and WBSD within the City appear to be adequate based on the analysis in this report; however, as described in the Growth and Development section of this chapter, availability of wastewater capacity for new development is a critical issue for the City. Necessary capacity enhancements are making connection to EPASD's collection system exceptionally costly, which is deterring potential developers and preventing some approved developments from being completed. Several options exist for financing of necessary capacity enhancements that may be agreeable to all parties.
- Indicators of water distribution service adequacy, including the State Water Resources Control Board system evaluation, drinking water quality, and distribution system integrity demonstrate that the City provides adequate service levels. While the City has been able to address water supply capacity constraints that were preventing development, there continue to be needs for water storage for emergency backup supply and pipeline expansions to meet industry standards.

#### **Financial ability of agencies to provide services.**

##### *Determination*

- The City of East Palo Alto is in good financial position; however, the City is experiencing structural budget deficits that will deplete reserves over time.
- Development projects delayed by lack of sewer infrastructure capacity obstructs the ability to pursue economic development as one means to improve financial conditions and help achieve the City's fiscal resiliency goals.

#### **Accountability for Community Service Needs, Including Governmental Structure and Operational Efficiencies**

##### *Determination*

- The City generally meets legal requirements intended to ensure transparency and accountability; however, there appears to be room for improvement in City Council compliance with ethics training requirements and timely filing of Form 700s.
- East Palo Alto should consider taking on EPASD as a subsidiary district to enable funding of capital projects to address deficiencies and capacity constraints that encourages development. In order to limit demands on city staff, the City may wish to contract with West Bay Sanitary District for operations and maintenance of the system.

#### **Recommendations**

1. Ethics Training - It is recommended that the City make City Council ethics training information readily available on its website.

2. Form 700 - It is recommended that the City ensure its Council Members comply with Form 700 filing requirements.
3. Intergovernmental Relations – Restart and continue regular public meetings between representatives of the City of East Palo Alto and the East Palo Alto Sanitary District. While staff level cooperation related to development planning is ongoing, involvement by board and council members assure efficient and effective coordination between the City and District related to infrastructure financing and other matters. These meetings should be live streamed, recorded and promptly posted to facilitate public outreach and transparency. These meetings could be focused on specific topics such as development projects and infrastructure finance. The meetings should be conducted with equal support and staff time from both the City and EPASD.
4. Development Environmental Review - Include analysis regarding impacts on the wastewater collection system, in addition to the wastewater treatment system, in CEQA review documents associated with new developments.
5. Budget Forecasting – Prepare and periodically update a long-term budget forecast to assist with financial planning, including projected pension obligations.
6. Infrastructure improvements – It is recommended that the City continue to work towards addressing identified needed infrastructure improvements for both stormwater and drinking water, including identifying potential funding mechanisms.
7. Park Planning – The City should continue its effort to develop a Parks Master Plan for recreation, parks and open space in the City and work to address the lack of these facilities in many areas of the City.



## **Areas of Determinations**

### ***East Palo Alto Sanitary District***

#### **Growth and population projections for the affected area.**

##### *Determination*

- As of 2020, based on the number of residential connections served and the average household size in the cities served, it is estimated that EPASD's population is approximately 26,622.
- It is assumed that EPASD's growth will closely mirror that of the City of East Palo Alto. Based on the current population estimate within the District and ABAG's growth projections through 2040, it is projected that there will be 31,335 residents within the EPASD in 2040, an increase of approximately 4,700 residents.
- As of December 2021, there were 20 unconstructed development projects within EPASD in some phase of the application and construction process consisting of 1,469 dwelling units and 4,244,139 square feet of nonresidential building space. A majority of the larger developments are located in the Ravenswood/4 Corners TOD Specific Plan area.
- In addition to the substantial number of sizeable developments, the City is experiencing intensification of uses on properties with existing dwelling units where a number of accessory dwelling units are being added. Recent changes in state law allowing a streamlined permitting process for accessory dwelling units (ADUs) will likely prompt a greater number of ADU additions. However, 12 ADUs have been stalled as they have been unable to get approval for connection to EPASD's system.
- Lack of EPASD sewer collection system capacity is an impediment to development in the City. Developers have indicated concerns that the costs to connect are prohibitively expensive and that EPASD has been unwilling to discuss financing options to make connection more feasible. Efforts to-date to resolve this issue have been largely unsuccessful. Constrained development deprives the City and its residents of increased taxes and other revenues to maintain and improve public services, reduces future affordable housing and ability to meet RHNA housing allocations, and limits growth in job opportunities.

