

SAN MATEO



LOCAL AGENCY FORMATION COMMISSION

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November 8, 2023

To: LAFCo Commissioners

From: Rob Bartoli, Executive Officer
Sofia Recalde, Management Analyst

Subject: Consideration of LAFCo File No. 22-09 – 1) City of East Palo Alto Proposal: To establish the East Palo Alto Sanitary District (EPASD), an independent special district, as a subsidiary district of the City of East Palo Alto (City). 2) East Palo Alto Sanitary District Alternative Application: To retain the District’s governance model; amend its Sphere of Influence (SOI) to be coterminous with its geographic service boundaries; and remove the District’s territory from the SOI of the West Bay Sanitary District.

Executive Summary

On October 18, 2022, the East Palo Alto City (City) Council adopted a resolution for an application to establish the East Palo Alto Sanitary District (EPASD) as a subsidiary district of the City. On November 10, 2022, LAFCo staff received an application from the City to establish EPASD as a subsidiary district of the City. The City’s proposal is aligned with a recommendation from the 2022 Municipal Service Review (MSR) and Sphere of Influence (SOI) update for the City, EPASD and West Bay Sanitary District (WBSD) to consider establishing EPASD as a subsidiary district to enable funding of capital projects to address deficiencies and capacity constraints that are hindering development in the City.

The City’s stated reason for the proposal is to facilitate coordinated planning of sewer service, infrastructure and capacity to accommodate for planned growth, and to improve transparency, accountability and environmental health to meet the current and future needs of all District ratepayers.

The proposal would establish EPASD as a subsidiary district of the City of East Palo Alto. This proposal is considered a change of governance and organization as the City would become the governing board of EPASD. Approval of this proposal would not alter the boundaries of EPASD or the sewer services provided by EPASD. Revenue collected by EPASD would be separate from the City’s General fund and could only be used for sewer operations and maintenance.

COMMISSIONERS: ANN DRAPER, CHAIR, PUBLIC ▪ KATI MARTIN, VICE CHAIR, SPECIAL DISTRICT ▪ VIRGINIA CHANG-KIRALY, SPECIAL DISTRICT ▪ HARVEY RARBACK, CITY ▪ TYGARJAS BIGSTYCK, CITY ▪ WARREN SLOCUM, COUNTY ▪ RAY MUELLER, COUNTY

ALTERNATES: CHRIS MICKELSEN, SPECIAL DISTRICT ▪ ANN SCHNEIDER, CITY ▪ JAMES O’NEILL, PUBLIC ▪ NOELIA CORZO, COUNTY

STAFF: ROB BARTOLI, EXECUTIVE OFFICER ▪ SOFIA RECALDE, MANAGEMENT ANALYST ▪ TIM FOX, LEGAL COUNSEL ▪ ANGELA MONTES, CLERK

The City's application to LAFCo contained a technical memorandum prepared by Freyer & Laureta (F&L) consulting firm. The memorandum outlines the City's plan for capital improvements to address capacity and development issues and proposes a five-year budget for the capital improvements and ongoing operations and maintenance if EPASD were to become a subsidiary district of the City. The City's budget proposal includes funds for both operating and maintaining the sewer system and for capital improvements. The budget also proposes to increase sewer connection fees and changes to sewer capacity charges. The establishment of the subsidiary district does not itself alter the sewer fees and charges of EPASD. Any changes to fees or charges would be subject to all applicable laws and statutes.

To ensure that the proposed capital improvements align with best practices and industry standards and that the proposed budget is appropriate to complete the needed capital improvements and fund ongoing operations and maintenance, LAFCo entered into an agreement with V.W. Housen & Associates to prepare a peer review report of the Freyer & Laureta memo. Sierra West, a consultant for EPASD, identified the need for \$53 million for rehabilitation and replacement for the existing EPASD sewer system, including \$20.9 million for high priority projects. This does not include any capacity improvement that may be needed to accommodate future development. The peer review found that the City's proposed budget would be largely sufficient to cover the proposed capital improvement plan and operation and maintenance of the sewer system, as the proposed budget included \$19.7 million in capacity and rehabilitation and replacement project.

On September 13, 2023, the East Palo Alto Sanitary District Board adopted a resolution to approve an alternative application to the City's subsidiary district proposal. Thereafter, on September 19, 2023, LAFCo staff received an alternative application regarding the City's subsidiary district proposal. The District's application proposed to retain EPASD's current governance structure as an independent special district, to amend its Sphere of Influence (SOI) to be coterminous with existing EPASD boundaries, and to remove EPASD's territory from the SOI of the West Bay Sanitary District (WBSD). EPASD's alternative application proposes no changes of organization or governance.

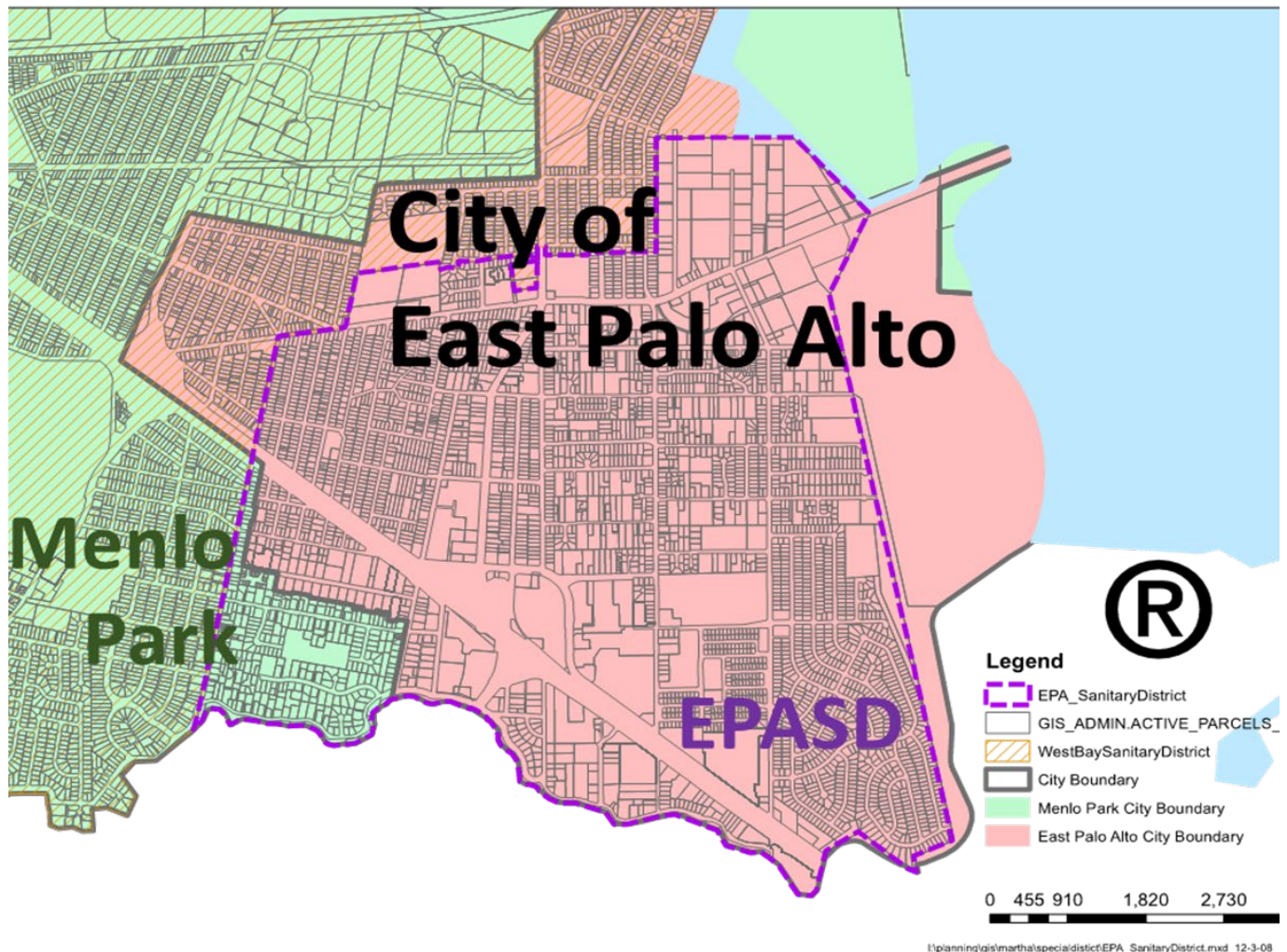
Based on review of the City's proposal and the District's alternative application, consideration of applicable factors, and examination of state legislation, LAFCo staff recommends the approval of LAFCo File No. 22-09 - Proposal to establish EPASD as a subsidiary district of the City of East Palo Alto. The proposal would align planning for wastewater utilities with the City's envisioned land use planning and established master plans. It would also allow the City to balance infrastructure requirements, funding options, and developer requirements to facilitate needed new housing, jobs and municipal revenues to improve public services. The proposal would enhance management and efficiencies of sewer services and allow for the City to leverage state and federal funding to sewer service-related projects for customers. The City's proposal aligns with both the State's policy preference of a single multi-purpose government agency for urbanized and LAFCo's governance options outlined in previously adopted Municipal Service Reviews for EPASD.

Governance Context and Background

History of East Palo Alto Sanitary District and City of East Palo Alto

The East Palo Alto Sanitary District was formed on August 23, 1939 to provide sewer services in the unincorporated area that is now City of East Palo Alto and portions of the City of Menlo Park. EPASD’s service boundary covers 1.84 square miles and serves approximately 26,622 residents and a range of office, retail, public/institutional, and other uses. Approximately 92% of EPASD residents reside within the City of East Palo Alto.

The City of East Palo Alto is a general law city that incorporated in 1983 and covers approximately 2.6 square miles. The City provides a range of services, including domestic water, to a population of about 30,000 residents. Sewer services are provided to the City by EPASD and WBSD. Since the creation of the City of East Palo Alto in 1983, several special districts, including the East Palo Alto County Waterworks District and Ravenswood Recreation and Parks District, have been dissolved and their municipal services transferred to the City.



Map 1 City of East Palo Alto and EPASD boundaries

2022 Municipal Service Review Findings and Recommendations and Sphere of Influence

In 2021, LAFCo initiated a Municipal Service Review (MSR) for the City, EPASD, and WBSD at the request of the City of East Palo Alto and developers after efforts to come to an agreement regarding sewer system improvement costs were unsuccessful. The key findings noted that pending development proposals in the City supported future residential and commercial growth projections, but that EPASD's sewer collection system capacity was an impediment to development in the City. Specifically, the MSR found that efforts of the City, EPASD, and developers to work in partnership with each other to resolve the issues related to sewer system capacity had been unsuccessful.

Furthermore, at the time of the MSR, EPASD did not have a Capital Improvement Plan (CIP) in place to upgrade the existing aging infrastructure, nor a plan to address improvements to support new development. The MSR found that EPASD faced financial challenges to fund capacity enhancements and that comprehensive updates to EPASD's primary planning documents, such as the Master Plan, Sewer Rate Study, and Capacity Charge Study were needed to understand the current needs of EPASD. The MSR recommended that EPASD review capacity charges, develop a CIP for the District, evaluate ways to plan for long-term capital costs and explore opportunities for loans and grants to address existing and future infrastructure costs.

A lack of EPASD planning documents created barriers to discussions between the parties that made it challenging to 1) define actual development-driven capital needs at the connection and downstream, 2) determine related costs beyond the set capacity charges, and 3) negotiate a mutually beneficial agreement consistent with legal constraints.

The MSR also recommended that the City consider organizing EPASD as a subsidiary district of the City. The vast majority of EPASD residents reside within the City of East Palo Alto, and transitioning EPASD to a subsidiary district of the City could assist EPASD rate payers, residents and the City with planning for current and future sewer system needs.

The MSR noted that the lack of future development capacity indirectly affects ratepayers, the majority of whom are 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.

The MSR recommended reaffirming the Sphere of Influence for EPASD as dissolution (zero), as first adopted in 1985 and again reaffirmed in 2009. Governance alternatives, as identified in both the 2009 and 2022 MSRs, include the following:

1. Status quo (continued existence of EPASD with no boundary changes).
2. Establishing EPASD as a subsidiary district of the City of East Palo Alto with sewer service becoming a public works function of the City and the City Council acting as the governing board.
3. Dissolution of the District and annexation of the service area to West Bay Sanitary District, or a variation which would reorganize both EPASD and WBSD to align boundaries of the districts with city boundaries.

The dissolution (zero) Sphere of Influence and governance alternatives for the City and EPASD, and findings and recommendations for the City, EPASD, and WBSD were adopted by San Mateo LAFCo on June 15, 2022.

Upon completion of the 2022 MSR and in accordance with the recommendation to conduct an analysis of the effective life of the sewer system, EPASD contracted with Sierra West Consultants Inc. to conduct a closed-circuit television (CCTV) survey of existing District sewer lines. The CCTV survey split the EPASD service area into four sections along with a separate review for the sewer trunk line that flows to the Palo Alto Regional Water Quality Control Plan. In documents provided by EPASD to LAFCo as part of the District's comment letter, the surveys from Sierra West identified over \$20 million of high priority and near-term rehabilitation and replacement projects were identified, with a total of \$53 million for future rehabilitation and replacement¹. Of the 117,589 linear feet surveyed, 76,000 linear feet, or 65% of the lines inspected, are classified by the consultant as pipeline with substantial structural defects. Structural defects are described in the Sierra West memo as instances of broken or sagging pipes or areas where pipes are severely clogged. The recommended work is for the existing system only and does not propose increasing potential sewer flow capacity to accommodate potential new development or redevelopment.

In October 2022, the EPASD Board of Directors approved an adjustment to the sewer connection fee for all new connections and expanded connections, increasing the one-time fee from \$6,060 to \$14,464. The 138% increase was based on a Sewer Capacity Charge Study prepared by Hildebrand Consulting that determined the increase was necessary to fund sewer system expansion capital improvements². EPASD also charges customers an annual \$600 per equivalent dwelling unit sewer service fee. The sewer service fee was last increased in FY 2020-21.

City Proposal Overview

On November 10, 2022, the City of East Palo Alto submitted a proposal application (LAFCo File No. 22-09) to San Mateo LAFCo to establish the East Palo Alto Sanitary District, an independent special district, as a subsidiary district of the City (Attachment C). For this change of organization, the subsidiary district would remain as a separate agency, and the City Council would be designated as, and empowered to act as, the ex officio board of directors of the district. This proposal application would not alter the boundaries of EPASD or the sewer services provided by EPASD. Revenue collected by EPASD would be separate from the City's General fund and could only be used for sewer operations and maintenance.

The City's proposal includes a resolution of application, application materials, a plan for service, a capital improvement plan, and a proposed budget for EPASD operations and maintenance and capital improvement. The City's application to LAFCo contained a technical memorandum prepared by Freyer & Laureta (F&L), a consulting firm, that outlines its plan for capital improvements to address capacity and development issues and proposes a budget for both

¹ Sierra West Consultants Inc. Technical Memo CCTV Survey Results Evaluation and Pipeline Replacement Priorities Areas 1, 3, and 4, October 31, 2022

² Hildebrand Financial Services, LLC, *Capacity Charge Study*, September 7, 2022

capital improvements and ongoing operations and maintenance if EPASD were to become a subsidiary district of the City.

The stated purpose of the City's proposal is to provide for more efficient operation and coordinated planning of sewer service, infrastructure and capacity to accommodate for planned growth and to improve transparency, accountability and environmental health to meet the current and future needs of all District ratepayers. The City also states that the proposal will accommodate development already approved by the City of East Palo Alto, including development projects proposed by City residents.

As part of the application, the City proposed a plan for service and submitted a technical memo that included a five-year operation and maintenance and capital improvement budget. The plan for service and budget identifies potential capital improvement projects regarding the reliability of the system for existing customers, identifies CIP projects for future development, contains an annual operation and maintenance budget for the sanitary sewer collection system including expenses associated with the Palo Alto Regional Water Quality Control Plant, and includes projected revenues for these sewer system related expenses.

In March 2023, the City issued a Request for Qualifications (RFQ) to identify potentially qualified contractors that may be invited to a separate, future Request for Proposal (RFP) process. The RFQ closed in April, and on May 16, 2023, City staff presented a status update on the RFQ process and adopted a resolution to issue a request for proposal (RFP) from the qualified vendor list to provide sanitary sewer services should EPASD become a subsidiary district of the City. The City confirmed that it received one statement of qualifications from WBSD and confirmed that WBSD was qualified to provide a proposal in response to the forthcoming RFP. On July 3, the City issued an RFP, and the RFP process closed on September 15, 2023. The City reported that it received one proposal for sewer services from the West Bay Sanitary District. The proposal met the City's standard, and should the district become a subsidiary of the City, WBSD will be able to provide sewer services.

Meanwhile, EPASD has continued delivering sanitary sewer services to its customers and working on planned repair projects. In addition, EPASD has set aside \$10M to address emergency structural and capacity repairs and replacements in three areas (identified as Areas 1, 3 and 4) discovered during a closed-circuit television (CCTV) survey³. This survey identified \$53 million in needed structural upgrades the existing sewer collection system. High priority projects amounting to \$20M were identified as part of this study, which included pressing structural replacement projects and areas that require additional capacity. On October 13, 2023, EPASD submitted a report to LAFCo for Area 2 and the Sewer Trunk Line in response to a comment from LAFCo related to EPASD's alternative application⁴.

³ Sierra West Consultants, CCTV Survey Results Evaluation and Pipeline Replacement Priorities Areas 1, 3, and 4 October 31, 2022

⁴ Sierra West Consultants, CCTV Survey Results Evaluation and Pipeline Replacement Priorities Area 2, Trunk Line, and All Areas, October 13, 2023

Subsidiary District

As defined by Government Code Section 56078, a "subsidiary district" means a district in which a City Council is designated as, and empowered to act as, the ex officio board of directors of a district. In the case of this proposal, the City Council of the City of East Palo Alto would become the governing body of EPASD. The District would remain intact, with all of the powers, rights, duties, obligations, and functions provided by state law. EPASD's funds, service charges and revenue, and expenditures related to the provision of sewer service would remain as part of the subsidiary district and would not be merged into the City's general budget. Funds and revenue collected by the subsidiary district would only be used for sewer service-related charges and functions.

The formation of a subsidiary district is different than a merger of a city and district or the dissolution of a district. In the case of a merger, the district is terminated, and the responsibility for the functions, services, assets, and liabilities of that district are assumed by the city. Dissolution means the termination of the existence of a district and the end of all powers of the district except for the purpose of winding up the affairs of the district. As described above, the City's proposal to turn EPASD into a subsidiary district of the City would not impact the existing service or service boundaries and would preserve the district as a separate entity from the City that is governed by the City of East Palo Alto City Council.

Examples of subsidiary districts in San Mateo County include the Belmont Fire Protection District, which is governed by the Belmont City Council and provides fire protection to the City of Belmont and the surrounding unincorporated area, and the North San Mateo County Sanitation District, which is governed by the Daly City City Council and serves Daly City and the unincorporated communities of Colma and Broadmoor.

LAFCo is authorized to review and approve proposals for "changes in organization" and "reorganizations" (i.e., when more than one change in organization is proposed or approved concurrently) consistent with policies adopted by the Commission. The establishment of EPASD as a subsidiary district of the City is considered a change of organization under Government Code Section 56021.

Factors to be Considered in Proposal Review

Government Code Section 56001 provides some assistance to the Legislature's priorities as to district governance:

"The Legislature finds and declares that a single multipurpose governmental agency is accountable for community service needs and financial resources and, therefore, may be the best mechanism for establishing community service priorities especially in urban areas. Nonetheless, the Legislature recognizes the critical role of many limited purpose agencies, especially in rural communities. The Legislature also finds that, whether governmental services are proposed to be provided by a single-purpose agency, several agencies, or a multipurpose agency, responsibility should be given to the agency or agencies that can best provide government services."

The establishment of EPASD as a subsidiary district aligns with the State's policy preference of a single multipurpose governmental agency (i.e., the City). While the subsidiary district would

maintain EPASD as a separate entity from the City, the subsidiary district model adheres to the intent of the State Legislature.

Government Code Section 56880 authorizes LAFCo to impose a wide variety of conditions on a proposal that it approves. Government Code Section 56021 defines “changes of organization” to include annexation, dissolution of special districts, and the formation of a subsidiary district, among other specified actions.

Additionally, in accordance with Government Code Section 56668, the factors to be considered in the review of a proposal include, but are not limited to, all of the following:

- (a) Population and population density; land area and land use; assessed valuation; topography natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.

Discussion

The City of East Palo Alto is a largely built out city with a total area of 2.6 square miles. Its sphere of influence is coterminous with the City’s boundaries and is bordered by the San Francisco Bay to the east, Menlo Park to the north and west, and the City of Palo Alto on the south and west. Approximately 50% of the land is residential uses, with the majority being single family, along with a smaller percentage of multi-family uses. Commercial and office uses account for approximately 6% of the land area. The greatest mix of uses occurs where residential neighborhoods are near University Avenue’s retail uses, or near the Ravenswood 101 Shopping Center. Institutional uses, public facilities, and parks and recreational facilities account for approximately 10% of the land areas in the City. The remainder of the City is vacant land, including open space and marshlands near the San Francisco Bay and vacant land within the Ravenswood Business District where industrial businesses were previously located. The boundaries of EPASD include most of the City and a portion of the City of Menlo Park. The topography of the City is generally flat.

The 2020 US Census estimated that the City of East Palo Alto’s population is 30,034⁵. The Association of Bay Area Government (ABAG) forecasts population change in the Bay Area and estimated that South San Mateo County, including the Cities of East Palo Alto and Menlo Park, will experience a 32% population and 29% job growth over the period from 2015 to 2050⁶. Plan Bay Area 2040 provided city-level population projections and estimated a 17.7% population increase for the City of East Palo Alto through 2040.

The City’s General Plan is preparing for the projected population and job growth. The Ravenswood/4 Corners Transit Oriented Development (TOD) Specific Plan (2013) estimates

⁵ <https://data.census.gov/table?g=1600000US0620956&tid=DECENNIALPL2020.P1>

⁶ Plan Bay Area 2050, https://www.planbayarea.org/sites/default/files/FinalBlueprintRelease_December2020_Compndium_Jan2021Update.pdf

adding over 800 multi-family residential dwelling units and over 1.7 million square feet of office⁷, commercial and industrial space that will produce 4,851 jobs⁸.

As stated in the MSR, MSR comment letters, and in the City's application proposal, existing customers have had challenges or have been unable to obtain "will serve" letters for accessory dwelling units from EPASD. Since then, EPASD has reported that it has issued several will serve letters, as shown in an attachment in EPASD's Alternative Application (Attachment H). LAFCo staff is not aware of the status of the projects that have received these will serve letters or if these projects have accepted the fees and conditions associated with the will serve letters.

Additionally, the City stated that new development has been obstructed due to the lack of implementation of EPASD's CIP. This has impacted the City's affordable housing and economic development goals and employment opportunities for residents of the City. As noted in the MSR these roadblocks to new development and redevelopment impact the City and its constituents by impeding the benefits associated with growth, including social and economic revitalization and environmental and sustainability benefits.

- (b) The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

Discussion

The City stated in its Proposal that the purpose of establishing EPASD as a subsidiary district is to implement improvements for both public health and safety and to accommodate planned growth. The City believes this is necessary to support future development that aligns with the City's General Plan, Zoning Ordinance, and the Ravenswood/4 Corners TOD Specific Plan, including approximately 800 residential dwelling units that are anticipated to be completed by FY28. Additionally, the City is in the process of updating the Ravenswood Specific Plan to potentially allow between 2-3M square feet of commercial use and up to 1,600 residential units.

Proposed Budget

As part of the application, the City included a technical memorandum prepared by Freyer & Laureta, Inc. (F&L) titled *Sanitary Sewer Capital Improvement and Operation Plan Development* (Memo). The Memo identified potential capital improvement projects regarding the reliability of the system for existing customers, identifies future CIP projects for future development, contains an annual operation and maintenance budget for the sanitary sewer collection system including expenses associated with the Palo Alto Regional

⁷https://www.cityofepa.org/sites/default/files/fileattachments/community_amp_economic_development/page/2811/final_spec_plan_feb_2013.pdf, page 59

⁸https://www.cityofepa.org/sites/default/files/fileattachments/community_amp_economic_development/page/2811/feir_july30.pdf, page 3-10

Water Quality Control Plant, and proposes changes to annual sewer service charges for rate payers and connection fees for new development.

The proposed five-year CIP and operations and maintenance (O&M) budget illustrated below is based on publicly available data as of October 31, 2022.

Wastewater Enterprise Fund Cash Flow Projections					
Sanitary Sewer Capital Improvement and Operation Plan Development East Palo Alto, California					
	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27
Overall Rate Adjustment	0%	5%	5%	5%	
Annual Sewer Charge (per EDU)	\$690	\$725	\$761	\$799	\$839
Connection Fee (per EDU)	\$6,060	\$6,363	\$6,681	\$7,015	\$7,366
Total New EDUs	-	33	709	555	-
Total EDUs	4,443	4,476	5,186	5,741	5,741
Interest Earnings Rate	0.5%	0.5%	0.5%	0.5%	0.5%
Beginning Reserve Funds	\$17,380,000	\$14,416,886	\$11,696,069	\$12,877,231	\$13,641,008
REVENUES					
Sewer Service Charges	\$3,065,986	\$3,243,224	\$3,945,075	\$4,585,641	\$4,814,923
Connection Fees	\$0	\$210,244	\$4,739,878	\$3,893,440	\$0
Property Taxes	\$521,000	\$536,630	\$552,729	\$569,311	\$586,390
ERAF Rebate/Former ROAF	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000
Investment Earnings	\$86,900	\$72,084	\$58,480	\$64,386	\$68,205
Total Revenues	\$3,973,886	\$4,362,183	\$9,596,162	\$9,412,778	\$5,769,518
EXPENSES					
Operations & Maintenance					
Salaries & Benefits	\$990,000	\$1,020,000	\$1,051,000	\$1,083,000	\$1,115,000
General liability & Workers Comp Allocation	\$1,365,000	\$1,406,000	\$1,448,000	\$1,491,000	\$1,536,000
Pre-Fund Existing EPASD Net Pension Liability	\$93,000	\$93,000	\$93,000	\$93,000	\$93,000
PARWQCP Wastewater Treatment	\$2,435,000	\$2,510,000	\$2,591,000	\$2,665,000	\$2,496,000
O&M Subtotal	\$4,883,000	\$5,029,000	\$5,183,000	\$5,332,000	\$5,240,000
Capital & Other Non-Operating					
Sewer Rehab Improvements	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000
Capacity Assurance Improvements	\$0	\$0	\$1,093,000	\$1,093,000	\$1,093,000
Capital and Non-O&M Subtotal	\$1,500,000	\$1,500,000	\$2,593,000	\$2,593,000	\$2,593,000
Debt Service					
EPASD 2011 SRF loan	\$79,000	\$79,000	\$79,000	\$79,000	\$79,000
Share of Existing PARWQCP Debt	\$203,000	\$203,000	\$128,000	\$128,000	\$128,000
Share of Projected PARWQCP Debt	\$272,000	\$272,000	\$432,000	\$517,000	\$517,000
Debt Service Subtotal	\$554,000	\$554,000	\$639,000	\$724,000	\$724,000
Total Expenses	\$6,937,000	\$7,083,000	\$8,415,000	\$8,649,000	\$8,557,000
Revenues Less Expenses	-\$2,963,114	-\$2,720,817	\$1,181,162	\$763,778	-\$2,787,482
Ending Reserve Fund	\$14,416,886	\$11,696,069	\$12,877,231	\$13,641,008	\$10,853,526

The budget included revenue from sources such as annual sewer charges to customers, connection fees from new development, and property tax, all of which are current revenue sources for EPASD.

As part of the plan for service submitted by the City of East Palo Alto, the City intends to increase the annual sewer charge to \$690 for FY24, which is consistent with prior recommendations by EPASD's consultants and what the current fee would be had EPASD implemented the recommended 4% annual increase in its FY20 Sewer Rate Study. The City plans to increase the sewer service charge 5% annually through FY 2029. It should be noted that LAFCo's approval of the subsidiary district proposal does not directly result in the rate increase, as any rate changes would be subject to a Proposition 218 rate setting process.

In addition, the City is proposing to decrease the one-time connection fee from \$14,464 to \$6,100 and implement a 5% annual rate increase. The City anticipates that these rate adjustments will provide funding for capital improvements to address existing system deficiencies and expand capacity for new development. By adjusting the one-time connection fee so that it approximates the old \$6,060 charge and implementing a gradual fee increase, the City expects development to resume in coordination with their land use planning vision.

Expenditures include salary and benefit costs for contracted sewer maintenance service, annual treatment costs from the Palo Alto Regional Water Quality Control Plant, capital improvement projects for both the existing system and for future development, and debt service. The proposal also anticipates utilizing portions of the exiting reserve funds for improvements to the existing sewer system. The proposed budget also includes pension costs for current EPASD employees.

Peer Review by LAFCo Consultant

LAFCo contracted with V.W Housen & Associates to conduct an independent peer review of the City's proposal to ensure that it aligns with industry standards and best practices and that the proposed budget is adequate to support the CIP and O&M expenses. LAFCo staff provided V.W. Housen with the City's application packet and supporting documents from EPASD that are referenced in the peer review memo. The consultant noted that EPASD's 2021 amendment to the District Master plan identified over \$26M in improvements and proposed a 15-year timeline for completion. Although the City's CIP only includes \$10.8M in upgrades to be completed over a 5-year period, the consultant found that the plan addressed the highest-priority, near-term capacity needs, that improvements could reasonably occur in the proposed 5-year timeline, and that the proposed budget is sufficient to cover the CIP and O&M. The City has also stated that the CIP projects identified in the proposed budget overlap with the high priority projects identified by EPASD's consultant⁹.

However, V.W. Housen & Associates expressed concern that the City's budget may have underestimated some construction costs. The consultant also noted that the 2021 amendment to the District's master plan may have overstated the replacement needs and

⁹ City of East Palo Alto, Response to Follow-Up Questions for LAFCo File No. 22-09, dated 3/23/23.

that several improvements could possibly be made through localized repairs, thereby reducing overall costs.

The City's plan for service allows for surcharging conditions, and the consultant confirmed that there is no industry standard or criteria for surcharging. Surcharging of sewer pipes occurs when there is more water moving through the pipes than available capacity. Pipes fill to capacity and the excess flow rises up into the manholes on either end of these pipes. The amount that the water rises above the crown or top of the pipe is called surcharge. Each sewer service provider must identify the acceptable level of surcharge (or no surcharge) based on the system and the agency's approach to managing risk. Per the City of East Palo Alto's proposal, the collection system would be allowed to surcharge with at least four feet of freeboard below the manhole cover. This is consistent with the EPASD 2015 Master Plan and achieves the goal of preventing sanitary sewer overflows. Based on the available information, the consultant was not able to conclude what is an appropriate surcharge allowance for the District.

- (c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.

Discussion

Establishing EPASD as a subsidiary district of the City would not change the level of sewer service that EPASD customers currently experience and would enable the City to proceed with existing and future development plans that are consistent with the General Plan, Zoning Ordinance, Ravenswood/4 Corners TOD Specific Plan, and other land use and infrastructure plans.

If EPASD were to become a subsidiary district, governance would transfer from the EPASD Board of Directors to the City of East Palo Alto City Council. The City Council for the City of East Palo Alto would sit as the EPASD Board of Directors. There would be no change to the boundaries of EPASD. Residents of Menlo Park who reside within the EPASD service area would not be able to directly vote for the EPASD Board of Directors, but they would continue to have the ability to voice their opinions, comments, and concerns regarding sewer service at EPASD Board of Directors meetings in compliance with Proposition 218, which requires that all ratepayers within the EPASD service area can object to or protest rate increases or changes.

As a condition of approval in the resolution (Attachment A), the City of East Palo Alto, acting as the future Board of Directors of the East Palo Alto Sanitary District, shall submit a plan to LAFCo for the establishment of an advisory committee to the subsidiary district within 90 days of the issuance of the Certificate of Completion. The advisory committee, which shall advise the Board of Directors on items concerning the District's administrative, legal, operational, maintenance and financial affairs, shall include at least one reserved seat for a resident of the City of Menlo Park portion of the District to ensure continued engagement with all EPASD ratepayers and customers.

- (d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities in Section 56377 (re: conversion of open space or ag land).

Discussion

The City's proposal would not impact policies and priorities related to open space or agricultural land.

- (e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.

Discussion

The City's proposal would not impact the physical or economic integrity of open space or agricultural land.

- (f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

Discussion

The City's proposal to establish EPASD as a subsidiary district would not change or alter the boundaries of the territory or service area, which are certain and definite and do not divide parcels or create islands.

- (g) A regional transportation plan adopted pursuant to Section 65080.

Discussion

Not applicable

- (h) The proposal's consistency with city or county general and specific plans.

Discussion

The proposal to establish EPASD as a subsidiary district does not conflict with the City's general and specific plans. The formation of EPASD as a subsidiary district would allow the City to better align infrastructure development and capacity improvements with the these adopted land use plans.

- (i) The sphere of influence of any local agency that may be applicable to the proposal being reviewed.

Discussion

As originally adopted in 1985 and reaffirmed in 2009 and 2022, EPASD's Sphere of Influence is dissolution (zero). Governance options, as recommended in the 2009 and 2022 MSRs, include the formation of EPASD as a subsidiary district or dissolution of EPASD and annexation to the West Bay Sanitary District. This proposal is consistent with the two adopted MSRs.

- (j) The comments of any affected local agency or other public agency.

Discussion

Referral letters were sent to all affected agencies, and their responses are summarized below:

County Assessor: As of November 2023, there are 4,285 parcels within the affected territory with a total land value of \$2,276,265,271.

County Controller's Office: As the boundaries and service of the District do not change, there is no tax increment for negotiation related to the Proposal to establish EPASD as a subsidiary district of the City of East Palo Alto. All property tax revenue currently received by EPASD would continue to be collected by EPASD if it was established as a subsidiary district of the City.

County Environmental Health: The proposal does not create any unusual health hazards or problems and the effect of the proposed reorganization appears appropriate.

County Clerk: The proposal would not adversely affect the conduct of elections as the boundaries of EPASD will not be altered. As of October 27, 2023, there are 9,653 registered voters in the East Palo Alto Sanitary District. 94%, or 9,068, of these registered voters reside within the city boundary of the City of East Palo Alto; the remainder reside in the City of Menlo Park.

City of Menlo Park: The City of Menlo Park submitted a comment letter to LAFCo on December 1, 2022. Menlo Park City Manager, Justin Murphy, asked how City of Menlo Park residents served by EPASD would participate in elections if the East Palo Alto City Council becomes the governing board. The City of Menlo Park also requested that, should the subsidiary district be formed, that Public Works staff from both agencies coordinate in advance of planned sewer upgrades.

East Palo Alto Sanitary District: In response to the City's application and subsequent comments, EPASD submitted three comment letters to LAFCo in December 2022, January 2023 and March 2023 (Attachment F). The EPASD District Board adopted by resolution their objection to the City's proposal on December 8, 2022. The following summarizes the District's comment letters.

EPASD remarked on its history of providing low-cost, high-quality sanitary sewer service while building a \$23M reserve and reiterated its position that costs associated with increased capacity and expansion required by new development should be borne by developers, not existing rate payers.

EPASD's comment letters countered several points in the City's proposal and subsequent comment letter by insisting that the District is best equipped to provide sanitary sewer services and to fund the structural and capacity capital improvements needed to meet the current and future needs of all District ratepayers. The EPASD 2022 Capacity Charge Study determined that in order to expand the sewer system's capacity to accommodate the new development projects, which totals over \$35 million, the connection fee for new development should be increased from the current \$6,060 fee to \$14,464 for each new dwelling unit.

EPASD reported since the implementation of the \$14,464 connection fee, several will serve letters have been issued, as shown in an attachment in EPASD's alternative application (Attachment H). LAFCo staff is not aware of the status of the projects that have received these will serve letters or if these projects have accepted the fees and conditions associated with the will serve letters.

The District released partial findings of a closed-circuit television survey (CCTV) of the sewer system on October 31, 2022 shortly before the City's submission of their proposal. The remaining CCTV result findings were completed in early 2023 but have not been released publicly. EPASD asserts that the City's proposal not only omits critical upgrades to the trunk sewer pipeline, but it also fails to budget for \$53 million of future rehabilitation for the existing sewer system. EPASD also states that the current proposal allows for sewer system overflows, which EPASD believes is not industry standard, a comment disputed in the peer review conducted by V.W. Housen & Associates.

EPASD asserts that the City's plan to maintain the \$6,060 connection fee with 5% annual increases thereafter is insufficient to address the full cost of needed capital improvements identified in the CCTV survey results. In addition, EPASD claims that the proposed budget cash flow is flawed since it is based on a \$23M reserve, of which the District has since dedicated \$10M to high priority upgrades. Furthermore, EPASD believes that the burden of paying the costs of capital improvements for new development would fall to customers, who will already be burdened with 5% sewer annual service fee increases in accordance with the City's plan.

EPASD questions the City's ability to provide for more efficient and coordinated operation of sanitary sewer services because the District believes that the City will contract sanitary sewer services to a for-profit contractor. Finally, EPASD opposes the formation of the subsidiary district as it would disenfranchise residents of Menlo Park and does not believe that the City's proposal includes a plan to ensure Menlo Park residents can participate in District elections.

On September 19, 2023, EPASD submitted an alternative application to the City's proposal, which is described in detail below under the Alternative Application section.

- (k) The ability of the newly formed or receiving entity to provide the services that are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

Discussion

No boundaries of cities or special districts would be altered by this proposal.

The City of East Palo Alto provides municipal services to its residents through direct services from City staff and via contracted service providers. The City intends to contract with an agency to provide sewer operation and maintenance services. A Request for Qualifications for potential contractors concluded in May 2023. On July 3, the City issued an RFP and noted that it received one statement of qualifications from WBSD and confirmed that WBSD is qualified to provide a proposal in response to the RFP. The RFP process closed on September 15, 2023 and one response was received from WBSD. As a condition of LAFCo

approval, the resolution requires the City to execute an agreement for the operation and maintenance of the sewer system with a private or public agency prior to the recording of the LAFCo Certificate of Completion for the establishment of a subsidiary district.

The proposed budget for EPASD utilizes revenue, such as connection fees, sewer charges, and property tax, to provide for the continuation and potential expansion of the sewer system for existing and new customers. The City's CIP includes \$10.8M in upgrades to be completed over a 5-year period, an amount deemed sufficient by LAFCo's peer review consultant for the consultant found that the plan addressed the highest-priority, near-term capacity needs, that improvements could reasonably occur in the proposed 5-year timeline and that the proposed budget is sufficient to cover the CIP and O&M.

- (l) Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.

Discussion

Not applicable

- (m) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6.

Discussion

As stated in the City's proposal, the MSR, and MSR comment letters, several development projects, including those for affordable housing, would assist the City in achieving their respective fair shares of the regional housing. The City is proposing a five-year budget that includes funding for both capacity projects, new development and rehabilitation and replacement of the existing sewer collection system. For the 2023-2031 housing cycle, the city's quantified objectives for construction are 1,885 units, with 753 of those being affordable to East Palo Alto residents who have very low or low incomes¹⁰. The City's proposed CIP projects may allow for the 1,600 housing units that are currently in review by the City to move forward and be constructed and for future housing developments envisioned by the 2023-2031 Housing Element to be planned for.

- (n) Any information or comments from the landowner or landowners, voters, or residents of the affected territory.

Discussion

As of November 7, 2023, two comment letter have been received by LAFCo. The first letter is from David Gould, a representative for two development projects in the City of East Palo Alto. He supports the City's proposal to transition sewer services to the City. He contends that EPASD management and the EPASD Board have enabled significant deferred maintenance, ground water intrusion and service response deficiencies to exist. He also states that Coordination of sewer services with the City's existing public works, planning

¹⁰ Draft 2023-2031 Housing Element, City of East Palo Alto, pg. 5-2, October 21, 2022

and operations, and other City functions would be far superior to the divergent path that has existed for decades.

The second letter is from the Residents for an Independent Sanitary District and is signed by 11 individuals. The letter requests that the Commission reject the proposal from the City. The group states that this proposal undermines the principles of local representation, autonomy, and fair governance. The letter expresses concern about the loss of voting rights for Menlo Park customers that resided within EPASD's service area if the subsidiary district proposal is approved. The letter also states that the group has concern about City's ability to manage the sewer system. The group also notes that the Proposal has support from developers that have projects in the EPASD service area and that their interest in developing projects may run counter to the interest of ratepayers.

- (o) Any information relating to existing land use designations.

Discussion

The establishment of EPASD as a subsidiary district would not change any existing land use designations. The City of East Palo Alto and the City of Menlo Park are the existing agencies with land use authority within the EPASD service area. No changes in land uses are proposed in conjunction with the subsidiary proposal.

- (p) The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the location of public facilities and the provision of public services, to ensure a healthy environment for all people such that the effects of pollution are not disproportionately borne by any particular populations or communities.

Discussion

EPASD provides sewer service to all people within the service areas regardless of race, culture, and income. This would continue if EPASD becomes a subsidiary district of the City. EPASD's current lack of long-term infrastructure planning and funding impacts the City's ability to construct projects that meet its affordable housing and economic goals. This, in turn, can negatively impact residents, particularly those most in need of affordable housing and economic development projects.

- (q) Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to Section 4102 of the Public Resources Code, if it is determined that such information is relevant to the area that is the subject of the proposal.

Discussion

The City of East Palo Alto participated in the 2021 San Mateo County Multijurisdictional Local Hazard Mitigation Plan (LHMP)¹¹, which assessed hazard vulnerabilities and identified mitigation actions that jurisdictions can pursue in order to reduce the level of injury, property damage, and community disruption that might otherwise result from such events. The LHMP addressed natural and human-caused hazards, including flooding, drought, wildfire, landslides, severe weather, terrorism, cyber threats, pandemic, and the impact of climate change on hazards, as well as other hazards. Adoption of the Plan allows agencies to be eligible for various types of pre- and post-disaster community assistance, such as grants, from the Federal Emergency Management Agency and the State government.

EPASD Alternative Application and Merger of EPASD into the City of East Palo Alto

Government Code Section 56861 requires that within 10 days after receiving a proposal to form a subsidiary district, the LAFCo Executive Officer shall notify by certified mail the district or districts which are the subject of the proposal. Within 35 days after receiving the notice from the executive officer, the board of directors of the subject district or districts may do either of the following:

- 1) Adopt a resolution consenting to the subsidiary district proposal, with or without requesting additional terms and conditions.
- 2) Adopt a resolution of intention to file an alternative proposal to the subsidiary district proposal.

EPASD Alternative Application

On July 12, 2023, East Palo Alto Sanitary District adopted a resolution of intention to file an alternative proposal. On September 19, 2023, LAFCo staff received an alternative application in response to the City's subsidiary district proposal. The District's application seeks to retain EPASD's current governance structure, amend its Sphere of Influence (SOI) to be coterminous with EPASD boundaries, and remove EPASD's territory from the SOI of the West Bay Sanitary District (WBSD). The application was deemed complete by LAFCo staff on October 25, 2023.

A special district that is the subject of a subsidiary district proposal has a right under the law to make an alternative proposal, but the relevant section, Section 56862(d), provides that the term alternative proposal, "as used in this section, means an alternative proposal to a subsidiary district proposal as provided for in Section 56861." "Proposal" means desired change of organization or reorganization initiated by a petition or by resolution of application of a

¹¹ 2021 San Mateo County Multijurisdictional Local Hazard Mitigation Plan
<https://www.smcgov.org/ceo/multijurisdictional-local-hazard-mitigation-plan>

legislative body or school district for which a certificate of filing has been issued.” Therefore, within the context of the law governing LAFCo, a “proposal” is defined as a desired change of organization or reorganization initiated by a petition or by resolution of application of a legislative body or school district for which a certificate of filing has been issued¹².

Meanwhile a “change of organization” is a defined term under the law and includes a list of LAFCo actions relating to governance changes¹³. Notably absent from the list of actions is an alteration to a Sphere of Influence (SOI). A mere request for a SOI amendment is considered an “application” and does not amount to a change of organization or reorganization as the SOI amendment does not impact the governance structure or boundaries of EPASD.¹⁴

The application contained 52 attachments, a number of which are documents LAFCo had reviewed during its review and analysis of the City’s proposal. Some of the documents were presentations or reports on draft items or of policies or programs that have not yet been implemented by EPASD, including a 2022 Sewer Rate Study and a memo related to financing options for sewer capital projects.

EPASD stated that the alternative application is necessary to preserve the existing structure of the district. However, with or without the District’s alternative application, the choices before the Commission are to either approve the City’s request to establish EPASD as a subsidiary district of the City or to deny the City’s request and maintain the status quo with EPASD remaining as an independent special district. Submission of an alternative application to retain the existing structure of EPASD was not necessary to preserve it.

EPASD also stated that the alternative application is needed to align the District’s SOI with its service area. The District’s current SOI of dissolution (zero) was first established in 1985 and reaffirmed in the 2009 and 2022 MSRs with the recommendation that the EPASD territory be annexed to WBSD. It should be noted that the dissolution designation does not preclude EPASD from continuing to deliver sanitary sewer services to its customers. It simply indicates that LAFCo views the City of East Palo Alto or WBSD as the logical provider for EPASD’s current service area. Given that the Commission has recently reaffirmed the District’s dissolution SOI and its view that EPASD should eventually be annexed to WBSD, LAFCo staff does not recommend amending EPASD’s SOI at this time.

In their application, EPASD stated that the District’s sewer collection system is adequate to serve existing customers and some future growth, and that the additional development proposed by the City’s General will require expansion of the system. EPASD has stated that this expansion would require appropriate connection fees for the new customers to connect to the sewer system. EPASD noted that the City’s proposal would result in significant rate increases for

¹² Government Code section 56069

¹³ Government Code Section 56021

¹⁴ Government Code section 56862(a) provides that a special district that adopts a resolution of intention to file an alternative proposal has 70 days in which to file a completed application for its alternative proposal. A district that adopts a resolution of intention to file an alternative proposal but thereafter fails to timely file an application for such proposal “shall be deemed to have consented to the original proposal to form a subsidiary district.” Cal. Gov’t Code § 56862(b). However, the record taken as a whole does not easily support a finding that such failure constituted consent by EPASD. EPASD timely filed an “application,” even if the application does not properly track the requirements of a “proposal.”

customers, while maintaining the status quo will allow EPASD to protect customers from rate increases.

EPASD contended that the City is not suited to run EPASD and provide sewer services to the residents of the City, as it is a general-purpose agency that is not focused on a specialized service. EPASD also stated that City will merge EPASD's finances with the City as well as integrate EPASD's other post-employment benefits (OPEB) into the City OPEB liabilities. EPASD stated that this will negatively impact the City's budget and could increase the bankruptcy of the sewer program.

Finally, EPASD indicated that the alternative application is necessary to safeguard the interests of existing ratepayers, maintain a sewer system that has been delivering outstanding results for decades and ensure the District is efficiently, capably, and democratically governed. Again, an alternative application is not necessary to maintain the status quo.

As required for Government Code Section 56425, the following determinations shall be to be made when reviewing or amending a Sphere of Influence:

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% 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 there are approximately 26,622 residents 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.

EPASD's alternative application noted the District's history of providing high quality, low-cost sanitary sewer services to the area since 1939 and its sizeable reserve of \$23 million. Over the past few years, in response to increased interest of new development to the area, the District has taken steps to update its 2015 Master Plan Capital Improvement Plan, including conducting rate and capacity charge studies, examining financing options and conducting a CCTV survey of the service area. EPASD stated in their application that the total cost of needed infrastructure improvements is \$64M, with \$40M attributable to new development. EPASD stated it will implement these infrastructure changes over the course of four years, with 25% of the development occurring each year.

The EPASD alternative application stated that "\$64.7+ million necessary for system expansion, \$40 million of which would be exclusively attributable to new development." This statement appears to make a references to the Sierra West Consultants report for EPASD dated October 31, 2022¹⁵. In this report, Sierra West reviewed three areas of the

¹⁵ Sierra West Consultants, CCTV Survey Results Evaluation and Pipeline Replacement Priorities Areas 1, 3, and 4 October 31,2022

EPASD sewer system and evaluated the condition of the sewer system. As noted in this report and in the peer review from V.W. Housen Associates for San Mateo LAFCo, approximately \$53 million in structural repairs and upgrades are proposed by EPASD. The 2022 Sierra West report stated that structural upgrades are related to replacement of existing pipelines with “substantial structural defects.” The report separated out the cost of structural upgrades to address existing deficiencies from costs related to capacity upgrades, which is defined in the report as “replacement of Pipelines with Larger Capacity Pipelines per the [EPASD’s] Master Plan Update.” This amount comes to a total estimated cost of \$9.1 million for capacity related upgrades while structural only upgrades total approximately \$44 million. Of the 117,589 feet of sewer line surveyed, 76,000 feet, or 65% of sewer system, requires structural upgrades.