#### **The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the SOI.**

##### *Determination*

- According to the Department of Water Resource's Disadvantaged Communities mapping instrument, there are no communities within or contiguous to the District that meet the definition of a disadvantaged unincorporated community, as the District only serves incorporated portions of the City of East Palo Alto and the City of Menlo Park. However, there is a single Block Group (060816121002) within District's territory to the west of Highway 101 that meets the definition of disadvantaged. The area has an estimated population of 2,232 with a median household income of \$45,731.

#### **Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and**

**structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the SOI.***Determination*

- While sufficient treatment capacity exists to meet the needs of current and a portion of future demand, EPASD reports an inadequate collection system capacity to serve increased flows expected from pending development applications. EPASD faces significant financial challenges to fund capacity enhancements to eliminate the potential for sewer overflows that are compounded by proposed new connections. Large-scale capacity enhancements are costly and difficult to complete in a piecemeal fashion as development occurs.
- Based on overflow rates, infiltration and inflow, regulatory compliance, preventative maintenance practices, speed of response times to customer reports of issues, and the number and type of complaints related to wastewater services, EPASD provides an adequate level of wastewater collection services to existing ratepayers.
- Infrastructure capacity needs are appropriately identified in EPASD's 2021 Addendum to the 2015 Master Plan Update. EPASD focuses on assessing the current condition of the piping and replacing or relining pipe as needed, and EPASD asserts that current collection system capacities are adequate to serve existing ratepayers; this position appears contrary to the results of the 2021 Addendum that predict surcharging and sewer overflows under peak wet weather flows. EPASD states that the 2021 Addendum is a theoretical model and EPASD has not experienced a sewer overflow in the past ten years.
- EPASD budgets \$1 million annually towards "Construction Replacement" (not including developer contributions); actual capital expenditures have been less. The 2021 Addendum identifies 110 segments to be upsized to ensure that the system is not operating at a surcharge or at risk of overflows during a storm event.
- Information on the age of the collection infrastructure conflicts, as identified by the RWQCB in its most recent inspection; this data was not provided by EPASD when requested for the preparation of this MSR. It is recommended that the District document the age of its system and conduct comparative analysis to determine what percentage of the effective life of the segment has been used as input to develop long-term CIP priorities and schedule.
- There is a need to comprehensively update EPASD's primary planning documents, such as the Master Plan, Sewer Rate Study, and Capacity Charge Study to meet the current needs of EPASD, taking into consideration existing circumstances that have surfaced, and enhancing transparency for rate payers, members of the community, developers, and others regarding the full extent of current and future infrastructure needs and associated financing requirements and funding sources. These updates can document and communicate plans to cost-effectively manage EPASD infrastructure maintenance and replacement, address the potential for sewer overflows from existing uses during storm events, and assure that existing ratepayers do not subsidize costs incurred to serve new development.

**Financial ability of agencies to provide services.***Determination*

- EPASD's strong financial position and healthy reserves are the outcome of property tax revenues that supplement services charges, and a relatively low-cost structure. This financial position enables EPASD to maintain low annual charges to ratepayers compared to other sanitary districts.
- However, the District's priority to maintain low rates can adversely affect services and infrastructure by hampering the District's ability to implement best practices and address existing system capacity deficiencies to reduce risks of sewer overflows from existing uses. Low rates that do not account for the need to address projected surcharging and potential sewer overflows can adversely affect ratepayers financially in the long run. Lack of staff resources contributes to an inability to provide clear, up-to-date, and transparent information to ratepayers, the City of East Palo Alto, property owners and developers, and other stakeholders; and produces insufficient financial planning to establish cost-effective and equitable infrastructure financing to facilitate plans adopted by the City of EPA which represents a majority of EPASD residents.
- The lack of future development capacity indirectly affects ratepayers who are also residents of the City of East Palo Alto, as the inability to serve new development reduces growth in City revenues for services and financial resiliency, provides fewer affordable housing opportunities, and constrains the community's commercial base and job growth.

**Accountability for Community Service Needs, Including Governmental Structure and Operational Efficiencies***Determination*

- EPASD generally complies with legal requirements to ensure accountability and transparency. Improvements include ensuring Board Members are up-to-date on ethics training and that all policies and procedures are readily available on its website. Staff reports for District meetings are often not provided, or the narrative for agenda items provides minimal information about the proposed meeting topic or recommended action by the Board.
- The compensation and benefits offered to EPASD's governing body is exceptional compared to neighboring sanitary districts and even compared to compensation of the City of EPA's Council Members. EPASD should consider aligning board compensation with that of similar service providers.
- Transitioning EPASD into a subsidiary district of the City of East Palo Alto is a governance structure option that may benefit the City and its residents by facilitating funding of capital projects to address existing risks of sewer overflows during storm events, and capacity constraints that impede City of EPA planning and achieving City objectives that also benefit most EPASD residents as citizens of the City of EPA.

**Recommendations**

1. Ethics Training - It is recommended that EPASD ensure that board members receive the required ethics training every two years.

2. Policies and Procedures - These policies are not readily accessible on EPASD's website, and in order to ensure transparency, it is recommended that the District make available all policies on its website.
3. Update Capacity Charges -- The update should reflect current development trends and recent CIP cost updates to assure that development pays its share of expansion costs without burdening existing ratepayers. The capacity charges can help fund required infrastructure and provide a mechanism for developer reimbursement if oversizing is required that benefits other developers.
4. Develop CIP Financing Plan – Consistent with best practices EPASD should prioritize improvements and identify financing mechanisms to fund existing deficiencies and future capacity needs over time. The Plan should create a standard, transparent approach for new development applications that does not require time-consuming, costly individual negotiations and custom agreements for each development.
5. Pursue Grants and Low-Interest Loans – A revised CIP will be essential to pursuing grants and low-interest loans. Infrastructure Act funds may provide opportunities to implement the CIP at a lower cost to ratepayers. EPASD should collaborate with other districts, the City of EPA, and/or affordable housing developers to improve prospects for obtaining funds.
6. Evaluate and Consider Using Revenue Debt for Major Long-Term Capital Improvements – Major improvements can be funded more cost-effectively, and costs spread to future ratepayers rather than entirely existing ratepayers. Debt payments and potential impacts on rates should be carefully considered as part of an overall funding plan to pay for improvements that serve existing ratepayers. The use of debt, and/or other funding sources, must respect the principle that existing ratepayers do not subsidize new development.
7. Facilitate New Development without Burdening Existing Ratepayers – The 2021 Addendum provided an allocation between existing system capacity constraints during a storm event, and expansion required for new development that can dictate an equitable allocation and financing plan consistent with legal requirements.
8. Improve Transparency of Budget and Financial Documents – A clear, well-documented budget with explanations of changes, risks, and activities would improve financial transparency. The budget should better correlate with annual audited financial reports, for example, by including depreciation. Financial reports should correlate with funds reported in budgets. Annual debt obligations should be clearly documented in the budgets and should correlate with information in audited financial reports.
9. Budget Forecasting – Periodically update the long-term budget forecast most recently prepared in the 2019 Rate Study to reflect changing financial conditions and projections of costs and revenues.
10. Intergovernmental Relations – Restart and continue regular public meetings between representatives of the City of EPA and EPASD. While staff level cooperation related to development planning is ongoing, involvement by board and council members is essential for efficient and effective coordination between the City of EPA and EPASD related to infrastructure financing and other matters, including the Ravenswood Specific Plan. These meetings should be live streamed, recorded and promptly posted to facilitate public outreach and transparency. These meetings could be focused on specific topics such as development projects and

infrastructure finance. The meetings should be conducted with equal support and staff time from both the City and EPASD.