The 2022 Sierra West Consultants report stated that numerous segments of sewer pipes are described as being broken or cracked some with soil visible, sagging, or having grease build up or other debris in the pipe that is limiting sewer flow¹⁶. The data that EPASD submitted to LAFCo as part of their alternative application highlights the existing sewer deficiencies of the EPASD maintained system.

On October 13, 2023, EPASD provided LAFCo a copy of a Sierra West Consultant report for EPASD covering one additional service area and the sewer trunk line which conveys sewage from EPASD’s collection system to the Palo Alto Regional Water Quality Control Plant¹⁷. The study area included an additional 41,000 feet of sewer lines. The report stated that “Area 2 appears to have more structural integrity problems with possibly older pipelines constructed of vitrified clay materials.” The report stated that multiple sewer lines within the study area had multiple fractures and cracks, were broken in several areas, sagging, and heavy grease and debris. While there is not a specific callout of the estimated cost that would be related to addressing structural upgrades in Area 2 and the sewer truck line, the Sierra West reports estimated \$12 million of replacement cost would be required for what Sierra West classified as “high priority” projects. Projects that needed general structural upgrades were not identified in a similar way as they were in the 2022 Sierra West report.

The District contended that retaining the District’s governing structure would ensure that existing customers only pay their fair share whereas the City’s proposal would unfairly burden existing rate payers with the costs necessitated by new development. In addition, the District pointed out that the City’s proposal contemplates hiring a contractor, which would likely require rate increases.

Although the City’s proposal has programed potential rate increases as part of its projected budget, any rate increases would need to occur as a separate process outside LAFCo process and would be subject to applicable laws for increasing utility rates. The City’s proposal included implementing the adopted EPASD 2019 Rate Schedule, which has not yet been implemented by EPASD. In EPASD’s alternative application, the documents stated that service will continue to without an “immediate rate increase to

¹⁶ Ibid

¹⁷ Sierra West Consultants, CCTV Survey Results Evaluation and Pipeline Replacement Priorities Area 2, Trunk Line, and All Areas, October 13, 2023

existing ratepayers beyond routine annual Consumer Price Index (CPI) increases.” Raising rates based on annual CPI increases constitutes a rate increase. The EPASD alternative application included a draft 2022 Sewer Rate Analysis from Bartle and Wells Associates (no date) that illustrates new sewer rates for customers covering 2023 to 2027 with an average increase of 6% a year. While these rates were only proposed and not adopted, it does appear that rates may increase even if there is no change in governance for EPASD.

During the 2022 MSR and SOI update for the City of East Palo Alto, EPASD, and West Bay Sanitary District, EPASD reported that it lacked collection capacity to serve new construction, and necessary capacity enhancements required by the District connecting to the system were exceptionally costly, deterring potential developers and preventing some approved developments from being completed. While EPASD has taken some steps to address these issues, such as conducting a review of the conditions of their sewer lines, several other items such as a long-term financing plan or an update capital improvement plan are either in draft form or have not yet been initiated. Any description of an adopted funding mechanism or budget for capital projects related to deficiencies in the existing system have not been submitted by EPASD as part of the alternative application.

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 demand and a portion of future demand, EPASD reported that its collection system is currently not equipped to serve increased flows expected from pending development applications. Large-scale capacity enhancements are costly and difficult to complete in a piecemeal fashion as development occurs. EPASD faces financial challenges to fund capacity enhancements for both existing and future customers. While this would also be true for the City if the subsidiary district proposal is approved, the City has proposed a budget, using publicly available documents, that includes both funds for projects for sewer system upgrades for both existing and future customers. The City has acknowledged that a sewer rate increase may be needed to address deficiencies of the existing sewer system. As part of the alternative application, EPASD submitted two surveys of the existing sewer conditions. However, EPASD has not adopted a plan or CIP about how to fund these needed projects. The financing studies and draft rate charges have not been adopted by EPASD and were produced prior to the CCTV sewer survey results.

As stated in the 2022 MSR for EPASD, infrastructure capacity needs were appropriately identified in EPASD’s 2021 Addendum to the 2015 Master Plan Update. EPASD focused on assessing the current condition of the piping and replacing or relining pipe as needed, and EPASD asserted that current collection system capacities are adequate to serve existing ratepayers. However, the 2021 Addendum also predicts surcharging and

sewer overflows under peak wet weather flows. EPASD stated that the 2021 Addendum is a theoretical model and EPASD has not experienced a sewer overflow in the past ten years. This also seems to be contrary to the recent CCTV reports that have been produced for EPASD. These reports identify that a majority of the existing sewer collection system has structural deficits and deficiencies and that \$53 million in repairs to the existing system is needed and do not connect these costs identified in these sewer surveys to any fiscal planning or CIP documents.

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 SOI 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 recommended at this time.

Although the alternative application is not considered a proposal, LAFCo staff did review the SOI application against similar criteria required for the subsidiary district proposal. Discussion is only noted for criteria that resulted in a different response for the District's Alternative Application compared to the City's Proposal.

- (b) The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

Discussion

EPASD contends that the City's Proposal will increase sewer rates in order to pay for a private contracted sewer collection provider. Although the City's Proposal does state an intent to contract for sewer collection services, that in itself is not the reason that the City is proposing to increase sewer fees. The City's analysis of the EPASD CCTV survey results of Areas 1, 3 and 4 concluded that although EPASD does need to expand capacity for new development, the existing system also requires capital improvements to address existing system deficiencies that cannot necessarily wait for future development connection fees to fund. This finding was reaffirmed by the peer review consultant, as discussed above. As a result, the City opted to increase both the sewer

service fees and new connection fees to ensure both existing and new customers contribute to capital improvements and to ensure that existing deficiencies are addressed even if future development does not occur as expected. Additional information regarding this determination can be found in the SOI determination section.

Over the past year, the City has issued an RFQ and RFP for contracted sewer service providers. West Bay Sanitary District (WBSD), an independent special district, responded to both inquiries. The City is proposing to contract with WBSD for sanitary sewer services should the Commission approve the establishment of EPASD as a subsidiary district of the City.

(c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.

Discussion

EPASD states in their alternative application that retaining the District's existing governance structure would ensure that residents of Menlo Park who reside within the EPASD service area can continue to be actively engaged with and have representation on the District's governing board. EPASD contends that the City's assurances of community outreach are an inadequate solution and does not guarantee equitable involvement of Menlo Park residents in District affairs.

As noted previously in this report, governance would transfer from the EPASD Board of Directors to the City of East Palo Alto City Council if EPASD were to become a subsidiary district. The City Councilmembers for the City of East Palo Alto would sit as the EPASD Board of Directors. The result of this action is that Menlo Park residents who reside within the EPASD service area would not be able to directly vote for the EPASD Board of Directors. However, these residents would continue to have the ability to voice their opinions, comments, and concerns regarding sewer service at EPASD Board of Directors meetings in compliance with Proposition 218, which requires that all ratepayers within the EPASD service area can object to or protest rate increases or changes.

In addition, as a condition of approval in the attached resolution, the City of East Palo Alto, acting as the future Board of Directors of the East Palo Alto Sanitary District, shall submit a plan to LAFCo for the establishment of an advisory committee to the subsidiary district within 90 days of the issuance of the Certificate of Completion. The advisory committee, which shall advise the Board of Directors on items concerning the District's administrative, legal, operational, maintenance and financial affairs, and shall include at least one reserved seat for a resident of the City of Menlo Park portion of the District to ensure continued engagement with all EPASD ratepayers and customers.

(i) The sphere of influence of any local agency that may be applicable.

Discussion

The District's current SOI of dissolution (zero) was first established in 1985 and reaffirmed in the 2009 and 2022 MSRs with the recommendation that the EPASD territory be annexed to WBSD. The District's alternative application to change the SOI

from dissolution to coterminous conflicts with LAFCO's prior assessment of the District's SOI.

The SOI for WBSD has included the EPASD service area since in 1984. This SOI was reaffirmed in the 2009 and 2022 MSRs.

- (j) The comments of any affected local agency or other public agency.

Discussion

Two comments letters were received by LAFCo from affected agencies, one from the City of East Palo Alto and the other from the West Bay Sanitary District.

West Bay Sanitary District: In a comment letter dated October 19, 2023, WBSD states that they are not in support of the EPASD alternative application, particularly the proposed reduction of WBSD's SOI. WBSD is in support of providing operation and maintenance services to City residents as it does in other areas of the City of East Palo Alto. WBSD stated that it currently serves areas of East Palo Alto, so removing areas from its SOI would be counterproductive to a long-term solution.

WBSD notes that the alternative application incorrectly states that WBSD is not in favor of the City's proposal. While WBSD is not willing to initiate a reorganization on its own, it is supportive of the recommendation in 2022 MSR of either the creation of EPASD as of a subsidiary district or of an annexation of the EPASD service area to WBSD. At A WBSD meeting on September 27, 2023, the WBSD Board of Directors' consensus was to support the City with their LAFCo application and to respond to LAFCo with the disapproval of reducing WBSD's sphere of influence.

City of East Palo Alto: The City submitted a comment letter regarding the alternative application on October 20, 2023. In the letter, the City objects to the alternative application and states that since there is no change of governance proposed the application is not a proposal within the context of LAFCo law.

The City notes that while EPASD asserts that the sewer system is well-maintained, two studies from Sierra West Consultants indicate there are significant structural deficiencies with a significant number of pipeline segments within the collection system that was inspected. The City states that although some of these sewer lines will also need to be upsized for future development, the significant structural issue with the existing sewer lines must be addressed regardless of whether any new users are allowed to connect to the District's collection system.

While the alternative application highlights low rates for customers, the City states that based on the amount of structural and capacity upgrades required for the system, additional revenue will be required. In the budget for the subsidiary district proposal, the City is proposing to implement the District's own rate study to repair, improvement, and maintain the sewer lines.

The City notes several discrepancies in the EPASD alternative application. One is that additional treatment capacity at the sewer treatment plant in Palo Alto is required for new development, even though EPASD's adopted master plan states that the plant has capacity for the new development envisioned by the City. The City notes that the

sanitary sewer collection system has structurally deficient portions as identified in the report from Sierra West Consultants, but the report does not clearly attribute the costs between existing and new customers. The City points out that Sierra West Consultants reports undermines the claim from EPASD that these improvements can be fund largely by fees on developers. The City states that their proposal takes into account funding for capacity improvement projects to serve new developments, existing wet weather capacity deficiency improvement projects, and an annual capital improvement program to address non-capacity related structural deficiency issues over the next 20 years. The City states that their proposed budget also takes into the cost of the proposed pipeline replacement project.

The City's proposed budget includes an estimate \$2.4 million for annual operation and maintenance costs. EPASD's alternative application questions if that amount is sufficient as part of their alternative application, and the City's response is that WBSD recently submitted a proposal to the City to operate and maintain the collection system for an annual budget of \$1.7 million if the subsidiary district proposal is approved.

Lastly, the City states that if the City Council becomes the governing body of EPASD, all District assets, liabilities, reserves, revenues and expenditures would be separately accounted for and funded and would not become part of the City's general budget.

- (k) The ability of the newly formed or receiving entity to provide the services that are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

Discussion

Not applicable. The District's application will not impact the services that are delivered to existing customers in the service area, or the revenue received from those services.

- (m) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6.

Discussion

The City contends that the District is not being cooperative in efforts to support new development, and the District asserts that the City's claim is false. The District's alternative application includes twenty-seven will serve letters, ten of which were issued in 2023, fifteen in 2022 and two in 2021. LAFCo staff is not aware of how many of the eleven will serve letters that were issued after the District Board increased capacity fees to \$14,464 on October 6, 2022 have entered into an agreement for sewer service.

- (n) Any information or comments from the landowner or landowners, voters, or residents of the affected territory.

Discussion

No comments were received regarding the Alternative Application at the time of the publication of this report.

- (p) The extent to which the proposal will promote environmental justice. As used in this subdivision, “environmental justice” means the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the location of public facilities and the provision of public services, to ensure a healthy environment for all people such that the effects of pollution are not disproportionately borne by any particular populations or communities.

Discussion

The District states that the City’s proposal would burden customers who are predominantly Black and/or Hispanic and/or who are low-income and already at risk of displacement. The City’s proposal includes an annual rate increase of 5% in the first five years of its operation. The District, on the other hand, states that it would not increase sewer rates, beyond routine consumer price index (CPI) increases. CPI rate increases constitute a rate increase. Although it is not known what the CPI increases would equate to, the EPASD alternative application included a draft 2022 Sewer Rate Analysis from Bartle and Wells Associates (no date) that illustrates new sewer rates for customers covering 2023 to 2027 with an average increase of 6% a year. Although these rates were only proposed, it does appear that rates may increase even if there is no change in governance for EPASD.

Regardless of which entity runs the EPASD sewer system, both EPASD and the City would be faced with the challenge of determining the total cost of structural and capacity improvements and how to fund them. Part of that challenge is determining how much existing customers will need to pay, especially if new development is delayed or not built as scheduled.

Merger Alternative

Government Code Section 56118 states that any proposal for a merger or establishment of a subsidiary district authorized by this division shall contain a request in the alternative, requesting either a merger or the establishment of a subsidiary district. The proposal submitted to San Mateo LAFCo by the City of East Palo Alto is to establish EPASD as a subsidiary district of the City.

A merger of the East Palo Alto Sanitary District into the City was considered as part of this hearing in accordance with Government Code Section 56118, but was not recommended by staff because, in this case, it is desirable to maintain the separate district for services and accountability reasons. In addition, a merger is not applicable to this Proposal as the territory of East Palo Alto Sanitary District is not entirely located within the boundaries of the City of East Palo Alto.

Staff Recommendation

The proposal before the Commission is a change of organization for EPASD in which the governance structure would be altered so that the City of East Palo Alto City Council sit as the governing body of EPASD. EPASD’s alternative application makes a case for the District retaining its governance structure and amending its SOI so that it is coterminous with its service area. LAFCo staff recommends approval of LAFCo File No. 22-09 – Proposal to establish the East Palo

Alto Sanitary District (EPASD) as a subsidiary district of the City of East Palo Alto. Staff makes this recommendation based on the factors that were considered for this proposal and the alternative application.

In addition, the City's proposal aligns with the State's policy preference of a single multi-purpose government agency for urbanized areas (i.e., the City of East Palo Alto) to provide municipal services (Government Code Section 56001). While the subsidiary district would maintain EPASD as a separate entity from the City, the subsidiary district model adheres to the intent of the State Legislature. Furthermore, the establishment of EPASD as a subsidiary district of the City of East Palo Alto aligns with the governance options outlined in the adopted 2009 and 2022 MSRs.

Staff recommends that EPASD become a subsidiary district of the City of East Palo, with its City Council acting as the EPASD Board, for several reasons:

- Planning for wastewater utilities could align with the City's envisioned land use planning and established master plans.
- The City could address and balance infrastructure requirements, funding options, and developer requirements, to facilitate needed new housing, jobs and municipal revenues to improve public services.
- The management of wastewater service delivery to the residents of the District would likely be enhanced with the substantive management and organizational structure of the City in which the contracted sewer service provider would be managed by the City Manager and City Public Works Director who would report to the City Council which, as the ex officio Board of Directors for EPASD, are beholden to EPASD rate payers.
- Enhanced efficiencies by removing a layer of government and enhanced ease of use of constituents, with single provider of services.

As described in the 2022 MSR and stated in the proposal application, the City has more resources that it can leverage to bring state and federal funding to sewer service-related projects and can do so more efficiently without coordinating among multiple agencies and boards.

The proposed five year operational and capital budget includes improvements for both the existing system as well as capacity improvements for development. Sewer rate charges for existing customers and connection fees for new development will be utilized, where appropriate and allowed for by law, to fund these sewer system improvements. In a review by LAFCo staff and by LAFCo's peer review consultant, the proposed budget put forward by the City is largely adequate to fund the proposed improvements. The budget also recommends increases to both sewer rate charges and connection fees. This will allow for a balancing of needs between improvements for the existing system, which benefits existing customers and new infrastructure needed for future development projects. The consideration of increased sewer rates is important as approximately \$53 million in improvements to the existing sewer system have been identified. If new development is delayed, does not occur, or does not have an impact on a portion of the existing sewer system that requires upkeep, revenue from sewer rate charges can be utilized to repair or replace the existing segments of the sewer system that

are deficient. Overall, the City's proposed budget and improvement plan will best serve the needs of the community while protecting the health and safety of residents and ratepayers.

Government Code Section 56118 states any proposal for a merger or establishment of a subsidiary district authorized by this division shall contain a request in the alternative, requesting either a merger or the establishment of a subsidiary district. The proposal submitted to San Mateo LAFCo by the City of East Palo Alto is to establish EPASD as a subsidiary district of the City. A merger of the East Palo Alto Sanitary District into the City was considered as part of this hearing but was not recommended by staff because, in this case, it is desirable to maintain the District separate from the City for operational, transparency, and accountability reasons. The District's funds, service charges and revenue, and expenditures related to the provision of sewer service will remain as part of the subsidiary district and not merged into the City's general budget. Funds and revenue collected by the subsidiary district will only be used for sewer service-related charges and functions. The subsidiary district will remain a legally distinct entity from the City.

In addition, a merger is not applicable to this proposal as the territory of EPASD is not entirely located within the boundaries of the City of East Palo Alto. Ninety-one percent of EPASD territory is located within the City of East Palo Alto; the remainder is located in the City of Menlo Park.

LAFCo staff does not recommend the approval the Alternative Application submitted by the East Palo Alto Sanitary District. Staff makes this recommendation based on areas of determination that were considered for this alternative application.

Terms and Conditions

Staff recommends seven terms and conditions for this Proposal, which are fully stated in the attached Resolution and summarized here:

- The City shall execute an agreement for the operation and maintenance of the sewer system with a private or public agency prior to the recording of the Certificate of Completion.
- The effective date of the action is the first day of the next month after the conclusion of the protest hearing if the requisite protest thresholds are not met. This will allow the subsidiary district to start as the service provider at the beginning of a fiscal period.
- Upon the effective date, East Palo Alto City Council shall be designated as, and empowered to act as, ex officio, the Board of Directors of the East Palo Alto Sanitary District. The East Palo Alto Sanitary District shall continue in existence with all of the powers, rights, duties, obligations, and functions provided for by the principal act that formed the District.
- Within 90 days of the issuance of the Certificate of Completion, the City of East Palo Alto shall submit a plan for the establishment of an advisory committee to EPASD. The committee shall include at least one reserved seat for a resident of the City of Menlo Park portion of the East Palo Alto Sanitary District service area.

California Environmental Quality Act

On November 10, 2022, the City filed a Notice of Exemption under Section 15320 for the creation of a subsidiary district. CEQA Guidelines Section 15320 (Class 20) provides for a Categorical Exemption for Changes in Organization of local agencies that do not change the geographical area in which previously existing powers are exercised. One of the specific examples cited includes "establishment of a subsidiary district."

LAFCo staff recommends that the Commission determine that LAFCo File 22-09 is exempt from CEQA per CEQA Guidelines Section 15320 and direct staff to file a Notice of Exemption.

Notice

Public notice of the hearing was mailed and emailed to affected agencies and interested parties at least 21 days prior to the November 15, 2023, 2023 LAFCo hearing. As allowed for in Government Code, a public notice was published at least 21 days prior to the hearing as a 1/8th page display advertisement in the San Mateo County Times, The Almanac, and The Palo Alto Weekly because the total number of notices required to be mailed exceeded 1,000. There are roughly 4,000 parcels and approximately 9,600 registered voters in the affected territory. The newspaper notices were published in both English and Spanish. Notice of the public hearing were also published on the San Mateo LAFCo website in English, Spanish, Chinese, Samoan, Tagalog, Tongan, and Vietnamese.

Property Tax Exchange

Revenue and Taxation Code Section 99 requires the San Mateo County Board of Supervisors to negotiate on behalf of any special district affected by an organization change. On December 21, 2022, the San Mateo County Controller's Office reviewed LAFCo File No. 22-09 and determined that a property tax negotiation would not be required by this proposal as it does not change EPASD's boundaries or service area. San Mateo County's notification of this determination from December 21, 2022 is included as Attachment L.

Protest Proceedings

If LAFCo approves the proposal, protest proceedings will follow after a reconsideration period. LAFCo staff will give notice of the protest hearing to all landowners and registered voters in the affected territory (i.e. the service area of the East Palo Alto Sanitary District) via 1/8th page display ads in at minimum the San Mateo County Times published in both English and Spanish. Direct mailing of notices is not required because the mailing lists exceed 1,000.

- Landowner Protest: If protests are filed by fewer than 25% of the number of landowners owning less than 25% of the assessed value of land, the Commission shall order the formation of the subsidiary district. If 25% to 50% of the landowners file protests, the Commission shall order the organization be subject to an election. Over 50% landowner protest terminates the proposal.
- Registered Voter Protest: If protests are filed by fewer than 25% of the number of registered voters in the affected territory, the Commission shall order the formation of

the subsidiary district. If 25% to 50% of the registered voters file protests, the Commission shall order the organization be subject to an election. Over 50% registered-voter protest terminates the proposal.

Recommended Commission Action

1. Open the public hearing and accept public comment.
2. By resolution, approve LAFCo File No. 22-09 - Proposal to establish the East Palo Alto Sanitary District (EPASD) as a subsidiary district of the City of East Palo Alto subject to terms and conditions (Attachment A)
3. Determine that LAFCo File 22-09 is exempt from CEQA per CEQA Guidelines Section 15320 and direct staff to file a Notice of Exemption.

Attachments

- A. Resolution No. 1312 for the formation of EPASD as a subsidiary district of the City of East Palo Alto
- B. Map of EPASD boundaries
- C. Proposal for LAFCo File No. 22-09 from City of East Palo Alto
- D. City of East Palo Alto response letters to LAFCo questions
- E. Peer review report from V.W. Housen & Associates dated July 12, 2023
- F. Comment letters from EPASD in response to City's proposal (Comment letters and attachments available on LAFCo website at <https://www.smcgov.org/lafco/proposal-city-east-palo-regarding-east-palo-alto-sanitary-district>)
- G. Public comment letters in response to City's proposal
- H. Alternative application from the East Palo Alto Sanitary District (Alternative Application and attachments available on LAFCo website at <https://www.smcgov.org/lafco/alternative-application-east-palo-alto-sanitary-district>)
- I. EPASD response letter to LAFCo questions (Attachments available on LAFCo website at <https://www.smcgov.org/lafco/alternative-application-east-palo-alto-sanitary-district>)
- J. Response letter from City of East Palo Alto to EPASD's Alternative Application
- K. Response letter from West Bay Sanitary District to EPASD's Alternative Application
- L. San Mateo County Controller's Office Property Tax Letter

LAFCo File No. 22-09

RESOLUTION NO. 1312

**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION
OF THE COUNTY OF SAN MATEO
MAKING DETERMINATIONS AND APPROVING LAFCO FILE NO. 22-09 –
A PROPOSAL TO ESTABLISH THE EAST PALO ALTO SANITARY DISTRICT (EPASD) AS A SUBSIDIARY
DISTRICT OF THE CITY OF EAST PALO ALTO**

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 governs the organization and reorganization of cities and special districts by a local agency formation commission (LAFCo or Commission) established in each county, as defined and specified in Government Code sections 56000 *et seq.* (unless otherwise indicated all statutory references are to the Government Code); and

WHEREAS, Section 56375 authorizes LAFCo to review and approve proposals for “changes in organization” consistently with policies adopted by the Commission and Section 56880 authorizes LAFCo to impose conditions on its approval of a change in organization; and

WHEREAS, Section 56021 defines “change of organization” to include detachment from a district, annexation to a district, and establishment of a subsidiary district, among other actions within LAFCo’s powers; and

WHEREAS, Section 56650 authorizes proceedings for a change of organization to be initiated by a Resolution of Application as adopted by a local agency; and

WHEREAS, on November 10, 2022, the City of East Palo Alto submitted a proposal application to establish the East Palo Alto Sanitary District as a subsidiary district of the City of East Palo Alto (the Proposal); and

WHEREAS, LAFCo provided notice of the Proposal to the subject district, the East Palo Alto Sanitary District, within 10 days of receiving the Proposal in accordance with Government Code Section 56861; and

WHEREAS, on July 12, 2023, East Palo Alto Sanitary District adopted a resolution of intention to file an alternative proposal and accordingly no action on the original Proposal was taken for 70 days; and

WHEREAS, on September 19, 2023, East Palo Alto Sanitary District submitted an alternative application to retain East Palo Alto Sanitary District’s current governance structure as an independent

special district, to amend its Sphere of Influence (SOI) to be coterminous with existing East Palo Alto Sanitary District boundaries, and to remove East Palo Alto Sanitary District 's territory from the SOI of the West Bay Sanitary District; and

WHEREAS, the Proposal and Alternative Application were routed to all subject, affected, and interested agencies, and no comments, concerns or objections were received other than from the East Palo Alto Sanitary District, City of East Palo Alto, City of Menlo Park and West Bay Sanitary District; and

WHEREAS, San Mateo County determined that the Proposal and the Alternative Application are not subject to a negotiated exchange per Revenue and Taxation Code Section 99(b)(1) as the boundaries and the service of the EPASD will not change with the formation of the subsidiary district; and

WHEREAS, a Certificate of Filing was issued for the Proposal on June 15, 2023 and a letter of completion for the Alternative Application was issued on October 25, 2023; and

WHEREAS, a public notice was published at least 21 days prior to the hearing as a 1/8th page display advertisement in the San Mateo County Times, The Almanac, and The Palo Alto Weekly because the total number of notices required to be mailed exceeded 1,000; and

WHEREAS, the Executive Officer has reviewed the Proposal and Alternative Application and prepared a report, including the recommendations thereon, at least five (5) days before the November 15, 2023 hearing, and the Proposal, Alternative Application and report have been presented to and considered by this Commission; and

WHEREAS, a public hearing by this Commission was held on the Proposal and Alternative Application on November 15, 2023, 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, Alternative Application and the Executive Officer's report and related matters; and

WHEREAS, the Proposal is categorically exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15320 (Changes in Organization of Local Agencies);

NOW, THEREFORE, the Local Agency Formation Commission of the County of San Mateo approves LAFCo File No. 22-09 and **DOES HEREBY RESOLVE, DETERMINE AND ORDER** as follows:

Section 1. The East Palo Alto Sanitary District is established as a subsidiary district of the City of East Palo Alto.

Section 2. The boundaries of this district are the boundaries of the East Palo Alto Sanitary District as they exist on November 8, 2023, as shown in Exhibit “A” attached hereto and by this reference incorporated herein; no change in boundaries of the City of East Palo Alto or the East Palo Alto Sanitary District is involved.

Section 3. The Proposal is assigned the following distinctive short form designation: Establishment of the East Palo Alto Sanitary District as a subsidiary district of the City of East Palo Alto.

Section 4. This approval is subject to the terms and conditions included in this Resolution.

Section 5. The Executive Officer is directed to file a CEQA Notice of Exemption and to initiate protest proceedings in compliance with this resolution and State law (Part 4, commencing with Government Code Section 57000) and set the matter for consideration of the protest proceedings, providing notice of hearing pursuant to Government Code Sections 57025 and 57026.

NOW, THEREFORE, the Local Agency Formation Commission of the County of San Mateo makes the following findings in support of the actions taken by this Resolution.

Findings

Section 1. The action is categorically exempt from CEQA per CEQA Guidelines Section 15320 (Class 20) which provides for a categorical exemption for changes in organization of local agencies, including the establishment of a subsidiary district.

Section 2. The Proposal was considered and analyzed in accordance with the required factors listed in Government Code Section 56668. A complete analysis of the Government Code Section 56668 factors is provided in the staff report which is incorporated herein by this reference. The Proposal would not affect the existing Proposition 218 assessment or charges for services to the affected territory and these revenues are sufficient to provide adequate services, as existing assessments would remain enforced to fund services in the territories to which those assessments now apply. The actions are consistent with LAFCo’s 2022 Municipal Services Review (MSR) recommendation for the City of East Palo Alto and the East

Palo Alto Sanitary District. The Proposal would provide for more efficient operation and coordinated planning of sewer service, infrastructure and capacity to accommodate planned growth and improve transparency, accountability, environmental health to meet the current and future needs of all East Palo Alto Sanitary District ratepayers and customers. An Alternative Application submitted by East Palo Alto Sanitary District was considered as part of this hearing in accordance with Government Code Section 56863 but was not selected. A merger of the East Palo Alto Sanitary District into the city was also considered as part of this hearing in accordance with Government Code Section 56118 but was not selected.

Section 3. That the portions of the territory of the East Palo Alto Sanitary District that are included within the boundaries of the City of East Palo Alto meet both of the following requirements:

(1) The City of East Palo Alto represents 70 percent or more of the area of land within the district. The City of East Palo Alto's incorporated territory comprises approximately 94 percent of the territory within East Palo Alto Sanitary District's boundaries.

(2) The portions of the East Palo Alto Sanitary District that are included within the boundaries of the City of East Palo Alto contain 70 percent or more of the number of registered voters who reside within the district as shown on the voters' register in the office of the county clerk or registrar of voters. The City of East Palo Alto's incorporated territory comprises approximately 90 percent of the territory within East Palo Alto Sanitary District's boundaries as of November 8, 2023.

Terms and Conditions

1. To the extent permitted by law, the City of East Palo Alto agrees to defend, indemnify, hold harmless, and release the San Mateo LAFCo, its agents, Commissioners, Executive Officer, attorneys, and employees from any claim, action, proceeding brought against any of them, the purpose of which is to attack, set aside, void, or annul the approval of this application or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, and expenses, including attorney fees.

2. The establishment of East Palo Alto Sanitary District as a subsidiary district of the City of East Palo Alto is conditioned upon an executed agreement for the operation and maintenance of the sewer system with a private or public agency. Evidence of the executed agreement shall be provided to LAFCo staff.

3. Provided the thresholds for a landowner protest and registered voter protest are not met, the Executive Officer shall immediately, following the protest hearing and evidence of compliance with Condition #2, record a Certificate of Completion with the County Clerk-Recorder Office.

4. The effective date of the subsidiary district will be the first day of the next month after the conclusion of the protest hearing if the thresholds for a landowner protest and registered voter protest are not met. If the thresholds for a landowner protest and registered voter protest are met, an election will be held, and if the result of the vote confirms the establishment of a subsidiary district, the effective date of the subsidiary district will be the first day of the next month after certification of the election results.

5. On and after the effective date of an order establishing the East Palo Alto Sanitary District as a subsidiary district of the City of East Palo Alto, the East Palo Alto City Council shall be designated as, and empowered to act as, ex officio the Board of Directors of the East Palo Alto Sanitary District. The East Palo Alto Sanitary District shall continue in existence with all of the powers, rights, duties, obligations, and functions provided for by the principal act, except for any provisions relating to the selection or removal of the members of the board of directors of the district (Government Code Section 57534).

6. Within 90 days of the issuance of the Certificate of Completion, the City of East Palo Alto, acting as the future Board of Directors of the East Palo Alto Sanitary District, shall submit a plan to LAFCo for the establishment of an advisory committee to the subsidiary district. The committee shall advise the Board of Directors of the East Palo Alto Sanitary District concerning administration, legal, operational, maintenance, and financial matters. The plan for the establishment of the advisory committee shall include at least one reserved seat for a resident of the City of Menlo Park portion of the East Palo Alto Sanitary District service area.

7. From the date of approval of this Resolution through the effective date of its establishment as a subsidiary district, pursuant to Government Code Section 56885.5(v), East Palo Alto Sanitary District may not take any of the following actions:

a) Approving any increase in compensation or benefits for members of the governing board, its officers, or the executive officer of the agency.

b) Unless it declares that an emergency situation exists as defined in Government Code Section 54956.5, appropriating, encumbering, expending, or otherwise obligating, any revenue of the agency beyond that provided in the current budget.

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:

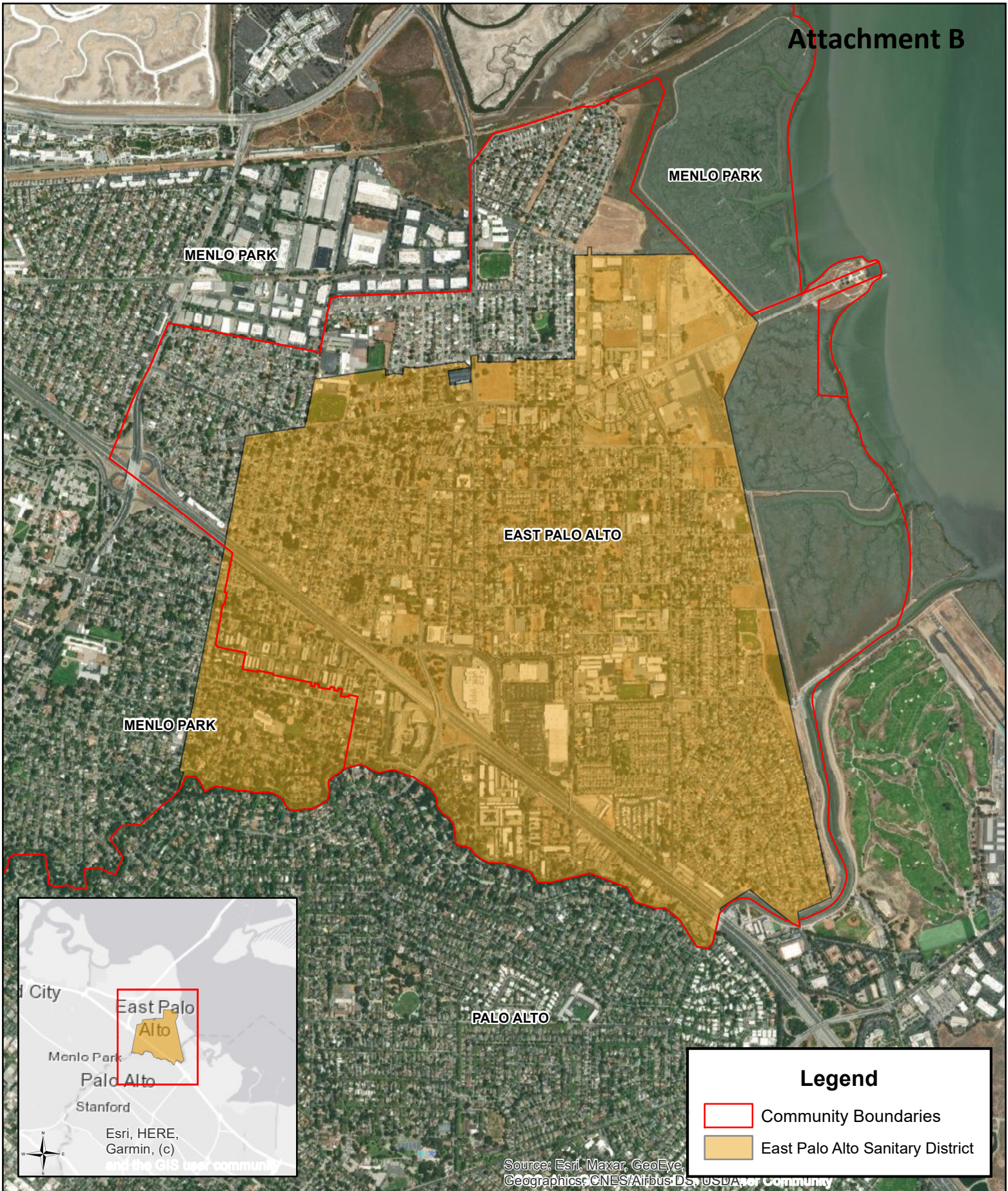
 Executive Officer
 Local Agency Formation Commission

Date: _____

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



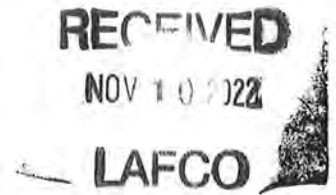
Legend

- Community Boundaries
- East Palo Alto Sanitary District

East Palo Alto Sanitary District



CITY OF EAST PALO ALTO
OFFICE OF THE CITY MANAGER
2415 UNIVERSITY AVENUE
EAST PALO ALTO, CA 94303



November 10, 2022

Rob Bartoli, Executive Officer
San Mateo Local Agency Formation Commission
455 County Center
Redwood City, CA 94063

Subject: Proposed Establishment of the East Palo Alto Sanitary District as a subsidiary district of the City of East Palo Alto

Dear Mr. Bartoli:

Attached please find the City of East Palo Alto application to LAFCo to establish the East Palo Alto Sanitary District as a subsidiary district of the City pursuant to the provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56000 et seq.). The City respectfully requests approval of this proposal as described in the attached materials.

Enclosed in support of this proposal are the following:

1. Resolution of application adopted by the City Council on October 18, 2022
2. Completed LAFCo application and Plan for Service
3. Freyer and Laureta Technical Memorandum Re: Sanitary Capital Improvement and Operation Plan including Tables and Exhibits
4. A map showing the Boundaries of the East Palo Alto Sanitary District and the City of East Palo Alto
5. Notice of Exemption (1 copy)

Rob Bartoli
November 10, 2022
Page 2

6. Check payable to San Mateo LAFCo for \$15,000 for LAFCo processing fee
7. Check payable to State Board of Equalization filing fee (*to be submitted at a later date*)

If you have any questions regarding this proposal, please contact me at (650) 422-4698.

Sincerely



Patrick Heisenger, Interim City Manager
City of East Palo Alto

Distribution:

RESOLUTION NO. 137-2022

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF EAST PALO ALTO

LAFCO

REQUESTING THAT THE LOCAL AGENCY FORMATION COMMISSION TAKE PROCEEDINGS TO ESTABLISH THE EAST PALO ALTO SANITARY DISTRICT AS A SUBSIDIARY DISTRICT OF THE CITY OF EAST PALO ALTO PURSUANT TO THE CORTESE- KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT OF 2000

WHEREAS, the City Council of the City of East Palo Alto has determined it is in the public interest to establish the East Palo Alto Sanitary District as a subsidiary district of the City of East Palo Alto, under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

WHEREAS, an application initiating the proposed subsidiary district is attached hereto as Exhibit A; and

WHEREAS, a description of the subsidiary district's boundaries is shown on the map attached as Exhibit B; and

WHEREAS, the proposal is consistent with findings and determinations in the LAFCo Municipal Service Review for the City of East Palo Alto, East Palo Alto Sanitary District and West Bay Sanitary District approved by San Mateo LAFCo on June 15, 2022; and

WHEREAS, the proposal is consistent with the sphere of influence alternatives identified by San Mateo LAFCo, and

WHEREAS, the reason for the proposal is to transfer governance and operation of sanitary sewer service to the City of East Palo Alto in the form of a subsidiary district to provide for more efficient operation and coordinated planning of sewer service, infrastructure and capacity to accommodate planned growth and to improve transparency, accountability and environmental health to meet the current and future needs of all District ratepayers; and

WHEREAS, the City Council certifies this proposal is exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15320 of State CEQA Guidelines; and

WHEREAS, it is desired to provide that proposed establishment of a subsidiary district be subject to the following terms and conditions:

- 1) The effective date of the subsidiary district be the first day of a fiscal period (calendar month, quarter, year)
- 2) LAFCo approval be conditioned upon an executed agreement for operation and maintenance of the sewer system with a private or public agency.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO HEREBY approves the application and adopts this resolution, and the Local Agency Formation Commission of San Mateo County is hereby requested to take proceedings for the establishment of the East Palo Alto Sanitary District as a subsidiary district of the City of East Palo Alto pursuant to the provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

BE IT FUTHER RESOLVED that the City Council authorizes the City Manager to make any necessary amendments to the application and plan for service in the course of the LAFCo process.

BE IT FUTHER RESOLVED that the City Council authorizes the expenditure of up to \$15,000 dollars for any processing costs.

PASSED AND ADOPTED this 18^h day of October 2022, by the following vote:

AYES: Abrica, Gauthier, Lopez, Romero,

NOES:

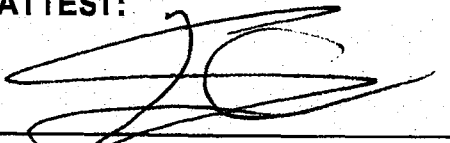
ABSENT:

ABSTAIN: Wallace-Jones



Ruben Abrica, Mayor

ATTEST:



James Colin, City Clerk

APPROVED AS TO FORM:



Valerie J. Armento, Interim City Attorney

**APPLICATION FOR A CHANGE OF ORGANIZATION, REORGANIZATION, OR
OUTSIDE SERVICE AGREEMENT
TO THE SAN MATEO LOCAL AGENCY FORMATION COMMISSION**

A. GENERAL INFORMATION

1. Briefly describe the nature of the proposed change of organization, reorganization, or outside service agreement.

Establish East Palo Alto Sanitary District as a subsidiary district of the City of East Palo Alto

2. An application for a change of organization or reorganization may be submitted by individuals in the form of a petition or by an affected public agency in the form of a certified resolution. This application is submitted by (check one):

Landowners or registered voters, by petition
 An affected public agency, by resolution

(If this application is submitted by petition of landowners or registered voters in the affected territory, complete the petition form.)

3. What are the reasons for the proposal?

The reason for the proposal is to transfer governance and operation of sanitary sewer service to the City of East Palo Alto in the form of a subsidiary district to provide for more efficient operation and coordinated planning of sewer service, infrastructure and capacity to accommodate planned growth and to improve transparency, accountability and environmental health to meet the current and future needs of all District ratepayers.

4. Does this application have 100% consent of landowners in the affected area?

Yes No

5. Estimated acreage: 1.84 square miles

RECEIVED

NOV 10 2022

LAFCO

B. SERVICES

1. List the name or names of all existing cities and special districts whose service area or service responsibility would be altered by the proposed change of organization or reorganization.

Establishing the EPASD as a subsidiary district of the City of East Palo Alto would not alter service area because EPASD would continue to exist as a subsidiary district of the City with the City Council as governing body.

- List all changes to the pattern of delivery of local services to the affected area. For each service affected by the proposed change(s) of organization, list the present source of service (state "none" if service is not now provided), the proposed source of service and the source of funding for construction of necessary facilities (if any) and operation. Example is given on the first two lines of the space provided for your response.

SERVICE	PRESENT SOURCE	PROPOSED SOURCE	FUNDING SOURCE	
			CONSTRUCTION	OPERATING
<i>Sanitary Sewer</i>	<i>East Palo Alto Sanitary District, an Independent Special District</i>	<i>East Palo Alto Sanitary District, a subsidiary district of the City of East Palo Alto</i>	<i>Development Fees, Grants and Reserve</i>	<i>Sewer Service Fees and Property Tax Revenue</i>

C. PROJECT PROPOSAL INFORMATION

- Please describe the general location of the territory which is the subject of this proposal. Refer to major highways, roads and topographical features.

The boundaries of the East Palo Alto Sanitary District which include a majority of the City of East Palo Alto and a portion of the City of Menlo Park bounded by the East Palo Alto/Menlo Park Boundary, San Francisquito Creek and Menalto Avenue. (Please see attached map included as Attachment #4)

- Describe the present land use(s) in the subject territory.

The City of East Palo Alto, which is 2.6 square miles, is a mostly built out city, with the exception of open space, 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 50% of the land are residential uses, with the majority being single family, along with a smaller percentage of multi-family uses. Commercial and office account for approximately six percent of the land area. The greatest mix of uses occurs where residential neighborhoods are near University Avenue's retail uses, or near the Ravenswood 101 Shopping Center. There is also a relatively significant amount of vacant land, primarily concentrated along Bay Road within the 350-acre Ravenswood Business District/4 Corners Transit Oriented Development Specific Plan (RBD), where previously industrial businesses were located. Institutional uses, public facilities, and parks and recreational facilities account for approximately ten percent of the land areas in the City. Territory within the City of Menlo Park is residential.

3. How are adjacent lands used?

North:	Baylands, Open Space
South:	Residential (the cities of Palo Alto and Menlo Park)
East:	Baylands, Open Space (including the City of Palo Alto)
West:	Residential and Office Park (including the city of Menlo Park and Facebook)

4. Will the proposed change of organization result in additional development? If so, how is the subject territory to be developed?

The intent of establishing EPASD as a subsidiary district of the City is to allow development consistent with the City's General Plan, Zoning Ordinance and Ravenswood Specific Plan. The City has not been able to issue building permits without confirmation of capacity from the EPASD. Additionally, the City is also processing an update to the RBD Update to potentially allow between two to three million square feet of commercial use as well as up to 1600 residential units within the Specific Plan area. The update is scheduled to be heard by the City Council in mid-2023.

5. What is the general plan designation of the subject territory?

The entire City of East Palo Alto has the following General Plan designations, encompassing residential, mixed use, commercial, parks, industrial, public/institutional and open space categories: Low Density Residential (0-12 units/acre), Medium Density Residential (12.1-22 units/acre), High Density Residential (22.1-43 units/acre), Urban Residential (43.1-86 units/acre), Mixed Use Low, Mixed Use Corridor, Mixed Use High, Neighborhood Commercial, General Commercial, Office, General Industrial, Industrial Buffer, Parks/Recreation/Conservation, Resource Management and Public/Institutional.

The specific definitions of the City of East Palo Alto General Plan designations can be found in the land use chapter of the City's General Plan Vista 2035 from this [link](#).

The portion of the City of Menlo Park that is currently served by EPASD has the following General Plan designations: Residential and Public/Quasi Public. The specific definitions of the City of Menlo Park's Land Use Element of the General Plan designations can be found in the beginning on Page LU-13 from this [link](#).

6. What is the existing zoning designation of the subject territory?

The entire city has the following Zoning designations: Residential Low Density (R-LD), Residential Medium Density (R-MD), Residential High Density (R-HD),

Residential Urban High Density (R-UHD), Mixed Use Corridor (MUC), Mixed Use Low (MUL), Mixed Use High (MUH), Commercial General (C-G), Commercial Neighborhood (C-N), Commercial Office (C-O) Public Institutional (PI), Parks and Recreation (PR), and Resource Management (RM). The City also has specific zoning designations within the RBD Specific Plan area. The districts include the following: 4 Corners, Bay Road Central, Ravenswood Employment Center, Industrial Transition, Waterfront Office, Urban Residential, University Village (single family), Ravenswood Open Space, and Ravenswood Flex Overlay.

A definition of all these districts can be found in the City's development code Chapter 18, Article 2, which is part of the City's Municipal Code from this [link](#).

Definitions of the RBD zoning designations can be found in the land use section of the Specific Plan from this [link](#).

The portion of the City of Menlo Park that is currently served by EPASD has the following General Plan designations: Residential and Public/Quasi Public. The specific definitions of the City of Menlo Park's Land Use Element of the General Plan designations can be found in the beginning on Page LU-13 from this [link](#).

7. What rezoning, environmental review or development approvals have already been obtained for development in the subject territory?

The entire City is governed by the General Plan Vista 2035, Development (Zoning) Code, and the RBD Specific Plan. Each of these had environmental clearances, including the program level environmental impact report (EIR) for the General Plan and the RBD Specific Plan. The City is also in the process of preparing an update to the RBD Specific Plan, including its own programmatic EIR. The City anticipates the Specific Plan and EIR to go before the City Council for a decision in mid 2023.

The LAFCo application is exempt from the California Environmental Quality Act (CEQA) under Section 15320 of State CEQA Guidelines because it consists of establishment of a subsidiary district, which does not change the geographical area in which previously existing powers are exercised.

8. What additional approvals will be required to proceed?

Execution of a contract for operation of the sewer system with a private or public sewer entity.

9. Does any portion of the subject territory contain any of the following --agricultural preserves, sewer or other service moratorium or wetlands subject to the State Lands Commission jurisdiction?

No.

10. If no specific development projects are associated with this proposal, will the proposal increase the potential for development of the property? If so, how?

The proposal will accommodate development already approved by the City of East Palo Alto. This proposal will accommodate approved development by increasing the capacity of the sanitary sewer system and providing much needed service for new land uses, including development proposed by residents. Many recently approved entitlements have not been able to proceed to building permits because will serve letters have not been issued by the EPASD.

* * * * *

LAFCo will consider the person signing this application as the proponent of the proposed action(s). Notice and other communications regarding this application (including fee payment) will be directed to the proponent at:

NAME: _____

EMAIL: _____

ADDRESS: _____

TELEPHONE: _____

ATTN: _____

Signature of Proponent

Applica_blk.doc
(10/6/2000)

PLAN FOR PROVIDING SERVICE

A. AFFECTED PUBLIC AGENCIES

Please complete this section if this application is submitted by resolution of one or more affected public agencies. Certified copies of resolutions listed below must accompany this application.

1. The names and resolutions of agencies applying for the change of organization or reorganization described above are as follows:

AFFECTED AGENCY	RESOLUTION NO.	DATE ADOPTED
City of East Palo Alto	#137-2022	October 18, 2022

2. Does this application have 100 % consent of landowners in the affected area?
Yes No (If Yes, include proof of consent.)

B. PLAN FOR PROVIDING SERVICES

1. Enumerate and describe the services to be extended to the affected territory.
Wastewater collection pursuant to the Sanitary District Act (California Health and Safety Code §6400 – 6982) by operating and maintaining the collection system via a private or public entity and sewage treatment via a contract with the City of Palo Alto for capacity at its Regional Water Quality Control Plant.

2. Describe the level and range of those services.
The collection system would continue to be operated in accordance with Statewide SSO Waste Discharge Requirements and RWQCB Sewer System Management Plan guidelines. Operation and maintenance of the sanitary sewer collection system consisting of approximately 30 miles of gravity sewer lines, of which approximately 70 percent are 6 inches in diameter and the balance ranging from 8 to 24 inches in diameter. Operation will include replacement of deficient lines to serve existing customers and capital improvements to accommodate planned development.

The City engaged Freyer & Laureta, Inc. (F&L) to identify potential capital improvements to improve the overall reliability and resiliency of the existing sanitary sewer collection system; identify potential capacity improvements required to provide service for future development as approved by the City; develop an annual operation and maintenance budget for the sanitary sewer collection system including the expenses associated with wastewater treatment at the Palo Alto Regional Water Quality Control Plant (PARWQCP); develop potential annual sanitary sewer service charge to support ongoing operation of the sanitary sewer collection system and develop a connection fee for new developments to receive sanitary sewer service. (Please see F&L Memo labeled Attachment #3)

To develop an estimated annual operating and maintenance budget, F&L reviewed the published Fiscal Year 2022/2023 budget from WBSD. Table 7 included with the F&L Memo presents our methodology for developing a budget for operating expenses for labor and other overhead costs applying a ratio calculated by dividing the total miles of pipes within the EPASD collection system by the total miles of pipe within the WBSD collection system.

In addition to the labor costs for operating the collection system, EPASD contributes the operating and capital costs for the PAWRQP as outlined in the existing agreement. In reviewing the *East Palo Alto Sanitary District, 2019 Sewer Rate Study (Rate Study)*, F&L identified that the study include a summary of anticipated treatment operation, capital, and debt service costs¹. The costs listed in the Rate Study were consistent with information that F&L found from a November 17, 2020 presentation to the City of Palo Alto Finance Committee.

Please see summary of the anticipated costs for PARWQCP treatment and capital improvements in Table 8.

3. Indicate when those services can feasibly be extended to the affected territory.
The City will contract with a private or public entity to operate the system. The Contract will be negotiated to begin on the effective date the district is established as a subsidiary district of the City. The application to LAFCo requests that the effective date be the first day of a fiscal period (month, quarter, year).
4. Indicate any improvements or upgrading of infrastructure or facilities such as, structures, roads, sewer or water facilities, or other conditions to be imposed or required within the affected territory. Describe in detail, the size, location, and capacity of new infrastructure that will be necessary to provide service.

Establishing the District as a subsidiary district of the City in itself, does not require improvements. The purpose of establishing the District as a subsidiary district is to implement improvements for both public health and safety and to accommodate planned growth. The tables included with the F&L Memo provide detail on planned improvements to correct system deficiencies for current customers and capital improvements to accommodate planned development. These plans were prepared based on publicly available information. EPASD is in the process of televising the sewer system.

Based on the summary of the closed-circuit television (CCTV) inspection program currently being performed by EPASD presented in the Technical Memorandum RE: CCTV Survey Evaluation and Pipeline Replacement Priorities, Areas 1, 3, and 4 (CCTV TM), EPASD has completed assessment of approximately 22.2 miles of the 29.8 miles of the existing collection and conveyance system. The existing condition grade for all pipes inspected was prepared using the industry standard Pipeline Assessment and Certification Program (PACP) established by the National Association of Sewer Service Companies (NASSCO). The CCTV TM identified over 27,500 linear feet (approximately 5.2 miles) of existing pipes that are considered priority for repair

and/or replacement. F&L understands from review of the CCTV TM that the remaining 90,000 linear feet (approximately 17 miles) are considered to be secondary priority that should also be replaced or repaired as funding is available.

F&L has developed a suggested list of capital improvements to address existing peak wet weather flow (PWWF) capacity deficiencies that match the improvements identified in the 2015 Master Plan. Although we concur that performing the improvements suggested in the 2021 Master Plan would provide additional contingency capacity when compared to the 2015 Master Plan, the PWWF design condition is the peak design event that will only occur for a short duration as described in the 2015 Master Plan. The improvements identified in the 2015 Master Plan do allow for some portions of the collection and conveyance system to flow under surcharge conditions (e.g., pressure flow) but the predicated hydraulic grade line (HGL) is at least four-feet lower than the sanitary sewer manhole rim elevations.

Table 1 lists the pipe segments and Figure 1 highlights the same pipe segments that are required to be upgraded to reduce the risk of SSOs during PWWF conditions. Table 2 presents the Conceptual Opinion of Probable Project Cost to implement the improvements listed in Table 1 and highlighted on Figure 1

The CCTV TM presented condition assessments for over 22 miles of the existing collection system based NASSCO PACP guidelines. F&L reviewed the location of high priority pipeline segments recommended for repair or replacement in the CCTV TM to determine if there is any overlap between the F&L suggested PWWF capacity related improvements presented in Figure 1. Figure 2 presents the high priority segments from the CCTV TM and highlights the overlap between the F&L suggested PWWF capacity related improvements and the high priority condition related improvements identified in the CCTV TM. F&L does note that although a significant portion of the condition related improvements identified in the CCTV TM will also be corrected through implementation of the F&L suggested PWWF capacity improvements that any annual operating and capital improvement budget should also include budget for addressing the remaining high priority repair and replacement projects within Areas 1, 2, and 4 plus the secondary priority pipeline segments presented in the CCTV TM.

F&L developed a capital improvement plan that includes both the existing system capacity deficiencies and the development related capacity deficiencies as shown on Figure 4. F&L also compared the recommended capital improvement plan presented on Figure 4 with the high priority repair and replacement projects identified in the CCTV TM to identify any potential remaining high priority pipeline segments within Areas 1, 2, and 4 that should also be addressed. Figure 5 presents a comprehensive identification of all pipeline segments that should be replaced to address existing system capacity deficiencies, development related capacity deficiencies, and the remaining high priority pipe segments identified in the CCTV TM.

Figure 6 includes a suggested timeline to address the existing system capacity deficiencies as shown on Figure 4. The suggested timeline is intended to allow the existing system capacity deficiencies to be built over 15 years, which will allow for grant and low interest loan funding sources to be secured to fund the necessary improvements. The actual timeline to implement the capacity assurance improvements may need to be adjusted based on proposed development approval, permitting, and construction process.

Because the development related deficiencies will be implemented based on actual development approvals and construction, F&L has not identified a specific timeline to implement the development related deficiency improvements. Figure 7 does present the anticipated developments over the next five years listed in Table 5 with the development related deficiency improvement to allow the City to begin understanding where improvements may be required prior to issuing final Certificates of Occupancies for any of the identified developments. The ultimate timeline to construct the capital improvements required to address development related deficiencies will be determined once the proposed development has paid its connection fees and provided a firm timeline for occupancy.

Finally, the remaining pipeline segments highlighted on Figure 6 that are identified in the CCTV TM but do not overlap with either the existing system capacity deficiencies or development replated capacity deficiencies should be addressed over the next five to 10 years depending on funding availability. F&L recommended that an annual budget of \$1.5 million per year be allocated to address the remaining high priority pipeline segments identified in the CCTV TM.

5. Describe financial arrangements for construction and operation of services extended to the affected territory (Attach proposed operations budget if available). Will the territory be subject to any special taxes, charges or fees? (If so, please specify.)

Establishing EPASD as a subsidiary district does not constitute an extension of service, rather a transfer of governance and service responsibility to the City of East Palo Alto. The following details financial arrangements for operation and construction.

Proposed Operating and Maintenance Plan

The City would contract with a public or private entity to operate the collection system. The collection system would continue to be operated in accordance with Statewide SSO Waste Discharge Requirements and RWQCB Sewer System Management Plan guidelines. To develop an estimated annual operating and maintenance budget, F&L reviewed the published Fiscal Year 2022/2023 budget from WBSD. Table 7 presents our methodology for developing a budget for operating expenses for labor and other overhead costs applying a ratio calculated by dividing the total miles of pipes within the EPASD collection system by the total miles of pipe within the WBSD collection system.

In addition to the labor costs for operating the collection system, EPASD contributes the operating and capital costs for the PARWQCP as outlined in the existing agreement. In reviewing the *East Palo Alto Sanitary District, 2019 Sewer Rate Study (Rate Study)*, F&L identified that the study includes a summary of anticipated treatment operation, capital, and debt service costs². The costs listed in the Rate Study were consistent with information that F&L found from a November 17, 2020, presentation to the City of Palo Alto Finance Committee.

We have summarized the anticipated costs for PARWQCP treatment and capital improvements in Table 8.

Annual Sewer Charge

F&L reviewed existing information from the EPASD web site and identified that the current Annual Sewer Charge (ASC) is \$600 per EDU³. The current ASC is consistent with the suggested ASC from the Rate Study for Fiscal Year 2019/20 but EPASD has not implemented the recommend 4-percent annual increase that was included in the Rate Study⁴. If EPASD had implemented the recommended 4-percent annual increase from its own Rate Study, the current ASC would be \$690 per EDU.

F&L calculated a potential ASC based on the current estimated operating and capital costs that would be required to fund all expenses for one fiscal year with only partial contribution from the EPASD reserves. Table 9 provides a potential ASC that is more than the current EPASD published ASC but we do not recommend that the larger ASC be implemented in the near term. We have presented the calculated ASC to confirm that what the EPASD Rate Study indicates is a necessary annual rate increase to account for the projected annual increase in operating costs that will continue to be experienced in future years. Without implementing a regular annual ASC increase, there will be a shortfall between revenues and expenses that will need to be funded from current reserves.

For purposes of developing the Plan, we suggest that the ASC be established at \$690 per EDU for Fiscal Year 2022/23 to match the original recommendations of the EPASD Rate Study and then be increased by 5-percent per year based on the current economic conditions as well as the additional annual capital needs to address the extensive condition deficiencies identified in EPASD's CCTV TM. However, F&L does anticipate that at some point in the future the ASC will be required to be raised to a level similar to what is presented in Table 9 to ensure that there is adequate revenue to provide safe and reliable sanitary sewer service to all current and future customers while not diverting funds from reserves that can otherwise fund critical capital improvement projects.

Connection Fee

EPASD's published connection fee⁵ is \$6,060 although F&L could not find a study that outlined the methodology used to determine the connection fee. F&L did develop a potential connection fee that considers:

- 50-percent of capacity assurance improvements identified in Table 2 will be a benefit to new development because by implementing the recommend projects provides a more reliable and resilient system for existing customers but also creates additional capacity for the benefit of new development.
- 100-percent of development related capacity deficiencies identified in Table 4.
- Buy-in cost of \$5 million per 1.0 MGD of treatment capacity to reflect developers' payback of existing PAWRQCP capacity that is available for new development.
- Application review fee.

Table 10 presents the calculation methodology to develop a potential Connection Fee, which is \$6,100. Because the potential Connection Fee presented in Table 10 is similar to the current publish EPASD connection fee, we suggest that the connection fee be kept at \$6,060 for the first year and then increased by 5-percent per year similar to the ASC. However, a regular review of the connection fee should be completed to ensure that connection fee reflects actual costs incurred to accommodate City approved development.

Annual Budget Cash Flow

As a final step in developing the Plan, F&L evaluated the year over year cash flow for operations and improvements of the sanitary sewer collection system. Table 11 presents F&L's cash flow project for five fiscal years beginning with Fiscal Year 2022/23. The cash flow analysis includes the following key items:

- The ASC is initial set at \$690 per EDU consistent with the recommendations included in EPASD's Rate Study but a 5-percent annual escalation is applied to reflect current economic conditions and the anticipated annual repair and replacement program to address the deficiencies identified in the EPASD CCTV TM.
- The connection fee is set at \$6,060 per EDU similar to the current EPASD connection fee and an annual 5-percent escalation is applied similar to the ASC.
- The total number of anticipated new EDUs for each fiscal year is provided based on the information presented in Table 6.
- The total number of connected EDUs is also provided including accounting for new EDUs that are projected to be added during each fiscal year.
- The beginning reserve fund balance is assumed to be \$17.38 million. The most recent publicly available audit for EPASD is dated June 30, 2020 and indicates a net position of \$25.03 million. In addition, the EPASD FY 22/23 includes a \$15 million transfer from reserves to the Construction Replacement Fund and indicates a reserve fund balance of \$17.38 million.
- Revenues include the ASC, connection fees, property taxes presented in the EPASD Rate Study, ERAF Rebate/Former RDAF presented in the EPASD Rate Study, and interest earned on reserve funds.
- Expenses including labor and other operating expenses for the collection system, Sewer Rehab Improvements to fund annual point repair projects, Capacity Assurance Improvements to fund the improvements identified in Table 2, PAWRQCP annual treatment costs, EPASD share of existing PARWQCP debt service, EPASD share of project PARWQCP debt service, and EPASD 2011 SRF Loan debt service presented in the EPASD Rate Study.

For each fiscal year, the projected expenses and projected revenues are calculated and presented. If expenses in a given fiscal year are greater than the project revenues, the Reserve Funds are used to balance the expenses and revenues.

By utilizing portions of the existing Reserve Funds each fiscal year, the existing customers' contributions to the reserves over the years is utilized to fund the existing customers' 50-percent share of the Capacity Assurance Improvements identified in Table 2. The primary purpose of building a capital reserve based on a net positive annual cash flow from collected ASC and connection fees over several years is to allow for an agency to develop sufficient available funds to implement capital improvement projects. Therefore, beginning to draw from reserves to fund the existing customers' portion of the recommended annual capital improvement program and capacity assurance capital improvement program that is for the benefit of the existing customers.

At the end of the five-year evaluation period, the projected Reserve Fund balance is greater than the annual operating and debt service costs. Because EPASD receives its revenue payments twice per year as part of the property tax collection, sufficient reserves to fund at least six months of operation is suggested. The cash flow evaluation presented in Table 11 maintains a minimum of 12-months of Reserve Funds for each given fiscal year.

The cash flow review above will be impacted by the actual beginning balance of EPASD Reserve Funds. When additional information on the actual Reserve Fund balance becomes available, the cash flow analysis will be updated.

6. In as much detail as required to give a clear explanation, explain why this proposal is necessary at this time.

Since incorporation in 1983, the City has struggled to achieve economic growth and financial sustainability, especially in comparison to other nearby communities. To address this, the City's leadership has organized around actions that strengthen the City's economic profile, with the ultimate goal of improving the lives and enhancing the well-being of East Palo Alto residents. To that end, the City became successor to the Ravenswood Lighting and Drainage Maintenance Districts in 2005 and the East Palo Alto County Waterworks District in 2001. Most recently the City successfully negotiated a water rights transfer agreement with the City of Mountain View to provide adequate water supply to support the City's future development objectives. Establishing the EPASD as a subsidiary district of the City, an alternative supported by the LAFCo MSR and State policies favoring multi-purpose government over single purpose government in urban areas, would further these efforts and make the City whole as a land use agency and utility provider.

The Draft MSR provides an accurate account of the inability of the East Palo Alto Sanitary District to meet the needs of existing District ratepayers by failing to implement a Capital Improvement Plan (CIP) to replace and upsize pipe aging pipe sections to eliminate surcharges and sanitary sewer overflows (SSOs) that

pose a health and safety risk to current rate payers and residents. Additionally, current residents are unable to obtain “will service letters” for accessory dwelling units permitted by State law and the City’s General Plan.

New development that is obstructed due to failure to implement a Capital Improvement Plan (CIP) includes a variety of projects that are critical to meet the City’s affordable housing and economic development goals, employment opportunities, and provide for essential services including a health clinic and job training center.

The City is well positioned to contract with a private or public sanitary sewer entity for operation and maintenance of the sewer system that serves the majority of the City. The City also has a successful record in obtaining grant funding that will be of benefit to sewer rate payers.



MEMORANDUM

FINAL – November 1, 2022

To: Patrick Heisinger, Interim City Manager (City of East Palo Alto)

From: Jeffrey J. Tarantino, P.E., QSD, Vice President (Freyer & Laureta, Inc.)

Copy: Humza Javed, Public Works Director (City of East Palo Alto)

RE: Sanitary Sewer Capital Improvement and Operation Plan Development
East Palo Alto, California



Freyer & Laureta, Inc. (F&L) is pleased to present this memorandum to the City of East Palo Alto (City) with the proposed Sanitary Sewer Capital Improvement and Operation Plan (Plan) to support the City's *Application for a Change of Organization, Reorganization, or Outside Service Agreement* (Application) to the San Mateo Local Agency Formation Commission (LAFCo). The purpose of F&L's engineering evaluation was to:

- Identify potential capital improvements to improve the overall reliability and resiliency of the existing sanitary sewer collection system.
- Identify potential capacity improvements required to provide service for future development as approved by the City.
- Develop an annual operation and maintenance budget for the sanitary sewer collection system including the expenses associated with wastewater treatment at the Palo Alto Regional Water Quality Control Plant (PARWQCP).
- Develop potential annual sanitary sewer service charge to support ongoing operation of the sanitary sewer collection system.
- Develop connection fee for new developments to receive sanitary sewer service.

We have presented below the results of our engineering evaluation with the proposed Five-Year Capital Improvement and Operations Plan Cash Flow included at the end of this memorandum.

1 Technical Reference Information

To support our evaluation, F&L reviewed the following publicly available technical information:

Headquarters:
150 Executive Park Blvd, Suite 4200
San Francisco, CA 94134
Tel: (415) 534-7070
www.freyerlaureta.com

North Bay Office:
505 San Marin Drive, Suite A220
Novato, CA 94945
Tel: (415) 534-7070

East Bay Office:
825 Washington Street, Suite 237
Oakland, CA 94607
Tel: (510) 937-2310

1. *Draft Final Report, San Mateo LAFCO Municipal Service Review Updates: City of East Palo Alto, East Palo Alto Sanitary District, West Bay Sanitary District*, prepared by Berkson Associates dated June 6, 2022.
2. *East Palo Alto Sanitary District Master Plan Update*, prepared by Freyer & Laureta, Inc. dated March 2015.
3. *Addendum to the March 2015 East Palo Alto Sanitary District Master Plan Update*, prepared by Freyer & Laureta, Inc. dated April 28, 2021.
4. *East Palo Alto Sanitary District, 2019 Sewer Rate Study*, prepared by Bartle Wells Associates dated April 17, 2019.
5. *East Palo Alto Sanitary District Standard Specifications for Design and Construction of Sanitary Sewer Collection and Conveyance Facilities*, approved June 6, 2002.
6. *East Palo Alto Sanitary District Regular Board Meeting Agenda Item 13 Addendum No. One to the Second Restated and Amended Agreement between the City of Palo Alto and the East Palo Alto Sanitary District for Wastewater Treatment and District Outfall* from August 18, 2022 Regular Board Meeting.
7. *RWQCB Capital Program Presentation to the City of Palo Alto Finance Committee*, presented on November 17, 2020.
8. *City of Palo Alto 2021 Wastewater COS report*, prepared by Raftelis dated January 11, 2021.
9. *West Bay Sanitary District Wastewater Collection System Master Plan*, prepared by West Yost Associates dated July 2011.
10. *West Bay Sanitary District Budget, Fiscal Year 2022-2023*, approved June 8, 2022.
11. *Technical Memorandum RE: CCTV Survey Evaluation and Pipeline Replacement Priorities Areas 1, 3, and 4*, prepared by Sierra West Consultants, Inc. dated September 29, 2022.

F&L utilized information from the above referenced documents to develop the key technical assumptions that serve as the basis for the proposed capital improvement and operations plan. We have included additional references to select documents from the above list in this memorandum including within the supporting tables.

2 Existing Sanitary Sewer Collection System

The purpose of this section is to describe briefly the existing sanitary sewer collection system that is operated by the East Palo Alto Sanitary District (EPASD) and identify potential deficiencies that may need to be corrected to allow the sanitary sewer collection system to continue to provide adequate level of service (LOS) for the existing customers.

2.1 Existing System Information

EPASD currently provides wastewater collection service to portions of the communities of Menlo Park and East Palo Alto, located in San Mateo County in the San Francisco Bay Area. EPASD operates and maintains the collection system in accordance with the requirements of the State Water Resources Control Board, as administered through the Statewide SSO Waste

Discharge Requirements and RWQCB Sewer System Management Plan guidelines. The District's service area is primarily residential with several commercial and industrial parcels. EPASD's service area encompasses nearly 1.84 square miles. EPASD's collection system is a gravity system with approximately 70 percent of the existing pipelines being six-inch (6-in) diameter. The larger collector lines range between 8-in diameter and 24-in diameter including a siphon beneath the San Francisquito Creek.

All sanitary sewer flows are conveyed to the PARWQCP where flows are treated and discharged to the San Francisco Bay. According to the existing agreement¹ between City of Palo Alto (Palo Alto) and EPASD, EPASD has flow capacity rights to convey up to 3.06 million gallons per day (MGD) on an annual average flow (AAF) basis² to the PARWQCP, which is equivalent to 7.64-percent of the total capacity. The agreement further indicates that Palo Alto will make available 2.9 MGD average dry weather flow (ADWF) capacity for EPASD's utilization.

2.2 Existing System Condition Review

F&L reviewed the publicly available information listed in Section 1 to determine what deficiencies, if any, within the existing collection and conveyance system have been identified by EPASD. According to the *East Palo Alto Sanitary District Master Plan Update dated March 2015* (2015 Master Plan), EPASD identified portions of the existing collection system that were at risk of sanitary sewer overflows (SSOs) during peak wet weather flow (PWWF). The PWWF flow was determined based on a 10-year, 24 hour design storm. The 2015 Master Plan included flow monitoring data that was utilized to develop the design PWWF for purposes of evaluating the capacity of the existing collection system.

The 2015 Master Plan also identified a series of capital improvements necessary to reduce the potential risk of SSOs during PWWF. F&L understands that the 2015 Master Plan suggested capital improvements resulted in providing additional capacity to convey PWWF but that the collection system would still operate under surcharge condition meaning that some portions of the collection and conveyance system would operate with pipes under pressure flow condition. The 2015 Master Plan only identified improvements within the collection system and did not note any identified deficiencies for the trunk sewer that conveys flows from the collection system on the west side of San Francisquito Creek to the PARWQCP.

F&L also reviewed the *Addendum to the March 2015 East Palo Alto Sanitary District Master Plan Update dated April 28, 2021* (2021 Master Plan), which identified a different set of recommended capital improvements to reduce the risk of SSOs during PWWF. The 2021 Master Plan acknowledged the different operation criteria that was used to perform the existing collection system capacity assessment and indicated that the proposed capital improvements resulted in providing sufficient capacity to allow the collection system and conveyance system to flow with some pipes flowing full but not under pressure flow conditions. The 2021 Master Plan capital improvements included those improvements identified in the 2015 Master Plan plus additional collection system improvements and a new

¹ Refer to Item 13 from the August 18, 2022 EPASD Regular Board Meeting for a copy of the referenced agreement.

² AAF is calculated by dividing the total flow measured at the EPASD connection point to the PAWRCP and dividing by total number of days during the reporting period.

parallel trunk sewer between the downstream end of the dual siphons and the discharge point to the PARWQCP.

Finally, F&L reviewed the summary of the closed circuit television (CCTV) inspection program currently being performed by EPASD presented in the Technical Memorandum RE: CCTV Survey Evaluation and Pipeline Replacement Priorities Areas 1, 3, and 4 (CCTV TM). F&L understands from the CCTV TM that EPASD has completed assessment of approximately 22.2 miles of the 29.8 miles of the existing collection and conveyance system. The existing condition grade for all pipes inspected was prepared using the industry standard Pipeline Assessment and Certification Program (PACP) established by the National Association of Sewer Service Companies (NASSCO). The CCTV TM identified over 27,500 linear feet (approximately 5.2 miles) of existing pipes that are considered priority for repair and/or replacement. F&L understands from review of the CCTV TM that the remaining 90,000 linear feet (approximately 17 miles) are considered to be secondary priority that should also be replaced or repaired as funding is available.

2.3 Existing System Capacity Assessment and Suggested Improvements

F&L considered the recommended improvements from both the 2015 Master Plan and the 2021 Master Plan when evaluating the existing capacity of the sanitary sewer collection and conveyance system. In reviewing both documents, F&L notes that the existing sanitary sewer collection system is:

- A relative flat system with pipe slopes generally less than two-percent due to the existing, flat topography of the service area.
- All flows from the collection system are conveyed to a single point at the end of O'Connor Street where flows are conveyed across San Francisquito Creek through twin, siphon pipes to the trunk sewer to convey flows to the PARWQCP.

Because of the average slope throughout the collection system is relatively flat and the use of a siphon to convey flows across San Francisquito Creek, there is limited opportunity to improve the overall conveyance strategy to reduce the length of the system that either flows full or under surcharged conditions without introducing a pump station. As reported monthly during EPASD Regular Board Meetings, the EPASD has not recently reported any SSOs. The 2015 Master Plan also indicates that the highest risk for SSOs to occur is during PWWF conditions and that the improvements suggested in the 2015 Master Plan will result in reducing the risk of SSOs but still allow the collection system to operate under surcharge conditions only during PWWF. The 2015 Master Plan indicates that with the recommended improvements in place that the overall hydraulic grade line (HGL) of the collection system is lowered to an elevation that, even under pressure flow conditions, the HGL is at least four-feet lower than the rim elevation of any sanitary sewer manhole.

F&L developed a suggested list of capital improvements that match the improvements identified in the 2015 Master Plan. Although we concur that performing the improvements suggested in the 2021 Master Plan would provide additional contingency capacity when compared to the 2015 Master Plan, the PWWF design condition is the peak design event that will only occur for a short duration as described in the 2015 Master Plan. The improvements identified in the 2015 Master Plan do allow for some portions of the collection and conveyance system to flow under surcharge conditions (e.g., pressure flow) but the predicated HGL is at least four-feet lower than the sanitary sewer manhole rim elevations.

Table 1 lists the pipe segments and Figure 1³ highlights the same pipe segments that are required to be upgraded to reduce the risk of SSOs during PWWF conditions. Table 2 presents the Conceptual Opinion of Probable Project Cost to implement the improvements listed in Table 1 and highlighted on Figure 1.

2.4 Existing System Condition Assessment and Suggested Improvements

The CCTV TM presented condition assessments for over 22 miles of the existing collection system based NASSCO PACP guidelines. F&L reviewed the location of high priority pipeline segments recommended for repair or replacement in the CCTV TM⁴ to determine if there is any overlap between the F&L suggested capacity related improvements presented in Figure 1.

Figure 2 presents the high priority segments from the CCTV TM and highlights the overlap between the F&L suggested PWWF capacity related improvements and the high priority condition related improvements identified in the CCTV TM. F&L does note that although a significant portion of the condition related improvements identified in the CCTV TM will also be corrected through implementation of the F&L suggested PWWF capacity improvements that any annual operating and capital improvement budget should also include budget for addressing the remaining high priority repair and replacement projects within Areas 1, 2, and 4 plus the secondary priority pipeline segments presented in the CCTV TM.

3 Proposed Development Impacts

3.1 Additional Development Flows

F&L reviewed the 2021 Master Plan, which presents the anticipated additional flows from new development that may occur based on the City's Vista 2035 General Plan. The 2021 Master Plan indicates that the potential total additional ADWF is 1.08 MGD⁵. No changes to the methodology presented in the 2021 Master Plan to estimate the potential maximum additional flows from proposed development during ADWF are suggested.

3.2 Development Capacity Improvements

F&L reviewed the 2021 Master Plan that presented a methodology for identifying development impacts to the existing collection system⁶. In summary, the 2021 Master Plan compared the depth over diameter (d/D) of pipes within the existing collection system during Peak Dry Weather Flow (PDWF) conditions to the predicated d/D during PDWF with the additional flows from the new development. EPASD then determined the required capital improvements required to restore the d/D of the collection system once the developments are completed to match the existing d/D of the current collection system.

Generally, F&L concurs that impacts from planned developments should be identified using PDWF conditions. However, we suggest a different methodology to determine development

³ The figures included as attachments to this memorandum were developed utilizing publicly available portable document format (PDF) maps of the EPASD collection system.

⁴ Figure 5 from the CCTV TM highlights the high priority segments within Areas 1, 2, and 4.

⁵ See Section 3.2 from the 2021 Master Plan for the methodology used to estimate the additional future flows from planned development.

⁶ See Section 3.3 from the 2021 Master Plan for the methodology used to determine impacts from planned development.

related deficiencies than what was presented in the 2021 Master Plan. Referring to the West Bay Sanitary District (WBSD) 2011 Master Plan, capacity deficiencies were determined if:

- Pipes with diameter of 10-inches or smaller have a d/D over 0.67.
- Pipes with diameter of 12-inches or large have a d/D over 0.80.

Applying the WBSD capacity deficiency criteria and reviewing the d/D information published in the 2021 Master Plan⁷, F&L identify those portions of the collection system that are predicted to have d/D greater than the criteria listed in the bullets above during PDWF conditions. F&L only identified those pipe segments that were not included in Table 1 to be replaced due to existing condition capacity deficiencies during PWWF for inclusion in the summary of anticipated development related deficiencies.

Table 3 lists those pipe segments that are required to be replaced including the proposed replacement pipe diameter and Figure 3 highlights those same segments. The OPPC for the proposed improvements is presented in Table 4.

3.3 Anticipated Developments (Five Years)

The City provided a list of those developments where an applicant has identified may be completed within the next five fiscal years. Table 5 lists each of the developments including the anticipated number of residential units or square feet of commercial, industrial, or office space. Identifying the potential new development that is anticipated to come online in the next five fiscal years is important to determine the additional flow that may be added to the sanitary sewer collection system and will inform the potential capital improvements timeline.

Table 6 calculates the Equivalent Dwelling Units (EDUs) that are associated with each the anticipated developments listed in Table 5. EPASD's *Standard Specifications for Design and Construction of Sanitary Sewer Collection and Conveyance Facilities* includes a methodology for calculating EDUs based on the type of development. EDUs are utilized by EPASD to calculate both the Annual Service Charges and Connection Fees.

4 Proposed Capital Improvement Plan

F&L developed a capital improvement plan that includes both the existing system capacity deficiencies and the development related deficiencies as shown on Figure 4. Based on review of the EPASD CCTV TM, there are some additional pipe segments from the Priority 1 list that are in addition to the suggested capital improvement plan. Figure 5 overlays the pipeline segments identified in the capital improvement plan and highlights the remaining EPASD CCTV TM Priority 1 segments that should be replaced. F&L notes that we have not specifically highlighted a specific timeline for replacement of the remaining Priority 1 noted on Figure 5 but we have included an annual budget in the evaluation of annual sewer service charge presented in Section 6 for repairing and replacing the remaining high priority and secondary priority segments. The actual scope for the annual repair and replacement program will need to be evaluated each year to determine the total length of pipelines that will be replaced including coordination any other capital improvement projects that may be implemented by the City.

⁷ Refer to Table 11 from the 2021 Master Plan for the predicted d/D following completion of anticipated development.

Figure 6 includes a suggested timeline to address the existing system capacity deficiencies. The suggested timeline is intended to allow the existing system capacity deficiencies to be built over 15 years, which will allow for grant and low interest loan funding sources to be secured to fund the necessary improvements. The actual timeline to implement the capacity assurance improvements may need to be adjusted based on proposed development approval, permitting, and construction process.

Because the development related deficiencies will be implemented based on actual development approvals and construction, F&L has not identified a specific timeline to implement the development related deficiency improvements. Figure 7 does present the anticipated developments over the next five years listed in Table 5 with the development related deficiency improvement to allow the City to begin understanding where improvements may be required prior to issuing final Certificates of Occupancies for any of the identified developments. The ultimate timeline to construct the capital improvements required to address development related deficiencies will be determined once the proposed development has paid its connection fees and provided a firm timeline for occupancy.

5 Proposed Operating and Maintenance Plan

F&L understands that the City would contract with a public or private entity to operate the collection system. The collection system would continue to be operated in accordance with Statewide SSO Waste Discharge Requirements and RWQCB Sewer System Management Plan guidelines. To develop an estimated annual operating and maintenance budget, F&L reviewed the published Fiscal Year 2022/2023 budget from WBSD. Table 7 presents our methodology for developing a budget for operating expenses for labor and other overhead costs applying a ratio calculated by dividing the total miles of pipes within the EPASD collection system by the total miles of pipe within the WBSD collection system.

In addition to the labor costs for operating the collection system, EPASD contributes the operating and capital costs for the PARWQCP as outlined in the existing agreement. In reviewing the *East Palo Alto Sanitary District, 2019 Sewer Rate Study (Rate Study)*, F&L identified that the study include a summary of anticipated treatment operation, capital, and debt service costs⁸. The costs listed in the Rate Study were consistent with information that F&L found from a November 17, 2020 presentation to the City of Palo Alto Finance Committee.

We have summarized the anticipated costs for PARWQCP treatment and capital improvements in Table 8.

6 Annual Sewer Charge

F&L reviewed existing information from the EPASD web site and identified that the current Annual Sewer Charge (ASC) is \$600 per EDU⁹. The current ASC is consistent with the suggested ASC from the Rate Study for Fiscal Year 2019/20 but EPASD has not implemented the recommend 4-percent annual increase that was included in the Rate

⁸ See Table 3 from the referenced 2019 Sewer Rate Study.

⁹ <https://www.epasd.com/residents/forms-permits>

Study¹⁰. If EPASD had implemented the recommended 4-percent annual increase from its own Rate Study, the current ASC would be \$690 per EDU.

F&L calculated a potential ASC based on the current estimated operating and capital costs that would be required to fund all expenses for one fiscal year with only partial contribution from the EPASD reserves. Table 9 provides a potential ASC that is more than the current EPASD published ASC but we do not recommend that the larger ASC be implemented in the near term. We have presented the calculated ASC to confirm what the EPASD Rate Study indicates is a necessary annual rate increase to account for the projected annual increase in operating costs that will continue to be experienced in future years. Without implementing a regular annual ASC increase, there will be a shortfall between revenues and expenses that will need to be funded from current reserves.

For purposes of developing the Plan, we suggest that the ASC be established at \$690 per EDU for Fiscal Year 2022/23 to match the original recommendations of the EPASD's Rate Study and then be increased by 5-percent per year based on the current economic conditions as well as the additional annual capital needs to address the extensive condition deficiencies identified in EPASD's CCTV TM. However, F&L does anticipate that at some point in the future the ASC will be required to be raised to a level similar to what is presented in Table 9 to ensure that there is adequate revenue to provide safe and reliable sanitary sewer service to all current and future customers while not diverting funds from reserves that can otherwise fund critical capital improvement projects.

7 Connection Fee

EPASD's published connection fee¹¹ is \$6,060 although F&L could not find a study that outlined the methodology used to determine the connection fee. F&L did develop a potential connection fee that considers:

- 50-percent of capacity assurance improvements identified in Table 2 will be a benefit to new development because implementing the recommend projects provides a more reliable and resilient system for existing customers but also creates additional capacity for the benefit of new development.
- 100-percent of development related capacity deficiencies identified in Table 4.
- Buy-in cost of \$5 million per 1.0 MGD of treatment capacity to reflect developers payback of existing PAWRQCP capacity that is available for new development.
- Application review fee.

Table 10 presents the calculation methodology to develop a potential Connection Fee, which is \$6,100. Because the potential Connection Fee presented in Table 10 is similar to the current publish EPASD connection fee, we suggest that the connection fee be kept at \$6,060 for the first year and then increased by 5-percent per year similar to the ASC. However, a regular review of the connection fee should be completed to ensure that connection fee reflects actual costs incurred to accommodate City approved development.

¹⁰ Table 4 from the Rate Study presents the recommended ASC beginning with Fiscal Year 2019/20 and includes a project annual cash flow through Fiscal Year 2028/29 based on a 5% annual rate increase.

¹¹ <https://www.epasd.com/residents/forms-permits>

8 Annual Budget Cash Flow

As a final step in developing the Plan, F&L evaluated the year over year cash flow for operations and improvements of the sanitary sewer collection system. Table 11 presents F&L's cash flow project for five fiscal years beginning with Fiscal Year 2022/23. The cash flow analysis includes the following key items:

- The ASC is initial set at \$690 per EDU consistent with the recommendations included in EPASD's Rate Study but a 5-percent annual escalation is applied to reflect current economic conditions and the anticipated annual repair and replacement program to address the deficiencies identified in the EPASD CCTV TM.
- The connection fee is set at \$6,060 per EDU similar to the current EPASD connection fee and an annual 5-percent escalation is applied similar to the ASC.
- The total number of anticipated new EDUs for each fiscal year is provided based on the information presented in Table 6.
- The total number of connected EDUs is also provided including accounting for new EDUs that are projected to be added during each fiscal year.
- The beginning reserve fund balance is assumed to be \$17.38 million. The most recent publicly available audit for EPASD is dated June 30, 2020 and indicates a net position of \$25.03 million. In addition, the EPASD FY 22/23 includes a \$15 million transfer from reserves to the Construction Replacement Fund and indicates a reserve fund balance of \$17.38 million.
- Revenues include the ASC, connection fees, property taxes presented in the EPASD Rate Study, ERAF Rebate/Former RDAF presented in the EPASD Rate Study, and interest earned on reserve funds.
- Expenses including labor and other operating expenses for the collection system, Sewer Rehab Improvements to fund annual point repair projects, Capacity Assurance Improvements to fund the improvements identified in Table 2, PAWRQCP annual treatment costs, EPASD share of existing PARWQCP debt service, EPASD share of project PARWQCP debt service, and EPASD 2011 SRF Loan debt service presented in the EPASD Rate Study.

For each fiscal year, the project expenses are projected revenues are calculated and presented. If expenses in a given fiscal year are greater than the project revenues, the Reserve Funds are used to balance the expenses and revenues.

By utilizing portions of the existing Reserve Funds each fiscal year, the existing customers' contributions to the reserves over the prior years is utilized to fund the existing customers' 50-percent share of the Capacity Assurance Improvements identified in Table 2. The primary purpose of holding collected ASC and connection fees over several years is to allow an agency to develop sufficient funds to implement capital improvement projects. Therefore, beginning to draw from reserves to fund the existing customers' portion of the recommended annual capital improvement program and capacity assurance capital improvement program is for the benefit of the existing customers.

At the end of the five year evaluation period, the projected Reserve Fund balance is greater than the annual operating and debt service costs. Because EPASD receives its revenue payments twice per year as part of the property tax collection, sufficient reserves to fund at

least six months of operation is suggested. The cash flow evaluation presented in Table 11 maintains a minimum of 12-months of Reserve Funds for each given fiscal year.

The cash flow review above will be impacted by the actual beginning balance of EPASD Reserve Funds. If additional information on the actual Reserve Fund balance becomes available, the cash flow analysis will be updated.

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Table 1
2015 Master Plan Capital Improvements Under Existing PWWF (1)
Sanitary Sewer Capital Improvement and Operation Plan Development
East Palo Alto, California

Segment	Length (Feet)	Existing Diameter (Inches)	Existing d/D	Proposed Diameter (Inches)	Proposed d/D
C5-C4	328	6	1	8	0.51
C4-C3	436	6	1	8	0.48
C3-C2	398	6	1	8	0.51
C2-C1	205	6	1	8	0.78
D24-D23	350	8	1	12	0.55
D23-D22	74	8	1	12	0.58
D22-D21	149	8	1	12	0.58
D21-D19	391	8	1	12	0.55
D19-D10	49	10	0.54	12	0.36
D10-D3	490	10	1	12	0.6
A14-A13	289	6	1	8	0.6
A13-A12	412	6	1	8	0.6
A12-A11	486	6	1	8	0.6
A11-A10	418	6	1	8	0.6
A20-A19	340	6	1	8	0.6
A19-A18	214	6	1	8	0.6
A18-A16	442	6	1	8	0.6
M4-M3	358	8	1	12	0.6
M3-M2	380	8	1	12	0.6
M2-M43	48	8	1	12	0.6
E1-H9	270	12	1	18	0.53
H9-H73	247	12	1	18	0.49
H73-H74	101	12	1	18	0.49
H74-H8	113	12	1	18	0.49
H8-H7	234	12	1	18	0.59
H7-H75	90	12	1	18	0.51
H75-H6	260	12	1	18	0.49
H6-H5	9	12	1	18	0.4
H5-H4	260	15	1	18	0.64
H4-H3	8	15	1	18	0.56
H14-H13	447	8	1	12	0.38
H13-H12	108	8	1	12	0.38
H12-H11	334	8	1	12	0.42
H11-H64	199	8	1	12	0.44
H64-H71	161	8	1	12	0.52
H71-H3	35	8	1	12	0.46
H3-H2	31	15	1	24	0.6
H2-I11	37	15	0.53	24	0.24
I11-I10	380	15	1	24	0.39
I10-I9	222	15	1	24	0.36

Table 1
2015 Master Plan Capital Improvements Under Existing PWWF (1)
Sanitary Sewer Capital Improvement and Operation Plan Development
East Palo Alto, California

Segment	Length (Feet)	Existing Diameter (Inches)	Existing d/D	Proposed Diameter (Inches)	Proposed d/D
I9-I8	155	15	1	24	0.47
I8-I7	239	15	0.77	24	0.32
I7-I6	259	15	1	24	0.34
I6-I5	411	18	1	24	0.57
I5-I31	135	18	1	24	0.57
I31-I4	322	18	1	24	0.57
I4-I3	243	18	1	24	0.57
A29-T29	346	18	0.45	24	0.3
T29-T28	234	18	0.43	24	0.28
T28-T27	163	18	1	24	0.54
T27-T26	356	18	0.57	24	0.37
T26-T25	306	18	0.52	24	0.34
T25-T24	283	18	1	24	0.6
T24-T23	317	18	0.53	24	0.34
T23-T22	447	18	0.6	24	0.38
T20-T19	332	18	0.43	24	0.29
T19-T18	500	21	1	24	0.67
T18-T17	541	21	1	24	0.67
T17-T34	396	21	1	24	0.67
A23-A24	251	6	1	8	0.6
A24-A25	254	6	1	8	0.6
A25-A26	235	6	1	8	0.6
A26-A27	311	6	1	8	0.6

Notes

(1) Capital Improvements are from Table 8.1 Upsize Recommendations in the EPASD 2015 Master Plan.
Sections of pipe that have already been replaced have been excluded from this table.

Abbreviations

d/D: depth over diameter
PWWF: Peak Wet Weather Flow

Table 2
Conceptual OPPC Eliminating Deficiencies Under Existing PWWF (1)
Sanitary Sewer Capital Improvement and Operation Plan Development
East Palo Alto, California

Item No.	Description	Units	Quantity (2)	Unit Price	Budget
Conceptual Opinion of Probable Construction Cost					
1	Mobilization	ls	1	\$ 50,000	\$ 50,000
2	Traffic Control	ls	1	\$ 20,000	\$ 20,000
3	Sheeting, Shoring, and Bracing	ls	1	\$ 20,000	\$ 20,000
4	8-inch DR 17 HDPE Pipe	lf	5,020	\$ 200	\$ 1,004,000
5	12-inch DR 17 HDPE Pipe	lf	3,570	\$ 300	\$ 1,071,000
6	18-inch DR 17 HDPE Pipe	lf	1,590	\$ 550	\$ 874,500
7	24-inch DR 17 HDPE Pipe	lf	6,660	\$ 800	\$ 5,328,000
8	Manholes	ea	64	\$ 10,000	\$ 640,000
9	30% Contingency	%	30%	\$ 9,007,500	\$ 2,702,250
Subtotal - Conceptual Opinion of Probable Construction Cost (3)					\$ 11,710,000
Engineering and Administration Cost					
10	Design	%	10%	\$ 11,710,000	\$ 1,171,000
11	Environmental/Permitting	%	10%	\$ 11,710,000	\$ 1,171,000
12	Construction Management/Inspection	%	15%	\$ 11,710,000	\$ 1,757,000
13	District Administration	%	5%	\$ 11,710,000	\$ 586,000
Subtotal - Engineering and Administration Cost (3)					\$ 4,685,000
Total Conceptual Opinion of Probable Project Cost (3)					\$ 16,395,000

Notes

- (1) See Table 1 and Figure 1 for limits of improvements.
- (2) Quantities rounded to nearest 10 feet.
- (3) Costs rounded to nearest \$1,000.

Abbreviations

DR: dimension ration
HDPE: high density polyethylene
OPPC: opinion of probable project cost

Table 3
Additional 2021 Master Plan Addendum Capital Improvements from Future Developments Under Predicted PDWF as Compared to 2015 Master Plan Capital Improvements Under Existing PWWF (1)
Sanitary Sewer Capital Improvement and Operation Plan Development
East Palo Alto, California

Segment	Length (Feet)	Existing Diameter (Inches)	Existing d/D	Predicted d/D	Proposed Diameter (Inches)	Proposed d/D
B7-B6	380	12	1	1	15	0.46
B3-B2	239	12	0.7	1	15	0.5
B2-A1	181	12	0.52	0.62	15	0.38
A1-A2	80	12	0.66	0.82	15	0.46
A2-A5	244	12	0.66	1	15	0.46
A5-A8	124	15	0.67	1	18	0.49
A8-A9	61	15	0.32	0.37	18	0.25
A9-A10	181	15	0.7	1	18	0.53
A10-A15	300	15	0.43	0.51	18	0.35
A15-A16	435	15	0.69	1	18	0.52
D5-D4	70	8	0.78	0.84	10	0.46
D4-D3	296	8	0.78	0.84	10	0.46
D3-D2	363	12	0.8	1	15	0.51
D2-D1	53	12	1	1	15	0.67
D1-E4	354	12	0.66	0.82	15	0.46
E4-E3	357	12	0.58	0.7	15	0.42
E3-E2	280	12	0.74	1	15	0.5
E2-E1	283	12	0.66	1	15	0.5
H36-H35	474	6	0.32	1	6	0.45
H17-H57	397	8	0.33	0.75	12	0.34
M38-M39	158	8	0.36	0.84	12	0.36
M39-M43	241	8	0.36	0.84	12	0.36
M43-M42	104	8	0.45	1	12	0.44
M42-M41	37	8	0.27	1	12	0.28
M41-M13	111	8	0.36	0.84	12	0.36
M13-M12	276	8	0.36	0.84	12	0.36
M12-M40	337	8	0.36	0.84	12	0.36
M40-M5	263	8	0.36	0.84	12	0.36
M5-M4	373	8	0.78	1	12	0.52
M4-M31	143	8	0.66	1	12	0.48
M31-M3	357	10	0.6	1	12	0.54
I15-I14	386	12	0.76	1	15	0.62
I14-I13	444	12	0.56	1	15	0.48
I13-I12	320	12	0.58	1	15	0.48
I12-I6	339	12	0.58	1	15	0.46
O7-O6	427	8	0.69	0.81	8	0.66
L53-L52	218	6	0.8	0.8	6	0.64

Table 3
Additional 2021 Master Plan Addendum Capital Improvements from Future Developments Under Predicted PDWF as Compared to 2015 Master Plan Capital Improvements Under Existing PWWF (1)
 Sanitary Sewer Capital Improvement and Operation Plan Development
 East Palo Alto, California

Segment	Length (Feet)	Existing Diameter (Inches)	Existing d/D	Predicted d/D	Proposed Diameter (Inches)	Proposed d/D
L52-L50	224	6	1	1	8	0.57
L50-L49	224	8	0.57	0.57	10	0.36
L49-L48	233	8	1	1	10	0.5
L3-L2	83	10	1	1	12	0.58
L2-L1	179	10	0.77	0.77	12	0.48
L1-L21	223	10	1	1	14	0.55
L21-K28	68	10	1	1	14	0.6
K28-K4	242	10	1	1	15	0.64
K4-K3	238	12	1	1	15	0.51
K3-K2	190	12	1	1	15	0.58
D35-D34	178	6	1	1	8	0.54
N21-N14	196	10	0.58	0.74	10	0.624
N14-N2	88	10	0.6	0.77	10	0.624
E8-E7	355	8	0.48	1	12	0.38
E7-E6	311	8	0.42	1	12	0.36

Notes

(1) Capital Improvements are from Table 11 of the 2021 Master Plan Addendum that have been excluded from the 2015 Master Plan Capital Improvements. The improvements listed are required due to future development.