11. Update Sewer Rates – The update should reflect the costs “needed to fund projected operating expenses, help fund high priority improvements to the District’s aging sewer collection system, pay for the District’s share of operating and capital improvement costs for the regional wastewater treatment plant, and support safe and reliable service” as outlined in the 2019 Rate Study. The update should balance the need to maintain affordable sewer rates against the importance of maintaining and improving services and infrastructure for the health and well-being of EPASD ratepayers.
12. Independent Review of EPASD Hydraulic Analysis and Proposed Improvements – EPASD states that the hydraulic analysis of the 2021 Addendum only indicated that the system is adequate for existing customers, however it cannot serve future developers. This statement appears to contradict the 2021 Addendum that predicts sanitary sewer overflows (SSOs) could occur at 38 manholes due to surcharge conditions in many of its pipes during a peak storm event under existing land use conditions and existing customers. An independent engineering analysis should be conducted to review the hydraulic analysis and assumptions to reconcile the apparent inconsistencies between predicted sewer overflows under existing conditions and EPASD’s position that the system currently is adequate. The analysis would include an update of hydraulic assumptions including flows from ADUs and residential units.

## **Areas of Determinations**

### ***West Bay Sanitary District***

#### **Growth and population projections for the affected area.**

##### *Determination*

- Based on the number of residential connections served and the average household size in the cities served, it is estimated that WBSD has a population of approximately 55,701.
- Based on the current population estimate within the District and ABAG's growth projections extended through 2040, it is projected that there will be 65,029 residents within the District in 2040.
- Growth within WBSD is primarily located in the Bayfront Area of Menlo Park. Recently approved and developments under review are all located within the City of Menlo Park. Existing development projects propose a total of 3,522 dwelling units and 3,927,394 in nonresidential building square feet, indicating potential for substantial growth.

#### **The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the SOI.**

##### *Determination*

- According to the Department of Water Resource's Disadvantaged Communities mapping instrument, there are two communities within or contiguous to the District's SOI that, while not unincorporated, meet the definition of a disadvantaged community. Block Group (060816117003) within the City of Menlo Park east of Highway 101 meets the definition of disadvantaged. The area has an estimated population of 1,237 with a median household income of \$45,481. Block Group (060816117001) is also within the City of Menlo Park east of Highway 101. It has an estimated population of 2,272 and has a median household income of \$51,150

#### **Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the SOI.**

##### *Determination*

- WBSD reported that there is generally sufficient collection capacity to serve existing demand; however, some basins are at capacity. Because the District's Master Plan is almost 10 years old and many improvements have been made since the hydraulic assessment was conducted, it is unclear the degree to which flows are at or nearing capacity and which segments are most impacted. The District is compiling a new Master Plan in 2022 to identify existing conditions after capital improvements, any areas of concern, and capital projects to address these areas.
- Similarly, because WBSD's flow projections are outdated it is unclear what infrastructure needs are necessary to meet projected demand. The Master Plan Update in 2023 is anticipated to provide up-to-date flow projections and recommended capital improvements to meet future demand and serve as a planning tool for the next 10 years to 2033. The new master plan will

consider the prior pipeline replacement and rehabilitation work and will include a new hydraulic model study.<sup>432</sup>

- Based on overflow rates, infiltration and inflow, regulatory compliance, preventative maintenance practices, speed of response times to customer reports of issues, and the number and type of complaints related to wastewater services, WBSD provides an adequate level of wastewater collection services.
- WBSD appropriately plans for infrastructure needs in its Capital Improvement Program. Resources for capital improvement of the system are determined by field evaluations performed on an on-going basis. The objective of the CIP is to systematically replace and or rehabilitate approximately 1.5 percent of system pipelines every year, in addition to completing already planned pump station and pipeline improvements. The District has planned funding for Capital Improvement Program projects of approximately \$3.5 million each fiscal year.

#### **Financial ability of agencies to provide services.**

##### *Determination*

- WBSD's financial condition is sound with a significant positive net position, adequate reserves, and financial planning based on long-term financial planning and capital improvement programs that are annually reviewed, prioritized, and updated.

#### **Accountability for Community Service Needs, Including Governmental Structure and Operational Efficiencies**

##### *Determination*

- WBSD complies with all legal requirements aimed at ensuring accountability and transparency of public agencies. Additionally, WBSD has gone beyond the legal requirements and is a recipient of the District Transparency Certificate of Excellence from the Special District Leadership Foundation (SDLF) for the period January 2020 to March 2023.

#### **Recommendations**

1. Funding of Reserves – Continue to fund reserves consistent with adopted policies, including allocations to the recently created Treatment Plant Reserve which has not been fully funded.
2. Master Plan and CIP – Update the WBSD Master Plan and CIP beginning in 2022 in accord with current anticipated scheduling.

## **Exhibit C**

Inventory of Active Services Pursuant to Government Code Section 56425(i) for East Palo Alto Sanitary District and West Bay Sanitary District

### **Inventory of Active Services**

#### ***East Palo Alto Sanitary District***

Operating pursuant to Health and Safety Code Section 6400 et seq., the District is an independently governed special district authorized to construct and operate works for collection, treatment and disposal of garbage, stormwater, recycled water, and sewage. At present, East Palo Alto Sanitary District provides wastewater collection as a direct service by owning, operating, and maintaining the collection system and sewage treatment via a contract with the City of East Palo Alto for capacity at its Regional Water Quality Control Plant.

#### ***West Bay Sanitary District***

Operating pursuant to Health and Safety Code Section 6400 et seq., the District is an independently governed special district authorized to construct and operate works for collection, treatment and disposal of garbage, stormwater, recycled water, and sewage. West Bay Sanitary District provides sewage collection as a direct service and sewage treatment via membership in Silicon Valley Clean Water (SVCW), as well as garbage collection in certain unincorporated areas within district boundaries through a franchise with Recology as a member of the South Bayside Waste Management Authority (SBWMA). West Bay Sanitary District is authorized to provide recycled water services to the Sharon Heights Golf & Country Club and Stanford Linear Accelerator Center.



## Exhibit D

Sphere of Influence Determinations for the City of East Palo Alto, East Palo Alto Sanitary District, and West Bay Sanitary District and reaffirming the Sphere of Influences

### **Sphere of Influence Determinations**

#### ***City of East Palo Alto***

**1. The present and planned land uses in the area, including agricultural and open-space lands.**

The City of East Palo Alto, which is 2.5 square miles, is a mostly built out city with the exception of open space and marshlands and vacant land in the Ravenswood industrial area. Of the developed areas, residential uses are the most common land use in the City. Approximately 665 acres in the City (just over 50 percent of land) are residential uses. Most residential land is single family residential, along with multifamily residential of five or more units, and duplexes, triplexes, condos or fourplexes. Future development mainly consists of infill or redevelopment projects.

**2. The present and probable need for public facilities and services in the area.**

The current estimated population for the City of East Palo Alto is 30,034. Based on the City's Census 2020 population and ABAG's projected growth rate, the City is projected to have a population of 35,363 in 2040. Additional growth will continue to increase the demand for City services such as police, water, and parks and recreation.