Abbreviations

d/D: depth over diameter
 PDWF: Peak Dry Weather Flow
 PWWF: Peak Wet Weather Flow

Table 4
Conceptual OPPC Eliminating Deficiencies Under Future Development (1)
Sanitary Sewer Capital Improvement and Operation Plan Development
East Palo Alto, California

Item No.	Description	Units	Quantity (2)	Unit Price	Budget
Conceptual Opinion of Probable Construction Cost					
1	Mobilization	ls	1	\$ 50,000	\$ 50,000
2	Traffic Control	ls	1	\$ 20,000	\$ 20,000
3	Sheeting, Shoring, and Bracing	ls	1	\$ 20,000	\$ 20,000
4	6-inch DR 17 HDPE Pipe	lf	690	\$ 150	\$ 103,500
5	8-inch DR 17 HDPE Pipe	lf	830	\$ 200	\$ 166,000
6	10-inch DR 17 HDPE Pipe	lf	1,110	\$ 250	\$ 277,500
7	12-inch DR 17 HDPE Pipe	lf	3,730	\$ 300	\$ 1,119,000
8	14-inch DR 17 HDPE Pipe	lf	290	\$ 350	\$ 101,500
9	15-inch DR 17 HDPE Pipe	lf	5,690	\$ 400	\$ 2,276,000
10	18-inch DR 17 HDPE Pipe	lf	1,100	\$ 550	\$ 605,000
11	Manholes	ea	52	\$ 10,000	\$ 520,000
12	30% Contingency	%	30%	\$ 5,258,500	\$ 1,577,550
Subtotal - Conceptual Opinion of Probable Construction Cost (3)					\$ 6,836,000
Engineering and Administration Cost					
13	Design	%	10%	\$ 6,836,000	\$ 684,000
14	Environmental/Permitting	%	10%	\$ 6,836,000	\$ 684,000
15	Construction Management/Inspection	%	15%	\$ 6,836,000	\$ 1,025,000
16	District Administration	%	5%	\$ 6,836,000	\$ 342,000
Subtotal - Engineering and Administration Cost (3)					\$ 2,735,000
Total Conceptual Opinion of Probable Project Cost (3)					\$ 9,571,000

Notes

- (1) See Table 3 and Figure 2 for limits of improvements.
- (2) Quantities rounded to nearest 10 feet.
- (3) Costs rounded to nearest \$1,000.

Abbreviations

DR: dimension ration
HDPE: high density polyethylene
OPPC: opinion of probable project cost

Table 5
Proposed Developments: Anticipated Completion Prior to FY 2027/2028 (1) (2)
 Sanitary Sewer Capital Improvement and Operation Plan Development
 East Palo Alto, California

Land-Use Category	Type	FY 2023/2024		FY 2024/2025								FY 2025/2026			
		Clarum		Sobrato Phase II (3)		JobTrain		965 Weeks		Woodland Park		University Circle Phase II		1675 Bay (4 Corners) (4)	
		Added	Removed	Added	Removed	Added	Removed	Added	Removed	Added	Removed	Added	Removed	Added	Removed
Residential (Units)	Single-Residential Multiple-Residential		1												
		33						136		605	161			180	
Commercial - Office (sf)	Office			203,967		110,000						180,000			
Commercial - Non-Office (sf)	Restaurant Hotel/Motel Commercial Medical School Church Recreational Retirement	2,500		8,690	12,000									20,000	20,000
Industrial (sf)	Industrial													500,000	

Notes

- (1) Proposed developments anticipated to be completed within the next five fiscal years based on information provided by the individual developers to the City of East Palo Alto and is subject to change.
- (2) See Figure 5 for locations of proposed developments.
- (3) Sobrato Phase II demolishes 12,000 sf of office and retail, but does not specify the split. The demolished area was counted as Commercial since the unit flows in gpd/sf from the EPASD Standard Specs used is the same for both.
- (4) For 1675 Bay (4 Corners), 40,000 sf of "Community/Retail/Restaurant" was split evenly between the Restaurant and Commercial categories since the breakdown was not specified.

Abbreviations

FY: fiscal year
 sf: square feet

Table 6
Equivalent Dwelling Units Over the Next Five Fiscal Years (1)
 Sanitary Sewer Capital Improvement and Operation Plan Development
 East Palo Alto, California

Land-Use Category	Type	Flow, 2022-23 (hcf) (2)	EDU, 2022-23 (2) (3) (4)	EDU, 2023-24 (4)	EDU, 2024-25 (4)	EDU, 2025-26 (4)	EDU, 2026-27 (4)
Residential (5)	Single-Residential	--	3,371	3,370	3,370	3,370	3,370
	Multiple-Residential	--	368	401	981	1,161	1,161
Commercial - Office (6)	Office	4,662	40	40	171	246	246
Commercial - Non-Office (6)	Restaurant	6,468	55	55	55	139	139
	Hotel/Motel	15,716	134	134	134	134	134
	Commercial	23,376	200	201	199	208	208
	Medical	1,296	11	11	11	11	11
	School	21,188	181	181	181	181	181
	Church	5,551	47	47	47	47	47
	Recreational	890	8	8	8	8	8
	Retirement	372	3	3	3	3	3
Industrial (6)	Industrial	2,976	25	25	25	234	234
Total (7) (8)	--	--	4,443	4,476	5,186	5,741	5,741

Notes

- (1) The increase in Equivalent Dwelling Units (EDU) per year are based on the major proposed developments and their anticipated completion fiscal year.
- (2) Number of residential units and flows for all other land uses for fiscal year 2022-23 are assumed to be the same as reported the EPASD "Sewer Service Charges Fiscal Year 2020-2021" report dated July 2020. The referenced report listed that there were a total of 38 customers "manually billed" but no flow or EDU information was provided for the 38 manually billed customers to allow inclusion in the development of projected EDUs.
- (3) For non-residential land uses, the total number of equivalent EDUs is calculated by multiplying the flows in HCF by 748 gallons per hcf and then dividing by 240 gallons per EDU.
- (4) Numbers of EDU are rounded to the nearest whole number.
- (5) Both Single-Residential and Multiple- Residential are assumed to be one EDU per unit.
- (6) The EDU calculations for Commercial and Industrial land-use categories use the commercial and industrial unit flows found in EPASD's Standard Specs B1.03-3 and B1.03-4.
- (7) The EDU calculations use a rate of 240 gallons per day (gpd) per EDU.
- (8) The calculated infiltration rate in EPASD's Standard Specs Section B1.03-5 was ignored since infiltration and inflow will be corrected as part of the PWWF improvements presented in Table 1 and improvements will utilized HDPE that will have fused pipe, which has a considerably lower infiltration rate.

Abbreviations

EDU: equivalent dwelling unit
 EPASD: East Palo Alto Sanitary District
 hcf: hundreds of cubic feet
 HDPE: high density polyethylene
 PWWF: peak wet weather flow

References

1. Sewer Service Charges, Fiscal Year 2020-2021 prepared by EPASD dated July 2020 can be downloaded from the link below:
<https://www.epasd.com/home/showpublisheddocument/3882/637304927865700000>

Table 7
Estimated Annual Operating & Maintenance Expenses
 Sanitary Sewer Capital Improvement and Operation Plan Development
 East Palo Alto, California

	WBSD (1)	2022/23	2023/24	2024/25	2025/26	2026/27
Cost Escalation	-	-	3.0%	3.0%	3.0%	3.0%
Ratio of EPASD Pipe Mileage to WBSD (2)	-	15.0%	-	-	-	-
Proposed Operating & Maintenance Expenses (3)						
Salaries, Wages, & Benefits	\$ 6,200,000	\$ 930,000	\$ 958,000	\$ 987,000	\$ 1,017,000	\$ 1,048,000
Other Operating Expenses	\$ 9,100,000	\$ 1,365,000	\$ 1,406,000	\$ 1,448,000	\$ 1,491,000	\$ 1,536,000
Total Operating & Maintenance Expenses		\$ 2,295,000	\$ 2,364,000	\$ 2,435,000	\$ 2,508,000	\$ 2,584,000

Notes

- (1) To develop estimated annual operation and maintenance expenses excluding fees paid to City of Palo Alto, the WBSD Fiscal Year 2022/2023 budget dated June 2022 was used as the basis for costs. See Page 8 of the referenced WBSD budget document for the source of expenses presented above.
- (2) WBSD collection system includes over 200 miles of gravity pipes and the EPASD collection system includes over 30 miles of gravity pipes.
- (3) The estimated Fiscal Year 2022/2023 operating and maintenance expense for the EPASD collection system is calculated by multiplying the Ratio of EPASD Pipe Mileage by the WBSD expenses. All costs rounded to nearest \$1,000.
- (4) An annual cost escalation is applied in each subsequent fiscal year following Fiscal Year 2022/23.

Abbreviations

EPASD: East Palo Alto Sanitary District
 WBSD: West Bay Sanitary District

References

- 1. Budget for Fiscal Year 2022/2023 prepared by WBSD dated June 8, 2022 can be accessed from the following link:
https://westbaysanitary.org/wp-content/uploads/2022/08/2022-23_Budget_Report_Approved-6-8-22.pdf

Table 8
PARWQCP Treatment Expenses Calculation (1)
Sanitary Sewer Capital Improvement and Operation Plan Development
East Palo Alto, California

	2022/23	2023/24	2024/25	2025/26	2026/27
EPASD Share of PARWQCP (2)	7.64%	7.64%	7.64%	7.64%	7.64%
PARWQCP CAPITAL IMPROVEMENTS (3)					
Existing Debt Service	\$ 203,000	\$ 203,000	\$ 128,000	\$ 128,000	\$ 128,000
Planned Debt Serve	\$ 272,000	\$ 272,000	\$ 432,000	\$ 517,000	\$ 517,000
Total EPASD Share of Capital Improvements	\$ 475,000	\$ 475,000	\$ 560,000	\$ 645,000	\$ 645,000
PARWQCP OPERATING EXPENSES (3)					
Treatment O&M	\$ 2,201,000	\$ 2,270,000	\$ 2,344,000	\$ 2,412,000	\$ 2,470,000
Minor CIP Fund	\$ 234,000	\$ 240,000	\$ 247,000	\$ 253,000	\$ 26,000
Total EPASD Share of Operating Expenses	\$ 2,435,000	\$ 2,510,000	\$ 2,591,000	\$ 2,665,000	\$ 2,496,000
Total EPASD Share of Treatment Expenses	\$ 2,910,000	\$ 2,985,000	\$ 3,151,000	\$ 3,310,000	\$ 3,141,000

Notes

- (1) EPASD does not currently utilize its full 7.64% allocation of treatment capacity and therefore the annual PARWQCB operating costs do not reflect EPASD's full utilization of its capacity. As more EPASD EDUs are connected to the system, the annual rate adjustment is calculated by the proportionate increase in Total EPASD Connected EDUs to reflect the anticipated increase operating expenses.
- (2) EPASD share of operating and capital expenses is from the PARWQCP Capital Program Finance Committee Meeting presentation dated 11/17/20, on page 10.
- (3) All costs from Table 3 of the EPASD 2019 Sewer Capacity Rate Study dated April 17, 2019.

Abbreviations

EPASD: East Palo Alto Sanitary District
PARWQCP: Palo Alto Regional Water Quality Control Plant
EDUs: Equivalent Dwelling Units

References

1. PARWQCB Capital Program Finance Committee Meeting presentation can be accessed from the following link:
<https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/reports/city-manager-reports-cmrs/year-archive/2020-2/11172020-item-2-presentation.pdf?i=74441.91>
2. EPASD 2019 Sewer Rate Study dated April 17, 2019 can be accessed from the following link:
<https://www.epasd.com/home/showpublisheddocument/3588/637116752736400000>

Table 9
Projected Annual Sewer Charge to Balance Annual Costs
Sanitary Sewer Capital Improvement and Operation Plan Development
East Palo Alto, California

	Annual Sewer Charge
Total EDUs, Current (1)	4,443
VARIABLE CHARGES	
Operating & Maintenance	
Total Operating & Maintenance (2)	\$ 2,295,000
Treatment	
PARWQCP Capital Improvements (3)	\$ 475,000
PARWQCP Operating Expenses (3)	\$ 2,435,000
Total Variable Charges	\$ 5,205,000
FIXED CHARGES	
Capital & Other Non-Operating	
City Sewer Rehab Improvements (4)	\$ -
City Capacity Assurance Improvements (5)	\$ -
Total Fixed Charges	\$ -
Total Annual Sewer Costs	\$ 5,205,000
Total Annual Sewer Service Cost per EDU (6)	\$ 1,171

Notes

- (1) See Table 6 for annual Total EDU calculations.
- (2) Total Operating & Maintenance Expenses presented in Table 7.
- (3) Total PARWQCB Capital Improvements and Operating Expenses presented in Table 8.
- (4) Contribution to annual sanitary sewer rehabilitation program to replace aging infrastructure that is not included Capacity Assurance Improvements or Development Impact Improvements.
- (5) Capacity Assurance Improvements assumes that the total costs presented in Table 2 are funded 50/50 between existing Reserves to reflect the existing customers share of the capacity improvements. The existing customers have been contributing to funding the existing reserve and therefore no additional contribution is required for the next five fiscal years. The remaining 50% of t would be recovered through Connection Fees.
- (6) Total Annual Sewer Service Cost per EDU is calculated by the sum of Total Annual Sewer Costs divided by Total EDUs, Current.

Abbreviations

EDUs: Equivalent Dwelling Units
EPASD: East Palo Alto Sanitary District
PARWQCP: Palo Alto Regional Water Quality Control Plant
SRF: Clean Water State Revolving Fund

Table 10
Connection Fee Calculations
Sanitary Sewer Capital Improvement and Operation Plan Development
East Palo Alto, California

AT FULL BUILDOUT		
Projected Total ADWF Increase (gpd) (1)		1,080,000
Projected Total EDU Increase (2)		4500
Development Share of Cost of Capacity Assurance	\$	8,197,500
Total Cost of Improvements Due to Development (4)	\$	9,571,000
Total Cost of Treatment (5)	\$	5,000,000
Capacity and Improvement Fee (6)	\$	5,100
Application Review Fee (7)	\$	1,000
Connection Fee (8)	\$	6,100

Notes

- (1) Projected Total ADWF Increase is from the EPASD 2021 Master Plan and LAFCo MSR Report.
- (2) Projected Total EDU Increase was calculated using a rate of 240 gpd/EDU.
- (3) The Development Share of the Cost of the Capacity Assurance is 50% of the costs presented in Table 2. The Capacity Assurance project reduce the potential for sanitary sewer overflows during peak wet weather flows that is a current system deficiency. However, implementing the Capacity Assurance project results in adding additional capacity for both average dry weather flow and peak dry weather flow that is a benefit to new development.
- (4) See Table 4 for cost of improvements due to development.
- (5) Total Cost of Treatment is based on EPASD reported cost of \$5 million per 1.0 MGD of treatment capacity. It should be noted that EPASD current 7.96% ownership of the PARWQCP is equivalent to ADWF capacity of 2.9 MGD. The total project ADWF at full buildout is 2.2 MGD based on 240 gpd/EDU and 8,943 EDUs. Therefore, the Total Cost of Treatment presented above is for new development to buy-in to the available treatment capacity.
- (6) Capacity and Improvement fee is calculated by dividing the total cost of improvements and treatment by the projected Total EDU increase and rounding to nearest \$100.
- (7) Application fee is for technical review of applications to verify that the proposed development complies with applicable components for standards and regulations.
- (8) Connection Fee is determined by adding the Capacity and Improvements Fee with the Application Review Fee.

Abbreviations

ADWF: Average Dry Weather Flow
EDUs: Equivalent Dwelling Units
gpd: gallons per day

Table 11
Wastewater Enterprise Fund Cash Flow Projections
Sanitary Sewer Capital Improvement and Operation Plan Development
East Palo Alto, California

	2022/23	2023/24	2024/25	2025/26	2026/27
Overall Rate Adjustment	0%	5%	5%	5%	5%
Annual Sewer Charge (per EDU) (1)	\$690	\$725	\$761	\$799	\$839
Connection Fee (per EDU) (2)	\$6,060	\$6,363	\$6,681	\$7,015	\$7,366
Total New EDUs (3)	-	33	709	555	-
Total EDUs (3)	4,443	4,476	5,186	5,741	5,741
Interest Earnings Rate	0.5%	0.5%	0.5%	0.5%	0.5%
Beginning Reserve Funds	\$17,380,000	\$14,569,886	\$12,004,834	\$13,344,539	\$14,269,654
REVENUES					
Sewer Service Charges (4)	\$3,065,986	\$3,243,224	\$3,945,075	\$4,585,641	\$4,814,923
Connection Fees (5)	\$0	\$210,244	\$4,739,878	\$3,893,440	\$0
Property Taxes (6)	\$521,000	\$536,630	\$552,729	\$569,311	\$586,390
ERAF Rebate/Former RDAF (6)	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000
Investment Earnings (7)	\$86,900	\$72,849	\$60,024	\$66,723	\$71,348
Total Revenues	\$3,973,886	\$4,362,948	\$9,597,705	\$9,415,114	\$5,772,661
EXPENSES					
Operating & Maintenance					
Salaries & Benefits (8)	\$930,000	\$958,000	\$987,000	\$1,017,000	\$1,048,000
General Liability & Workers Comp Alloc (8)	\$1,365,000	\$1,406,000	\$1,448,000	\$1,491,000	\$1,536,000
PARWQCP Wastewater Treatment (6)	\$2,435,000	\$2,510,000	\$2,591,000	\$2,665,000	\$2,496,000
Subtotal	\$4,730,000	\$4,874,000	\$5,026,000	\$5,173,000	\$5,080,000
Capital & Other Non-Operating					
Sewer Rehab Improvements (9)	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000
Capacity Assurance Improvements (10)	\$0	\$0	\$1,093,000	\$1,093,000	\$1,093,000
Subtotal	\$1,500,000	\$1,500,000	\$2,593,000	\$2,593,000	\$2,593,000
Debt Service					
EPASD 2011 SRF Loan (6)	\$79,000	\$79,000	\$79,000	\$79,000	\$79,000
Share of Existing PARWQCP Debt (6)	\$203,000	\$203,000	\$128,000	\$128,000	\$128,000
Share of Projected PARWQCP Debt (6)	\$272,000	\$272,000	\$432,000	\$517,000	\$517,000
Subtotal	\$554,000	\$554,000	\$639,000	\$724,000	\$724,000
Total Expenses	\$6,784,000	\$6,928,000	\$8,258,000	\$8,490,000	\$8,397,000
Revenues Less Expenses	(\$2,810,114)	(\$2,565,052)	\$1,339,705	\$925,114	(\$2,624,339)
Ending Reserve Fund	\$14,569,886	\$12,004,834	\$13,344,539	\$14,269,654	\$11,645,315

Notes are on Page 2 of 2.

Notes

- (1) Proposed Annual Sewer Charge is shown as the proposed rate from Table 4 of the East Palo Alto Sanitary District 2019 Sewer Rate Study prepared by Bartle Wells Associates dated April 17, 2019.
- (2) Proposed Connection Fee matches EPASD current connection fee published on the EPASD web site under Forms & Permits.
- (3) See Table 6 for the current number of EDUs and estimate for annual increase in EDUs.
- (4) Sewer Service Charges is calculated by multiplying Total EDUs by Annual Sewer Service Charge.
- (5) Connection Fees is calculated by multiplying Total New EDUs by Connection Fee.
- (6) Source of revenues and expenses is Table 4 of the East Palo Alto Sanitary District 2019 Sewer Rate Study prepared by Bartle Wells Associates dated April 17, 2019.
- (7) Investment income is interest income on Beginning Fund Reserve.
- (8) Operating & Maintenance Expenses are presented in Table 7.
- (9) The City Sewer Rehab Improvement is an ongoing annual program to replace pipes that are found to be damaged or at the end of service life but not included Capacity Assurance Improvements or Developer Impact Capacity Improvements.
- (10) Capacity Assurance Improvements is an annual expenditure to implement the improvements identified in Table 2 over a 15 year period. The design and construction will be completed in phases beginning in Fiscal Year 2024/25 once new development begins to come on line.

Abbreviations

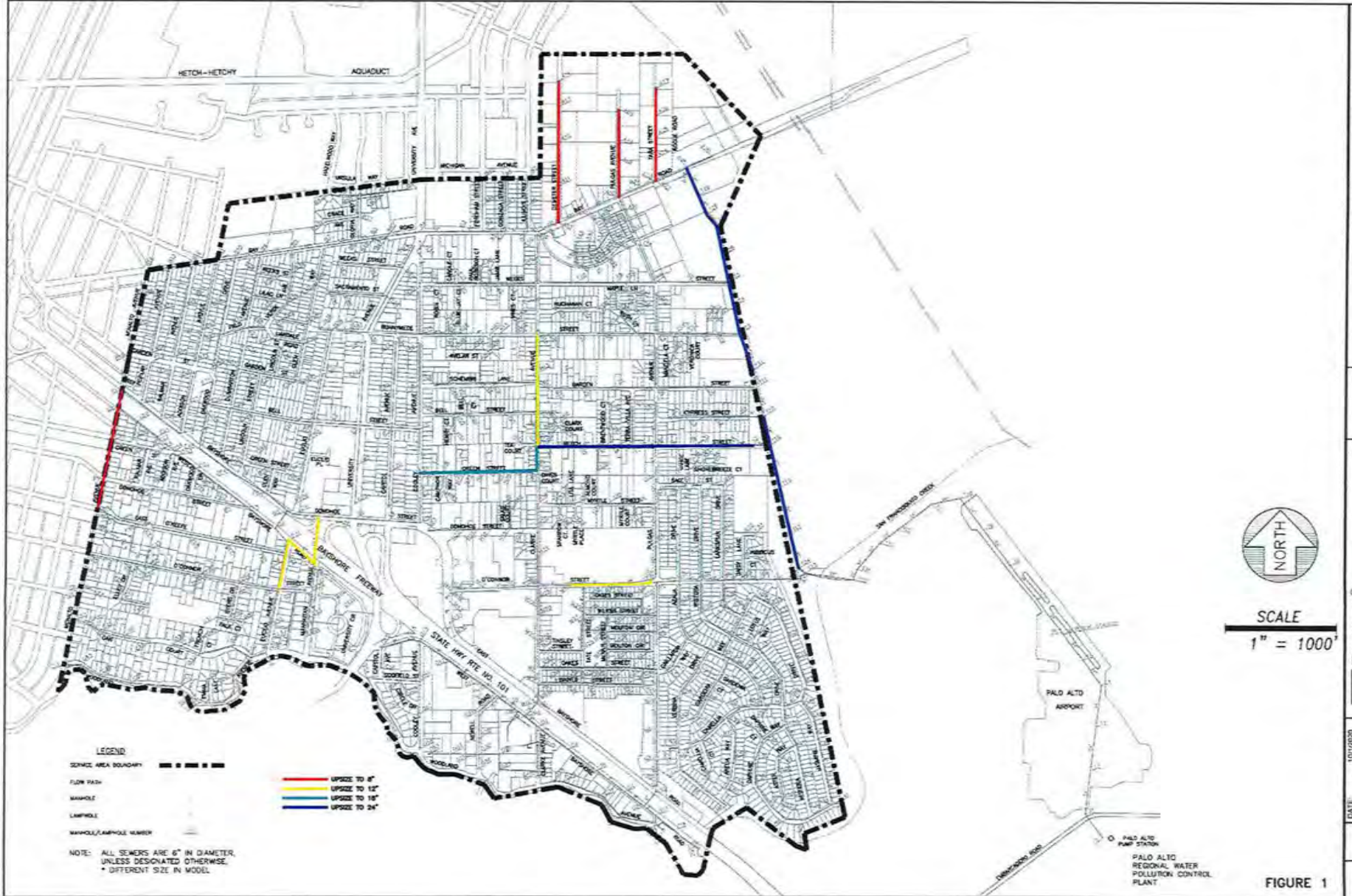
EDUs: Equivalent Dwelling Units

EPASD: East Palo Alto Sanitary District

PARWQCP: Palo Alto Regional Water Quality Control Plant

References

1. East Palo Alto Sanitary District 2019 Sewer Rate Study prepared by Bartle Wells Associates dated April 17, 2019 can be accessed from the following link:
<https://www.epasd.com/home/showpublisheddocument/3588/637116752736400000>
2. EPASD current fees including connection fees can be accessed from the following link:
<https://www.epasd.com/residents/forms-permits>



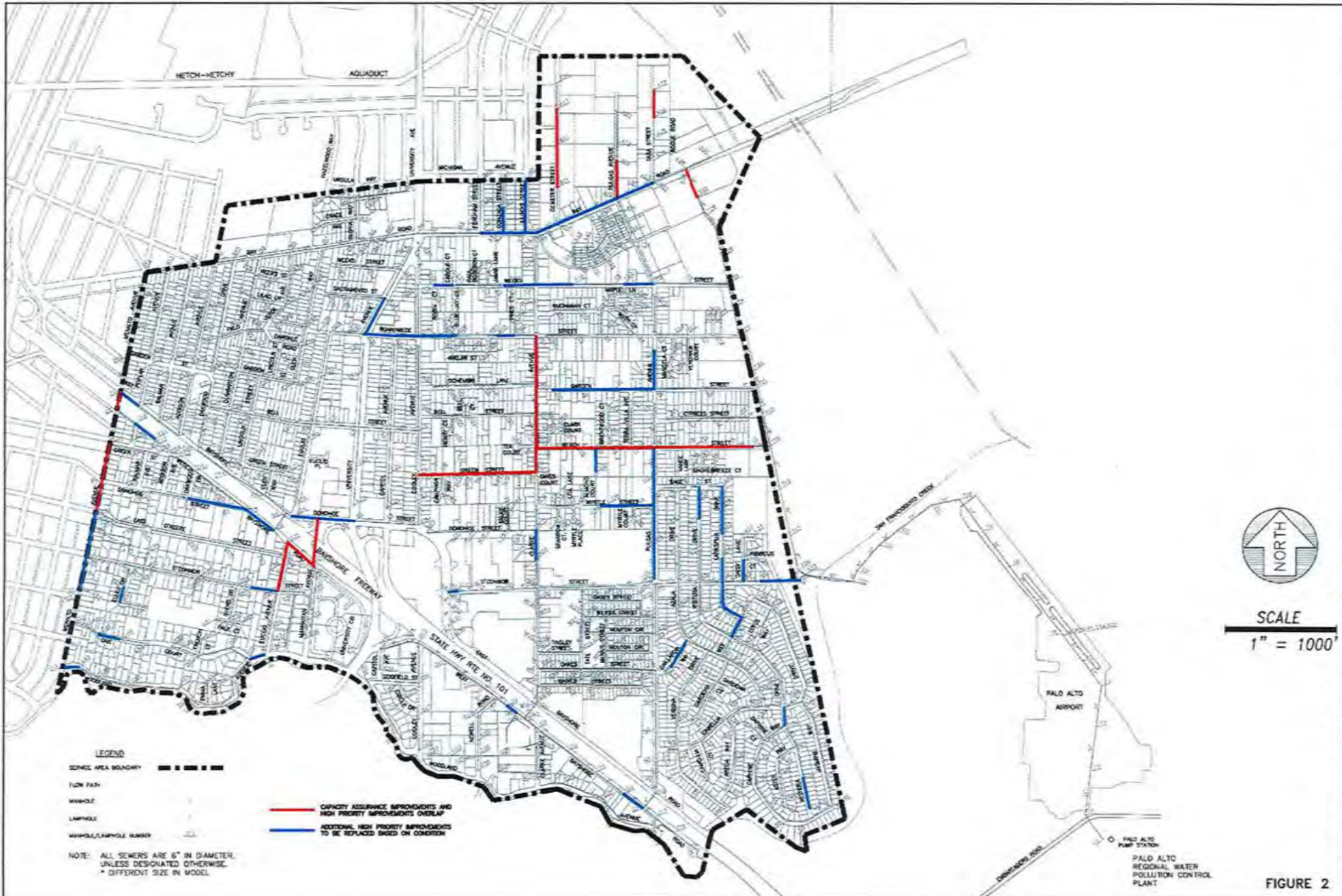
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EPASD MASTER PLAN UPDATE
EAST PALO ALTO, CA

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DATE:	10/10/20
SCALE:	1" = 1000'
DESIGNED:	RAM
DRAWN:	JAM
CHECKED:	JF
PROJ. ENGR.:	JT

FIGURE
1

JOB NO.
2052



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EPASD MASTER PLAN UPDATE
EAST PALO ALTO, CA

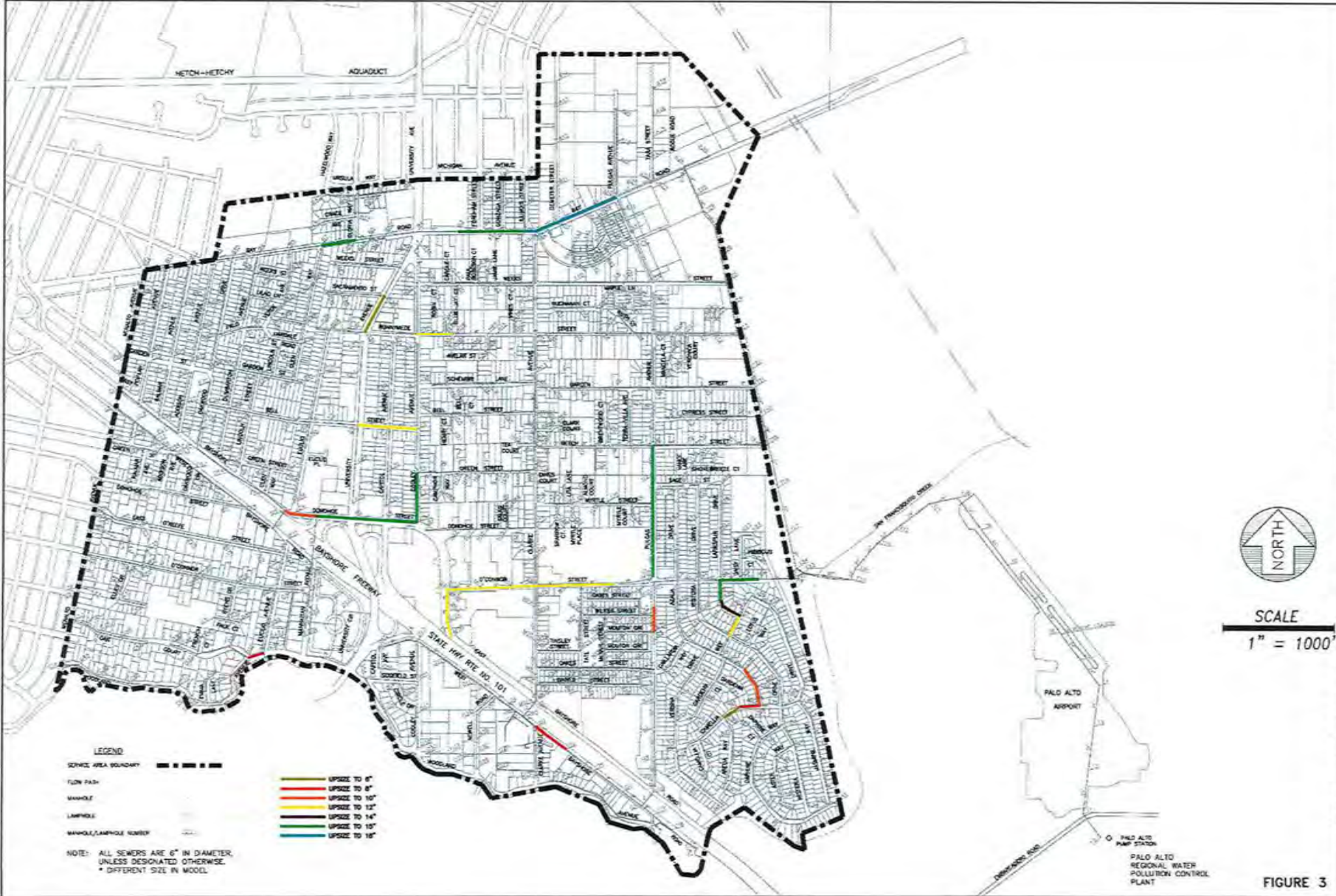
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FIGURE 1

JOB NO. 2052

PALO ALTO REGIONAL WATER POLLUTION CONTROL PLANT



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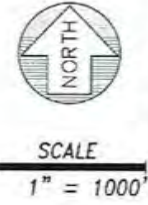
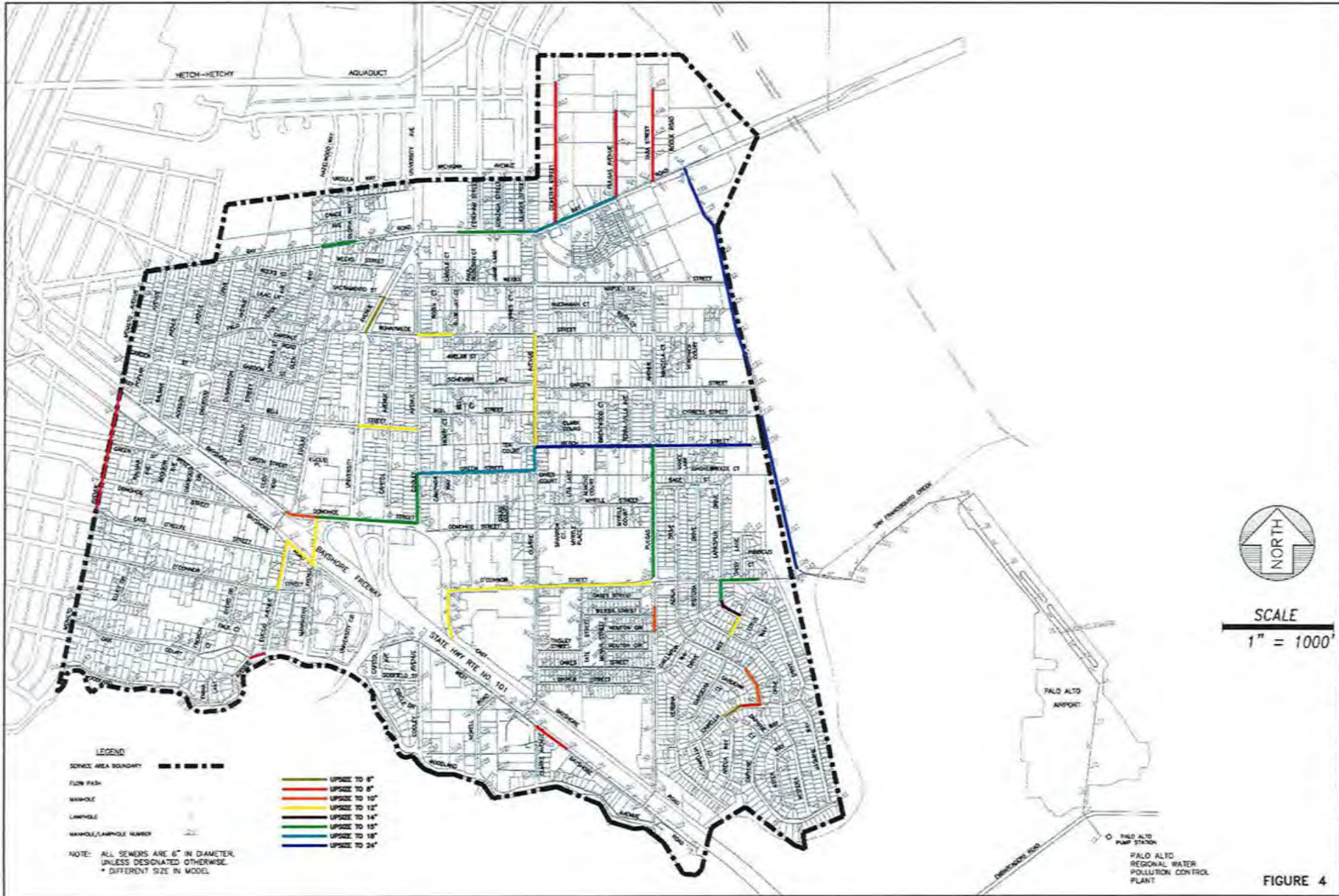


FIGURE 3



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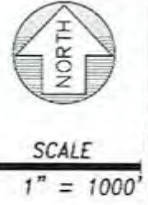
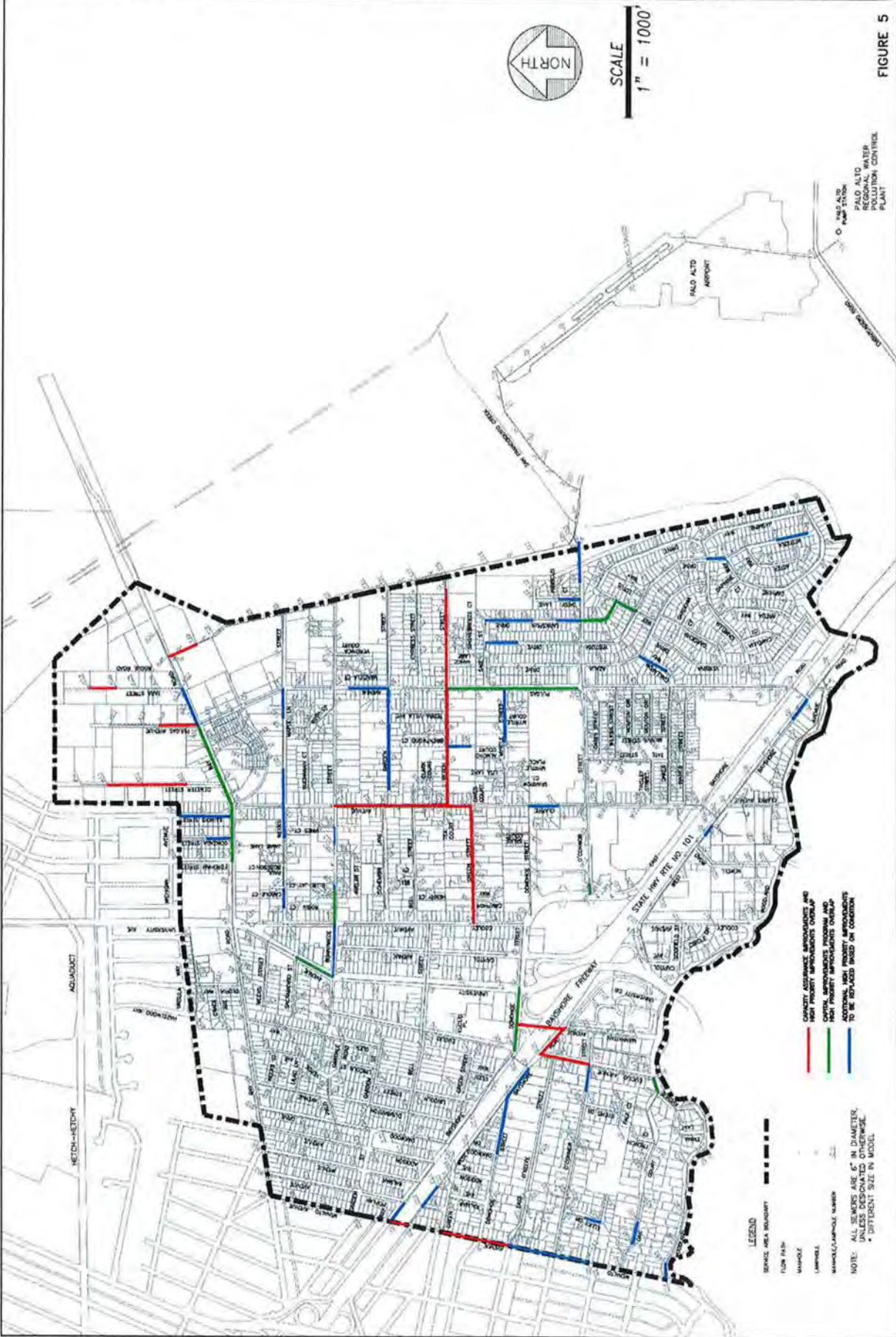


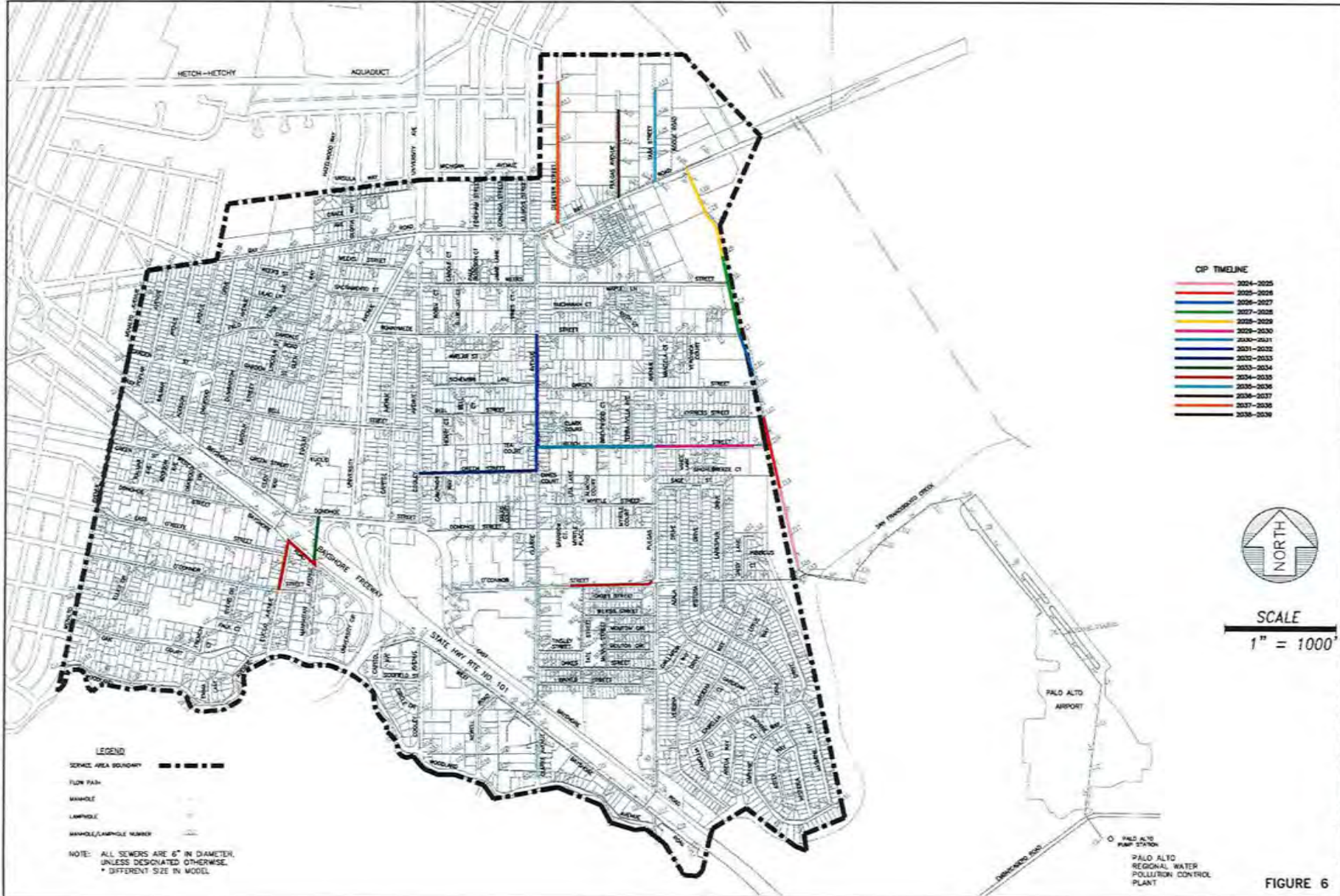
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PROJECT NO.	2052

FIGURE 1

FIGURE 5





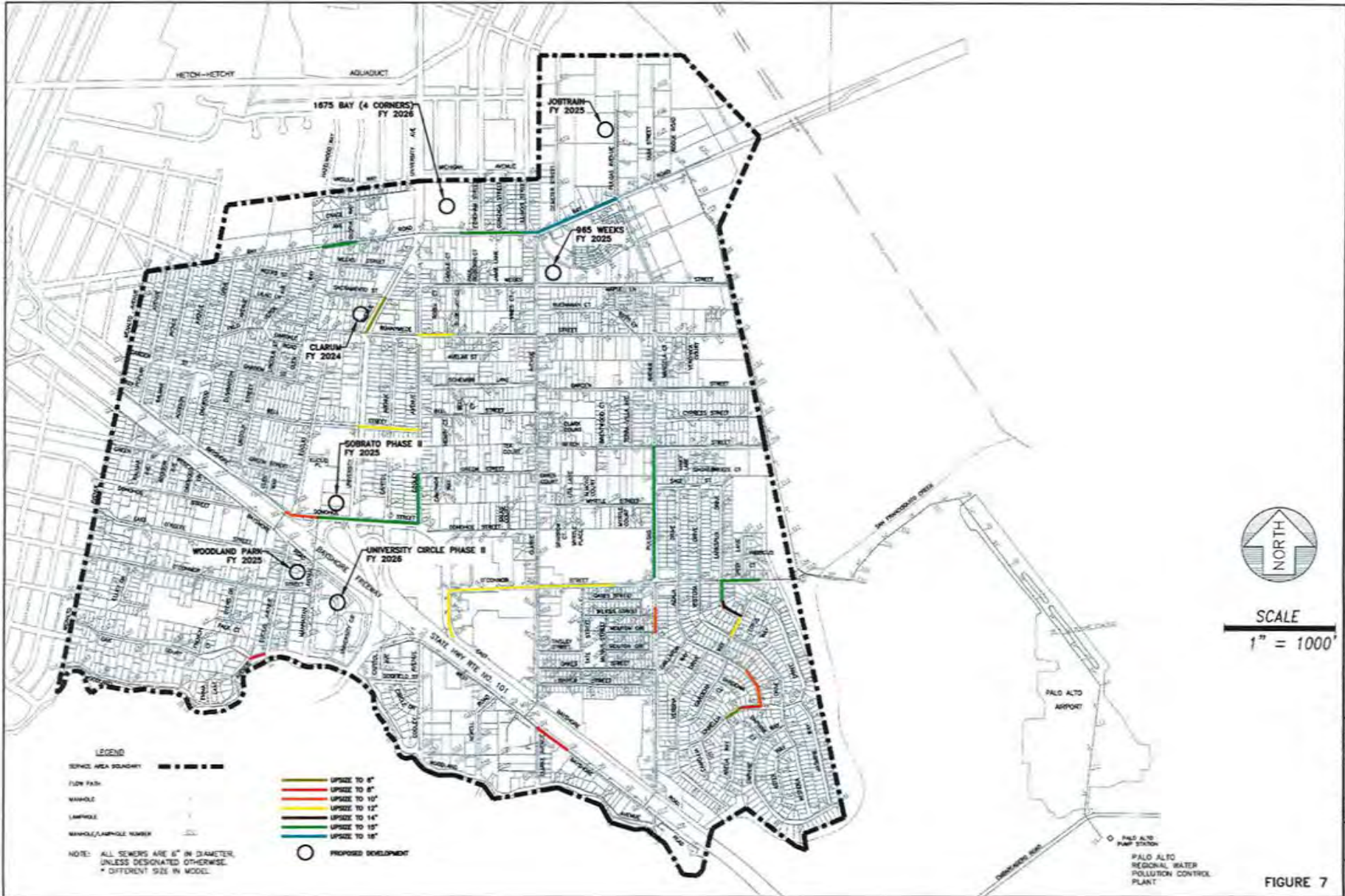
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 EAST PALO ALTO, CA

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 CIVIL ENGINEERS • SURVEYORS • CONSTRUCTION MANAGERS
 144 North San Mateo Drive • San Mateo, CA 94401
 (650) 349-9991 • www.freyerlaureta.com

DATE:	10/17/2020
SCALE:	1" = 1000'
DESIGNED:	RAM
DRAWN:	RAM
CHECKED:	JF
PROJ. ENGR.:	JT

FIGURE
 1
 JOB NO.
 2052

FIGURE 6



EPASD SANITARY SEWER SERVICE AREA
 EPASD MASTER PLAN UPDATE
 EAST PALO ALTO, CA

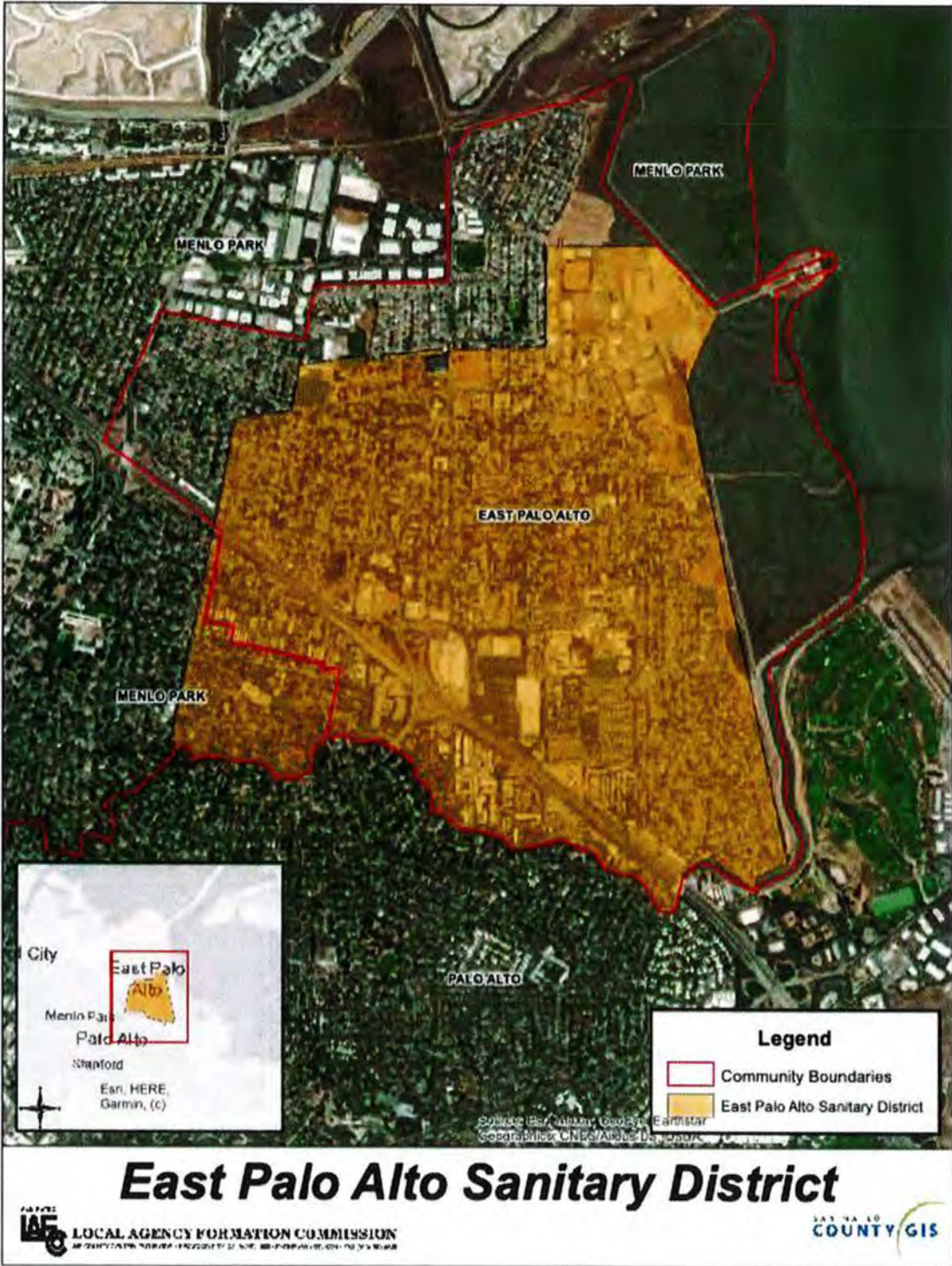
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DATE:	10/10/2020
SCALE:	1" = 1000'
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PROJ. ENGR.:	JIT

FIGURE
 1
 JOB NO.
 2052

FIGURE 7

Figure 5-1: East Palo Alto Sanitary District Boundaries and SOI



Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

From: (Public Agency): City of East Palo Alto
2415 University Avenue
East Palo Alto, California 94303

County Clerk

County of: San Mateo
555 County Center
Redwood City, California 94063

(Address)

FILED ENDORSED
IN THE OFFICE OF THE
COUNTY CLERK RECORDER
SAN MATEO COUNTY CALIF

Project Title: Change of Organization, Reorganization, or Outside Service Agreement

Project Applicant: City of East Palo Alto

NOV 10 2022

Project Location - Specific:
2415 University Avenue

MARK CHURCH, County Clerk
By: GLENDA S. CHANGTIN
Deputy Clerk

Project Location - City: East Palo Alto Project Location - County: San Mateo

Description of Nature, Purpose and Beneficiaries of Project:

Establish East Palo Alto Sanitary District as a subsidiary district of the City of East Palo Alto

Name of Public Agency Approving Project: City of East Palo Alto

Name of Person or Agency Carrying Out Project: City of East Palo Alto

Exempt Status: (check one):

- Ministerial (Sec. 21080(b)(1); 15268);
Declared Emergency (Sec. 21080(b)(3); 15269(a));
Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
Categorical Exemption. State type and section number:
Statutory Exemptions. State code number: 15320

Reasons why project is exempt:

The LAFCo application is exempt from the California Environmental Quality Act (CEQA) under Section 15320 of State CEQA Guidelines because it consists of establishment of a subsidiary district, which does not change the geographical area in which previously existing powers are exercised.