The City has several planned and proposed developments that are in various stages of the permitting process. As of December 2021, the City had 20 unconstructed development projects in some phase of the application and construction process consisting of 1,469 dwelling units and 4,424,139 square feet of nonresidential building space.

However, impediments to development in the City continue to exist. In particular, East Palo Alto Sanitary District reports that it lacks collection capacity to serve new construction, and necessary capacity enhancements required by the District connecting to the system are exceptionally costly, deterring potential developers and preventing some approved developments from being completed. Developers have indicated concerns that the costs to connect are prohibitively expensive and that EPASD has been unwilling to discuss financing options to make connection more feasible.

**3. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.**

Based on ISO ratings, response times, and stations per 1,000 population served, Menlo Park Fire Protection District's services provided within East Palo Alto appear to be adequate. Additionally, the City of East Palo Alto indicates it is satisfied with Menlo Park Fire Protection District's response times and that the District meets its outlined service goals.

Law enforcement services are marginally adequate given the low clearance rate of property crimes within the City, which is likely attributable to staffing constraints within the Police Department. Additionally, the two police facilities are considered to some extent sufficient as identified by Police Department staff; however, no specific infrastructure needs were identified.

The City has indicated that the current availability of parks and open space is not sufficient to meet demand. No parks exist in the Weeks, Kavanaugh, and Westside neighborhoods within EPA, despite having a higher population density that primarily consists of younger families residing in multi-family structures without backyards. With current and projected population

estimates, service adequacy will not be sufficient unless an estimated 79 acres of parkland are added to the cityscape.

The City provides adequate solid waste management services as indicated by per capita and per employee disposal rates that are well within its target disposal rates as dictated by the State. However, waste management services face challenges throughout the County, including 1) a decline in the recyclables market from contaminated sources, 2) new organics diversion requirements that will require major new programs, and 3) dwindling capacity at the Ox Mountain landfill.

There are deficiencies in the City of East Palo Alto's stormwater collection system. There are two significant challenges to implementing planned improvements—lack of funding for \$37.5 million in infrastructure needs and location constraints limiting system expansion and rerouting alternatives. Improvements are necessary in order to reduce the risk of flooding.

The City's Pavement Management System report has described pavement conditions as very good, with an average PCI of 71 out of 100. However, congestion and conditions that impact other modes of transportation continue to be a concern. In particular, there are areas without walkable sidewalks and many areas lacking sufficient capacity for bike lanes leading to high incidents of accidents.

Wastewater services provided by EPASD and WBSD within City of East Palo Alto appear to be adequate based on the analysis in this report; however, as described in the Growth and Development section of this chapter, availability of wastewater capacity for new development is a critical issue for the City. Necessary capacity enhancements are making connection to EPASD's collection system exceptionally costly, which is deterring potential developers and preventing some approved developments from being completed. Several options exist for financing of necessary capacity enhancements that may be agreeable to all parties.

Indicators of water distribution service adequacy, including the State Water Resources Control Board system evaluation, drinking water quality, and distribution system integrity demonstrate that the City provides adequate service levels. While the City has been able to address water supply capacity constraints that were preventing development, there continue to be needs for water storage for emergency backup supply and pipeline expansions to meet industry standards.

**4. The existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency.**

The City of East Palo Alto is bounded by the San Francisco Bay to the east, Menlo Park to the north and west, and the San Mateo- Santa Clara County Line (the City of Palo Alto) to the south and west. Portions of the City of East Palo Alto have been designated as Disadvantaged Communities by the California Environmental Protection Agency.

There are no Disadvantaged Unincorporated Communities within or contiguous to the City' SOI

**5. For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, that occurs pursuant to Section 56425(g) on or after July 1, 2012, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.**

No change to the Sphere of Influence of the City of East Palo Alto is proposed at this time.

The Sphere of Influence is reaffirmed as coterminous with current City boundaries.

***East Palo Alto Sanitary District*****1. The present and planned land uses in the area, including agricultural and open-space lands.**

The area within the EPASD boundaries consists of mostly urbanized area within the City of East Palo Alto and a small portion of Menlo Park. Approximately 90 percent of EPASD parcels are also within the City of East Palo Alto. Future development within the service area of the District mainly consists of infill or redevelopment projects.

**2. The present and probable need for public facilities and services in the area.**

It is estimated that the population is approximately 26,622 within EPASD. Based on the current population estimate, it is projected that there will be 31,335 residents within the District in 2040. Development within the District's service area demonstrates the continued need for wastewater services.

The City has several planned and proposed developments that are in various stages of the permitting process. As of December 2021, the City had 20 unconstructed development projects in some phase of the application and construction process consisting of 1,469 dwelling units and 4,424,139 square feet of nonresidential building space. Many of these proposed development projects are located with EPASD's service area.

The lack of EPASD sewer collection system capacity is an impediment to development in the City. Developers have indicated concerns that the costs to connect are prohibitively expensive and that EPASD has been unwilling to discuss financing options to make connection more feasible. Efforts to-date to resolve this issue have been largely unsuccessful. Constrained development deprives the City and its residents of increased taxes and other revenues to maintain and improve public services, reduces future affordable housing and ability to meet RHNA housing allocations, and limits growth in job opportunities.

**3. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.**

While sufficient treatment capacity exists to meet the needs of current and a portion of future demand, EPASD reports an inadequate collection system capacity to serve increased flows expected from pending development applications. EPASD faces significant financial challenges to fund capacity enhancements to eliminate the potential for sewer overflows that are compounded by proposed new connections. Large-scale capacity enhancements are costly and difficult to complete in a piecemeal fashion as development occurs.

Based on overflow rates, infiltration and inflow, regulatory compliance, preventative maintenance practices, speed of response times to customer reports of issues, and the number and type of complaints related to wastewater services, EPASD provides an adequate level of wastewater collection services to existing ratepayers.

Infrastructure capacity needs are appropriately identified in EPASD's 2021 Addendum to the 2015 Master Plan Update. EPASD focuses on assessing the current condition of the piping and replacing or relining pipe as needed, and EPASD asserts that current collection system capacities are adequate to serve existing ratepayers; this position appears contrary to the results of the 2021 Addendum that predict surcharging and sewer overflows under peak wet weather flows. EPASD states that the 2021 Addendum is a theoretical model and EPASD has not experienced a sewer overflow in the past ten years.

EPASD budgets \$1 million annually towards "Construction Replacement" (not including developer contributions); actual capital expenditures have been less. The 2021 Addendum

identifies 110 segments to be upsized to ensure that the system is not operating at a surcharge or at risk of overflows during a storm event.

Information on the age of the collection infrastructure conflicts, as identified by the RWQCB in its most recent inspection; this data was not provided by EPASD when requested for the preparation of this MSR. It is recommended that the District document the age of its system and conduct comparative analysis to determine what percentage of the effective life of the segment has been used as input to develop long-term CIP priorities and schedule.

There is a need to comprehensively update EPASD's primary planning documents, such as the Master Plan, Sewer Rate Study, and Capacity Charge Study to meet the current needs of EPASD, taking into consideration existing circumstances that have surfaced, and enhancing transparency for rate payers, members of the community, developers, and others regarding the full extent of current and future infrastructure needs and associated financing requirements and funding sources. These updates can document and communicate plans to cost-effectively manage EPASD infrastructure maintenance and replacement, address the potential for sewer overflows from existing uses during storm events, and assure that existing ratepayers do not subsidize costs incurred to serve new development.

**4. The existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency.**

Portions of the City of East Palo Alto that are served by EPASD have been designated as Disadvantaged Communities by the California Environmental Protection Agency.