Lead Agency
Contact Person: Patrick Heisinger Area Code/Telephone/Extension: 650-853-3100

If filed by applicant:

- 1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: [Handwritten Signature] Date: 11/10/22 Title: Interim City Manager

Signed by Lead Agency Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR:



OFFICE OF THE CITY MANAGER

December 22, 2022

Mr. Rob Bartoli
Executive Officer
San Mateo Local Agency Formation Commission
455 County Center, 2nd Floor
Redwood City, California 94063-1663

**RE: Response to Revised Incomplete Letter for LAFCo File No. 22-09
Proposed Establishment of the East Palo Alto Sanitary District as a
Subsidiary District of the City of East Palo Alto**

Dear Mr. Bartoli

The City of East Palo Alto (City) has received the Revised Incomplete Letter from the San Mateo Local Agency Formation Commission (LAFCo) regarding the City's proposal to establish the East Palo Alto Sanitary District (District) as a subsidiary district of the City. We have provided responses to each of the questions and comments identified beginning in Paragraph 3 of LAFCo's letter dated Revised December 13, 2022, and we have organized our responses by first presenting LAFCo's question/comment followed by the City's response.

Comment 3a

A general timeline for the initiation of sanitary sewer services overseen by the City, including the timing of when the City may seek proposals for contracting services for the subsidiary district. Provide information about the timing of when the City would start the contracting process and when a contract would be entered into.

Response 3a

The City intends to issue a Request for Qualifications (RFQ) in January 2023 to begin the process to identify potential contractors that would be qualified to provide contract sewer operating services. Following the completion of the RFQ process, the City will

compile a short list of qualified contractors to request proposals for providing the necessary sanitary sewer system contract operating services.

City staff intend to present at the January 17, 2023, City Council meeting staff's proposal to initiate the RFQ process in parallel with the LAFCo process and request feedback from Council. The staff report to Council will include the suggested timeline and evaluation criteria including scoring methodology to develop a short list of qualified contractors to advance the proposal phase of the selection process. The intent is to have identified a qualified contractor in parallel with the LAFCo process. The City understands that LAFCo has the discretion to condition approval of the City's application on execution of a contract for system operation and maintenance. The City requests that the effective date coincide with a fiscal period such as fiscal year, fiscal quarter, or fiscal month.

Comment 3b

The City's staffing plan for the subsidiary district and what would occur with existing District employees and employment contracts upon the establishment of EPASD as a subsidiary of the City.

Response 3b

The City intends to honor existing employment contracts for all District full-time employees. As part of the RFQ process for short listing potential qualified contractors briefly described in Response 3a, the City intends to require potential contractors to present a strategy for continuing to engage any District temporary employees that are currently providing operation and maintenance services.

The City understands that the District currently has two full-time employees that includes the General Manager and one administrative position. The General Manager's employment agreement was amended by the EPASD Board on October 6, 2022, with an amended monthly salary of \$25,744.99 for a term ending October 23, 2022. The City Council, as governing body of the District, will have the General Manager provide support during the initial transition period until the current employment agreement expires at which time the subsidiary district needs would be reevaluated

Comment 3c

The City's plan to ensure that Menlo Park residents who reside in the District can provide input and engage with the subsidiary district. This can be a condition of approval of the proposal.

Response 3c

The City takes no exception to LAFCo including this item as a condition of approval. The City regularly engages, informs residents and business owners through newsletter notices and mailings the City would include Menlo Park residents within the East Palo Alto Sanitary District boundaries in all correspondence and updates related to the sanitary sewer service. Additionally, Proposition 218 requires that all property owners within District boundaries be included in advance by mailed notice of public hearings concerning rate increases and that they be allowed to submit protests. The City has included these residents and the City of Menlo Park in a recent mailing about the City's application to LAFCo. The City takes no exception to LAFCo including this item as a condition of approval.

Comment 3d

The City's plan to address the long-term pension liability of the existing and past employees and the inclusion of these costs in the project budget of the subsidiary district.

Response 3d

As of June 30, 2021, the District reported a net pension liability of \$1,858,898. In December 2021, the District made a lump sum payment of \$1,400,000. The subsidiary district's CalPERS liability would be managed similar to the City's CalPERS liability which includes a pre-funding strategy to reduce long-term retirement costs and a long-term budget forecasting that includes pension liability estimates. The expenditures could be allocated from reserves.

Comment 3e

The plan for service notes that EPASD has recently completed an assessment for over 22 miles of the existing collection system to determine if there are existing deficiencies (CCTV Survey Evaluation and Pipeline Replacement Priorities Area 1, 3, and 4, September 29, 2022, by Sierra West Consultants). While the plan for service has included proposed capital improvements from the District's 2015 Master Plan and 2021 Master Plan Addendum, does the plan for service take into account the recent assessment by the District?

Please also expand on what is classified as a priority repair pipeline and why the replacement is considered a high priority.

Response 3e

As noted in the first paragraph of Section 4 Proposed Capital Improvement Plan from the Sanitary Sewer Capital Improvement and Operation Plan Development (Plan) prepared by Freyer & Laureta, Inc. (F&L) dated November 1, 2022, portions of the Priority 1 improvements identified in the referenced Sierra West Consultants (SWC) September 29, 2022 memorandum overlap with both the existing deficiencies capital improvements projects and the development related deficiencies capital improvements projects. Specifically, Figure 5 from the Plan presents all of the Priority 1 improvements identified by SWC and includes labeling to indicate the overlap with the City proposed capital improvement plan (CIP) and the remaining Priority 1 projects. Approximately 60% of the SWC identified Priority 1 improvements overlap with the City proposed CIP and no additional budget is required for these improvements to be integrated into the City's proposed CIP.

For the remaining approximate 40% of Priority 1 improvements, the Plan includes an annual proposed budget of \$1.5 million per year to address ongoing sewer rehabilitation projects (see Table 11, Note 9 included with the Plan) that is intended to fund rehabilitation and/or replacement of the remaining Priority 1 segments followed by Priority 2 segments, etc.

Regarding the classification of high priority by the District's consultant, we understand that SWC established criteria for grouping pipeline replacement priority based on the condition assessment scoring SWC describes in the referenced September 29, 2022 memorandum while also considering existing system capacity deficiencies identified in the 2021 Master Plan Addendum. F&L understands that SWC reviewed the closed circuit television (CCTV) of each pipe segment and graded each pipe in accordance with the Pipeline Assessment and Certification Program (PACP), which is an industry standard approach to identifying a variety of deficiencies including but not limited to the degree of severity, the number of times a problem with similar severity is identified in a given segment, presence of root balls or debris, and other key considerations that would impact the performance of the pipeline segment. The PACP provides guidance on assigning a sliding scale score for each evaluation criteria that then allows a reviewer to calculate a cumulative condition rating for a given segment. F&L reviewed the methodology implemented by SWC and concurs with the approach utilized but we cannot comment on the specific results because we did not review the CCTV utilized to develop the condition rating. However, the City understands that SWC relied on the cumulative condition and capacity scoring system to identify the total number of

segments that scored 75 points¹ or higher to identify the Priority 1 segments as shown in Table 1 of the SWC September 29, 2022, memorandum.

Comment 3f For the existing identified deficiencies of the sewer system, would these Improvements be needed to be made in the absence of new development?

If they are needed, provide an explanation in the plan for service and technical memo from Freyer & Laureta.

Response 3f

Yes, improvements to the existing system capacity deficiencies presented in Table 1 and on Figure 3 from the Plan are required whether or not any new development were to occur within the District service area. The Plan presented the estimated opinion of probable project cost to remedy the existing system capacity deficiencies in Table 2, referred to as Capacity Assurance Improvements. The proposed five-year cash flow projection presented in Table 11 included with the Plan proposes a budget of approximately \$1.0 million per year beginning in Fiscal Year 2024/2025 to implement the necessary existing system capacity deficiency projects over a 15-year timeline as highlighted on Figure 6 included with the Plan.

Comment 3g

Provide additional explanation regarding surcharging conditions for the sewer system. Include examples of other agencies systems or industry best practices regarding surcharging.

Is the proposed surcharging consistent with the 2015 Master Plan or 2021 Addendum for EPASD?

Response 3g

Sanitary sewer systems are managed with the goal of preventing sanitary sewer overflows. Sanitary sewer systems are managed differently by agency; however, all agencies have the goal of preventing sanitary sewer overflows and having a system with sufficient velocity to self-clean. The proposed improvements for existing system deficiency and suggested long-term operating condition with portions of the collection system being allowed to surcharge with at least four feet of freeboard is consistent with the 2015 Master Plan and achieves the goal of preventing sanitary sewer overflows. The District's evaluation criteria at the time used in development of the 2015 Master Plan included the understanding that surcharging without sanitary sewer overflows is

¹ F&L understands from review of the SWC September 29, 2022 memorandum that the higher the cumulative score indicates a higher number of defects that were identified through the CCTV review effort.

acceptable. The District's system also includes a siphon to cross San Francisquito Creek which, by nature, surcharges the upstream system during high flow conditions. Furthermore, the 2015 Master Plan allowed for surcharging in lieu of constructing sanitary sewer pump stations. Maintaining a system that surcharged during wet weather events with velocity to self-clean in average dry weather flow conditions in lieu of maintaining pump stations(s) was preferred by the District in 2015.

The 2021 Master Plan Update contemplated a new direction to not allow surcharged conditions. In order to achieve the District's modified goal, certain pipe sections would need to be upsized for managing wet weather flows without allowing surcharge. This does create issues during average dry weather flow conditions because velocities in larger diameter pipelines decrease as flow rates decrease, which may lead to solids build-up in the system. The larger pipelines would be able to handle peak weather flow rates without surcharging; however, the upsized pipelines will have decreased velocity for self-cleaning during average dry weather flow conditions, which is a majority of the time.

Comment 3h

The 2021 Master Plan Addendum identified the construction of a parallel trunk sewer between the downstream end of the dual siphons and discharge point to the PARWQCP. Is this project proposed in plan for service?

Per EPASD public meetings, the District has not yet completed a review of the existing sewer trunk line. If improvements to the line are identified during the review of this proposal, will the proposed budget be updated with these costs?

Response 3h

No, the Plan does not include funds budgeted amounts for any improvements to the trunk sewer between the downstream end of the dual siphons and the PARWQCP discharge point. If the District condition assessment reveals there is a need to perform repair or rehabilitation of the trunk sewer, the budget for the trunk sewer repair or rehabilitation will be added to the Plan.

Comment 3i

The plan for service proposes estimated annual operating and maintenance expenses based on West Bay Sanitary District costs. Provide a comparison of this estimate to other sewer providers in San Mateo County and the Bay Area.

Response 3i

The City reviewed the following sewer provider operating and maintenance expenses for the collection system only:

Sewer Provider	Number of Miles of Pipe in Collection System	Annual Budget for Fiscal Year 2022/2023	Budget per Mile of Pipe
Bayshore Sanitary District	15	\$206,750	\$13,783
City of Burlingame	81	\$7,003,807	\$86,466
City of San Carlos	104	\$8,734,100	\$83,981
North San Mateo County Sanitation District	177	\$11,645,336	\$65,792

For comparison, the proposed annual operation and maintenance budget included in the Plan for Fiscal Year 2022/2023 for the proposed subsidiary district, not including payments to the City of Palo Alto for wastewater treatment, is \$2,295,000, which is equivalent to \$76,500 per mile of pipe. Based on the City's review of other sewer provider's current fiscal year budgets listed in the table above, the proposed subsidiary district's operating and maintenance budget not including wastewater treatment fees is within average budget range for those four agency budgets that were reviewed.

Please contact me at (650) 853-3100 or pheisinger@cityofepa.org with any further questions.

Sincerely,



Patrick Heisinger
Interim City Manager



OFFICE OF THE CITY MANAGER

Mr. Rob Bartoli
Executive Officer
San Mateo Local Agency Formation Commission
455 County Center, 2nd Floor
Redwood City, California 94063-1663

**RE: Response to Comment Letter for LAFCo File No. 22-09
Proposed Establishment of the East Palo Alto Sanitary District as a
Subsidiary District of the City of East Palo Alto**

Dear Mr. Bartoli

The City of East Palo Alto (City) has received the Comment Letter from the San Mateo Local Agency Formation Commission (LAFCo) dated January 13, 2023 regarding the City's proposal to establish the East Palo Alto Sanitary District (District) as a subsidiary district of the City. We have provided responses to each of the questions and comments identified in LAFCo's letter and we have organized our responses by first presenting LAFCo's question/comment followed by the City's response.

Comment 1

Response 3b notes that the EPASD General Manager's employment agreement ends on October 23, 2022. Please review the ending date of the contract and update if needed.

Response 1

The EPASD General Manager's employment agreement amendment information was included with the published agenda for the October 6, 2022 Regular Board Meeting and the minutes from the October 6, 2022 Regular Board Meeting Minutes confirmed that Amendment No. 7 was approved. However, neither the October 6, 2022 Regular Board Meeting Minutes nor the amendment information presented as an attachment to the October 6, 2022 agenda included the ending date for the employment agreement. Based on the limited publicly available information related to the General Manager's employment agreement up to and including Amendment No. 7, the City understands that the employment agreement is renewed annually and Response 3b was intended to state that the employment agreement is believed to expire in October 2023.

Comment 2

Regarding Response 3c, LAFCo would like the City to explore the creation of an advisory committee, or similar entity, to the governing board should the formation of a subsidiary district be approved by the Commission. The size and scope of the advisory commission can be determined by the City, but LAFCo would recommend the inclusion of at least one advisory position allocated to EPASD ratepayers who reside in the Menlo Park area of the district.

Response 2

The City concurs with LAFCo future advisory commission include at least one advisory position from an EPASD ratepayer that resides in Menlo Park. The City understands the importance of representation. Please let us know if LAFCo would like City staff to provide a proposal for the advisory commission or, as noted in Response 3c, if LAFCo will include a condition of approval the requirement of including at least one EPASD ratepayer who resides in Menlo Park to be part of the future advisory commission.

Comment 3

Response 3d states that the City would address the net pension liability of the District through pre-funding and long-term budget forecasting. The response also states that expenditures could be allocated for reserves. Please show the CalPERS pension costs in the proposed project budget of the subsidiary district that was prepared by Freyer & Laureta for FYs 2022-23 to 2026-27. These costs should also be shown in expense category tables as well (e.g. Table 7 of the Freyer & Laureta memo showing the estimated annual operating and maintenance expenses) or in a separate table showing pension liability and costs.

Response 3

Table 7 (Estimated Annual Operating & Maintenance Expenses) has been revised to incorporate the District reported Net Pension Liability as of June 30, 2021 in the amount of \$1,858,898 that will be addressed through pre-funding approach using equal annual payments over a 20-year period. Note (5) has been added to Table 7 to document the proposed Salaries, Wages and Benefits amount includes the CalPers contribution for potential subsidiary district employees. All Table 7 revisions are shown in red text. In addition, Table 11 (Wastewater Enterprise Fund Cash Flow Projections) has been revised to incorporate the revisions made to Table 7. Both Table 7 Revision 1 and Table 11 Revision 1 are included as attachments to this letter.

Comment 4

Does the City have information regarding any existing surcharging with the EPASD system? Response 3g states that the 2015 EPASD Master Plan allowed for at least four feet of freeboard while preventing sanitary sewer overflows. Is the sewer system currently operating within this parameter?

Response 4

The City does not have any information on any existing surcharging within the EPASD system other than the General Manager report included with the Regular Board Meetings generally indicates that EPASD has not experienced any sanitary sewer overflows.

Finally, we are in receipt of the email you sent on February 16, 2023; you will receive our response to those questions next week.

Please contact me at (650) 853-3100 or pheisinger@cityofepa.org with any further questions.

Sincerely,

Patrick Heisinger

Patrick Heisinger
Assistant City Manager

Attachments

Table 7 (REVISION 1 – FEBRUARY 16, 2023) Estimated Annual Operating & Maintenance Expenses

Table 11 (REVISION 1 – FEBRUARY 16, 2023) Wastewater Enterprise Fund Cash Flow Projection

Table 7 (REVISION 1 - FEBRUARY 16, 2023)
Estimated Annual Operating & Maintenance Expenses
Sanitary Sewer Capital Improvement and Operation Plan Development
East Palo Alto, California

	WBSD (1)	2022/23	2023/24	2024/25	2025/26	2026/27
Cost Escalation	-	-	3.0%	3.0%	3.0%	3.0%
Ratio of EPASD Pipe Mileage to WBSD (2)	-	15.0%	-	-	-	-
Proposed Operating & Maintenance Expenses (3)						
Salaries, Wages, & Benefits (5)	\$ 6,600,000	\$ 990,000	\$ 1,020,000	\$ 1,051,000	\$ 1,083,000	\$ 1,115,000
General Liability & Workers Comp Alloc	\$ 9,100,000	\$ 1,365,000	\$ 1,406,000	\$ 1,448,000	\$ 1,491,000	\$ 1,536,000
Pre-Fund Existing EPASD Net Pension Liability (6)	N/A	\$ 93,000	\$ 93,000	\$ 93,000	\$ 93,000	\$ 93,000
Total Operating & Maintenance Expenses		\$ 2,355,000	\$ 2,426,000	\$ 2,499,000	\$ 2,574,000	\$ 2,651,000

Notes

- (1) To develop estimated annual operation and maintenance expenses excluding fees paid to City of Palo Alto, the WBSD Fiscal Year 2022/2023 budget dated June 2022 was used as the basis for costs. See Page 8 of the referenced WBSD budget document for the source of expenses presented above.
- (2) WBSD collection system includes over 200 miles of gravity pipes and the EPASD collection system includes over 30 miles of gravity pipes.
- (3) The estimated Fiscal Year 2022/2023 operating and maintenance expense for the EPASD collection system is calculated by multiplying the Ratio of EPASD Pipe Mileage by the WBSD expenses. All costs rounded to nearest \$1,000.
- (4) An annual cost escalation is applied in each subsequent fiscal year following Fiscal Year 2022/23.
- (5) The Salaries, Wages, and Benefits presented include the contributions to CalPERS. The WBSD Fiscal Year 2022/2023 budget dated June 2022 indicates that CalPERS contributions account for five-percent of the total Salaries, Wages, and Benefits.
- (6) As of June 30, 2021, EPASD reported a net pension liability of \$1,858,898 and the City proposes to utilize a pre-funding strategy to address the net pension liability with equal annual payments over a 20-year period. EPASD did report that in December 2021 a lump sum payment in the amount of \$1,400,000 but there is not any publicly available information since June 30, 2021 to confirm the current net pension liability. To be conservative, the budget net pension liability reflected above is the June 30, 2021 reported liability.

Abbreviations

CalPERS: California Public Employees Retirement System
EPASD: East Palo Alto Sanitary District
WBSD: West Bay Sanitary District

References

1. Budget for Fiscal Year 2022/2023 prepared by WBSD dated June 8, 2022 can be accessed from the following link:
https://westbaysanitary.org/wp-content/uploads/2022/08/2022-23_Budget_Report_Approved-6-8-22.pdf

Table 11 (REVISION 1 - FEBRUARY 16, 2023)
Wastewater Enterprise Fund Cash Flow Projections
Sanitary Sewer Capital Improvement and Operation Plan Development
East Palo Alto, California

	2022/23	2023/24	2024/25	2025/26	2026/27
Overall Rate Adjustment	0%	5%	5%	5%	5%
Annual Sewer Charge (per EDU) (1)	\$690	\$725	\$761	\$799	\$839
Connection Fee (per EDU) (2)	\$6,060	\$6,363	\$6,681	\$7,015	\$7,366
Total New EDUs (3)	-	33	709	555	-
Total EDUs (3)	4,443	4,476	5,186	5,741	5,741
Interest Earnings Rate	0.5%	0.5%	0.5%	0.5%	0.5%
Beginning Reserve Funds	\$17,380,000	\$14,416,886	\$11,696,069	\$12,877,231	\$13,641,008
REVENUES					
Sewer Service Charges (4)	\$3,065,986	\$3,243,224	\$3,945,075	\$4,585,641	\$4,814,923
Connection Fees (5)	\$0	\$210,244	\$4,739,878	\$3,893,440	\$0
Property Taxes (6)	\$521,000	\$536,630	\$552,729	\$569,311	\$586,390
ERAF Rebate/Former RDAF (6)	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000
Investment Earnings (7)	\$86,900	\$72,084	\$58,480	\$64,386	\$68,205
Total Revenues	\$3,973,886	\$4,362,183	\$9,596,162	\$9,412,778	\$5,769,518
EXPENSES					
Operating & Maintenance					
Salaries & Benefits (8)	\$990,000	\$1,020,000	\$1,051,000	\$1,083,000	\$1,115,000
General Liability & Workers Comp Alloc (8)	\$1,365,000	\$1,406,000	\$1,448,000	\$1,491,000	\$1,536,000
Pre-Fund Existing EPASD Net Pension Liability (8)	\$93,000	\$93,000	\$93,000	\$93,000	\$93,000
PARWQCP Wastewater Treatment (6)	\$2,435,000	\$2,510,000	\$2,591,000	\$2,665,000	\$2,496,000
Subtotal	\$4,883,000	\$5,029,000	\$5,183,000	\$5,332,000	\$5,240,000
Capital & Other Non-Operating					
Sewer Rehab Improvements (9)	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000
Capacity Assurance Improvements (10)	\$0	\$0	\$1,093,000	\$1,093,000	\$1,093,000
Subtotal	\$1,500,000	\$1,500,000	\$2,593,000	\$2,593,000	\$2,593,000
Debt Service					
EPASD 2011 SRF Loan (6)	\$79,000	\$79,000	\$79,000	\$79,000	\$79,000
Share of Existing PARWQCP Debt (6)	\$203,000	\$203,000	\$128,000	\$128,000	\$128,000
Share of Projected PARWQCP Debt (6)	\$272,000	\$272,000	\$432,000	\$517,000	\$517,000
Subtotal	\$554,000	\$554,000	\$639,000	\$724,000	\$724,000
Total Expenses	\$6,937,000	\$7,083,000	\$8,415,000	\$8,649,000	\$8,557,000
Revenues Less Expenses	(\$2,963,114)	(\$2,720,817)	\$1,181,162	\$763,778	(\$2,787,482)
Ending Reserve Fund	\$14,416,886	\$11,696,069	\$12,877,231	\$13,641,008	\$10,853,526

Notes are on Page 2 of 2.

Table 11 (REVISION 1 - FEBRUARY 16, 2023)
Wastewater Enterprise Fund Cash Flow Projections
Sanitary Sewer Capital Improvement and Operation Plan Development
East Palo Alto, California

Notes

- (1) Proposed Annual Sewer Charge is shown as the proposed rate from Table 4 of the East Palo Alto Sanitary District 2019 Sewer Rate Study prepared by Bartle Wells Associates dated April 17, 2019.
- (2) Proposed Connection Fee matches EPASD current connection fee published on the EPASD web site under Forms & Permits.
- (3) See Table 6 for the current number of EDUs and estimate for annual increase in EDUs.
- (4) Sewer Service Charges is calculated by multiplying Total EDUs by Annual Sewer Service Charge.
- (5) Connection Fees is calculated by multiplying Total New EDUs by Connection Fee.
- (6) Source of revenues and expenses is Table 4 of the East Palo Alto Sanitary District 2019 Sewer Rate Study prepared by Bartle Wells Associates dated April 17, 2019.
- (7) Investment income is interest income on Beginning Fund Reserve.
- (8) Operating & Maintenance Expenses are presented in Table 7.
- (9) The City Sewer Rehab Improvement is an ongoing annual program to replace pipes that are found to be damaged or at the end of service life but not included Capacity Assurance Improvements or Developer Impact Capacity Improvements.
- (10) Capacity Assurance Improvements is an annual expenditure to implement the improvements identified in Table 2 over a 15 year period. The design and construction will be completed in phases beginning in Fiscal Year 2024/25 once new development begins to come on line.

Abbreviations

EDUs: Equivalent Dwelling Units

EPASD: East Palo Alto Sanitary District

PARWQCP: Palo Alto Regional Water Quality Control Plant

References

1. East Palo Alto Sanitary District 2019 Sewer Rate Study prepared by Bartle Wells Associates dated April 17, 2019 can be accessed from the following link:
<https://www.epasd.com/home/showpublisheddocument/3588/637116752736400000>
2. EPASD current fees including connection fees can be accessed from the following link:
<https://www.epasd.com/residents/forms-permits>



City of East Palo Alto

Office of the City Manager

March 23, 2023

Mr. Rob Bartoli
Executive Officer
San Mateo Local Agency Formation Commission
455 County Center, 2nd Floor
Redwood City, California 94063-1663

**RE: Response to Follow-Up Questions for LAFCo File No. 22-09
Proposed Establishment of the East Palo Alto Sanitary District as a
Subsidiary District of the City of East Palo Alto**

Dear Mr. Bartoli

The City of East Palo Alto (City) has received the follow up questions from the San Mateo Local Agency Formation Commission (LAFCo) provided by electronic mail (email) dated February 16, 2023, regarding the City's proposal to establish the East Palo Alto Sanitary District (EPASD or District) as a subsidiary district of the City. We have provided responses to each of the follow up questions identified in LAFCo's email and we have organized our responses by first presenting LAFCo's question/comment followed by the City's response.

Comment 1

In the 10/31/22 Sierra West memo prepared for EPASD, over \$64 million of structural and capacity deficiencies have been identified based on CCTV inspection that have been conducted so far. While LAFCo assumes that some of these projects will occur over a period later than the timeframe of the 5-year proposed CIP, please review the costs and data in the Sierra West memo and address if there is any changes to the 5-year CIP budget. Update the budget to also reflect any increase in construction costs.

Response 1

At the City's request, Freyer & Laureta, Inc. (F&L) has reviewed the structural and capacity deficiencies from Areas 1, 3, and 4 presented in the 10/31/22 memorandum prepared by Sierra West Consultants (SWC). F&L had previously developed a map overlaying the Priority 1 projects identified by SWC and a copy is included as Attachment 1 to this letter. Of the \$64 million of structural and capacity deficiencies, approximately \$20 million are considered by SWC to be high priority. F&L compared the Capacity Assurance Deficiencies and Deficiencies under Future Development and estimates that approximately 65% or \$13 million of the deficiencies identified by SWC overlap with the City's proposed 15-year CIP and is budgeted in the 5-Year CIP as the Capacity Assurance Improvements. The remaining \$7 million of SWC identified high priority improvements would be addressed over a five year period utilizing the annual \$1.5 million Sewer Rehab Improvements budget also included in the 5-Year CIP.

City Manager, Melvin E. Gaines

2415 University Ave.
East Palo Alto, CA 94303

Phone: (650) 853-3118
Fax: (650) 853-3115

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cmoffice@cityofepa.org

The remaining \$44 million of improvements identified by SWC would continue to be addressed on an annual basis but would likely require a 15 year to 20 year timeframe to complete the improvements. The City's annual operation budget included in the 5-Year CIP would allow the City to monitor the condition of the remaining pipe segments to be replaced to prioritize the replacement of the pipe segments each year in the most need within the available annual budget.

Comment 2

The 10/31/22 Sierra West memo identifies approximately \$20 million in "high-priority" projects. Recently, EPASD has allocated \$10 million from reserves to apply towards a portion of these "high-priority" projects. Does this allocation impact the proposed CIP?

Response 2

As noted in Response 1 above, there is significant overlap between the SWC identified high priority projects and the City's identified Capacity Assurance Deficiencies and Deficiencies under Future Development, which is already budgeted in the proposed 5-Year CIP. The 5-Year CIP assumed that the improvements would be implemented over a 15-year timeline and would be partially funded by existing reserves because the existing District customers have been contributing to the reserves and will receive benefit from the Capacity Assurance Deficiencies improvements. The recent District transfer of \$10 million would accelerate the timeline for completing the improvements and thereby reducing the City's proposed 15-year CIP by a minimum of five years. The acceleration of the improvements would not require any modifications to the proposed 5-Year CIP. However, the City will adjust the proposed 5-Year CIP should the District implement any unanticipated expenditures during the time that LAFCo is reviewing the City's application.

Comment 3

Please expand on how the timing of pipeline developments described in Table 6 of the Freyer & Laureta memo dated 11/1/22. Have there been any changes to the timing of these projects since the memo was submitted? For identified capacity upgrades regarding these pipeline developments, will the timing of developments impact when capacity upgrades are required?

Response 3

The timing of new Equivalent Dwelling Units (EDUs) presented in Table 6 is based on information provided to the City by the developers. At this time, there are no changes to timelines presented in Table 6. If there are changes to anticipated EDU development timeline by the developers in the future, the 5-Year CIP will be reviewed and modified as required to provide sanitary sewer service for the proposed developments including collecting the appropriate connection fees to fund the necessary capital improvements.

Comment 4

For the sewer system, please provide a brief narrative of how the CIP for would be updated beyond FY26/27, the last year of the CIP shown in the Freyer & Laureta memo, and what information would be evaluated in that process.

Response 4

The City will prepare an updated 5-Year CIP on an annual basis in accordance with the City's standard budgeting practices. The annual review of the rolling 5-Year CIP will allow City staff to consider updated timelines from potential developers, consider ongoing operation and maintenance of the sanitary sewer system, and modify annual capital improvement budgets to reflect any grants and other funding mechanisms the City intends to pursue if the District is established as a subsidiary district to the City.

Comment 5

Provide LAFCo with a copy of the RFQ for Sanitary Sewer Services when it is published. In addition to contract Operations and Maintenance, will other services be provided by the contractor, such as billing, mapping, or managing contracts for projects?

Response 5

Please find attached a copy of the RFQ that was issued on March 3, 2023. Please refer to Section 2 of the attached RFQ that includes a summary of the Scope of Work anticipated to be provided by the contract Operations and Maintenance contractor. In particular the Scope of Work being requested includes:

- Prepare and submit monthly operations report to the City outlining activities completed during the previous month, identifying in repairs that may be required, and confirmation that operations followed the Sanitary Sewer Management Plan.
- Manage customer service activities including billing, response to complaints, and outreach.
- Provide capital project planning support including participating in development of master plan updates, annual capital improvement project scopes, and managing the design and construction of the identified capital improvements.
- Provide grant funding support to identify and apply for potential grants, federal earmarks, and state loans.

Please contact me at (650) 853-3100 or mgaines@cityofepa.org with any further questions.

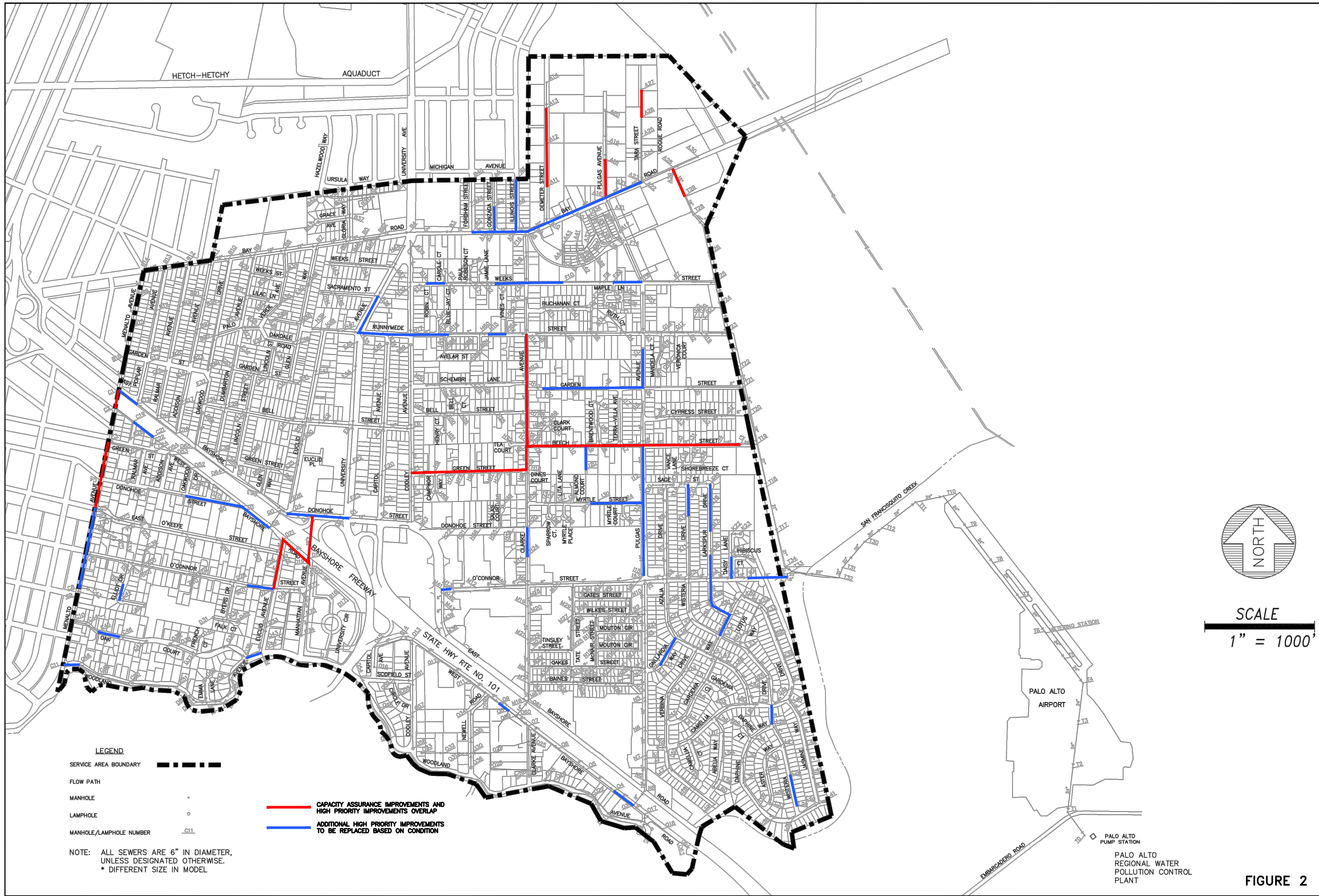
Sincerely,



Melvin E. Gaines
City Manager

Attachments

1. Figure 2 from the Sanitary Sewer Capital Improvement and Operation Plan Development prepared by Freyer & Laureta, Inc. dated November 1, 2022.
2. Request for Qualification for Sanitary Sewer System Operations dated March 3, 2023.



EPASD SANITARY SEWER SERVICE AREA
 EPASD MASTER PLAN UPDATE
 EAST PALO ALTO, CA

FREYER & LAURETA, INC.
 CIVIL ENGINEERS • SURVEYORS • CONSTRUCTION MANAGERS
 144 North San Mateo Drive • San Mateo, CA 94401
 (650)344-9901 • www.freyerlaureta.com

DATE:	10/1/2020
SCALE:	1" = 1000'
DESIGNED:	RAM
DRAWN:	RAM
CHECKED:	JF
PROJ. ENGR:	JJT

FIGURE	1
JOB NO.	2052

FIGURE 2

PALO ALTO
 REGIONAL WATER
 POLLUTION CONTROL
 PLANT

Request for Qualifications (RFQ)

SANITARY SEWER SYSTEM OPERATIONS



March 3, 2023

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1 Introduction

The City of East Palo Alto (City) recently applied to the San Mateo Local Agency Formation Commission (LAFCo) to establish the East Palo Alto Sanitary District (EPASD) as a subsidiary district to the City. As part of the LAFCo application process, the City must demonstrate how it intends to provide operation and maintenance of the existing EPASD facilities should LAFCo approve the City's subsidiary district application. The City has developed this Request for Qualifications for Sanitary Sewer System Operations and Maintenance Services (RFQ) to identify potentially qualified Contractors that may be invited to a separate, future Request for Proposal (RFP) process.

1.1 City General Information and Governance

The following sections provide general information regarding the City governance structure and financial reporting requirements:

The City of East Palo Alto, incorporated in 1983, is the newest city in San Mateo County in the San Francisco Bay Area, with a population of approximately 30,545 people. East Palo Alto is one of California's most vibrant and diverse communities located in the San Francisco Peninsula and nestled within the heart of Silicon Valley. East Palo Alto is centrally located to international travel and is a central location to major neighboring tech companies and employers. Priding itself on its unique and multi-cultural community, East Palo Alto consists of youthful, diverse, and hard-working individuals.

The City of East Palo Alto operates under a Council/Manager form of government. Its mission is to provide responsive, respectful, and efficient public services to enhance the quality of life and safety for its multi-cultural community. The City's fiscal year begins on July 1 and ends on June 30. City Hall is located at 2415 University Avenue, East Palo Alto, CA 94303.

1.2 Background and City Intention

EPASD currently provides wastewater collection service to portions of the communities of Menlo Park and East Palo Alto, both in San Mateo County. EPASD operates and maintains the collection system in accordance with the requirements of the State Water Resources Control Board, as administered through the Statewide SSO Waste Discharge Requirements and RWQCB Sewer System Management Plan guidelines. EPASD's service area is primarily residential with several commercial and industrial parcels. EPASD's service area encompasses nearly 1.84 square miles. EPASD's collection system is a gravity system with approximately 70 percent of the existing pipelines being six-inch (6-in) diameter. The larger collector lines range between 8-in diameter and 24-in diameter including a siphon beneath the San Francisquito Creek. A map showing the limits of EPASD service area and key collection system components is included as Attachment A to this RFQ.

All sanitary sewer flows are conveyed to the Palo Alto Regional Water Quality Control Plan (PARWQCP) where flows are treated and discharged to the San Francisco Bay.

According to the existing agreement between City of Palo Alto (Palo Alto) and EPASD, EPASD has flow capacity rights to convey up to 3.06 million gallons per day (MGD) on an annual average flow (AAF) basis to the PARWQCP, which is equivalent to 7.64-percent of the total capacity. The agreement further indicates that Palo Alto will make available 2.9 MGD average dry weather flow (ADWF) capacity for EPASD's utilization.

The City is seeking Statements of Qualifications (SOQs) from qualified firms capable of operating and maintaining the EPASD Sanitary Sewer Collection System in the event that the City is successful in establishing EPASD as a subsidiary district to the City. The scope of work to be performed includes full-service contract operations and maintenance (O&M) of all EPASD sanitary sewer facilities and equipment.

Full-service contract operations require the Contractor to be fully responsible for all aspects of facility management, operation, and maintenance of the EPASD sanitary sewer collection system gravity sewers and siphons. At this time, the City is only requesting potential contractors to demonstrate their qualifying experience. Once the City has identified the shortlisted consultants as part of this RFQ process, a separate RFP will be issued with the proposed scope of services, existing EPASD facilities information, and potential contract terms. The RFP process will be in line with the City's Purchasing Ordinance, but, only those firms found to be qualified under this RFQ process will be allowed to participate.

The desired qualifications include but are not limited to a Contractor that has been in the business of providing O&M services for collection systems in the San Francisco Bay Area of similar in size and scope to the EPASD Sewer System, for at least 30 years. The Contractor would have its own personnel and equipment to provide the O&M services required to operate the collection system.

2 Scope of Work

As noted earlier in this RFQ, the City is only requesting SOQs from potential contractors at this time. However, the City has developed the following potential Scope of Services for consideration by interested contractors when developing the SOQ so responders can demonstrate extensive and comprehensive experience with providing similar services for municipalities within the State of California.

Generally, the scope of services may include but not be limited to:

- Providing complete operations and maintenance services for the Sanitary Sewer Collection System, including all gravity sewer lines, siphons, and all other components of the EPASD Collection System to ensure a free-flowing system conveying all sanitary sewerage to the PARWQCP.
- Preparation of a written operations and maintenance plan detailing routine and non-routine operation and maintenance to be performed in accordance with the EPASD Sanitary Sewer Management Plan (SSMP), State Water Quality Control Board (SWQCB) Statewide General Waste Discharge Requirements (WDR),

Order No. 2006- 0003-DWQ, existing agreement with Palo Alto, and applicable Laws and Regulations.

- Preparation and submittal of monthly operations reports in both electronic and hard copy format. Reports will include a description of all work performed within each month at each facility, metered flows, and anticipated or recommended repairs or upgrades to be made to any facility or equipment. Reports shall generally be submitted within 15 days after the end of each monthly period.
- Preparation of an emergency operation plan for the system.
- Contractor shall promptly report any deficiencies of the system to the City for required action.
- Contractor shall report any overflow violations to the City and the SWQCB during the life of the contract and will take all necessary corrective measures to resolve the cause of the problem.
- Contractor shall provide all labor, materials, tools, equipment, and supplies for correcting any maintenance and operational problems, and will be available during emergencies to resolve any occurrences requiring unanticipated emergency response.
- Provide an industry standard and regulatory requirements for cleaning and flushing program of all sanitary sewer lines. The details of which would depend on the condition of the sewer lines.
- Provide an industry standard and regulatory requirements for closed circuit television inspection (CCTV) program of the municipal sanitary sewer lines and manholes. The sanitary sewer lines that are CCTV inspected shall be PACP (National Association of Sewer Service Companies - Pipeline Assessment Certification Program) defect coded and manholes shall be MACP defect coded for planning and programming future repairs and modifications to facilities.
- Provide design and/or construction improvements and/or major upgrades, for capital improvements and other specific tasks not otherwise included in the scope of work, as recommended by the Contractor and/or the City, and as authorized by the City.
- Provide Underground Service Alert (USA) mark out services of the EPASD sanitary sewer lines for 1) routine USA mark out notifications and 2) after hours emergency calls (4:30 pm – 8:30 am Monday through Fridays, and weekends, Saturdays and Sundays and Town observed holidays).
- Provide inspection services for sewer connections.
- Administer a Fats, Oils, and Grease (FOG) Compliance Program.
- In collaboration with the City, develop and administer a public outreach program including but not limited to description of routine maintenance activities, new service application process, sanitary sewer lateral inspection requirements, and other key items that the Contractor may recommend based on experience with

operating similar sanitary sewer collection systems within a community similar to EPASD's current customers.

- Manage customer service including billing, response to customer complaints, and outreach.
- Provide Capital planning support, including support the development of a master plan, develop annual capital improvement budgets, optimizing the capital improvement program, potentially develop construction drawings, review deliverables prepared by outside engineering consultants, and provide overall project management.
- Provide grant funding support including identifying potential grants, federal earmarks, and state loans. Support would include helping staff determine the best course of action in obtaining outside funding, prepare grant applications including development of supporting material, administer grant programs including all required reporting, and participate in meetings with potential grant funding agencies..

3 Proposal and Project Timeline and Contacts

3.1 Key Dates (Subject to Minor Modifications) ¹

RFQ Issued	March 3, 2023
Mandatory Pre-Submittal Conference	March 17, 2023
Deadline for Respondents to Submit RFQ Questions	March 24, 2023, 4 PM
City to Respond to Submitted Questions via Addendum	March 31, 2023
RFQ Due Date	April 14, 2023, 4 PM
Interview of Top Candidates	Late April
Review Panel Reviews all Submittals	Early May
Return to City Council with Recommendations	May 17, 2023

3.2 Contacts

Please forward any questions regarding the RFQ to Greg Henry, Senior Management Analyst, ghenry@cityofepa.org.

The deadline to submit questions for this RFQ is March 24, 2023 @ 4 PM. The City will issue an addendum to this RFQ no later than March 31, 2023, with all questions/answers that were submitted prior to the deadline.

4 Proposal Guidelines

4.1 General Guidelines

Failure to comply with the requirements set forth in this RFQ may result in disqualification. Submissions and/or modifications received after the hour and date

¹ Any changes to the timeline will be documented via a published addendum.

specified above will not be accepted. Submitted SOQs may be withdrawn at any time prior to the submission time specified in this RFQ, provided notification is received in writing before the submittal deadline. No handwritten notations or corrections will be allowed. The responding Contractor is solely responsible for all costs related to the preparation of the SOQ.

The City reserves the right to reject all SOQs and to waive any minor informalities or irregularities contained in any submission. Acceptance of any submission submitted pursuant to this RFQ shall not constitute any implied intent to enter into a contract.

During the evaluation process, the City reserves the right, where it may serve the City's best interest, to request additional information or clarification from Contractors, or to allow corrections of errors or omissions. At the discretion of the City, Contractors submitting SOQs may be requested to make oral presentations as part of the evaluation process.

The City reserves the right to retain all SOQs submitted and to use any idea(s) in a SOQ regardless of whether that SOQ is selected. All SOQs, including any materials submitted as part of this RFQ process, are presumed to be public records and may be released pursuant to applicable law after a contract is fully executed with the City. Contractors are therefore discouraged from submitting confidential or privileged (e.g., trade secret) information as the City may be required to produce such information without prior notice to the Contractor. Submission of a SOQ indicates acceptance by the Contractor of the conditions contained in the RFQ, unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the City and the Contractor selected.

Each proposal will adhere to the following order and content of sections. SOQs should be straightforward, concise and provide "layman" explanations of technical terms that are used. Emphasis should be on conforming to the RFQ instructions, responding to the RFQ requirements, and providing a complete and clear description of the offer. SOQs which appear unrealistic in terms of technical commitments, lack of technical competence or are indicative of failure to comprehend the complexity and risk of this contract may be rejected.

4.2 SOQ Sections

This section of the RFQ establishes standards of experience and financial capability that the City requires for a Contractor to be deemed qualified. SOQs from firms that do not meet the prescribed standards will be considered by the City to be nonresponsive. The City, in its sole discretion, will decide if a Contractor meets the standards. Each firm must provide responses to the following requests for information honestly and completely. An incomplete or inaccurate response will preclude the firm from further consideration for work described in this RFQ.

4.2.1 Letter of Transmittal

A signed letter of transmittal briefly stating the Contractor's understanding of the work to be completed, the commitment to perform the work, and a statement why the Contractor believes itself to be the best qualified to perform the engagement. List all anticipated subcontractors, if any.

The letter shall make a declarative statement that the Contractor has reviewed all aspects of the RFQ and agrees with these documents. If the Contractor has concerns, those concerns shall be identified in the letter.

4.2.2 Technical Response

The SOQ will address all points outlined in this RFQ. The SOQ shall be prepared simply and economically, providing a straightforward, concise description of the Contractor's capabilities to satisfy the requirements of this RFQ. While additional data may be presented, the following subjects must be included and shall represent the criteria against which the proposal will be evaluated:

4.2.2.1 *Qualifications and Experience*

- Contractor must have been in the business of providing O&M services for collection systems within the San Francisco Bay Area similar in size and scope to the EPASD Sewer System, for at least 30 years.
- Experience with Capital Program Management for capital programs of at least \$30 Million.
- Experience with grant application funding of at least \$5 Million.
- Contractor must currently be providing contract operations for at least two sanitary sewer collection systems. In order to be responsive to this requirement, Contractor must supply, at a minimum, the client name, contact, address, phone number and a description of the respective facilities' size and complexities. Do not list any facilities operated by Contractor's current or past employees while employed by firm(s) other than Contractor.
- Contractor must furnish the City Certificate(s) of Insurance for the following coverages.
 - Comprehensive General Liability
 - Property Damage & Bodily Injury Liability
 - Automobile Liability
 - Workman's Compensation and Employees Liability
 - Pollution Prevention Liability
 - Professional Liability

- Contractor must submit evidence of bonding capability in the annual contract amount.
- Contractor must have experience in the implementation of a Fats, Oils, and Grease (FOG) Program for wastewater collection systems.
- Constructor must demonstrate approach to public outreach and communications to customers including general updates, project notifications, emergency notifications, and other key public communication strategies suggested by the Contractor.
- Any Sub-Consultant that the firm may intend to use for City projects must be pre-approved first by the City. Should the firm propose to engage the services of a sub-consultant, provide the name/names, relevant experience and contact information for the persons who would be the primary and secondary contacts for this engagement and copies of their biographies/resumes. Provide a description of relevant work experience in years and level(s) of responsibility for each sub-consultant who will perform the work proposed in this RFQ.

4.2.3 References

Provide the client's name, contact, address, and phone number for at least two full-service wastewater contract operations projects within the San Francisco Bay Area that the firm has operated during the last ten (10) years.

4.2.4 O&M Approach

Provide a written approach to provide the requested O&M services outlined in Section 2 focusing on how the Contractor's experience with the similar systems will be applied to operation of the EPASD system. The City desires specific description of how the Contractor will collaborate with the City to perform the necessary O&M tasks, identify potential deficiencies, develop, and implement both capital improvements and emergency repair projects, and effectively communicate with the customers.

4.2.5 Public Outreach Approach

Provide a sample community outreach plan that includes stakeholder engagement, sample communication tools, and metrics for measuring engagement. Develop the framework of a community outreach plan that acknowledges the complexities with communicating with the existing EPASD customers that include residents of both the City and Menlo Park. Identify other key stakeholders including community members, ratepayers, government officials, non-profit organizations, and other key stakeholders.

4.3 Submission Requirements

4.3.1 General Requirements

All SOQs must be submitted in PDF format only via email to the attention of:

Greg Henry
Senior Management Analyst
City of East Palo Alto
ghenry@cityofepa.org

The email submittal subject line will read: SOQ – Sanitary Sewer O&M Services. The PDF file title should be:

CONTRACTOR NAME-SOQ-SANITARYSEWER_OM_SERVICES.

All SOQs should be limited to no more than 30 pages including titles, cover letters, resumes, and other information deemed necessary by the potential Contractor to demonstrate its experience.

5 Evaluation Process and Selection Criteria

5.1 Evaluation Process

The project's core implementation team, comprised of City staff, will be responsible for the SOQ evaluations. This team, in accordance with the criteria listed below, will evaluate all SOQs received as specified. The City team members, in applying the major criteria to the proposals, may consider additional criteria beyond those listed.

The final selection of shortlisted Contractors will be the Contractor's which, in the City's opinion, is the most responsive and responsible, meets the City's requirements in providing this service, and is in the City's best interest. The skill and ability of the entity performing the services is a key component of the selection criteria. Contractors will be objectively evaluated based on their responses to the project scope outlined in the RFQ. The written SOQ should clearly demonstrate how the vendor could best satisfy the requirements of City.

The City maintains the sole and exclusive right to evaluate the merits of the SOQs received. The City will consider the ability, capacity, skill, character, integrity, reputation, judgment, and expertise in identifying the shortlisted Contractors.

The City will undertake the following evaluation process:

- The City will review and evaluate all submitted documents received in response to the RFQ.
- After the submittals are evaluated and ranked, the City, at its sole discretion, may elect to interview (including a demonstration of capabilities) one or more respondents. Please note that respondents may be asked to submit additional documentation. In addition, the City reserves the right to establish a shortlist of Contractors without conducting interviews.

5.2 Evaluation Criteria

Description	Possible Points
<p>Capacity to Perform: Respondents shall demonstrate the capacity to provide the services described in the RFQ and to respond to the public, the City, and other stakeholders in a timely manner. Defined expectations for timeliness of service delivery and stakeholder communication should be outlined with the submittal. All respondents shall have at least: 1) 30-years' experience providing sanitary sewer services, 2) extensive experience delivering capital improvement projects, and 3) a Bay Area presence that would ensure a smooth transition.</p>	50
<p>Community Outreach Strategy: All proposals will be evaluated on community outreach. Respondents must submit a detailed sample community outreach plan that includes stakeholder engagement ranging from community members, governmental/private organizations that are ratepayers/stakeholders in EPASD's current service area, elected officials, etc. This includes specific outreach to the property owners/households who reside in Menlo Park but are part of the EPASD's current service area.</p>	30
<p>Submission Quality: Proposal shall be well-organized, professionally communicated, and meet all RFQ specifications</p>	20
<p>Total Available Points</p>	100

5.3 RFQ Process

At the completion of the RFQ process, staff will evaluate all proposals and bring the list of the qualified respondents to the City Council for consideration. In accordance with 2.84.170 - Prequalification of contractors for projects exceeding fifty thousand dollars, the City Council's action will be to approve all eligible respondents to move forward with the process. At that time, the eligible respondents will be invited to submit a detailed proposal on how their entity would operate and maintain the EPASD Sanitary Sewer Collection System in the event that LAFCo approves the City's subsidiary district application. Direction on what will be expected in the future proposal will be provided when the list of eligible respondents is created.

6 General Conditions

Contractors are advised to become familiar with all conditions, instructions, and specifications of this RFQ. By submitting a SOQ, Contractor represents and warrants that it has thoroughly examined and is familiar with work required under this RFQ, that

Contractor has conducted such additional investigation as it deems necessary and convenient, that Contractor is capable of providing the services requested by the City in a manner that meets the City's objectives and specifications as outlined in this RFQ, and that Contractor has reviewed and inspected all materials submitted in response to this RFQ. Once the Contractor has been selected, a failure to have read the conditions, instructions, and specifications herein shall not be cause to alter the contract or for Contractor to request additional compensation.

6.1 Non-Discrimination Requirement

By submitting a proposal, the Contractor represents that it and its subsidiaries do not and will not discriminate against any employee or applicant for employment on the basis of race, religion, sex, color, national origin, sexual orientation, ancestry, marital status, physical condition, pregnancy or pregnancy-related conditions, political affiliations or opinion, age, or medical condition and will comply with the City of East Palo Alto's Policy Against Discrimination, Harassment, and Retaliation adopted by the East Palo Alto City Council on December 21, 2004.

Contractor and its subsidiaries shall comply with all applicable federal, state, and local laws, rules and regulations regarding nondiscrimination and non-harassment in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, sexual orientation, medical condition, or physical handicap. Contractor agrees to abide by the City of East Palo Alto's Policy Against Discrimination, Harassment, and Retaliation adopted by the East Palo Alto City Council on December 21, 2004.

6.2 Indemnification

Contractor shall indemnify, defend (with independent counsel approved by the City), and hold harmless the City, its officers, officials, directors, employees, agents, volunteers and affiliates and each of them from any and all claims, demands, causes of action, damages, costs, expenses, actual attorney's fees, Contractor's fees, expert fees, losses or liability, in law or in equity, of every kind and nature whatsoever arising out of or in connection with Contractor's operations, or any subcontractor's operations, to be performed under this Agreement, for the fullest extent permitted by law, with the exception of the sole active negligence or willful misconduct of the City.

6.3 Insurance

Below are the City's general insurance requirements. The City reserves the right to require additional insurance if required by the unique nature of a future agreement for Sanitary Sewer System Operations and Maintenance.

- Commercial General Liability Insurance: Contractor's General Liability insurance shall include contractual liability coverage. Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance (Commercial General Liability Insurance) on an occurrence basis as shall protect it while performing work covered by this Agreement from

any and all claims for damages for bodily injury, including accidental death, as well as claims for property damage which may arise from the Contractor's operations under this Agreement, whether such operations be by Contractor or by any sub-Contractor or by anyone directly or indirectly employed by either of them. Contractor shall provide the City with certificates of insurance and copies of additional insured and primary coverage endorsements evidencing the insurance coverage required by this Agreement.

- **Automobile Liability Insurance:** Contractor shall take out and maintain during the life of this Agreement such Automobile Liability Insurance. Contractor shall provide the City with certificates of insurance and copies of additional insured and primary coverage endorsements evidencing the insurance coverage required by this Agreement.
- **Worker's Compensation and Employer's Liability Insurance:** Contractor shall have in effect during the entire life of this Agreement Worker's Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, Contractor makes the following certification, required by Section 18161 of the California Labor Code: "I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement".
- **Professional Liability Insurance:** Contractor shall take out and maintain during the life of this Agreement a policy of professional liability insurance, protecting it against claims arising out of the acts, errors, or omissions of Contractor pursuant to this Agreement. The professional liability insurance is to be kept in force for not less than one (1) year after completion of services described herein.
- **Broader Insurance Coverage:** If Contractor maintains broader coverage and/or higher limits than the City's minimum requirements, the City requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City before the City's own insurance shall be called upon to protect it as a named insured.
- **Additional Insured Status:** The City of East Palo Alto, its subsidiary agencies, directors, officers, employees, agents, independent contractors, and volunteers shall be named as additional insureds on any such policies of comprehensive general and automobile liability insurance.
- **Primary and Non-Contributory Coverage:** Except for professional liability and worker's compensation insurance, the policies shall also contain a provision that the insurance afforded to the City, its subsidiary agencies, and their directors, officers, employees, agents, independent contractors and volunteers based on additional insured status shall be primary and non-contributory insurance to the

full limits of liability of the policy, and that if the City, its subsidiary agencies and their directors, officers, employees, agents, independent contractors and volunteers have other insurance against a loss covered by a policy, such other insurance shall be excess insurance only.

- **Verification of Coverage:** Contractor shall furnish the City with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause). All certificates and endorsements are to be received and approved by the City Attorney's Office at least five days before Contractor commences work to be performed pursuant to the agreement.

6.4 Conditions of Proposal Acceptance

This RFQ does not commit the City to award a contract, to pay any costs incurred in the preparation of a SOQ in response to this RFQ, or to procure or contract for any services. The City reserves the right to: waive any minor irregularities or informalities contained within an RFQ, and/or reject any or all proposals received as a result of this request, and negotiate with any qualified contractor, or to cancel the RFQ in part or whole. All proposals and material submitted will become the property of the City and will not be deemed confidential or proprietary. The City reserves the right to award in whole or in part, by item or group of items, by section or geographic area, when such action serves the best interests of the City. The City and Contractor may agree to add additional areas to the contract by mutual agreement later. The City may elect to stop work at any time in the contract and will pay for work completed to that point on a time and material basis.

Attachment A
Service Area Map

MEMORANDUM

DATE: July 12, 2023

TO: Sofia Recalde, Management Analyst
San Mateo LAFCO

FROM: Vivian W. Housen, P.E.

SUBJECT: San Mateo LAFCO evaluation of EPASD as a Subsidiary District of City of EPA
Response to Questions

1.0 INTRODUCTION

San Mateo County Local Area Formation Commission (“LAFCO”) is reviewing a request by the City of East Palo Alto (“City” or “EPA”) to assume management of the East Palo Alto Sanitary District (“EPASD”). In support of this effort, LAFCO contracted with V. W. Housen & Associates (“VWHA”) to complete the following tasks: 1) review documents provided by LAFCO including background documents, capital improvement plans, and budgets, and 2) respond to eight questions related to scope, budget, and schedule.

VWHA completed an initial review of the documents in January 2023 and met with LAFCO in early February 2023 to discuss initial findings. LAFCO provided two additional documents after this meeting and also asked the City several follow-up questions related to the documents. LAFCO received a response from the City on March 23, 2023. This memorandum summarizes the documents reviewed by VWHA and provides responses to the eight questions presented by LAFCO.

2.0 DOCUMENTS REVIEWED

Table 1 lists the documents that were reviewed by VWHA for this evaluation.

Table 1. Documents Reviewed for LAFCO Peer Review	
1.	EPASD Master Plan Update - Final Report, Freyer & Laureta, March 2015
2.	Addendum to the March 2015 East Palo Alto Sanitary District Master Plan Update, Freyer & Laureta, April 28, 2021
3.	EPASD Capacity Charge Study, Hildebrand Consulting, September 7, 2022
4.	Technical Memorandum - CCTV Survey Results Evaluation and Pipeline Replacement Priorities Areas 1, 3, and 4, Sierra West Consultants, October 31, 2022
5.	Memorandum - Sanitary Sewer Capital and Operation Plan Development, Freyer & Laureta, November 1, 2022
6.	EPASD Resolution No. 1327, December 8, 2022

Table 1. Documents Reviewed for LAFCO Peer Review

7. Letter to San Mateo LAFCo - EPASD Response and Opposition to Proposal to Establish the EPASD as a subsidiary of the City of EPA, Cole Huber, December 22, 2022
8. Letter to City of EPA. Revised Incomplete Letter for LAFCo File No. 22-09, LAFCo, December 13, 2022
9. Letter to San Mateo LAFCo - Response to Revised Incomplete Letter for LAFCo File No. 22-09, City of East Palo Alto, December 22, 2022
10. Letter to City of EPA - Comment Letter for LAFCo File No. 22-09, LAFCo, January 13, 2023
11. Letter to San Mateo LAFCo - EPASD Supplemental Response and Opposition to proposal to Establish the EPASD as a subsidiary of the City of EPA, Cole Huber, January 20, 2023
12. Request for Qualifications for Sanitary Sewer System Operations, City of EPA, March 3, 2023
13. Letter to San Mateo LAFCo - Response to Follow-Up Questions, City of EPA, March 23, 2023

3.0 RESPONSE TO QUESTIONS

The following eight questions were presented to VWHA for consideration:

1. Does the City’s capital improvement plan address the existing system capacity deficiencies and development related deficiencies?
2. Are the proposed surcharging conditions compatible with industry standards. Are there examples of other agencies applying similar surcharge conditions.
3. The CCTV conducted by EPASD identified high priority pipeline segments recommended for repair and replacement. Does the City’s CIP timeline address the needed improvements in order of highest priority/urgency.
4. Do the assumptions made to develop probable project costs seem reasonable and align with best practices?
5. Does the proposed budget support the costs associated with the suggested capital improvements?
6. Is the proposed timeline for capital improvements appropriate and/or realistic?
7. Does the budget support the proposed operation and maintenance costs for the subsidiary District?
8. The City’s proposal used West Bay Sanitary District’s budget as a basis to develop the proposal’s operation budget estimate. Are there other metrics or industry standards that could be used to estimate potential operations and maintenance costs?

1. Does the City’s capital improvement plan address the existing system capacity deficiencies and development related deficiencies?

The April 28, 2021 Technical Memorandum (“TM,” reference No. 2, above) identified 27,990 lineal feet (“LF”) of pipeline upgrades to address existing peak wet weather flow. The November 1, 2022 TM (reference No. 5) identified 16,840 LF of pipeline replacements to serve the same purpose. The November 1, 2022 footage is more closely aligned with the 2015 Master Plan footage (reference No. 1). It is not clear between the three memos whether the difference between the 2021 and 2022 recommendations, comprising 11,150 LF of capacity improvements, have been completed or have resulted from a change in criteria. ***This evaluation assumes that these pipes have been accounted for and 16,840 LF of capacity improvements are required.***

The November 1, 2022 TM presents a \$10.8 million, 5-year capital improvement plan (“CIP”) to address capacity needs. This TM does not include any additional budget to address necessary rehabilitation and replacement.

By comparison, the April 28, 2021 TM provides an estimated cost of \$26 million to complete all projected current and future capacity improvements and proposes to complete these improvements over 15 years. It seems reasonable that EPASD could require \$10.8 million to address current capacity needs and \$15.2 million to address future buildout.

2. Are the proposed surcharging conditions compatible with industry standards. Are there examples of other agencies applying similar surcharge conditions.

Surcharging of sewer pipes occurs when there is more water moving through the pipes than available capacity. Pipes fill to capacity and the excess flow rises up into the manholes on either end of these pipes. The amount that the water rises above the crown or top of the pipe is called surcharge. The simplest way to estimate surcharge in the field is to take a measurement within the surcharging manhole from the crown of the pipe to the water level. Conversely, freeboard can be measured in the reverse, from the manhole/ground level down to the water level within the manhole.

Surcharge criteria does not follow an industry standard. Each sewer agency must define an acceptable level of surcharge (or no surcharge) based on the risk profile of the system and the agency’s approach toward managing risk. Furthermore, surcharge that is predicted by a hydraulic model under a specific buildout condition is an estimation, and the accuracy of this estimation depends on many factors. Several possible factors that could affect results include whether conservatism is built into the hydraulic analysis, the quality and quantity of measured flow data, the accuracy of system data (i.e., ground elevation and pipe depth), and other factors. Sometimes pipes that are adjacent to a waterway or a critical facility may warrant more conservative freeboard criteria due to the higher risk of overflow. Similarly, water levels in certain parts of the system may be more sensitive to small changes in flow and may benefit from a higher freeboard requirement.

Some agencies allow surcharge under certain conditions. However, without further research, it would be difficult to conclude what an appropriate allowance for surcharge and/or freeboard would be appropriate for the EPASD system.

3. *The CCTV conducted by EPASD identified high priority pipeline segments recommended for repair and replacement. Does the City’s CIP timeline address the needed improvements in order of highest priority/urgency.*

As discussed above, the City’s 5-year CIP may be sufficient to address near-term capacity needs. However, the budget does not include any funds for rehabilitation and replacement (“R&R”).

The October 31, 2022 Sierra West TM identifies approximately \$20.9 million of high priority and near-term R&R needs and \$32M of future R&R needs for the existing sewer collection system. The Sierra West TM does not review or provide any recommendations for capacity improvements that are needed to accommodate future development.

Although not explicitly stated in the Sierra West TM, it appears that the Sierra West High Priority list is a subset of the Sierra West Priority List, and total estimated cost for all repairs is \$52.9 million. The work completed for this Memorandum did not include a review of the pipeline inspection results or recommendations.

The October 31 TM describes an overlap between R&R and capacity needs. Based on the descriptions provided, the 5-year and long-term R&R budget might be categorized as R&R or Combined R&R/Capacity as follows:

5-year CIP	Combined R&R/Capacity	~\$7.2 million
	R&R Only	~ \$13.7 million
Future CIP	Combined R&R/Capacity	~ \$7.4 million
	R&R Only	~ \$24.5 million

The March 23, 2023 letter from City of EPA clarifies that the 5-year CIP includes approximately \$13 million in capacity projects and \$7 million in R&R projects, which is different than the hypothetical breakdown shown above. The March 23, 2023 letter also mentions that EPASD has \$1.5 million annually of additional funds outside of the capacity project budget that can be used to complete R&R projects over several years. After reviewing the cash flow projections presented in Table 11 of Reference 5, we have confirmed that the 5-year CIP includes \$7.5M for R&R projects (i.e., \$1.5M/year for five years) and \$2.2M for capacity projects in FY25, FY26, 2and FY27. In addition, Reference 7 discusses an additional \$10M of funded capacity improvements. Therefore, the 5-year program includes \$19.7M of budget for capacity and R&R projects. This budget is nearly sufficient to pay for the estimated \$20.9M of near-term needs, if the City wishes to implement the high priority program projects identified in the Sierra West TM.

The documents reviewed do not provide a clear plan for how the future CIP will be funded and implemented. Also, the Sierra West TM provides an R&R plan for only a portion of the system, and does not include an allowance for additional needs that may be identified through future CCTV inspection. Therefore, it is not clear whether there is a funding plan in place to address the remaining capacity needs and priority R&R projects.

4. *Do the assumptions made to develop probable project costs seem reasonable and align with best practices?*

Each of the planning documents utilized a unique cost estimating basis, as summarized in Table 2.

Table 2. Cost Estimating Bases from Various EPASD and EPA Planning Documents

Source	Pipe Sizes	Average Pipe Installation Cost
November 1, 2022 Freyer & Laureta TM	10 to 24-inches	\$509 to \$695 per lineal foot
October 31, 2022 Sierra West TM	8 inches	\$637 per lineal foot

Unit costs generally increase with pipe diameter. Recently-constructed VWHA projects involving 8-inch diameter pipe have bid in the range of \$500 to \$600 per lineal foot, which is consistent with the Sierra West range of costs. Using these comparisons, the November 2022 TM may underestimate construction costs for installing 10 to 24-inch diameter pipelines.

At the same time, the Sierra West budget assumes that any pipe with severe defects will be replaced from manhole to manhole. It may be possible to address a portion of these defects through localized (point) repairs, thereby lowering the overall cost of the rehabilitation program.

5. *Does the proposed budget support the costs associated with the suggested capital improvements?*

As discussed above, the proposed 5-year capacity improvement budget of \$10.8 million, when augmented by \$1.5 million per year for R&R, should be sufficient to support the highest priority capacity and R&R needs as defined by the current planning documents. This finding assumes that although capacity project costs may be underestimated, R&R project costs may be able to be reduced by combining point repairs with pipe replacements.

6. *Is the proposed timeline for capital improvements appropriate and/or realistic?*

The current planning documents do not provide a timeline for completion of all capital improvements. The November 1, 2022 Freyer & Laureta TM recommends the completion of capacity projects over a 15-year timeline, and discusses only High Priority R&R projects. As

discussed in the response to Question 5, there appears to be sufficient budget to address the highest priority capacity and R&R needs over the next five years. However, it is not clear from the existing documentation whether funding will be available long-term to complete the remaining projects in a reasonable timeframe. Development of a long-term implementation plan is recommended to understand future funding requirements.

7. Does the budget support the proposed operation and maintenance costs for the subsidiary District?

The December 22, 2022 letter from City of EPA to San Mateo LAFCo included four agencies that were used to evaluate comparative O&M costs. In March 2023, the City of EPA issued a Request for Qualifications for contract sewer system management. This solicitation will help to validate the cost assumptions. The four-agency benchmark did not appear include a broad enough representation of agencies to provide a reliable indication of expected cost. The two cities on the list of comparative agencies had unit costs of \$84,000 to \$86,000 per mile of pipe, which is higher than the City's estimate of \$76,500 per mile.

8. The City's proposal used West Bay Sanitary District's budget as a basis to develop the proposal's operation budget estimate. Are there other metrics or industry standards that could be used to estimate potential operations and maintenance costs?

Industry benchmarking would be the most reliable method to estimate costs. However, sewer collection system O&M needs and cost vary widely. O&M needs change with topography, the extent of the service area, desired level of service, in-house vs. contract services, pumped vs. unpumped flows, system age and historical maintenance/condition, City vs. Special District, etc. For this reason, using the largest possible dataset of similar systems would help to provide a more reliable estimate of cost.

Ronald J. Scholar
rscholar@colehuber.com

REPLY TO:
 ROSEVILLE ONTARIO

December 22, 2022

VIA E-MAIL AND U.S. MAIL
RBARTOLI@SMCGOV.ORG

Rob Bartoli, Executive Director
San Mateo Local Agency Formation Commission
455 County Center, 2nd Floor
Redwood City, California 94063-1663

Re: LAFCo File No. 22-09: East Palo Alto Sanitary District's Response and
Opposition to the Proposal to Establish the East Palo Alto Sanitary District as a
Subsidiary of the City of East Palo Alto

Dear Mr. Bartoli:

As you know my office represents the East Palo Alto Sanitary District ("EPASD" or "District") with respect to the pending proposal before the San Mateo Local Agency Formation Commission ("LAFCo") by the City of East Palo Alto ("City") to establish the EPASD as a subsidiary of the City.

In response to your November 17, 2022 letter to San Mateo County Affected agencies regarding LAFCo File No. 22-09: Proposal to Establish the East Palo Alto Sanitary District as a Subsidiary of the City of East Palo Alto ("Proposal"), EPASD submits the following comments in response and opposition.¹

On December 8, 2022, the District, by unanimous vote of the District Board, adopted Resolution No. 1327 objecting to and opposing the Proposal.² As set forth in this letter and the referenced documents, LAFCo should reject the Proposal for the following main reasons.

1. For over 80 years, the District has provided its customers with low cost high quality service while building a reserve fund to help pay for structural improvements.

¹ On December 12, 2022 the District discovered that LAFCo determined additional information from the City was required prior to the application being deemed complete. In light of this, Ronald J. Scholar, legal counsel for the District requested that LAFCo provide additional time to prepare a single response to the application after it was completed by the City. While additional time to respond to the initial Proposal was provided, the request to submit a unified response was denied. Therefore, EPASD, in submitting these initial comments, reserves the right to provide additional or amended comments in the future.

² Attachment 1 (EPASD, *Resolution No. 1327*, December 8, 2022)

2. For profit, new development, not existing customers, should be required to pay for the increased District capacity and expansion new development requires.
3. The City's Proposal, which is based upon flawed and incomplete data, will balance the increased capacity required by new development on the backs of EPASD's current customers in the form of increased rates.
4. The City will not even run its new subsidiary district opting instead to contract the service out to a for profit contractor. As the community has experienced with City water, this has resulted in poor service quality with increased costs to cover contractor profits and unrestricted use City fees, while failing to reinvest in infrastructure needs.

A. BACKGROUND AND HISTORICAL INFORMATION

Established in 1939, the EPASD is an independent, community owned and operated public agency. It's mission is provide safe, efficient and cost effective wastewater collection and treatment services to customers in the City of East Palo Alto ("City") and a portion of the City of Menlo Park. The District is governed by a duly elected five member Board of Directors whose sole focus is to ensure that the District fulfills its mission. This provides District customers with the benefit of control and management of a single public service, without distractions and comingling of interests caused by competing services.

The District operates and maintains a gravity based collection system in compliance with the State Water Resources Control Board. Its customer base is primarily residential with several commercial and industrial parcels. The District's high quality of service is exemplified in that it has not experienced any sanitary sewer overflows ("SSO") for at least 16 years while building a reserve fund of approximately \$23 million for structural repairs and improvements and keeping service costs down.

With respect to growth and expansion, the EPASD is not against development within the District. However, it strongly believes that for profit development should be funded by the developers and not at the expense of EPASD's customers in the form of higher rates, costs and/or fees.

B. EPASD RESPONDS TO THE CITY'S 2035 GENERAL PLAN AND DEVELOPERS SEEKING WILL SERVE LETTERS

The City published its 2035 General Plan in March 2017. Thereafter, in or about 2020, several large commercial developers approached the District for Will Serve Letters for their various for profit, mostly commercial development projects. A Will Serve Letter is a document issued by the District confirming that the applicant's property is within the District service area and that, subject to specified terms and conditions, it is able to provide wastewater services to the property.

1. EPASD Assesses Its Capacity And Amends Its Master Plan To Account For New Development Projects

Because the new development projects would impose substantial new burdens on the District's then existing capacity, the EPASD retained the civil engineering firm of Freyer & Lauretta, Inc. ("F&L"), to perform a hydraulic impact assessment and prepare an Addendum to the March 2015 District Master Plan.³ The purpose of the assessment was to review the existing system, evaluate the impacts of the proposed development identified in the City's 2035 General Plan and identify capital improvements. The conclusion reached by F&L was that the District lacked the capacity to serve these development projects without substantial upgrades.⁴ This includes a restoration of the trunk sewer pipeline to its existing operating conditions by constructing a parallel pipeline made necessary by the additional system load caused by new development.⁵

The 2021 Amendment to the Master Plan prepared by F&L concluded that in order to service the new development projects, the District will be required to implement a Capital Improvement Plan in excess of \$35 million in order to expand and upgrade the existing sanitary system.⁶

2. The 2022 Capacity Charge Study

The new development projects will require new connections to the system. As part of determining the cost of the additional burdens caused by the new development projects, the District needed to reassess its current connection fee, also known as a Capacity Charge. A Capacity Charge is the one-time charge paid by new development for capacity in the sanitary system. This includes both collection and treatment facilities. The previous fee amount of \$6,060 per equivalent dwelling unit ("EDU"), was based upon the findings of a 2018 Capacity Charge Study conducted prior to the 2021 Sewer Master Plan Amendment.⁷

The District retained Hildebrand Financial Services, LLC, ("Hildebrand") to conduct a Capacity Charge Study taking into account the 2021 Amendment to the 2015 Sewer Master Plan. The purpose of the Capacity Charge Study was to review the District's existing Capacity

³ Attachment 2 (F&L, *Addendum to the March 2015 East Palo Alto Sanitary District Master Plan Update*, April 28, 2021.)

⁴ Attachment 2 (F&L, *Addendum to the March 2015 East Palo Alto Sanitary District Master Plan Update*, April 28, 2021, pp. 4-9)

⁵ Attachment 2 (F&L, *Addendum to the March 2015 East Palo Alto Sanitary District Master Plan Update*, April 28, 2021, pp. 6-7)

⁶ Attachment 2 (F&L, *Addendum to the March 2015 East Palo Alto Sanitary District Master Plan Update*, April 28, 2021, p. 7, Table 17)

⁷ Attachment 3 (Bartle Wells Associates, *Wastewater Capacity Charge Update*, December 7, 2018)

Charges and update those charges to incorporate the costs to expand the sewer system's capacity to accommodate the new development projects as described in a 2021 Amendment to the 2015 Sewer Master Plan. Following an analysis, which included the current capacity of the District, the differential in service costs based upon sewer strength (waste concentration), a new, second trunk line, required only because of the expansion, applicable financing costs and that the driving force behind the projects is expansion and not rehabilitation, Hildebrand determined the new Capacity Charge in order to serve all of the new development projects to be \$14,464 per EDU.⁸

3. The Developers Response

Once the new connection fee was determined, EPASD notified the developers and offered them their Will Serve Letters. To date, only one developer has shown any interest paying the Capacity Charge fee and receiving a Will Serve Letter.

In an effort to foster a better understanding of the District's position, allow the developers an opportunity to share any concerns they had and engage the development community in dialogue, developers were invited to an October 6, 2022, meeting with District consultant Government Financial Strategies, Inc. Very few developers attended the meeting.

Rather than engage in dialog with the District about paying their fair share for their for profit development, the developers appear to have decided that it would be more cost efficient for them to prompt the City to engage in the now pending hostile takeover of the District. As discussed below, rather than pay the Capacity Charge, the City, with its developer backers, will instead balance the increased capacity equation on the backs of EPASD's current customers in the form of increased rates.

4. The City's Refusal To Work With The District

Until recently, the City had worked cooperatively with the District through an intergovernmental committee where representatives of the two organizations met approximately once a month to coordinate projects. That intergovernmental cooperation was ended by the City when it stopped attending the meetings.

Additionally, in September 2022, the District requested that the City engage in a Joint Special Study Session regarding infrastructure financing to assist the City in approving new development.⁹ The City never responded.

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⁸ Attachment 4 (Hildebrand, *Capacity Charge Study*, September 7, 2022, pp. 1, 2, 4-6)

⁹ Attachment 9 (EPASD, *Letter from Board President Bethzabe Yanez to City*, September 2022)

C. EPASD STRUCTURAL UPGRADES WITHOUT NEW DEVELOPMENT BURDENS

As part of its review of its system, the District retained Sierra West Consultants, Inc. (“Sierra”) to conduct a closed circuit television (“CCTV”) surveys of the District’s wastewater collection system.¹⁰ Presently, approximately 75 percent of the District’s pipes have been surveyed. Based on these results, the District has approximately \$53 million in structural upgrades and repairs upgrades to the system that would be required without the additional burdens of the new development. This includes \$9.1 million in capacity upgrades that will be made to those pipes that have structural issues requiring replacement.¹¹

D. EPASD CAPACITY ONLY UPGRADES REQUIRED DUE TO NEW DEVELOPMENT BURDENS

Isolating costs associated with capacity only upgrades required by new development under the 2021 Amendment to the 2015 Master Plan reveals required additional expenditures in excess of \$12.9 million.¹² This figure only represents part of costs associated with adding system capacity for new development as Sierra West still has 25 percent of the system to survey before a final figure can be calculated. Further, this figure neither includes the \$13 million cost of restoring the trunk sewer pipeline to its existing operating conditions by constructing a parallel pipeline, nor does it include the \$5 million purchase of additional treatment plant capacity from the Palo Alto Regional Water Quality Control Plant (“RWQCP”) made necessary by the additional system load caused by new development.¹³ Thus, the total financial burden, at least as it can be currently calculated is approximately \$40 million.¹⁴

D. EPASD MANAGEMENT AS COMPARED TO THE CITY’S PROPOSED MANAGEMENT

The EPASD has served its customers well for over 80 years. The District’s high quality of service is exemplified in that it has not experienced any sanitary sewer overflows (“SSO”) for at least 16 years while building a reserve fund of \$23 million for structural repairs and improvements while keeping service costs down. The District is currently in the process of awarding approximately \$10 million from the reserve fund for construction to rehabilitate sewer infrastructure. Further, unlike the City, which has multiple departments calling for its attention and dollars, District customers enjoy the benefits of control and management of a single public service.

¹⁰ Attachment 5 (Sierra, *CCTV Survey Evaluation*, October 31, 2022)

¹¹ Attachment 5 (Sierra, *CCTV Survey Evaluation*, October 31, 2022, pp. 2, 9)

¹² Attachment 5 (Sierra, *CCTV Survey Evaluation*, October 31, 2022, p. 4)

¹³ Attachment 2 (F&L, *Addendum to the March 2015 East Palo Alto Sanitary District Master Plan Update*, April 28, 2021, pp. 6-7); Attachment 6 (Government Financial Strategies, Inc. (“GFSI”), *Memorandum: Financing Sanitary System Infrastructure*, December 14, 2022, p. 3)

¹⁴ Attachment 6 (GFSI, *Memorandum: Financing Sanitary System Infrastructure*, December 14, 2022, p. 3)

The City's Proposal states that it will not even run the subsidiary sanitary district. Under the pretense of providing better service in the public interest, the City proposes to absorb the District and then promptly contract it out to an unidentified third party public entity or for profit company. To date, neighboring West Bay Sanitary District has shown no interest in taking over the District on behalf of the City. Instead, the City is expected to do what it already does with its water service since rather than run its own water service, the City contracts that vital service out to a for profit corporation.

The City and its for profit contractor's failures to provide clean, safe and drinkable water to its residents is well known throughout the community where many residents buy bottled water to avoid drinking City water. Even the most cursory online search for issues with City water reveals numerous negative responses with citizens complaining of water that burns their eyes, tastes bad, has a strong odor and comes out of the tap brown. Additionally, the City is already working under a Corrective Action Plan with the State Water Resources Control Board. Only this year has the City finally begun to address its water issues through the development of a 2022 Water System Master Plan.¹⁵

The City's current water contract dates back to 2001. It is with Veolia North America, LLC ("Veolia") which assumed the agreement in January 2021.¹⁶ According to the agreement, Veolia is guaranteed "an after-tax rate of return of eight percent (8%) on Gross Revenues."¹⁷ In addition to the eight percent in profits paid to Veolia, the City itself is guaranteed to receive "an annual Lease Payment in an amount equal to six percent (6%) of the annual Gross Revenues generated by the Water System" and "an annual Franchise Fee in an amount equal to five percent (5%) of the annual Gross Revenues generated by the Water System."¹⁸ Thus, the City has turned its public water utility into a for profit enterprise not just for its contractor, but also for the City. In so doing, it has taken what would have otherwise been protected funds to be reinvested back into the water system and converted them into general funds to use as the City deems fit. Put another way, the City is required to charge its water customers an additional 19 percent in fees to cover the for profit nature of its water utility. Given the problematic issues with City water, one is left to wonder what improvements for the benefit of its residents the City could have done had it reinvested over 20 years of profits back into the water system.

Past performance is an indicator of future success. In this regard, the District has a proven track record of providing excellent service at a reasonable cost. It does so without the added burdens of managing other services, paying guaranteed percentage based profits and profiting from its own system to pay for other services like the City does with its water service.

¹⁵ Attachment 11 (City of East Palo Alto Staff Report, *2022 Water System Master Plan*, October 4, 2022)

¹⁶ Attachment 7 (City of East Palo Alto, *Resolution No. 56-2020*, April 21, 2020)

¹⁷ Attachment 8 (City of East Palo Alto, *Agreement for Lease of Real Property (Water System)*, April 9, 2021, p. 6 [Section 8.A.]

¹⁸ Attachment 8 (City of East Palo Alto, *Agreement for Lease of Real Property (Water System)*, April 9, 2021, p. 4 [Sections 5.A and B.]

E. ANALYSIS OF THE CITY'S APPLICATION

Section A.3

The City claims that making the District a City subsidiary will result in more efficient operation, coordinated planning, transparency, accountability, and environmental health. There are no facts in the proposal indicating that the District is not successfully accomplishing these goals. To the contrary, as described above, the District has a long history of providing efficient and effective service at a reasonable cost. There have been no public health issues and as a public agency, the District remains transparent and directly accountable to the voters. The District has responded to impending growth and development by studying its capacity and formulating a plan that requires new development to pay its own way instead of funding expansion on the backs of existing, mostly residential ratepayers. The District tried to work with the City and development community but with few minimal exceptions, those efforts were ignored. The factors listed by the City are non-issue catchphrases made without any factual basis.

The City's Proposal begs the question of how the City can run the sanitary system better than the District. This is left a mystery in the Proposal as the City cannot even identify who or what entity will actually be running the District. The City has no expertise or experience in running a sanitary district. It states that it will contract the service out to either another public entity or a private, for-profit company. Neighboring West Bay Sanitary District has no interest in taking over the EPASD. Therefore, the most likely result is the City will do with the District what it has done with its water service and contract with a for profit company. This way, the City can reap the benefits of leasing and franchise fees paid for by District customers who will also be paying guaranteed profits to the contractor.

Section C.4

The City claims it has not been able to issue building permits without confirmation of capacity from EPASD. The City's claim is vague and undefined. It is also incorrect. EPASD, after studying and identifying the additional capacity that will be required to accommodate new development projects, calculated a new Capacity Charge in the amount of \$14,464 per EDU. The Capacity Charge is consistent with the District's philosophy that new development is welcome, but should pay for the increased capacity burdens it will impose on the system. The City and development community are well aware that the District has offered Will Serve letters provided the Capacity Charge is paid.

Section C.10

EPASD is already in the process of implementing structural repairs and is ready to increase capacity, provided those that are demanding capacity pay the Capacity Charge.

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F. ANALYSIS OF THE CITY'S PLAN FOR PROVIDING SERVICES

Section B.2

The operating and maintenance budget presented by the City is inaccurate because West Bay Sanitary District ("WBSD") data was used. The two systems are not the same. WBSD is part gravity and part forced main system whereas the District is gravity only. As such, the maintenance requirements are different. Additionally, the systems employ different treatment plants that utilize different wastewater treatment technology. As such, they are not comparable on a budgetary basis. These differences result in an underestimation of operating and maintenance costs in an effort to justify diverting reserve funds from needed structural improvements to increased capacity costs from new development.

Section B.4

In the Addendum to the March 2015 East Palo Alto Sanitary District Master Plan Update, F&L determined that the District lacked the capacity to serve these development projects without substantial upgrades.¹⁹ This included a restoration of the trunk sewer pipeline to its existing operating conditions by constructing a parallel pipeline made necessary by the additional system load caused by new development.²⁰ This will cost approximately \$13 million.²¹ The current plan by the City omits this necessary, increased capacity related expenditure. Doing so raises the risk of SSO events. This places the District at increased risk of imposition of substantial fines from the State Water Resources Control Board and mandatory repairs on accelerated timelines which add extra costs. Thus, contrary to the City's assertions, its plan will actually increase the risks to public health and safety.

Section B.5

Proposed Operating and Maintenance Plan

The City's plan will result in a private, for profit company operating the District. This will increase costs in the form of guaranteed profits for the operating company and unrestricted lease and franchise fees to the City. Also, the City's proposed budget is based on ratios calculated using the WBSD Balance Sheet. This is inaccurate and misleading as the two systems are not the same. As discussed above, the sewer systems and liabilities associated with each are different.

¹⁹ Attachment 2 (F&L, *Addendum to the March 2015 East Palo Alto Sanitary District Master Plan Update*, April 28, 2021, pp. 4-9)

²⁰ Attachment 2 (F&L, *Addendum to the March 2015 East Palo Alto Sanitary District Master Plan Update*, April 28, 2021, pp. 6-7)

²¹ Attachment 6 (GFSI, *Memorandum: Financing Sanitary System Infrastructure*, December 14, 2022, p. 3)

Annual Sewer Service Charge

The Annual Sewer Service Charge (“ASC”) included in the Proposal includes an immediate 15 percent increase of the ASC from \$600 to \$690 with five percent annual increases until it reaches \$1,171. Thus, the City proposes to nearly double the ASC over the next 8 years. Further, these figures only hold true if the Capacity Charge limitations that are part of the Proposal are accurate. As discussed throughout this letter, the City’s Capacity Charge analysis is deeply flawed and will result in substantial shortfalls that will need to be made up through more rapid and greater increases in the ASC. This means that the District’s current ratepayers will be required to pay for development capacity expansion.²²

Connection Fee (Capacity Charge)

The Proposal recommends that the Capacity Charge be kept virtually the same at \$6,060 with five percent annual increases. The analysis is flawed for several reasons. First, it sets the total cost of improvements due to development at \$9.5 million. This is a gross understatement of the financial liabilities associated with development driven new capacity. Capacity only upgrades required by new development under the 2021 Amendment to the 2015 Master Plan, when factoring in the remainder of the pipe Sierra West still needs to study via CCTV, the new \$13 million trunk line and the \$5 million purchase of additional treatment plant capacity from the RWQCP at least as it can be currently calculated is approximately \$40 million.²³ After taking into account the current capacity of the District, the differential in service costs based upon sewer strength (waste concentration), a new, second trunk line, required only because of the expansion, applicable financing costs and that the driving force behind the projects is expansion and not rehabilitation, Hildebrand determined the new Capacity Charge in order to serve all of the new development projects to be \$14,464 per EDU.²⁴

Annual Budget Cash Flow

The City’s analysis of the District’s cash flow is also flawed. No sensitivity analysis was performed to determine how budgetary issues might change depending upon changed economic conditions. Further, F&L’s assumptions relating to the reserve fund are incorrect. The reserve fund is currently at \$23 million, but the District is currently in the process of awarding approximately \$10 million from the reserve fund for construction to rehabilitate sewer

²² Attachment 10 (EPASD, *Technical Memorandum in Response to Sanitary Sewer Capital and Improvement Plan Prepared by F&L*, December 3, 2022)

²³ Attachment 6 (GFSI, *Memorandum: Financing Sanitary System Infrastructure*, December 14, 2022, p. 3)

²⁴ Attachment 4 (Hildebrand, *Capacity Charge Study*, September 7, 2022, pp. 1, 2, 4-6)

infrastructure. The analysis also fails to properly account for the effect of the approximately \$40 million in development driven capacity upgrades.²⁵

Section B.6

The City’s takeover of the EPASD will not make it “whole as a land use agency and utility provider” as it claims because the City does not run its water utility and it will not be running the sanitary district. Instead, the City is content to contract out these vital public services to for profit corporations in return for license and franchise fees which it can use as it pleases.

The Draft MSR, upon which the City relies, is a flawed and biased report. The District believes that the funding source for the Draft MSR is related to the same developers behind the EPASD takeover attempt. Further, it was prepared without any engineering input from any entity, including the District and the District’s comments submitted after it was published have been ignored. It also contains factual inaccuracies intimating that the District cannot properly serve its customers such as the claim that citizens cannot obtain Will Serve letters for Accessory Dwelling Units. This is false. The District has issued Will Serve letters for all ADU applications in the past five years.

G. CONCLUSION

Since 1939, EPASD has provided its customers with low cost high quality service while building a reserve fund to help pay for structural improvements. It has responded responsibly in recent years to the prospects of new development by studying the matter, offering to engage with the development community and the City and establishing updated, accurate Capacity Charges.

As a matter of philosophy and good government, the District believes that for profit, new development, not existing customers, should be required to pay for the increased District capacity and expansion new development requires. The City’s Proposal, which is based upon flawed and incomplete data, will balance the increased capacity required by new development on the backs of EPASD’s current customers in the form of increased rates. Indeed, the City will not even run its new subsidiary district opting instead to contract the service out to a for profit contractor. As the community has experienced with City water, this has resulted in poor service quality with increased costs to cover contractor profits and unrestricted use City fees, while failing to reinvest in infrastructure needs. As such, the City’s Proposal to make the EPASD a subsidiary district should be rejected.

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²⁵ Attachment 10 (EPASD, *Technical Memorandum in Response to Sanitary Sewer Capital and Improvement Plan Prepared by F&L, December 3, 2022*)

Rob Bartoli, Executive Director
San Mateo Local Agency Formation Commission
December 22, 2022
Page 11

Sincerely,



Ronald J. Scholar
COLE HUBER LLP

RJS/kgm
Attachments
cc: Client



ATTACHMENTS

1. East Palo Alto Sanitary District, *Resolution No. 1327*, December 8, 2022
2. Freyer & Laureta, Inc., *Addendum to the March 2015 East Palo Alto Sanitary District Master Plan Update*, April 28, 2021
3. Bartle Wells Associates, *Wastewater Capacity Charge Update*, December 7, 2018
4. Hildebrand Financial Services, LLC, *Capacity Charge Study*, September 7, 2022
5. Sierra West, *CCTV Survey Evaluation*, October 31, 2022
6. Government Financial Strategies, Inc., *Memorandum: Financing Sanitary System Infrastructure*, December 14, 2022
7. City of East Palo Alto, *Resolution No. 56-2020*, April 21, 2020
8. City of East Palo Alto, *Agreement for Lease of Real Property (Water System)*, April 9, 2021
9. East Palo Alto Sanitary District, *Letter from Board President Bethzabe Yanez to City*, September 2022
10. East Palo Alto Sanitary District, *Technical Memorandum in Response to Sanitary Sewer Capital and Improvement Plan Prepared by Freyer and Lauretta, Inc.*, December 3, 2022
11. City of East Palo Alto Staff Report, *2022 Water System Master Plan*, October 4, 2022

Ronald J. Scholar
rscholar@colehuber.com

REPLY TO:
 ROSEVILLE ONTARIO

January 20, 2023

VIA E-MAIL AND U.S. MAIL
RBARTOLI@SMCGOV.ORG

Rob Bartoli, Executive Director
San Mateo Local Agency Formation Commission
455 County Center, 2nd Floor
Redwood City, California 94063-1663

Re: LAFCo File No. 22-09: East Palo Alto Sanitary District's *Supplemental* Response and Opposition to the Proposal to Establish the East Palo Alto Sanitary District as a Subsidiary of the City of East Palo Alto

Dear Mr. Bartoli:

As you know, my office represents the East Palo Alto Sanitary District ("EPASD" or "District") with respect to the pending proposal before the San Mateo Local Agency Formation Commission ("LAFCo") by the City of East Palo Alto ("City") to establish the EPASD as a subsidiary of the City.

On December 22, 2022, I submitted, on behalf of EPASD, the District's response and objection to the City's proposal. On that same date, the City responded to LAFCo's December 13, 2022 notification to the City that its application was incomplete. The following are EPASD's comments in response and opposition to the City's supplemental submission to its proposal.

It is important to note at the outset that the heart of this matter is a developer driver desire to replace what they view as a non-complaint elected EPASD Board with a compliant governing body in the form of the City. Nowhere is that more evident than with respect to the cost of the Capacity Charge or connection fee. Based upon the analysis by Hildebrand Financial Services, LLC, ("Hildebrand") which considered, among other relevant factors, the 2021 Amendment to the 2015 Sewer Master Plan, Hildebrand determined the new Capacity Charge in order to serve all of the new development projects needed to be \$14,464 per EDU.¹ The private, for-profit, mostly commercial development community has resisted paying this amount. With an estimated 4500 connections driven by new development,² the District's Capacity Charge will generate approximately \$65,088,000 in revenue. The City proposes charging less than half of that at

¹ Attachment 1 (Hildebrand, *Capacity Charge Study*, September 7, 2022, pp. 1, 2, 4-6)

² One EDU is equal to 240 gallons per day. F&L estimates additional sanitary sewer flows to be 1,080,000 gallons per day (1,080,000 / 240 = 4,500) Attachment 6 (F&L, *Addendum to the March 2015 East Palo Alto Sanitary District Master Plan Update*, April 28, 2021, pp. 3, fn 2, and 47 [Table 10])

\$6,060³ which will only generate \$27,270,000 resulting in a \$37,818,000 shortfall. With the District facing at least \$64.7 million in project costs for both structural and capacity upgrades,⁴ it is clear that the differential in funding will have a substantial negative impact on the ability to maintain, repair and upgrade the system.