There are no Disadvantaged Unincorporated Communities within or contiguous to the EPASD's SOI. However, there is a single Block Group (060816121002) within District's territory to the west of Highway 101 that meets the definition of disadvantaged. The area has an estimated population of 2,232 with a median household income of \$45,731.

**5. For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, that occurs pursuant to Section 56425(g) on or after July 1, 2012, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.**

No change to the Sphere of Influence of the East Palo Alto Sanitary District is proposed at this time.

The Sphere of Influence is reaffirmed as dissolution.

**West Bay Sanitary District****1. The present and planned land uses in the area, including agricultural and open-space lands.**

The WBSD territory includes most of Menlo Park, portions of East Palo Alto, Portola Valley, Woodside, portions of unincorporated Santa Clara County, and nearby unincorporated areas including Ladera, West Menlo Park, Stanford-Weekend Acres and Menlo Oaks. The service area is largely urbanized, with more suburban land uses located in the District's western service area. Because the boundaries encompass all types of city land uses, the District serves a wide variety of customers.

**2. The present and probable need for public facilities and services in the area.**

Based on the number of residential connections served and the average household size in the cities served, it is estimated that the population is approximately 55,701 within the District. Based on the current population estimates, it is projected that there will be 65,029 residents within the District in 2040. Development within the District's service area demonstrates the continued need for wastewater services.

WBSD reported that growth, in the way of more density and flow resulting from new development, is primarily located in the Bayfront Area of Menlo Park. Additionally, the EPA Waterfront is a proposed project within East Palo Alto that is partially within WBSD and partially within EPASD. Recently approved and developments under review, all of which are located within the City of Menlo Park. Existing development projects propose a total of 3,522 dwelling units and 3,927,394 in nonresidential building square feet.

**3. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.**

WBSD reported that there is generally sufficient collection capacity to serve existing demand; however, some basins are at capacity. Because the District's Master Plan is almost 10 years old and many improvements have been made since the hydraulic assessment was conducted, it is unclear the degree to which flows are at or nearing capacity and which segments are most impacted. The District is compiling a new Master Plan in 2022 to identify existing conditions after capital improvements, any areas of concern, and capital projects to address these areas.

Similarly, because WBSD's flow projections are outdated it is unclear what infrastructure needs are necessary to meet projected demand. The Master Plan Update in 2023 is anticipated to provide up-to-date flow projections and recommended capital improvements to meet future demand and serve as a planning tool for the next 10 years to 2033. The new Master Plan will consider the prior pipeline replacement and rehabilitation work and will include a new hydraulic model study.

Based on overflow rates, infiltration and inflow, regulatory compliance, preventative maintenance practices, speed of response times to customer reports of issues, and the number and type of complaints related to wastewater services, WBSD provides an adequate level of wastewater collection services.

WBSD appropriately plans for infrastructure needs in its Capital Improvement Program. Resources for capital improvement of the system are determined by field evaluations performed on an on-going basis. The objective of the CIP is to systematically replace and or rehabilitate approximately 1.5 percent of system pipelines every year, in addition to completing already planned pump station and pipeline improvements. The District has planned funding for Capital Improvement Program projects of approximately \$3.5 million each fiscal year.

**4. The existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency.**

There are no Disadvantaged Unincorporated Communities within or contiguous to the WBSD's SOI. Block Group (060816117003) within the City of Menlo Park east of Highway 101 meets the definition of disadvantaged. The area has an estimated population of 1,237 with a median household income of \$45,481. Block Group (060816117001) is also within the City of Menlo Park east of Highway 101. It has an estimated population of 2,272 and has a median household income of \$51,150.

**5. For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, that occurs pursuant to Section 56425(g) on or after July 1, 2012, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.**

No change to the Sphere of Influence of the West Bay Sanitary District is proposed at this time.

The Sphere of Influence is reaffirmed to include the District current boundaries plus portions of Menlo Park, Atherton, Woodside, Portola Valley, East Palo Alto, and portions of unincorporated San Mateo and Santa Clara Counties .