This substantial shortfall will have no other place to land other than on the backs of the current ratepayers who have already paid into the system. For this reason alone, the City's proposal represents bad government working against the interests of its constituency and should be rejected.

I now turn to the specific issues raised by the City's supplemental submission.

Comment 3b

The City incorrectly states that EPASD's contract with its General Manager expires on October 23, 2022. The contract expires June 30, 2025.

Comment 3c

Under the current structure, the District is directly accountable to its voters, including those who reside in the City of Menlo Park. Under the City's proposal, those District customers in Menlo Park will be completely disenfranchised. The Menlo Park customers will be stripped of their vote as they have no say in the election of the City Council. As such, those City Council members will have no electoral accountability to those customers of the District who live or own property in Menlo Park. That the City concedes its responsibility under Proposition 218 to provide notices and permit protests to property owners is no remedy. The District's Menlo Park residents will still lack a voice in their government.

Comment 3d

The City's response is incomplete. It neglects to address the cash shortfall that will be incurred by failing to charge new development an appropriate connection fee in the amount of \$14,464 as opposed to the City's proposal to charge only \$6,060. This shortfall will negatively impact the ability to fund pension liabilities.

Comment 3e

Here, LAFCo asked the City a direct question: "[D]oes the City's plan for service take into account the recent [CCTV by Sierra West] assessment by the District? The City never really answers this yes or no question. The City only addresses Priority 1 or high priority upgrades. It

³ Forty-two percent

⁴ Attachment 2 (Sierra West, *CCTV Survey Evaluation*, October 31, 2022, p. 3)

ignores the approximately \$64.7 million to replace the 90,000 linear feet of pipelines in areas 1, 3 and 4 as identified by Sierra West for structural and capacity upgrades. Thus, the City's proposal is vastly underfunded so that it can provide a substantial, 58 percent discount for new connection fees to profit, mostly commercial, new development. It should also be noted that the currently proposed improvements only cover seventy-five percent (75%) of the District's pipes because the CCTV project review has not yet been completed.⁵

Comment 3f

The system under its current load does not have a capacity deficiency. Systems are generally designed for 1 in 10-year flood conditions. Yet despite the recent 1 in 100-year flood conditions that caused SSO's throughout the region, including San Francisco where public officials were issuing warnings not to play in the puddles for fear of contamination, EPASD's system did not overflow into the streets of the City. Under its current load, the system does require substantial maintenance and repair due to age. However, it is the influx of new development that will require system expansion and that maintenance and repairs be completed at an accelerated rate.

Comment 3g

The City's reliance on the 2015 Master Plan for the proposition that designing the system to intentionally surcharge⁶ under wet weather flow conditions is both outdated and not an acceptable practice. Indeed, as the City notes in its response, the Addendum to the EPASD March 2015 Master Plan Update from April 2021 does not allow for surcharging. It achieves this goal by upsizing select sections of pipe to manage wet weather flow.

The City's proffered "lack of velocity during dry season" as an excuse to surcharge the system is not an appropriate justification and is a non-issue. Velocity is primarily a function of the slope of the pipe, not the size of the pipe. From an engineering standpoint, so long as the slope of the pipe allows for the flow to stay between two (2) and ten (10) linear feet per second, there should be no issues.

Further, contrary to the City's assertion, surcharging is not acceptable and designing a system to intentionally surcharge is contrary to industry standards. For example, neighboring West Bay Sanitary District's Standard Specifications for Design and Construction of Sanitary Sewer Collection and Conveyance Facilities state "[n]o surcharging of gravity sewers shall be allowed."⁷ The City of Brisbane's Sanitary Sewer Design Standards prohibit surcharging

⁵ Attachment 2 (Sierra West, *CCTV Survey Evaluation*, October 31, 2022)

⁶ A surcharge occurs when the flow is greater than the capacity of the pipes in the system.

⁷ Attachment 3 (West Bay Sanitary District, *Standard Specifications for Design and Construction of Sanitary Sewer Collection and Conveyance Facilities*, June 24, 2015, p. B2-01, Section B2.02)

specifying that the “maximum depth of flow for pipes between eight and ten inches in diameter shall be one-half (1/2) of the pipe diameter at design flows. For pipes twelve inches and larger in diameter, the maximum flow depth shall be two-thirds (2/3) the pipe at design flows.”⁸ The City of San Diego also prohibits surcharging mandating that pipes 15 inches or smaller not exceed half of the inside diameter of the pipe and pipes 18 inches and larger not exceed three-fourths of the inside diameter of the pipe.⁹

Indeed, the District is unaware of any sewer provider that intentionally designed the system to surcharge and the City offers no successful examples. The City also fails to provide information that such a design is within industry standards, let alone within best practices to prevent SSO’s and protect the health and safety of its residents. Instead, it is clear that allowing the system to intentionally surcharge is merely another way for the City to understate the cost of system maintenance, repair and upgrades, which places the public at greater risk for SSO’s, while providing connection fees to new development at a substantial discount.

Comment 3h

In the Addendum to the March 2015 East Palo Alto Sanitary District Master Plan Update, Freyer & Lauretta, Inc. (“F&L”) determined that a restoration of the trunk sewer pipeline to its existing operating conditions by constructing a parallel pipeline will be necessary due to the additional system load caused by new development.¹⁰ This will cost approximately \$13 million.¹¹ The City ignored this substantial item in its initial submission. In response to LAFCo’s further inquiry, the City sidesteps the question, admitting it has no plan, no budget and no methodology with respect to who will pay for this substantial project made necessary by new development.

Comment 3i

A proper budget is a plan prepared based, in part, on the improvement needs of the agency and other cost drivers such as support staff. Utilizing another agency’s financial ratios is neither prudent, nor will it result in accurate budgeting as each agency, despite serving a similar function, is unique in terms of age, condition, required expansion and other factors. With respect to a sanitary system, the largest budgetary drivers are the condition of the existing pipes in terms of maintenance and installation of new pipes to increase capacity for new development. The District currently implements an Activity Based Budgeting Technique which involves process analysis, process re-engineering, activity-based management and functional analysis.

⁸ Attachment 4 (City of Brisbane, *Sanitary Sewer Design Standards*, p. 2, Section 1.C)

⁹ Attachment 5 (City of San Diego Public Utilities Department, *Sewer Design Guide*, May 2015, p. 1-9, Section 1.3.3.3)

¹⁰ Attachment 6 (F&L, *Addendum to the March 2015 East Palo Alto Sanitary District Master Plan Update*, April 28, 2021, pp. 6-7)

¹¹ Attachment 7 (GFSI, *Memorandum: Financing Sanitary System Infrastructure*, December 14, 2022, p. 3)

A budget should serve the following purposes:

- An aid in making and coordinating short range plan
- A device for communicating these plans to stakeholders
- A way of motivating managers
- A benchmark for internal control
- A means of evaluating management performance
- A means of educating the General Public

The budget methodology presented by the City does not meet these criteria. It is simply based on the plans of other, non-similarly situated agencies.

Concluding Remarks

The City's proposal is grossly underfunded in order to provide a 58 percent connection fee discount to new, for profit, mostly commercial development. That will result in a massive budget shortfall that will in turn have to be paid for by the current ratepayers who have already paid into the system. The City's underfunded proposal also increases the health and safety risk to the public due to the City's proposed surcharging of the system and insufficient financial resources to maintain, repair and expand the system caused by the City's new development discount. The District has no issues with new development. It merely believes that as a matter of good government, new development should pay its own way. The City's proposal should be rejected.

Sincerely,



Ronald J. Scholar
COLE HUBER LLP

RJS/kgm
Attachments
cc: Client

ATTACHMENTS

1. Hildebrand Financial Services, LLC, *Capacity Charge Study*, September 7, 2022
2. Sierra West, *CCTV Survey Evaluation*, October 31, 2022
3. West Bay Sanitary District, *Standard Specifications for Design and Construction of Sanitary Sewer Collection and Conveyance Facilities*, June 24, 2015
4. City of Brisbane, *Sanitary Sewer Design Standards*
5. City of San Diego Public Utilities Department, *Sewer Design Guide*, May 2015
6. Freyer & Laureta, Inc., *Addendum to the March 2015 East Palo Alto Sanitary District Master Plan Update*, April 28, 2021
7. Government Financial Strategies, Inc., *Memorandum: Financing Sanitary System Infrastructure*, December 14, 2022

From: [David Gould](#)
To: [Humza Javed](#); cmoffice@cityofepa.org; [Rob Bartoli](#); [Sofia Recalde](#)
Cc: [Cesar Andre Vitari](#)
Subject: RE: SMLAFCO
Date: Thursday, June 29, 2023 2:29:48 PM

CAUTION: This email originated from outside of San Mateo County. Unless you recognize the sender's email address and know the content is safe, do not click links, open attachments or reply.

Humza,

Good to talk today. I will call Melvin Gaines's office in addition to including him on this e-mail.

As representative of Bayshores LLC and 1788 E. Bayshore Road, we have been actively engaged with EPASD for 4 years.

As committed Urbanists, investors, and builders of communities, Bayshores LLC perceives a serious misalignment between EPASD and the City's vision and planning initiatives for improvement of East Palo Alto.

The divergent visions between the two organizations have created challenges in services, housing, employment, and quality of life for East Palo Alto citizens.

Our experience of a politically entrenched vision by EPASD is not one that serves and benefits all citizens of East Palo Alto. Additionally, for many years EPASD management and Board have enabled significant deferred maintenance, ground water intrusion and service response deficiencies to exist. Any recent EPASD infrastructure repair-improvement plans are many years behind schedule, without strong commitment, questionable completion timing, and budgetary controls.

We strongly believe that the City of East Palo Alto should be managing and coordinating critical sewer infrastructure planning, improvements, maintenance, and operations. Coordination of sewer services with the City's existing public works planning and operations and other City functions would be far superior to the divergent path that has existing for decades. We strongly urge the City and SMLAFCO to transition sewer services to the City of East Palo Alto.

Please contact me if you have any questions or wish to discuss this matter further.

Regards,

David

David Gould and Associates
Land Use | Brokerage | Investment | Development | Project Management | Corporate Real Estate
david.dga-re@outlook.com www.davidgouldassociates.com 415.990.0125

From: David Gould
Sent: Thursday, June 29, 2023 9:17 AM
To: Humza Jave <hjaved@cityofepa.org>
Subject: SMLAFCO

Humza,

Do you have some time to talk today about the July 19 meeting?

Regards,

David

David Gould and Associates
Land Use | Brokerage | Investment | Development | Project Management | Corporate Real Estate
david.dga-re@outlook.com www.davidgouldassociates.com 415.990.0125

Residents for an Independent Sanitary District
2035 Dumbarton Ave.
East Palo Alto, CA 94303

July 9, 2023

San Mateo County Local Agency Formation Commission (LAFCo)
2nd Floor
455 County Center
Redwood City, CA 94063

Subject: Opposition to the Proposal for the Establishment of EPASD as a Subsidiary District of the City of East Palo Alto

Dear Members of the San Mateo County LAFCo,

We, the undersigned, represent a group of concerned residents from East Palo Alto and Menlo Park, collectively known as "Residents for an Independent Sanitary District." We are writing to express our strong opposition to the proposal submitted by the City of East Palo Alto to establish the East Palo Alto Sanitary District (EPASD) as a subsidiary district of the city. We firmly believe that this proposal undermines the principles of local representation, autonomy, and fair governance crucial for safeguarding our community's rights and interests.

We wish to acknowledge the East Palo Alto Sanitary District's excellent service since its establishment in 1939. EPASD has been consistently maintaining our community's sanitation needs, reflecting the commitment and dedication of those at the helm.

We strongly object to the funding of the Municipal Service Review (MSR) and the support of this proposal by developers. This approach raises serious concerns about the transparency and integrity of the decision-making process. It appears this plan primarily serves the developers' interests, neglecting the needs and concerns of existing ratepayers who have been contributing to the district for years. We insist that any changes to the organization or reorganization of the sanitary district should prioritize the equitable treatment and well-being of all residents.

Furthermore, we are deeply troubled by the proposal's impact on the democratic rights of Menlo Park residents within the service area. The current arrangement, allowing Menlo Park residents to elect directors of the EPASD, ensures their voices are heard and interests represented. However, the proposed plan would disenfranchise Menlo Park residents, subjecting them to decisions made solely by the East Palo Alto City Council. This undermines local representation and self-governance, denying residents the opportunity to elect representatives who understand and prioritize their community's interests.

We also harbor significant reservations regarding the City of East Palo Alto's ability to effectively manage and maintain critical infrastructure. Recent responses to a grand jury report that highlighted deficiencies in the city's water provider's emergency preparedness exercises, documentation, and storage capacity raise serious doubts about the city's capacity to oversee and manage the proposed subsidiary sanitary district. Given the estimated \$80 million required for water infrastructure upgrades, we question the city's ability to ensure the sanitary district's long-term sustainability and reliability.

We respectfully urge the San Mateo County LAFCo to thoroughly review the implications of this proposal and prioritize the rights, interests, and well-being of all residents within the affected territory. We implore you to reject the proposal in its current form and advocate for a fair and independent sanitary district that upholds transparency, fairness, and equitable representation for all residents.

We appreciate your attention to this matter and trust that you will make a decision that protects local governance principles, fairness, and our community's overall best interests.

We welcome any opportunities for further discussion or clarification on this matter. Our group remains committed to ensuring the health and vitality of our community, and we believe that an open dialogue is crucial for achieving this shared objective.

Sincerely,

Residents for an Independent Sanitary District

Webster Lincoln

Grant Blackburn

Sharifa Wilson

Chuck Bernstein

David Rages

Edrick Haggans

Elizabeth Jackson

Angah Miessi

Jerry T Chang

Gail Wilkerson

Niambi Lincoln

Attachments:

1. City's Responses to the Required Findings on the San Mateo County Civil Grand Jury Report titled "The Other Water Worry: Is Your Water Provider Prepared for the Big One?" issued on August 5, 2022 ("Report").



November 1, 2022

The Honorable Judge Leland Davis, III
Presiding Judge
Superior Court of California, County of San Mateo
400 County Center, 2nd Floor
Redwood City, CA 94063

Dear Honorable Judge Davis

Thank you for the opportunity to review and comment on the San Mateo County Civil Grand Jury Report titled "The Other Water Worry: Is Your Water Provider Prepared for the Big One?" issued on August 5, 2022 ("Report"). The City Council of the City of East Palo Alto (City) approved the following response to the Report at its November 1, 2022 meeting.

The City's Responses to the Required Findings:

The Report required the City to respond to Findings F1, F2, F3, and F4, as shown on page 19 of the Report.

F1. The water provider was unable to demonstrate that it conducts the emergency exercise specified by its ERP, which may compromise its ability to supply water following a catastrophic interruption in water distribution service.

City of East Palo Alto: The City **agrees** with this finding.

F2. The water service provider was not able to produce documentation analyzing past exercises to test readiness and improve their performance, which may compromise its ability to supply water following a catastrophic interruption in water distribution service.

City of East Palo Alto: The City **agrees** with this finding.

F3. The water provider does not have three days of emergency water storage, which may compromise its ability to supply water following a catastrophic interruption in water distribution service.

City of East Palo Alto: The City **agrees** with this finding.

F4. *The water provider does not have three days of emergency fuel storage, which may comprise its ability to supply water following a catastrophic interruption in water distribution services.*

City of East Palo Alto: The City ***disagrees*** with this finding.

Since the Grand Jury's investigation, the City determined there is adequate fuel storage for at least three days.

The City has only one facility that requires fuel storage to operate a standby generator, the "Gloria Way Well" and treatment system. The facility has an above ground storage tank that holds 516 gallons of diesel fuel and a Kohler Model 100REOZJF standby generator. The standby generator operating at 75% load, uses 6.6 gallons per hour or 475 gallons over three days, which is adequate to operate the emergency generator for a period of at least three days.

The City's Responses to Required Recommendations:

The Report required the City of East Palo Alto to respond to Recommendations R1, R2, R3, and R4, as shown on page 19 of the Report.

R1. *The Grand Jury recommends that, by March 31, 2023, the water provider perform emergency preparedness exercises consistent with its emergency response plan.*

City of East Palo Alto: This recommendation has not yet been implemented but will be implemented by the deadline of March 31, 2023.

The City's water operator, Veolia North America, Inc., (Veolia) will update its emergency response plan to identify the necessary actions to address its ability to supply water following a catastrophic interruption in water distribution service for at least three days. The City, Veolia, and the Menlo Park Fire Protection District (Menlo Park Fire) will conduct a joint emergency preparedness exercise.

R2. *The Grand Jury recommends that, by March 31, 2023, the water provider perform an analysis and document an After-Action Report consistent with the emergency response plan.*

City of East Palo Alto: This recommendation has not yet been implemented but will be implemented by the deadline of March 31, 2023.

The City, Veolia, and Menlo Park Fire will perform an analysis of the exercise and prepare an after-action report.

R3. *The Grand Jury recommends that, by March 31, 2023, the water provider develop plans to increase water storage sufficient to provide emergency water for a period of at least three days.*

City of East Palo Alto: This recommendation has not yet been implemented but will be implemented by the deadline of March 31, 2023.

The average daily water usage is 1.5 million gallons per day or 4.6 million gallons over three days.

On October 4, 2022, the City Council adopted a resolution approving and adopting the 2022 Water System Master Plan. As part of the plan, the City identified two water storage projects, the “Pad D” tank at the corner of E. Bayshore Road and Clarke Avenue and a second storage tank at 375 Donohoe Street. The two planned storage tanks have a combined capacity of 1.65 MG.

The “Pad D” water storage tank has been constructed by a developer and will be conveyed to the City in the future. The City is also working with the developers of the Ravenswood Business to construct and/or fund additional water storage facilities.

The City will develop a single plan to increase water storage sufficient to provide emergency water for a period of at least three days.

R4. *The Grand Jury recommends that, by March 2023, the water provider develop plans to increase the emergency fuel storage sufficient to provide to provide emergency fuel for a period of at least three days.*

City of East Palo Alto: Not applicable. Refer to City’s response to Finding F4.

On behalf of the City Council of the City of East Palo Alto, I would like to thank you for the opportunity to review and comment on the above referenced Grand Jury Report.

Sincerely,

Ruben Abrica, Mayor
City of East Palo Alto

East Palo Alto Sanitary District Alternative Proposal

September 19, 2023

Resolution No. 1349
Approving EPASD
Alternative Proposal

**RESOLUTION NO. 1349 OF THE BOARD OF DIRECTORS
OF THE EAST PALO ALTO SANITARY DISTRICT
APPROVING LAFCo ALTERNATIVE PROPOSAL
PURSUANT TO CALIFORNIA GOVERNMENT CODE § 56861(b)(2)**

WHEREAS, a Special Meeting of the Board of Directors of the East Palo Alto Sanitary District ("District Board") was held, commencing at 6 pm on September 13, 2023, via Zoom, with a quorum of the directors present and participating in the meeting; and

WHEREAS, on November 10, 2022, the City of East Palo Alto ("City"), submitted an initial application to the San Mateo Local Agency Formation Commission ("LAFCo"), proposing the establishment of the East Palo Alto Sanitary District ("District") as a subsidiary district of the City; and

WHEREAS, on December 8, 2022, the District Board adopted Resolution No. 1327 memorializing its objection and opposition to the City's initial application; and

WHEREAS, the City's application was duly processed and became a Proposal on June 15, 2023, when LAFCo issued a Certificate of Filing of the application; and

WHEREAS, the District received email notice from LAFCo that the City's application was accepted as a complete Proposal filing on June 15, 2023; and

WHEREAS, California Government Code § 56861 (b) provides that an agency has 35 days after notice of a Proposal to adopt a resolution of intention to file an alternative Proposal with LAFCo, and to so notify the LAFCo's executive officer; and

WHEREAS, the District Board has determined that filing an alternative Proposal opposing the establishment of the District as a subsidiary district of the City would best serve the interests of its rate payers, and accordingly adopted Resolution No. 1346 on July 16, 2023, stating the District's intention to exercise its right under C.G.C. § 56861(b)(2) to file an Alternative Proposal with LAFCo; and

WHEREAS, the reason for the Alternative Proposal is to align the governance structure with the District's integral role in local infrastructure, to safeguard the interests of existing ratepayers, maintain a sewer services system that has been delivering outstanding results for decades, and to ensure that the District is efficiently, capably, and democratically governed; and

WHEREAS, because the District's action in approving its Alternative Proposal has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, it is exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15061 (b)(3) of State CEQA Guidelines.

NOW, THEREFORE, BE IT RESOLVED that the District Board hereby approves the Alternative Proposal in substantially the form as the document provided, and adopts this Resolution.

BE IT FURTHER RESOLVED that approval of the District's Alternative Proposal is found to be exempt from the requirements of CEQA because even if the Sphere of Influence amendment sought by the District's Alternative Proposal is a "project" and subject to CEQA, it is exempt under State CEQA Guidelines section 15061 (b)(3)-Common Sense Exemption as it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment" because there will be no reasonably foreseeable change in the types, intensity, and manner of service within the District's geographical area as a result of any approval and because no construction or other physical alteration of the environment is proposed. Accordingly, the District Board authorizes District staff to file a Notice of Exemption with the County Clerk.

BE IT FURTHER RESOLVED that the District Board hereby authorizes the officers of this District, and each of them acting alone, to make any necessary amendments to the Alternative Proposal and ancillary documents as becomes necessary during the LAFCo process, and take all other actions as may be necessary or appropriate to carry out same;

BE IT FURTHER RESOLVED that the District Board authorizes the expenditure of up to \$15,000 dollars for any processing costs related to the District's Alternative Proposal.

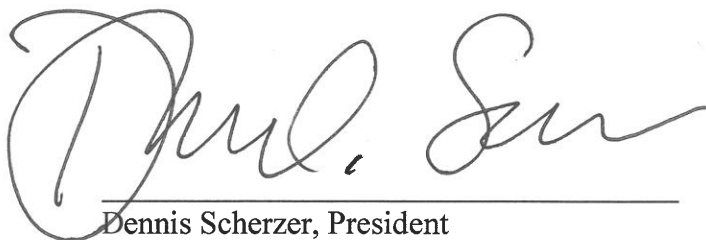
PASSED AND ADOPTED this 13th day of September, by the following vote:

AYES: Dennis Scherzer, Bethzabe Yañez, Martha Stryker, Glenda Savage

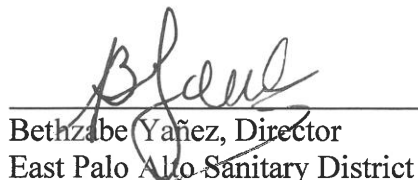
NOS:

ABSTAIN:

ABSENT: Ofelia Bello



Dennis Scherzer, President
East Palo Alto Sanitary District



Bethzabe Yañez, Director
East Palo Alto Sanitary District

I. SMLAFCo Application

1. APPLICATION

A. GENERAL INFORMATION.

1. Nature of proposal.

See Exhibit A-1.

2. Landowners or public agency.

See Exhibit A-2.

3. Reasons for proposal.

See Exhibit A-1.

4. Consent of landowners.

See Exhibit A-2.

5. Estimated acreage.

See Exhibit A-3.

B. SERVICES

1. Affected entities.

List the name or names of all existing cities and special districts whose service area or service responsibility would be altered by the proposed change of organization or reorganization.

See Exhibit A-1.

2. Affected services.

List all changes to the pattern of delivery of local services to the affected area. For each service affected by the proposed change(s) of organization, list the present source of service (state "none" if service is not now provided), the proposed source of service and the source of funding for construction of necessary facilities (if any) and operation. Example is given on the first two lines of the space provided for your response.

See Exhibit A-1, Exhibit B-2.

C. PROJECT PROPOSAL INFORMATION.

1. **Proposed area.**

See Exhibit A-1.

2. Present and planned land uses in the area

Describe the present land use(s) in the subject territory.

See Exhibit A-3.

3. Use of adjacent lands.

See Exhibit A-3.

4. Additional development resulting from reorganization.

Will the proposed change of organization result in additional development? If so, how is the subject territory to be developed?

See Exhibit A-1, C.

5. General plan designation(s).

What is the general plan designation of the subject territory?

See Exhibit A-3.

6. Existing zoning.

What is the existing zoning designation of the subject territory?

See Exhibit A-3.

7. Approvals already obtained.

What pre-zoning, environmental review or development approvals have already been obtained for development in the subject territory?

See Exhibit A-4.

8. Approvals needed.

What additional approvals will be required to proceed?

See Exhibit A-4.

9. Items subject to State Lands Commission jurisdiction.

Does any portion of the subject territory contain any of the following --agricultural preserves, sewer or other service moratorium or wetlands subject to the State Lands Commission jurisdiction?

See Exhibit A-4.

10. Potential for new development.

If no specific development projects are associated with this proposal, will the proposal increase the potential for development of the property? If so, how?

See Exhibit A-1, Exhibit C.

II. Plan for Providing Services

2. PLAN FOR PROVIDING SERVICES

1. Services.

Enumerate and describe the services to be extended to the affected territory.

See Exhibits B-2, B-3, C-1.

2. Scope of services.

Describe the level and range of those services.

See Exhibits B-2, B-3, C-1.

3. Timeline of offering services.

Indicate when those services can feasibly be extended to the affected territory.

See Exhibits A-1, B-2, B-3, C-1.

4. Planned improvements.

Indicate any improvements or upgrading of infrastructure or facilities such as structures, roads, sewer or water facilities, or other conditions to be imposed or required within the affected territory. Describe in detail, the size, location, and capacity of new infrastructure that will be necessary to provide service.

See Exhibits B-2, C-1.

5. Financial arrangements for construction and operation of services.

Describe financial arrangements for construction and operation of services extended to the affected territory (Attach proposed operations budget if available). Will the territory be subject to any special taxes, charges or fees? (If so, please specify.)

See Exhibits A-1, C-2.

6. Necessity of proposal.

In as much detail as required to give a clear explanation, explain why this proposal is necessary at this time.

See Exhibit A-1.

III. Sphere of Influence Amendment

3. SUPPLEMENT SPHERE OF INFLUENCE AMENDMENT APPLICATION

1. Please identify the agencies involved in the proposed sphere of influence change(s)

See Exhibit A-1.

2. Describe the district's/agency's current sphere of influence:

See Exhibit A-1.

3. What type of Sphere Amendment is the application requesting?

See Exhibit A-1.

4. Provide a description narrative of the following factors of consideration as outlined in Government Code Section 56425. (If additional room for response is necessary, please attach additional sheets to this form.)

4.1. Present and planned land uses.

See Exhibit B-3.

4.2. Present and probable need for public facilities and services

See Exhibit B.

4.3. Present capacity of public facilities and adequacy of public services provided by the agency

See Exhibits A-1, B, C.

4.4. Social or economic communities of interest

See Exhibits A-1, B-2.

4.5. Present and probable need for services to disadvantaged communities

See Exhibits A-1, B-2.

5. If the sphere of influence amendment includes a city sphere of influence change, provide a written statement of whether or not agreement on the sphere change between the city and county was achieved as required by Government Code Section 56425. In addition, provide a written statement of the elements of agreement (such as, development standards, boundaries, zoning agreements, etc.) (See Government Code Section 56425).

N/A.

6. If the sphere of influence amendment includes a special district sphere of influence change, provide a written statement that includes: (a) specifying the function or classes of service provided by the district(s) and (b) specifying the nature, location and extent of the functions or classes of service provided by the district(s). (See Government Code Sections 56425(i) and 56425(j)).

See Exhibit A-1.

For any sphere of influence amendment either initiated by an agency or individual, or updated as mandated by Government Code Section 56425, the following service review information is required to be addressed in a narrative discussion, and attached to this supplemental form (See Government Code Section 56430):

a. Growth and population projections for the affected area.

See Exhibit A-3.

b. Location and characteristics of disadvantaged unincorporated communities within or contiguous to the sphere of influence.

See Exhibits A-1, A-3, B-2.

c. Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies, including those associated with a disadvantaged unincorporated community.

See Exhibits A-1, B.

d. Financial ability of agencies to provide services.

See Exhibits A-1, B-1, C-1.

e. Status of, and opportunities for, shared facilities.

See Exhibits A-1, A-3.

f. Accountability for community service needs, including governmental structure and operational efficiencies.

See Exhibits A-1, B-2.

Narrative Exhibits to EPASD Alternative Proposal

EXHIBIT A – THE PROPOSAL

Exhibit A-1: The Alternative Proposal.

This is an alternative proposal to the City’s proposal to establish the East Palo Alto Sanitary District (“District”) as a subsidiary district of the City of East Palo Alto (“City”) (LAFCo File No. 2209) (“City Proposal”). The District’s alternative proposal is to: (1) retain the District’s current governance model; (2) amend its Sphere of Influence (SOI) to be coterminous with its geographic service boundaries; and (3) remove the District’s territory from the SOI of the West Bay Sanitary District (WBSD) (“Alternative Proposal”). The Alternative Proposal is necessary to preserve the existing governance structure of the District; align the District’s SOI with its service area, safeguard the interests of existing ratepayers, maintain a sewer services system that has been delivering outstanding results for decades, and ensure the District is efficiently, capably, and democratically governed.

Background.

Since 1939, the District has provided sanitary sewer service to an estimated population of 26,622 located in the City and Menlo Park. The vast majority of connections served by the District are residential (3,800 out of 4,155). The remaining 355 are commercial and/or industrial. The District’s collection system is well-maintained and has sufficient capacity to handle average dry weather flow and even peak wet weather flows for existing customers. The District itself is a well-run, fiscally sound public agency with a highly qualified staff and a duly elected Board of Directors.

In recent years, there has been substantial interest in developing the territory served by the District. In 2017, without consulting the District¹, the City of East Palo Alto issued a General Plan that contemplated construction of 825 residential units, and another 4 million sq. ft. of commercial development. Although the City’s consultant was familiar with the District’s collection system, the Environmental Impact Report (“EIR”) for the City’s General Plan incorrectly concluded that the City’s extensive plan for new development would have “no significant impact” on the District’s system.

The City’s conclusion is wrong. While the District’s collection system can handle current needs and some future growth, the development contemplated by the City’s General Plan requires a major expansion.²

Since the City failed to conduct the proper analysis to determine what additional capacity would be required to implement its General Plan, the District took it upon itself to: (1) identify the infrastructure needed to expand the capacity of its collection system to accommodate the City’s planned development; and (2) determine the cost of constructing the necessary infrastructure. To that end, the District developed a

¹ See Exhibit C-1 for more detail.

² See *id.*

thoughtful and well-researched expansion plan based on several engineering assessments, including an extensive study of the District's hydraulic capacity and a proposed plan to expand capacity to accommodate the proposed new development ("Expansion Plan").³ The District also conducted a capacity study to determine the cost of expansion and establish appropriate connection fees for new users to buy into the system. ("Connection Fees"). To fund the Expansion Plan, the District plans to supplement the Connection Fees with a portion of its reserves. And to minimize financial shock to prospective developers,⁴ the District contemplated various financing options that included: (1) use of the District's reserve funds; (2) Mello-Roo tax programs; (3) federal grants; (4) rate increases; and (5) the possibilities of both a phased and "buy-in" approach.⁵

Despite these efforts, the City and a group of developers are unhappy with the calculated Connection Fee and have taken the position that the Expansion Plan should be primarily paid for through rate increases to existing users. To accomplish that objective, the City submitted its Proposal to establish the District as a subsidiary District of the City so it, not the District's duly elected Board, would have the power to make decisions about rates.⁶

As part of its Expansion Plan, the District has explained to the City that burdening existing ratepayers with costs necessitated by new development is a violation of California Constitution, Article 13D, Section 6b ("Prop 218"), which forbids the District from charging rates that exceed the cost of providing sewer service. Despite that, and in recognition of the burden that the Connection Fees impose on developers, the District has made many attempts to collaborate with the City to develop equitable financing options for developers.⁷ Unfortunately, the City has consistently refused to meaningfully engage with the District on key issues related to the expansion, and has unilaterally–

³ See Exhibit C-1.

⁴ Financing via connection fees was a result of thoughtful, informed assessment by the District that happened over time. (See, e.g., District Board Meeting Agenda dated August 17, 2022, included as [Attachment 1](#), at p. 4 (approving hiring a financial consultant to enable "informed decisions").)

⁵ The District also considered imposing a more significant cost on ratepayers; however, it concluded that the costs of the Expansion Plan were not driven by current customers, and thus should not be passed down through service rates. (See Government Financial Strategies Memorandum to EPASD re: Financing Sanitary System Infrastructure, dated December 14, 2022, included as [Attachment 2](#), at p. 4; see also District Survey dated July 2022, included as [Attachment 3](#) (exploring the possibility of rate increases to fund infrastructure costs and finding that the majority of surveyed ratepayers strongly opposed this measure).)

⁶ Attempts by City leadership to disempower the local community by taking control of the District are not new. In fact, it required two public votes to incorporate the City in 1983 – the first ballot failed in large part because voters refused to dissolve the District into the City. See *African American and Hispanic Communities in East Palo Alto*, a Wildflowers Institute Report (2003) ("Wildflowers Institute Report"), linked [here](#), and included as [Attachment 4](#); see also From Crisis to Solutions: A Case Study of East Palo Alto's Water Supply, Fran M. Layton, Allison A Johnson, Winter 2019, linked [here](#), and included as [Attachment 5](#), at p. 6.

⁷ See Exhibit C-2.

and in contravention of LAFCo's recommendation in its most recent Municipal Services Review ("MSR")— withdrawn from the interjurisdictional discussions with the District, choosing instead to attempt to dissolve the District Board and empower itself to make all decisions for the District.

Fortunately, the Connection Fees set by the District did not deter conscientious developers, many of whom have applied for and received "Will Serve" letters and, in some instances, have begun construction.⁸ This fact directly contradicts the City's claim that the District has imposed a de-facto development ban in the City.⁹

The City (and the developers it is speaking for) contends that the District's Connection Fee is too high. But the connection fee calculated by the City is based on outdated, poorly contextualized data that wrongly concludes that the District needs to expand its system to accommodate existing customers. That conclusion is demonstrably wrong and is nothing more than a thinly veiled attempt by developers to impose the costs of adding capacity to the District's system on existing ratepayers in violation of Proposition 218. The City also concedes that it plans to outsource operations to a third party and that the cost of that franchise fee will also be passed on to ratepayers.

What the City proposes will necessarily lead to significant rate increases.¹⁰ The increases will be imposed on the District's customer base, which is predominantly Black and/or Hispanic and includes many low-income ratepayers,¹¹ including a substantial population that meets LAFCo's definition of disadvantaged community.¹² In addition to being economically disadvantaged, the California Environmental Protection Agency concluded that East Palo Alto is the City most burdened by pollution in all of San Mateo County.¹³ It is no wonder then that the District has taken great care to safeguard the stability of its rates. There is a special irony in asking disadvantaged, low-income ratepayers who are already at risk of imminent displacement, and are uniquely

⁸ See *generally*, Exhibit C.

⁹ The City was also aware that the developers were routinely proceeding with capital projects without contacting the District for sewer service permits. (See, e.g. Intergovernmental Committee Minutes, dated July 23, 2020, included as [Attachment 6](#) ("Director Yanez expressed the ongoing concern of the Board that prospective developers are not making initial contact with the District to obtain sewer service permits before undertaking construction projects."))

¹⁰ As explained above, the City's proposed budget for development-related improvements is based on inaccurate and incomplete findings, and severely underestimates the financial burden of accommodating large scale development. (See *infra*, Exhibit B-2.) Because the City fails to account for many significant expenses, and uses flawed data, the funds it would assess via capacity charge fees would account for only a fraction of the real cost of new construction, thereby making rate increases for the ratepayers inevitable.

¹¹ The District's ratepayers experience lower life expectancy, income levels, and educational attainment when compared to the rest of San Mateo county—the 4th wealthiest county in the country. (See City's General Plan, included as [Attachment 7](#), at p. 7-1.)

¹² See Exhibit B-3.

¹³ See California EPA Map, available at this [link](#) (CalEPA conclusion is also included as [Attachment 8](#)).

burdened by pollution, to absorb substantial rate increases in order to make development more profitable for investors.¹⁴

The District Is Best Suited To Deliver Sewer Services To The Community.

The District has been delivering exemplary sanitary sewer services to the community since 1939. A large portion of District staff are themselves District ratepayers, and residents of the City. The highly credentialed current leadership team possesses both the specialized knowledge required to efficiently run the District, and the passion to protect the integrity of its local community, including ensuring that the cost of progress is not passed on to existing ratepayers.

The District is Capably Maintained.

The District is capably and cost-effectively maintained. A 2021 hydraulics report found that the system is adequate for current residents.¹⁵ This finding has been confirmed in the real world—the District has not had a Sewer Surcharge Overflow (“SSO”) in over 16 years. That period includes the February 2023 torrential storms that caused SSO’s in many neighboring jurisdictions.¹⁶ That the District’s systems held up during that historical period of wet weather is a powerful testament to the adequacy of its existing collection system. It is also consistent with LAFCo’s own finding that the District “meets the needs of current and a portion of future demand” and provides at least an “adequate level of wastewater collection services to existing ratepayers.”¹⁷

The District is Well-Governed.

The District is thoughtfully and effectively governed.¹⁸ Its General Manager and Board President have extensive experience in providing sanitary sewer services.¹⁹ The District boasts a robust financial position and sizable reserves of some \$23 million, and has been able to maintain consistently low expenditures as compared to its general revenue.²⁰ The District’s records show that for the past several decades, it has had a clean audit, indicating that funds are spent according to established government accounting standards. The District also has exceptionally low debt obligations compared

¹⁴ The rate of return on development in the area served by the District is already favorable to investors (housing appreciation rates are 300% higher than the average in California, and even higher when compared to national averages). This further highlights the inequity the District’s policies aim to ameliorate. (See US Census Bureau Statistics compilation, included as [Attachment 9](#)).

¹⁵ See Addendum to the March 2015 EPASD Master Plan Update, Freyer & Laureta Inc., Final – April 28, 2021 (“Addendum to 2015 Master Plan”), included as [Attachment 10](#).

¹⁶ See Exhibit B-2; *see also Storms in the Bay Area Have Unleashed Millions of Gallons of Untreated Sewage*, as covered National Public Radio, included as [Attachment 16](#).

¹⁷ See SMLAFCo Municipal Service Review, as adopted in June 2022, included as [Attachment 11](#) (“LAFCo MSR”), at p. 6.

¹⁸ See Exhibit B-1 for details on the District’s governance.

¹⁹ *Id.*

²⁰ *Id.*

to similar agencies, including no Other Post Employment Benefit (“OPEB”) debt. Because the District is effectively managed, it is able to keep annual ratepayer charges low; ratepayers enjoy some of the lowest rates in the region – an important factor for a disadvantaged community. Finally, the District’s internal policies are transparent, well thought out, and compliant with regulations.²¹

The City Is Not Suited To Run The District.

When LAFCo conducted its first MSR of the District in 2009, it carefully balanced the pros and cons of a potential subsidiary district reorganization and, among other things, expressed concern over a “general service” local agency (like the City) undertaking the specialized functions of a sanitary district.²² Further, Martha Poyatos, then-Executive Officer of LAFCo, identified in a memorandum “the need for regional governance to best provide water and sanitary sewer service[.]”²³ The 2009 MSR also discussed threats to community representation resulting from a potential reorganization, which would necessarily result in disenfranchisement of Menlo Park ratepayers.²⁴

Additionally, the City’s proposal to integrate the District’s OPEB liabilities with those of the City is concerning. Presently, the District carries no pension or OPEB debt, but aligning with the City—which carries a substantial amount of OPEB debt—could jeopardize the District’s present and future retirees, and adversely affect the District’s own financial stability. It’s crucial to recognize the potential consequences of these shortcomings, including their impact on the City’s budget, district employees’ retirement benefits, and the broader long-term financial implications. Merging the District with the City could also increase the bankruptcy risk of the sanitary sewer program due to a changed Altam Z Score.

Finally, the City does not possess the special qualifications required to run a sewer service, and plans to outsource operations to a third party. Given the City’s history of mismanaging public utilities, the prospects for what is currently by all accounts excellent and reliable service, are grim.²⁵

Given these evident flaws, the District’s Alternative Proposal that prioritizes the welfare of the local community, and ensures prudent, informed decision-making, was necessary.

Aligning the District’s SOI With Its Service Boundaries Is Appropriate

²¹ *Id.*

²² See Letter re: for EPASD Presentation to LAFCo re: MSR, dated June 14, 2022, included as [Attachment 12](#), at p. 2; see *also* Municipal Service Review Draft Report, dated February 12, 2009, included as [Attachment 13](#); Martha Poyatos’ Memorandum to LAFCo and 2009 Draft MSR, dated October 8, 2008, included as [Attachment 14](#) (“Poyatos Memorandum”).

²³ See *id.*, at p. 2.

²⁴ See *id.*, pp.

²⁵ See Exhibit B-2 for more detail.

By definition, an SOI is “a plan for the probable physical boundaries and service area of a local agency.” (Gov. Code § 56076.) The District’s current SOI is a zero sphere, which means the District should be dissolved. As explained in more detail above, this is not an appropriate outcome because the District is a well-run district with the lowest rates in the county. Rather than establishing the District as a subsidiary district, SMLAFCo should allow the District to continue to operate as it has recently and remove the zero sphere designation.

SMLAFCo should also remove the District geographical area from the WBSD SOI. According to the MSR adopted by LAFCo in June 2022, WBSD has no plan to expand its service area through annexation of the District’s territory.²⁶ So encompassing the District within the WBSD’s SOI is not an accurate reflection of the infrastructural reality of the two districts.

Additionally, it is LAFCo’s mission to avoid “wasteful duplication of services” (*Ceres v Modesto* (1969) 274 Cal.App.2d 545). LAFCo cannot allow overlap of spheres for two agencies providing the same services. Because, as detailed above, and in the exhibits that follow, the District is in the best position to provide effective sanitary sewer services within its current boundaries, and in fact, has been doing exactly that for decades. SMLAFCo should make the District’s SOI coterminous with its service boundaries.

Conclusion

SMLAFCo should approve the District’s Alternative Proposal. The District is demonstrably capable of providing quality sewer services to its rate-payers and properly managing the system growth necessary to accommodate new development. In contrast, the City’s Proposal will unduly burden existing rate-payers with the cost of new development which violates Proposition 218 and will increase the costs of sewer service.

²⁶ See Exhibit A-2.

EXHIBIT A-2
SUPPORT FOR THE PROPOSAL

Who submitted the proposal. This application was submitted by an affected public agency, the East Palo Alto Sanitary District, by resolution.

Support for the proposal. The adjacent Sanitary District is not in support of a reorganization of the District without its concurrence.²⁷

²⁷ See LAFCo MSR, included as [Attachment 11](#), at p. 6 (“WBSD is ... not willing to initiate a reorganization ... in the absence of EPASD concurrence.”)

EXHIBIT A-3 SUBJECT TERRITORY

Subject territory.

The territory subject to the District's Proposal is approx. 1.84 sq. miles. Its general location is coterminous with the boundaries of the District which include a majority of the City of East Palo Alto ("City") and a portion of the City of Menlo Park ("Menlo Park") bounded by the East Palo Alto/Menlo Park Boundary, San Francisquito Creek and Menalto Avenue. The Subject Territory Map is included as [Attachment 15](#).

Present and planned uses in the area.

While most of the District's service area is in the City, there is also a portion in Menlo Park. Land use designations are primarily single family residential and multi-family residential with a small amount of commercial. The District is fairly well urbanized so there is very little agricultural land or open space.

The portion of the District's service area in the City is characterized by a primarily urbanized landscape, interspersed with open spaces, marshlands, and vacant tracts. Residential land use dominates and is comprised primarily of single-family homes, with some multi-family housing. Commercial and office activities occupy roughly 6% of the land, with a noteworthy blend of functions occurring where residential neighborhoods adjoin University Avenue's retail establishments and the Ravenswood 101 Shopping Center. Institutional uses, public facilities, parks, and recreational spaces collectively encompass about 10% of the city's land area. A portion of the District's service area in the City is vacant. The unoccupied areas are primarily concentrated along Bay Road within the 350-acre Ravenswood Business District / 4 Corners Transit Oriented Development Specific Plan (RBD). This area was previously home to industrial businesses.

The portion of the District's service area in Menlo Park is primarily residential.

Use of adjacent lands.

Lands adjacent to the subject territory are currently used as follows:

North: Baylands, Undeveloped

South: Residential (the Cities of Palo Alto and Menlo Park)

East: Baylands, Undeveloped

West: Residential and Office Park (including the City of Menlo Park & Meta)

General plan designation(s).

The City has the following General Plan designations encompassing residential, mixed use, commercial, parks, industrial, public/institutional and open Space categories: Low Density Residential (0-12 units/acre), Medium Density Residential (12.1-22 units/acre), High Density Residential (22.1-43 units/acre), Urban Residential (43.1-86 units/acre), Mixed Use Low, Mixed Use Corridor, Mixed Use High, Neighborhood Commercial, General Commercial, Office, General Industrial, Industrial Buffer, Parks/Recreation/Conservation, Resource Management and Public/Institutional.

The specific definitions of the City's General Plan designations can be found in the land use chapter of the City's Vista 2035 General Plan, included as [Attachment 7](#).

The portion of Menlo Park that is currently served by the District has the following General Plan designations: Residential and Public/Quasi Public. The specific definitions of Menlo Park's Land Use Element of the General Plan designations can be found in the Menlo Park General Plan, included as [Attachment 17](#).

Notably, in preparing its most recent General Plan, the City did not meaningfully coordinate with the District to plan for long-term development. Further, the City's complaint that it cannot issue permits without confirmation of capacity is misplaced. It is actually the developer's obligation to ensure the availability of capacity for increased usage of the system by payment of applicable capacity fees.

Existing zoning.

The City has the following Zoning designations: Residential Low Density (R-LD), Residential Medium Density (R-MD), Residential High Density (R-HD), Residential Urban High Density (R-UHD), Mixed Use Corridor (MUC), Mixed Use Low (MUL), Mixed Use High (MUH), Commercial General (C-G), Commercial Neighborhood(C-N), Commercial Office (C-O) Public Institutional (PI), Parks and Recreation (PR), and Resource Management (RM). The City also has specific zoning designations within the RBD Specific Plan area. The districts include the following: 4 Corners, Bay Road Central, Ravenswood Employment Center, Industrial Transition, Waterfront Office, Urban Residential, University Village (single family), Ravenswood Open Space, and Ravenswood Flex Overlay.

Definitions of the designations above can be found in the City's Development Code Title 18, Article 2, included as [Attachment 18](#).

Definitions of the RBD zoning designations can be found in the land use section of the Specific Plan, included as [Attachment 19](#).

The portion of Menlo Park that is currently served by the District has the following General Plan designations: Residential and Public/Quasi Public. The specific definitions

of Menlo Park's Land Use Element of the General Plan designations can be found in the Menlo Park General Plan, included as [Attachment 16](#).

Population Trends²⁸

Historical population trends. The City's population has remained fairly static over the last two decades, fluctuating minimally from year to year. In 2000 and 2001, the City and District experienced positive growth of 1.83% and 2.47% respectively. From 2002 to 2009, the City and District experienced consistent population decline, with a combined decline in population of 8.6%. Between 2010 and 2018, there was positive growth in population of 9.2%. From 2018-2020, there has been a slight decline in population. As of 2020, based on the number of residential connections served and the average household size in the cities served, the population of the District is approximately 26,622.

Projected population. The District's growth should closely mirror the City's growth. The Association of Bay Area Governments ("ABAG") projects that the City will experience 17.7 % population growth between 2020-2040, bringing the population of the District to an estimated 31,335 by 2040.

²⁸ See LAFCo MSR, included as [Attachment 11](#), at pp. 110-11, for source information on population trends.

EXHIBIT A-4 APPROVALS

CEQA Approvals. The Sphere of Influence Amendment (“SOI Amendment”), is not a "project" subject to CEQA as there is no potential that it will result in either a direct physical change to the environment or a reasonably foreseeable indirect change to the environment and because it is a governmental organizational or administrative activity that merely authorizes a boundary change, but will not result in any direct or indirect changes to the environment. (Public Resources Code § 21065; State CEQA Guidelines § 15378.) Even if the SOI Amendment was considered a "project" subject to CEQA, it is exempt under State CEQA Guidelines section 15061 (b)(3)-Common Sense Exemption as "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment" because there will be no reasonably foreseeable change in the types, intensity, and manner of service within the subject territory as a result of any approval and because no construction or other physical alteration of the environment is proposed. The District’s Notice of Exemption is included as [Attachment 20](#).

State Lands Commission. No portion of the subject territory contains agricultural preserves, sewer or other service moratorium or wetlands subject to the State Lands Commission jurisdiction.

Other Approvals. No other approvals are needed at this time.

EXHIBIT B-1 EXEMPLARY GOVERNANCE

1. Robust financial health.

Balanced Budget.

The District's budget generates revenues (including property tax) in excess of operating expenditures (excluding transfers); the net revenues enable the District to fund debt service, build reserves, and transfer funds to its Capital Replacement Fund for infrastructure improvements. The District's budget is transparent²⁹ and is available to the public via the District's website. Audited financial statements for FY22 reported a strong net position of \$30.12 million at the close of the most recent fiscal year, increasing by over \$1.8 million.³⁰

Clean Audits.

The District prepares an annual financial report consistent with Generally Accepted Accounting Principles (GAAP). Consistent with GAAP, each year, the auditor assures that the financial statements are "free from material misstatement, whether due to fraud or error."³¹ The audits for the past several decades have returned with no exceptions.

High Reserve Funds.

The District's reserve policy was last updated in 2019, and contemplates operating reserves equal to at least 12 months of operating expenses, as well as rate stabilization, equipment replacement, capital, emergency capital, and OPEB liability reserves.³²

Currently, the District has over \$23 million in reserve funds. Strong reserves are a testament to the District's robust financial planning and risk management. The District has been able to maintain these reserves, while continuing to efficiently meet day-to-day service needs, execute capital improvements, and comply with debt requirements. This substantial reserve reflects the District's fiscal competence, and enables the District to plan for substantial infrastructure improvements without placing the District's financial standing in jeopardy.

²⁹ LAFCo's MSR criticized the District's budget for including "contractual services" as a category. But, this is a standard category many agencies include in their budgets. For example, WBSD included a similar \$500,000 amount to "contractual services" in its 2022-23 Budget, but did not yield the same criticism from LAFCo. (See LAFCo MSR, included as [Attachment 11](#); see also WBSD Annual Budget for 2022-23, available at this [link](#), and included as [Attachment 21](#); EPASD Budget, included as [Attachment 22](#))

³⁰ See Audit Report for FY 2022, included as [Attachment 23](#).

³¹ See *id.*

³² See EPASD Reserve Policy, included as [Attachment 24](#).

The District only has about \$1.065 million in long term debt. Annual payments are \$153,000 which is considered low relative to revenues for typical agencies.³³

No Pension or OPEB Liability.

Since early 2022, the District has no pension or OPEB liabilities³⁴.

The City proposes to integrate the District into its CalPERS program and to utilize the District's reserves to reduce the City's long-term retirement costs. This would be a disservice to existing ratepayers who deserve to have the District's reserves used for ongoing operations and maintenance needs of the District, including the execution of the District's Capital Improvement Plan ("CIP"), which ensures that the District adequately plans for the maintenance necessary to continue to operate its collection system.

2. Transparent policy.

Current Policies.

The District maintains policies that are current and compliant with relevant regulations. The policies deal with roles and responsibilities of directors, committees and staff; conduct and conflicts of interest; general ledger and chart of accounts; and other policies and procedures related to disbursements and expenses, payroll, asset and liability accounts, financial controls, including:³⁵

- Reserve Policy
- District Code
- Brown Act Policy
- Conflict of Interest Code compliant with The Political Reform Act
- Policies Handbook for the District Board of Directors
- Travel Policy for the District Board of Directors
- Employee Handbook, updated in 2018

Board Members' Continued Education.

Board Members receive timely and regular ethics training.

³³ See *Long Term Obligations Indicators*, available at this [link](#), and included as [Attachment 25](#).

³⁴ See Audit Report for FY 2022, included as [Attachment 23](#).

³⁵ Each of these policies is included as [Attachments 24, 26, 27, 28, 29, 30, 31](#), respectively.

Form 700 Reports.

Each year, District Board Members timely disclose their investments, interests in real property and incomes by filing Form 700, which is a form required by Gov. Code. § 87203.

3. Capable leadership and personnel

The District has been well-managed by qualified personnel. Its General Manager, Akin Okupe, is a civil engineer, and an M.B.A. His sophisticated yet pragmatic approach to management, informed by decades of industry experience, has been an asset to the District and can be credited for the District's continued ability to provide cost-effective services to ratepayers.³⁶

4. Effective community outreach.

Access to information.

The Board communicates to rate payers effectively through its AB 2257 and SB 929 compliant public-facing website. The website includes information on meetings, bill paying, rates and fees, wastewater services, and financial and planning documents. The District also distributes newsletters and informs the public through public notices. When needed, the District also operates Community Workshops to foster engagement with the more complex issues impacting ratepayers.

Soliciting Feedback.

The District also puts considerable effort into soliciting feedback from ratepayers regarding its policies and procedures. Of note, in July 2022, the District sent out another survey to District customers, collecting information regarding levels of satisfaction with services offered by the District, and how amenable the ratepayers would be to rate increases that would cover expansion costs.³⁷ Not surprisingly, the vast majority of ratepayers surveyed opposed this option.

Grievance process.

If a customer is dissatisfied with the District's services, complaints may be submitted over the phone or via email. Complaints are tracked and managed by the front administrative office. Details of each complaint are recorded, information is

³⁶ See General Manager Okupe's qualifications at [this link](#), also included as [Attachment 32](#).

³⁷ See District Survey, dated July 2022, included as [Attachment 3](#) (including the following question: "In general, how willing would you be to pay more in annual sewer charges, which are collected on the property tax bill, to update and expand the City's sewer system capacity in the affected areas in order to support these development projects?"; 52% were "not at all willing," and 14% more were "not too willing").

gathered, and options for resolution are discussed at a staff level. Notably, as a result of good management practices, the District receives few complaints from its customers.

5. Inter-agency cooperation.

In order to operate more effectively the District works with neighboring agencies with the goal of providing more efficient services. As an example, in 2020, SMLAFCo suggested that District, the City, and various developers work together toward an equitable solution to finance the large scale development contemplated by the City's General Plan.³⁸ At first, it appeared the City might collaborate on solutions: in October 2020, one of the developers, Sobrato, transmitted correspondence to SMLAFCo acknowledging that "over the past few months, City and District officials and staff have demonstrated a remarkable level of diligence and commitment to working together through the Intergovernmental Committee (IGC) to discuss possible solutions and pathways for providing City-approved development projects with 'will serve' letters for essential sanitary service."³⁹ The District continued these monthly intergovernmental committee meetings with the City through 2022 to discuss issues of mutual concern. Although the City suspended these meetings in the Fall of 2022, the District would like to see them resume. As late as September 2022, the District continued to engage in active efforts to get City management to collaborate with the District on mutually agreeable options to finance the expansion of its infrastructure.⁴⁰ The City, however, did not wish to engage with the District, and instead moved forward with its plan to submit the City's Proposal.⁴¹

The District also has a track record of effectively partnering with other agencies including its participation in a multi-agency project that reconfigured San Francisquito Creek for flood control purposes and its partnership in the Palo Alto Regional Water Quality Control Plant, of which the District is one of five partners.⁴² Each of these partnerships has resulted in the availability of State funds for improving infrastructure.

³⁸ See LAFCo MSR, included as [Attachment 11](#), at p. 4.

³⁹ See Letter from Sobrato, dated October 27, 2020, included as [Attachment 51](#). October 27,

⁴⁰ See Yanez letter to Mayor Abrica of EPA, included as [Attachment 33](#).

⁴¹ See Exhibit C-2.

⁴² See LAFCo MSR, included as [Attachment 11](#), at p. 127.

EXHIBIT B-2

SERVICES OFFERED

Since 1939 the District has provided sanitary sewer service to approximately 26,622 residents, and a range of office, retail, public/ institutional, and other uses in the East Palo Alto and Menlo Park area.⁴³ The District operates a gravity-based collection system that complies with State Water Resources Control Board regulations.⁴⁴ The District is a well-run sewer district with sufficient capacity both to satisfy present needs, and accommodate some new development.

Sewer system is well managed.

Description of system.

The system consists of approximately 30 miles of gravity sewer lines; approximately 70% are 6 inches in diameter and the remainder range from 8 to 24 inches in diameter.⁴⁵ Because the lines are powered by gravity, there are no pump stations. The trunk line contains a siphon beneath San Francisquito Creek between manholes T15 and T14. The collection system also includes 15 drainage basins.⁴⁶

Sections of the system have been replaced; however, most of the original pipelines and manholes remain in service.⁴⁷ The new manholes are precast, while the original manholes were mostly constructed of brick and mortar.⁴⁸ The original pipelines utilized vitrified clay pipe (VCP), while more recent pipe replacements employ sturdy plastic options such as PVC or HDPE.⁴⁹

All pipes within the collection system lead to the Palo Alto Regional Water Quality Control Plant (RWQCP), where the District's flows undergo treatment before being discharged into the San Francisco Bay.⁵⁰ RWQCP records encompass the total wastewater flow for the District, measured via the District's meters.⁵¹ Peak daily flows typically occur between December and March, during winter, while lowest daily flows are observed from September through November.⁵²

The dry weather flow capacity of RWQCP stands at 38 MGD. An agreement between the District and RWQCP ensures that the District is entitled to 7.63% of

⁴³ See LAFCo MSR, included as [Attachment 11](#), at p. 3.

⁴⁴ See e.g., Addendum to 2015 Master Plan, included as [Attachment 10](#), at p. 1.

⁴⁵ See LAFCo MSR, included as [Attachment 11](#), at pp. 106-07.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

RWQCP's average dry weather capacity—equivalent to 2.9 MGD. In 2020, the District recorded an average daily wastewater flow (ADWF) of 0.61 MGD, or approximately 21% of its allotted treatment capacity.⁵³

No SSO overflows.

The District's high quality of service is evidenced by the fact that ***it has not experienced any sanitary sewer overflows ("SSO") for at least 16 years***, including during the February 2023 torrential storms, which caused substantial overflows in even the most well-funded and developed districts in the Bay Area.⁵⁴

To support its argument that absorption of the District is necessary, the City' Proposal asserts that the District's system is operationally challenged, and/or would not be able to handle peak wet weather conditions.⁵⁵ As is obvious from the above, this assertion is unfounded, and directly belied by public records to the contrary. Further, while the District's systems are amply capable of serving ratepayers needs without surcharging, the City's Plan ignores engineering recommendations and compromises on structure, making surcharges not just likely, but inevitable.⁵⁶

Sewer System Management Plan.

The District has also completed a Sewer System Management Plan (SSMP) to guide long term operations (the Plan has recently been updated to remain compliant with new regulations).⁵⁷ The plan was adopted in 2015 and updated in 2021. Although there have not been SSOs in over 16 years, the District worked hard to identify areas vulnerable to surcharging and SSOs. The SSMP includes a robust Operations & Maintenance Program which includes proactively monitoring, maintaining, and improving the condition of the collection system infrastructure⁵⁸. The SSMP takes into account the ongoing changes to the capacity of the system, and continuously updates demand assumptions to be consistent with the City's most recent General Plan update.

An example of the District's maintenance efforts is the recently completed CCTV-monitoring project which was launched to aid in fully assessing the infrastructure needs of the District, and enable a more accurate Connection Fee calculation. The project helped identify with certainty and record any sections of the District's system that were in need of upgrades and maintenance.⁵⁹

⁵³ *Id.*

⁵⁴ See Hildebrand, *Capacity Charge Study*, September 7, 2022, included as [Attachment 41](#).

⁵⁵ See The City's Proposal, included as [Attachment 34](#), pp. 12-13.

⁵⁶ See EPASD Letter to LAFCo in response to the City's supplemental communications relating to its Proposal, included as [Attachment 35](#).

⁵⁷ See Sewer System Management Plan, revised August 12, 2021, as adopted by District Resolution No. 1282 on September 2, 2021, included as [Attachment 36](#) (Resolution embedded.)

⁵⁸ *Id.*, at p. 8.

⁵⁹ See Sierra West CCTV Report, dated October 31, 2022, included as [Attachment 37](#).

Because of the District 's strong financial position, it is capable of funding all current repairs needed, and has been accordingly allocating its revenue and reserve funds. Notably, the District does not repair or replace pipelines that are sound and functioning in good order. Most CIP expenditures relate to "point repair" projects that address system-wide needs for replacement and repair.

Sewer Rates.

The District's current rates are \$600/ EDU.⁶⁰ In determining the rates, the District used the 2019 Sewer Rate Study, which made projections that encompass the following agency needs: (1) projected sewer system operating and maintenance expenses; (2) fees related to RWQCP wastewater treatment operations; (3) financing costs for rehabilitating and upgrading the RWQCP's wastewater treatment facilities; (4) provision of an ongoing funding stream for the repair, replacement, and/or increased flow capacity for the District's sewer collection system infrastructure; and (5) maintenance of the long-term financial sustainability of the District.⁶¹

Because the District has been generating revenue in slight excess of its expenses in the past few years, it has not raised rates for customers. However, the District has established a cut-off point consistent with financial yield management recommendations, at which it will next increase sewer rates.⁶²

Sufficient Capacity for New Growth.

The current capacity allotted to the District at RWQCP is 2.9 million gallons per day. The District's average dry weather flow is only 0.61 million gallons per day, or 21% of total current capacity which means the treatment plant has ample capacity for new growth.⁶³ The District's collection capacity has similarly not been exhausted, and can accommodate additional development even during peak wet weather before requiring expansion.⁶⁴

The District is Best Positioned to Manage a Sewer Utility.

High quality, low cost services have been offered to ratepayers since 1939 and, as described in the recent Bartle & Wells Rate Study ("B&W Rate Study"), will continue to be provided without an immediate rate increase to existing ratepayers beyond routine annual CPI increases. Indeed, the District, as currently operated, fits all of the criteria

⁶⁰ See SMLAFCo MSR, included as [Attachment 11](#), at pp. 120-21.

⁶¹ See *Bartle & Wells Rate Study*, included as [Attachment 38](#).

⁶² See EPASD Board Presentation re: Municipal Service Review, included as [Attachment 39](#).

⁶³ See Sewer Trunk Line Presentation to the Board, dated February 18, 2021, included as [Attachment 40](#).

⁶⁴ *Id.*; see also See Hildebrand, *Capacity Charge Study*, September 7, 2022, included as [Attachment 41](#).

(and more) that the City included in its Request for Proposal provided alongside its LAFCo application for potential sewer management contractors.⁶⁵

In contrast, the City proposes that wastewater collection services be provided via a private entity procured via an RFP. The District has reviewed the scope of services of the City's RFP and can confirm that it currently provides all of the listed services, and, per the B&W Rate Study, should be able to continue so doing with only marginal CIP rate increases.⁶⁶ But, if the City's Proposal is approved, the subsequent procurement by the City of wastewater collection services from a private entity will require an accelerated rate increase to ratepayers as was the case when the City took over the provision of water services to its residents. The City is also proposing an unrealistic connection fee of close to \$6,000 based on an outdated and inaccurate calculation that fails to take into account the full \$64.7+ million necessary for system expansion, \$40 million of which would be exclusively attributable to new development.⁶⁷

Further, the City's recent record for running a utility is concerning.⁶⁸ In 2001, it contracted its water services out to a third party vendor.⁶⁹ With franchise fees charged by the City, and additional fees charged by the contractor in order to yield profit, the City's water rates spiked significantly, harming economically vulnerable ratepayers.

⁶⁵ See City's Letter to LAFCo, dated March 23, 2023, included as [Attachment 42](#).

⁶⁶ See B & W Rate Study, included as [Attachment 38](#).

⁶⁷ City staff acknowledged that previous capacity calculations, at a minimum, were likely too low considering the substantial density associated with the proposed development. (See EPA City Staff Report for September 6, 2022, City Council Meeting, included as [Attachment 43](#), at p. 84)

⁶⁸ See District's Letter to LAFCo, dated December 22, 2022, included as [Attachment 45](#).

⁶⁹ See *id.*

EXHIBIT B-3 COMMUNITY INTERESTS

Community Demographics.

The District serves a predominantly Black and Latino, and over 40% immigrant, population.⁷⁰

*Disadvantaged Communities.*⁷¹

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. 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.

Disenfranchisement of Menlo Park Residents.

If the City's Proposal is approved it would result in the disenfranchisement of ratepayers residing in the City of Menlo Park.⁷² Under the City's proposal, individuals from Menlo Park would be ineligible to be elected to the City of East Palo Alto's Council, limiting their representation and participation in local governance. The City's assurance of community outreach⁷³ is an insufficient substitute, as outreach efforts fall short of guaranteeing equitable involvement of Menlo Park residents in shaping policies that directly affect their interests.

In contrast, the current governance structure enables all ratepayers to actively engage in leadership roles by running for positions on the District's Board. Maintaining the current framework allows for a more inclusive and participatory approach, offering a platform for Menlo Park residents to contribute to the District's decision-making processes and ensure their voices are heard.

*The Lateral Replacement Program Serves the Community*⁷⁴

Mindful that disadvantaged members of its community nevertheless require vital services, the District has been running its Lateral Replacement Program to help eligible ratepayers fund improvements since 1985. The program is designed both to ensure

⁷⁰ See Government Census Information, available at this [link](#), and included as Attachment [].

⁷¹ See LAFCo MSR, included as [Attachment 11](#), at pp. 150-151.

⁷² See also 2009 Draft Municipal Service Report, included as [Attachment 13](#), at p. 2. (discussing similar concerns when making MSR/ SOI determinations in 2009).

⁷³ See City's answers to LAFCo's follow up questions on its proposal in its Letter to LAFCo, dated December 22, 2022, included as [Attachment 47](#).

⁷⁴ See Sample Loan Agreement, included as [Attachment 52](#), for more detail on the District's Lateral Replacement Program.

public health and safety by assisting property owners in maintaining their sewer laterals. It has often facilitated emergency repairs due to lateral failures.

As part of this program, property owners receive loans to cover lateral repair and replacement costs which, through contractual agreement, are then repaid through increased sewer service charge (SSC) assessments collected on the SMCo property tax roll. Projected SSC revenues, identified by the District on their annual tax roll submissions are fully funded by SMCo under the Teeter Plan. SMCo, by agreement with the District, is then authorized to pursue delinquencies if they occur. The Lateral Replacement Program agreements also include a Point of Sale clause that requires that the unfunded remainder of these loans is paid whenever a property changes owners.

EXHIBIT C-1

PLANNED IMPROVEMENTS

Background

In line with best industry practices, the District has historically planned and conducted improvements at a scale that would meet projected future demands.⁷⁵ Consistent with that goal, the District has maintained capacity in its collection system for additional growth. Simultaneously, and bearing in mind the limitations of its existing sewer system, which, while more than adequate to serve current needs and more, would eventually run out of capacity, the District continued to strategize for infrastructure improvements that would allow for larger scale development.

To that end, the District retained an expert consultant to surveil the collection system using closed-circuit cameras (CCTV) to help assess the hydraulic capacity of the District's current pipeline, and make a recommendation as to how to sustainably increase capacity to accommodate substantial expansion.⁷⁶ Using these findings, and other specialized knowledge about its systems, the District developed its 2021 Master Plan Addendum.⁷⁷ This plan, which was specifically designed to implement large scale development, outlined system deficiencies precipitated by existing use, and identified proposed changes attributable only to new development, estimating corresponding costs for both.⁷⁸

The City Did Not Consult the District Before Substantially Increasing Planned Density In Its General Plan.

Notably, the City's 2017 General Plan did not account for any of the above deficiencies, and instead, published a perplexing conclusion that the 825 residential units, and 4.25 million sq. ft of commercial development proposed by the plan, would have "no significant impact" on the District's sewer system. It is not clear why the City and its engineers failed to recognize the obvious and recorded need for infrastructure changes. What is known is that the City did not consult the District when reaching this conclusion, defying both common sense, and statutory mandates.⁷⁹ The District made repeated attempts to cause an amendment to the City's General Plan to be executed which would integrate the District's considered and detailed Capital Improvement Plan, and ensure the City's EIR was based on complete and accurate data about the District

⁷⁵ See Addendum to 2015 Master Plan, included as [Attachment 10](#).

⁷⁶ See Sierra West CCTV Report, dated October 31, 2022, included as [Attachment 37](#).

⁷⁷ See *infra*, discussing the District's Capital Improvement Plan.

⁷⁸ See Addendum to 2015 Master Plan, included as [Attachment 10](#); see also LAFCo MSR, included as [Attachment 11](#), at p. 106.

⁷⁹ Pursuant to Government Code § 65852.2(A), City staff was required to meet with EPASD to discuss the City's intended density goals.

and its capacity.⁸⁰ The City did not wish to engage,⁸¹ instead setting in motion this costly, harmful, and unnecessary proposed reorganization.

District Capital Improvement Plan

The District has taken important steps to update its 2015 Capital Improvement Program (CIP), conducting recent hydraulic modeling and proposing improvements to address deficiencies and needs.⁸² Hydraulic modeling adheres to best practices that recommend preparation of a System Evaluation and Capacity Assurance Plan “...to assure that the collection system has adequate hydraulic capacity to convey dry and peak wet weather flows through the system to the ultimate disposal point without upset or discharge to the environment or private property.”

The District’s well-supported Capital Improvement Plan includes the following changes to infrastructure attributable exclusively to new large scale development: (i) upsizing of the local pipeline, est. cost \$22 million, (ii) trunk capacity upgrades, est. cost \$13 million, and (iii) additional treatment plant capacity to be purchased from Palo Alto Regional Water Quality Control Plant, est. cost \$5 million.⁸³ When combined with other structural changes needed, the total cost is over \$64 million.⁸⁴ The District plans to implement these infrastructure changes over the course of 4 years, with 25% of the development occurring each year.⁸⁵

The Sanitary Sewer Replacement Project.

An example of the District’s consistent effort to gradually and thoughtfully upgrade its infrastructure is the Sanitary Sewer Replacement Project (Beech St., Clarke Ave, and Green St.) for which the District is currently reviewing contracting bids, and which is set to commence in September 2023.⁸⁶

⁸⁰ See Email exchange with City Manager, including email dated December 13, 2021, in which City Manager declines to collaborate with the District on a realistic, and researched improvement plan, included as [Attachment 48](#).

⁸¹ See *id.*

⁸² See *id.*

⁸³ See Government Financial Strategies Memorandum to EPASD re: Financing Sanitary System Infrastructure, dated December 14, 2022, included as [Attachment 2](#), at p. 3 (integrating information from Sierra Consultants, Bartle Wells, and Hildebrand Financial Consultants).

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ See Sanitary Sewer Replacement Project Contract Documents and Technical Specifications, included as [Attachment 49](#).

EXHIBIT C-2 PAYING FOR IMPROVEMENTS

BACKGROUND

The City Resists Meaningful Collaboration

For the last several years, the City has resisted the District's attempts at meaningful collaboration relating to financing proposed development and has, instead, publicly suggested that the District is blocking all development in the City.⁸⁷ For instance, as late as September 2022, the District's Board President Behzabe Yanez reached out to the City with a request for a Special Study Session relating to financing the new infrastructure.⁸⁸ In the letter, Director Yanez stressed that the District wanted to "work together [with the City] to bring this progress about," and "create more unity in our community, and present viable options for proposed new development to move forward." While the City permitted the District to present in front of City Council, it listed as "Next Steps" in the Staff Report the plan to move forward with the LAFCo reorganization, suggesting that it was going to submit the City Proposal regardless of the information learned from the District's presentation.⁸⁹

The District Prioritizes Ethical, Thoughtful Development

Despite the City's unwillingness to meaningfully engage with the District, District staff and Board members, many of whom are also local ratepayers, and residents of the City of East Palo Alto, continued to devise a plan that would be amenable to progress and new development, while also adhering to the District's value of advocating for the local community, and ensuring that new construction was not built off the backs of ratepayers. Once the research related to system capacity described above⁹⁰ yielded substantial results regarding actual cost of expansion, the District was able to develop a more detailed financial plan. Among other things, the District's efforts included an All-Hands staff meeting which included the District's team from Bartle Wells Associates (the engineering firm that conducted the most recent rate study), Hildebrand Consulting (the firm that conducted the capacity charge study), and Sierra West Consultants (the firm that studied the District's hydraulic capacity via CCTV).⁹¹

⁸⁷ See *fn.* 9, showing that the City was aware that developers were not applying for permits, and that the District was not blocking development.

⁸⁹ See Yanez Letter to Mayor Abrica of EPA, included as [Attachment 33](#).

⁸⁹ See City Staff Report 7.2 re: Special Presentation from the East Palo Alto Sanitary District on Financing Options to Fund Infrastructure Improvements, included as [Attachment 44](#) (p. 65 of Agenda Packet).

⁹⁰ See *e.g.*, Hildebrand Capacity Charge Study, included as [Attachment 41](#).

⁹¹ See Government Financial Strategies Memorandum to EPASD re: Financing Sanitary System Infrastructure, dated December 14, 2022, included as [Attachment 2](#), at p. 1.

The District presented in front of the City's City Council on the financing options for the proposed development on September 20, 2022.⁹² The District's presentation included a detailed explanation of how the costs of expansion would be allocated to developers via capacity charges, and encouraged developers to engage with the District to "identify options of mutual benefit[']."⁹³

A few weeks later, on October 6, 2022, the District invited a group of developer representatives to review, and ask questions about, its findings, on October 6, 2022. The invitation was largely ignored, with very few developers attending the meeting.

FUNDING EXPANSION

The District plans to use reserves, general fund revenue, grants, and development fees to fund expansion.

Ratepayers Already Share in the Costs of New Infrastructure.

As explained above, the District's Plan attributes approximately \$40 million (out of a total of \$64.7 million+ in total expansion costs) exclusively to new development.⁹⁴ But, the developers would not even have to absorb the entire burden of capacity-related costs. In fact, the opposite is true: under the District's Current Improvement Plan, the District's funds would cover a portion of the improvements corresponding to the increase in market value to be received by existing ratepayers as a result of development.⁹⁵ In other words, ratepayers would not enjoy a disproportionate windfall as a result of the expansion. In contrast, the City's Proposal will inevitably result in ratepayers footing the bill for new development significantly in excess of what the community would stand to gain from the expansion.⁹⁶

Other Sources of Funding.

In addition to the District's sound budgeting approach which allows it to consistently fund maintenance and improvements while maintaining low rates, the District has exerted substantial effort in the pursuit of other sources of funding. For example, the District retained a consultant to facilitate the process of applying for various infrastructure grants on behalf of the District.

CONNECTION FEES

⁹² See *id.*

⁹³ *Id.*

⁹⁴ See e.g., Sierra West CCTV Report, p. 4, dated October 31, 2022, included as [Attachment 37](#) (table summarizing structure and capacity related costs); see also Government Financial Strategies Memorandum to EPASD re: Financing Sanitary System Infrastructure, dated December 14, 2022, included as [Attachment 2](#).

⁹⁵ *Ibid.*

⁹⁶ See District Letter commenting on the City's Supplemental LAFCo responses, included as [Attachment 35](#).

The District's Connection Fees Are Reasonable and Well-Supported by Data

Although the current system is capable of adequately serving both existing ratepayers and modest new development, it would need to undergo substantial expansion, including costly upgrades to the sewer trunkline, in order to accommodate any large scale development. The District welcomes development, and has included a calculation of the cost of such expansion in its 2035 Capital Improvement Plan. Based on the Plan figures, a consultant hired by the District calculated the new connection fee to be \$14,464/ EDU.⁹⁷ This fee is fair, and within range for adjacent districts.⁹⁸⁹⁹ As a result, many serious investors have already applied for, and received Will Serve letters, and launched projects on the basis of the District's Connection Fees.¹⁰⁰ Some of the developers, e.g., Eden Housing who supported the preparation of an updated Municipal Service Review in 2020, have now entered into development agreements with the District.¹⁰¹ The District plans to implement expansion related improvements in phases, based on developer demand.¹⁰²

The District's Connection Fee Is Consistent With Gov. Code § 66000 et seq.

The District operates based on a considered improvement plan that accurately captures current ratepayer needs, and includes allocation of funds to accommodate future growth. But, where a development project substantially exceeds the District's current capacity, the District assesses fees consistent with the requirements and legislative intent of Gov. Code Section 66000, which is to impose the reasonable cost of developing new sewer connections on those enjoying the returns of that new capacity. (See Gov. Code § 66000 (the purpose of the fees is to “defray[] all or a portion of the cost of public facilities related to the development project). An agency is entitled to assess charges both for “public facilities *already in existence*”, and for the construction of “*new facilities ... that are of “proportional benefit” to the developer.* (See Gov. Code § 66013(b) (emphasis added); see also *id.*, at (b)(5) (the fees are to bear a “reasonable relationship” to the benefits received by the developer).)

⁹⁷ See Hildebrand, *Capacity Charge Study*, September 7, 2022, included as [Attachment 41](#), pp. 1, 2, 4-6.

⁹⁸ See City Staff Report 7.2 re: Special Presentation from the East Palo Alto Sanitary District on Financing Options to Fund Infrastructure Improvements, included as [Attachment 44](#), p. 65.)

⁹⁹ The rate of return on development in this area is already favorable to investors (300% higher than the average in California, and even higher when compared to national averages).(See US Census Bureau Statistics compilation, included as [Attachment 9](#)). In other words, investing in the District is an enormous and unique financial opportunity. If investors are able to enjoy quick, reliable, and substantial returns—precisely because of economic, racial, and other inequities that persist in the region—the least the District could expect is that those reaping the benefits would foot the bill for costs directly related to their investment.

¹⁰⁰ See Exhibit C-3, Planned Development.

¹⁰¹ See *id.*

¹⁰² See Exhibit C-1, Planned Improvements.

Accordingly, the District's operating plan mandates that large scale new development require *new* collection capacity for increased sewer flows. As detailed below, the capacity charge assessed by the District was based on costs attributable only to new projects. It would contradict the intent of Gov. Code Section 6600 et seq., and the District's policies to instead impose these costs on existing ratepayers.

Connection Fee Calculation Method

The Connection Fee is based on a study conducted by an expert consultant. Among other things, it reflects the accelerated cost to serve new developments in the amount of approximately \$40 million. Because a connection must bear a reasonable relationship to the cost of development, the District's consultant carefully parsed out the monetary upside of the new development to the District as a whole, and then divided that figure by the number of units (including both existing and proposed as a result of new development). The resulting amount of \$14,464/EDU far from pushes the entire cost of expansion to the developer. On the contrary, it charges all stakeholders equally for the improvement, based on what each of them stand to gain. In contrast, if the District made the ratepayers fund the expansion—as the City's Proposal functionally sets out to do—the developer would stand to benefit from a disproportionate windfall.

The City's Proposed Budget is Unrealistic and Unduly Burdens Ratepayers

In contrast with the District's scientifically sound methodology for assessing the Connection Fee, the City's figures are derived from inaccurate and improperly framed data. First, the total cost of improvement due to development set by the City's Proposal is \$9.5 million, which is a gross understatement of the financial liabilities that would actually be incurred, in reality significantly in excess of \$40 million.¹⁰³

In addition, the operating and maintenance budget presented by the City is inaccurate because West Bay Sanitary District ("WBSD") data was used. The two collection systems are not the same. WBSD is a combined gravity/force main system. In contrast, the District's system is gravity only. Because gravity-sewers operate at a higher depth than force main systems, their maintenance often brings on the additional costs of more substantial excavation needed for repairs. Gravity-based systems, especially those based on older infrastructure, tend to also experience leaks and root growth at greater rates. Too, gravity sewers use more expensive pipes, further driving up the cost of maintenance. Second, The financial implications of these differences are significant: in 2022, the District's repair and maintenance expenses were more than 200% higher than that of WBSD.¹⁰⁴ Consequently, the City's use of WBSD data results in a significant underestimation of operating and maintenance costs in an effort to justify diverting reserve funds from needed structural improvements to increased capacity costs from new development.

¹⁰³ See City's Proposal, included as [Attachment 34](#).

¹⁰⁴ See District's 2023-24 budget, included as [Attachment 22](#); WBSD Annual Budget for 2022-23, available at this [link](#), and included as [Attachment 21](#), at p. 19.)

Further, The City's Proposal contemplates an accelerated depletion of the District's reserves. But, as explained above, the District believes this depletion would be unwarranted. Without the large scale development, *every single one of the improvement projects identified in the memorandum would be achievable using the District's current resources*, and without tapping the risk mitigation tool that is the District's reserve funds. In contrast, if large scale development is implemented, substantial changes are needed. Because these changes are attributable exclusively to the expansion, the District is justified in expecting the developers—who stand to gain from the profits—to pay their fair **share** of expansion.

EXHIBIT C-3 PLANNED DEVELOPMENT

The District is actively greenlighting new development based on accurately calculated, current Connection Fees. Thoughtful developers remain eager to invest in the region while responsibly contributing to the cost of expansion—expansion that would not have been necessary otherwise. Given the amount of interest in the area, the District plans to proceed with improvements that would enable large scale development, as an advance incentive to potential investors, who could then buy into this upgraded system by paying their fair share via connection fees. Conscientious investors acknowledge their role in expanding the system and are not deterred by the expenses associated with constructing new projects within the District.

The new development pipeline already includes numerous pending projects, including approximately 1,500 proposed residential units and 4.6 million square feet of non-residential commercial space. This upcoming development will necessitate municipal sewer services. As developers enter into development agreements, the District will continue expanding the system. The District is diligently reviewing these development proposals and has thoughtfully engaged with developers, indicating its readiness to issue "will serve" letters.

Retention of Liaison Consultant

In an effort to streamline communications regarding approvals for pending development, the District has retained a consultant to work with developers directly to identify individual preferences, needs, and concerns, and to assist in moving projects forward.

*Pending and Approved Development*¹⁰⁵

The District has been actively approving new projects. Some examples of recent pending and approved development:

1. Woodland Apartment Expansion/ Euclid Improvements Projects. The District is in the process of preparing an agreement for 444 net new dwelling units and roughly 5,000 square feet of retail and community space at and around 2001 Manhattan Ave., East Palo Alto, which is being developed by Sand Hill Property Company ("Sand Hill"). As of August 21, 2023, the developer was "eager to work with [the District] to move the project forward." Like the others, Sand Hill is ready and willing to pay the Connection Fee.

2. 965 Weeks. As recently as July 26, 2023, the District issued a "Will Serve letter to another developer who is planning new residential construction in the area that would include 136 affordable housing units. The parties also executed a Wastewater

¹⁰⁵ See Pending and Approved Development, included as [Attachment 50](#).

Expansion and Service Agreement. The developer of this project is ready and willing to pay the Connection Fee.

3. Light Tree. During its meeting on July 12, 2023, the District successfully approved a development agreement for over a 100 housing units. The developer of this project is ready and willing to pay the Connection Fee.

4. Clarum University Corner. The District is working with Clarum on establishing sewer connections for this 32-unit project. This developer is also ready and willing to pay the Connection Fee.

5. 2519 Pulgas Avenue – Ravenswood Family Health Center. The District is working with Sobrato to finalize sewer connection approvals for the 24.5 unit development project. This developer is also ready and willing to pay the Connection Fee.

6. 717 Donohoe St. The District is working with 8M Property-4, LLC on establishing sewer connections for a 14 unit project. This developer is also ready and willing to pay the Connection Fee.

7. 1062 Runnymede St. The District is working with RTC & J Me, LLC on implementing this 8-unit development project, and has issued a letter describing steps to receive a Will Serve letter. This developer is ready and willing to pay the Connection Fee

8. 2340 Cooley Ave. The District is working with another developer on an 8-unit project. This developer is ready and willing to pay the Connection Fee.

9. 842 Green Street – Subdivision. The District is working with a developer on implementing this 3-unit development project, and has issued a letter describing steps to receive a Will Serve letter. This developer is ready and willing to pay the Connection Fee.

10. 1788 E Bayshore Road. This is a small 1 unit project which is currently being processed by the District. This developer is also ready and willing to pay the Connection Fee.

11. University Circle II. The District is in the final stages of approving another project for over 231,883 square feet of office space. The developer of this project is ready and willing to pay the Connection Fee.

12. Four Corners. The District is also working with Sand Hill on developing the Four Corners project, and has issued a letter describing steps to receive a Will Serve letter. This developer is also ready and willing to pay the Connection Fee. This developer is also ready and willing to pay the Connection Fee.

13. 1804 Bay Road. The District is working with a developer on establishing sewer connections for this project. This developer is also ready and willing to pay the Connection Fee.

14. Garden Place LLC. The District is working with a developer on establishing sewer connections for this project, and has issued a letter describing steps to receive a Will Serve letter. This developer is also ready and willing to pay the Connection Fee

15. 760 Weeks Townhomes. The District has approved this development project, and is working on issuing a Will Serve letter. This developer is also ready and willing to pay the Connection Fee.

16. 990 Garden St. The District is working with a developer on establishing sewer connections for this project, and has issued a letter describing steps to receive a Will Serve letter. This developer is also ready and willing to pay the Connection Fee.

17. 630 Donohoe St/ Pet Clinic / Animal Clinic. The District is working with developer Garden Place LLC to process the Will Serve Letter, with instructions having been sent to the developer on August 19, 2023. This developer is also ready and willing to pay the Connection Fee.

18. 547 Runnymede St. The District is working with this developer on establishing sewer connections for the project, and has issued a letter describing steps to receive a Will Serve letter. This developer is also ready and willing to pay the Connection Fee.

19. Harvest: The Landing. The District is working with Harvest Properties on establishing sewer connections for this project. This developer is also ready and willing to pay the Connection Fee.

20. 2535 Pulgas Avenue – Job Train. The District is working with Sycamore on implementing this development project. This developer is ready and willing to pay the Connection Fee.

21. 2020 Bay Road. The District is working with this developer on implementing this development project, and has issued a letter describing steps to receive a Will Serve letter. This developer is ready and willing to pay the Connection Fee.

22. EPA Waterfront Project. The District is working with Sycamore on implementing this development project. This developer is ready and willing to pay the Connection Fee.

23. 812 Green Street. The District is working with a developer on implementing this project. This developer is ready and willing to pay the Connection Fee.

24. 120-126 Maple Lane. The District is working with a developer on implementing this project. This developer is ready and willing to pay the Connection Fee.

25. 807 E Bayshore. The District is working with a developer on establishing sewer connections for this project. This developer is also ready and willing to pay the Connection Fee.

Additionally, several dozen residential projects have also been approved, and/or received further instructions from the District.

From: [Akin Okupe](#)
To: [Rob Bartoli](#)
Cc: [Timothy Fox](#); [Sofia Recalde](#); [Castella, J. Leah](#); [Sominskaia, Iudis Dasha](#)
Subject: RE: Alternative application from EPASD
Date: Tuesday, October 10, 2023 12:34:45 PM

CAUTION: This email originated from outside of San Mateo County. Unless you recognize the sender's email address and know the content is safe, do not click links, open attachments or reply.

Will send it to you before 10/18/23

Akin Okupe, M.B.A.,P.E.
General Manager
East Palo Alto Sanitary District
Tel :(650) 325-9021

From: Rob Bartoli <RBartoli@smcgov.org>
Sent: Tuesday, October 10, 2023 10:07 AM
To: Akin Okupe <aokupe@epasd.com>
Cc: Timothy Fox <tfox@smcgov.org>; Sofia Recalde <srecalde@smcgov.org>; Castella, J. Leah <LCastella@bwsllaw.com>; Sominskaia, Iudis Dasha <ISominskaia@bwsllaw.com>
Subject: RE: Alternative application from EPASD

Hi Akin,

Thank you for that clarification.

Do you have any information regarding the CCTV project for Area 2 and the trunk line?

Thanks,

Rob

Rob Bartoli
Executive Officer
San Mateo LAFCo
455 County Center, 2nd Floor
Redwood City, CA 94063
Direct Tel: (650) 363-4224
Email: rbartoli@smcgov.org

From: Akin Okupe <aokupe@epasd.com>
Sent: Wednesday, October 4, 2023 3:53 PM
To: Rob Bartoli <RBartoli@smcgov.org>
Cc: Timothy Fox <tfox@smcgov.org>; Sofia Recalde <srecalde@smcgov.org>; Castella, J. Leah <LCastella@bwsllaw.com>; Sominskaia, Iudis Dasha <ISominskaia@bwsllaw.com>

Subject: RE: Alternative application from EPASD

CAUTION: This email originated from outside of San Mateo County. Unless you recognize the sender's email address and know the content is safe, do not click links, open attachments or reply.

Hi Rob,

The Document being referenced here is the amendment to the March 2015 East Palo Alto Master Plan Update, it was referred to here as the 2035 Capital Improvement Plan because it lists all the expansion required in the collection system to serve the City of East Palo Alto 2035 General Plan.

Attached with is a copy of the report.

Akin Okupe, M.B.A.,P.E.
General Manager
East Palo Alto Sanitary District
Tel :(650) 325-9021

From: Rob Bartoli <RBartoli@smcgov.org>
Sent: Wednesday, October 4, 2023 2:39 PM
To: Akin Okupe <aokupe@epasd.com>
Cc: Timothy Fox <tfox@smcgov.org>; Sofia Recalde <srecalde@smcgov.org>; Castella, J. Leah <LCastella@bwslaw.com>; Sominskaia, Ludis Dasha <Sominskaia@bwslaw.com>
Subject: Alternative application from EPASD

Dear Mr. Okupe,

In our initial review of the alternative application from EPASD, San Mateo LAFCo has the following comments and questions:

1. Under Exhibit C-2 of the application, there is a reference to a 2035 Capital Improvement Plan for EPASD. Please provide a copy of this report.
2. The application references a sewer CCTV report from Sierra West for EPASD dated October 31, 2022. The report covers portions of the EPASD service area, identified as Areas 1, 3, 4. The report notes that Area 2 and the sewer trunk line will covered in a separate report. Has the report for Area 2 and the sewer trunk been completed. If so, please provide a copy. If not, what is the anticipated completion date for the report?

Please provide a response to these two items by October 13, 2023.

LAFCo may have additional comments and questions for EPASD as we continue to review the application.

Thank you,

Rob

Rob Bartoli
Executive Officer
San Mateo LAFCo
455 County Center, 2nd Floor
Redwood City, CA 94063
Direct Tel: (650) 363-4224
Email: rbartoli@smcgov.org

From: [Akin Okupe](#)
To: [Rob Bartoli](#)
Cc: [Castella, J. Leah](#); [Cox, Deirdre Joan](#); [Sominskaia, Iudis Dasha](#); [Prakash, Mrinalini V.](#)
Subject: FW: Pipeline Evaluations
Date: Thursday, October 12, 2023 9:05:26 PM
Attachments: [TechMemo Priority Evaluation of Pipelines Area 2 and TL Final 10.13.23.pdf](#)

CAUTION: This email originated from outside of San Mateo County. Unless you recognize the sender's email address and know the content is safe, do not click links, open attachments or reply.

Hi Rob,

Please find attached as requested.

Thanks

Akin Okupe, M.B.A.,P.E.
General Manager
East Palo Alto Sanitary District
Tel :(650) 325-9021

From: Jeff Bensch <jbensch@sierra-west.net>
Sent: Thursday, October 12, 2023 8:45 PM
To: Akin Okupe <aokupe@epasd.com>
Subject: Re: Pipeline Evaluations

Hello Akin,

Here is the final version. Thank you for the comments.

Jeff

Jeffrey C. Bensch, P.E.
Principal Engineer
work: 916-863-3220
mobile: 916-207-5706

On Thu, Oct 12, 2023 at 8:04 PM Jeff Bensch <jbensch@sierra-west.net> wrote:

Hello Akin,

Attached is the final technical memorandum incorporating your request for additional cost summaries.

This is an interesting evaluation as part of a long-term CIP. If you have any questions, please let me know.

Thank you,
Jeff

Jeffrey C. Bensch, P.E.
Principal Engineer
work: 916-863-3220
mobile: 916-207-5706

On Wed, Oct 11, 2023 at 9:01 PM Akin Okupe <aokupe@epasd.com> wrote:

I think we need a paragraph that summarize the amount needed for all the areas. (Areas 1,2,3 and 4)

Akin Okupe, M.B.A.,P.E.
General Manager
East Palo Alto Sanitary District
Tel :(650) 325-9021

From: Jeff Bensch <jbensch@sierra-west.net>

Sent: Wednesday, October 11, 2023 6:38 PM

To: Akin Okupe <aokupe@epasd.com>

Subject: Pipeline Evaluations

Hello Akin,

Attached is the draft technical memorandum that evaluates the CCTV surveys for Area 2 and the trunk line in terms of their condition and need to be replaced. The results are combined

with Areas 1, 3, and 4 to develop a list of high priority pipelines that can be replaced in a phased approach.

I look forward to any review comments and then issuing the final memorandum.

Thank you,
Jeff

Jeffrey C. Bensch, P.E.
Principal Engineer
work: 916-863-3220
mobile: 916-207-5706





CITY OF EAST PALO ALTO

Office of the City Manager

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Sent Via Email

October 20, 2023

San Mateo LAFCo

Attn: Rob Bartoli, Executive Officer

455 County Center, 2nd Floor

Redwood City, CA 94063-1663

RE: LAFCo File No. 22-09: City of East Palo Alto's Response to East Palo Alto Sanitary District's Alternative Submittal

Dear Mr. Bartoli:

Thank you for providing this opportunity for the City of East Palo Alto (City) to comment on the East Palo Alto Sanitary District's (District's) submittal.

The District's Submittal Is Not An Alternative Proposal within the Meaning of the Act

The District submitted an application dated September 19, 2023 purporting to offer up an "alternative proposal" to LAFCo File No. 22-09. However, their application, which proposes a sphere of influence amendment and maintenance of a status-quo governance structure, is not an alternative proposal within the meaning of that term, as set forth in the Cortese Knox Hertzberg Local Government Reorganization Act of 2000 (the Act).

This much is clear from the District's submittal itself:

"The District's alternative proposal is to: (1) **retain the District's current governance model**; (2) amend its Sphere of Influence (SOI) to be coterminous with its geographic service boundaries; and (3) remove the District's territory from the SOI of the West Bay Sanitary District (WBSD) ("Alternative Proposal"). The Alternative Proposal is necessary to **preserve the existing governance structure** of the District; align the District's SOI with its service area, safeguard the interests of existing ratepayers, maintain a sewer services system that has been delivering outstanding results for decades, and ensure the District is efficiently, capably, and democratically governed." (Emphasis added.)

Section 56069 of the Act defines proposal as follows: "...a desired change of organization or reorganization initiated by a petition or by resolution of application of a legislative body or school district for which a certificate of filing has been issued."

Section 56021 defines "Change of organization" as any of the following:

- a) A city incorporation.
- b) A district formation.
- c) An annexation to a city.
- d) An annexation to a district.
- e) A detachment from a city.
- f) A detachment from a district.
- g) A disincorporation of a city.
- h) A district dissolution.
- i) A consolidation of cities.
- j) A consolidation of special districts.
- k) A merger of a city and a district.
- l) Establishment of a subsidiary district.
- m) The exercise of new or different functions or classes of services, or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district as provided in Article 1.5 (commencing with Section 56824.10) of Chapter 5 of Part 3 of this division).

While the District's submittal is not, by definition, an alternative proposal authorized by the Act and therefore LAFCo may choose to give it little consideration, the City offers the following comments on the District's submittal.

Sewer Surcharge Overflows (SSOs)

In their submittal, the District repeatedly states that the sewer system is well-maintained and that the District has not had Sewer Surcharge Overflows (SSOs) for 16 years. This assertion is contradicted by the General Manager's own report on the recent CCTV inspection of the system indicating that significant portions of the sewer system are in "deplorable condition" including broken sewer lines allowing effluent to flow into the ground. In reviewing the District's proposal, the City notes it provides several documents that appear to be the source of the General Manager's statements regarding the poor condition of the existing sanitary sewer system. Attachment 37 to the District's proposal is an October 31, 2022 memorandum from Sierra West Consultants, Inc. (SWC) that presents the results for Areas 1, 3, and 4 of the District's ongoing closed circuit television (CCTV) inspection program. The City also reviewed an additional memorandum from SWC dated October 13, 2023 that includes the results of Area 2 and Trunk Line CCTV inspection program as well as provides a comprehensive review of the all areas of the District's collection system.

The two SWC's memoranda indicate that there are significant structural deficiencies with a significant number of pipeline segments within the collection system that was inspected. The

October 13, 2023 SWC memorandum provided a comprehensive scoring methodology that considers both pipeline defects and the capacity deficiencies identified in the Addendum to the 2015 Master Plan. However, the City notes that regardless of pipeline segments structural score grouping, the commentary identifies dozens of pipeline cracks, holes, and broken pipes within each 10-point structural scoring group. While the City recognizes overlap between pipe segments that SWC has found to be structurally deficient and those that the City's proposal has identified as being under capacity to meet future build-out, the sheer magnitude of structural deficiencies identified by the District's own consultant indicate a significant issue that must be addressed regardless of whether any new users are allowed to connect to the District's collection system. Despite repeated assertions of having a "well-maintained" system, the District finally admitted with issuance of the October 13, 2023 SWC memorandum that the system is in "deplorable condition" and the recent CCTV video bears this out. This is not evidence to persuade LAFCo to revisit its long-standing "zero sphere" determination as to the District.

The City contacted the San Francisco Regional Water Quality Control Board (RWQCB) Sanitary Sewer Overflow (SSO) Enforcement and Pretreatment Program. RWQCB staff provided a copy of a May 5, 2021 Staff Enforcement Letter, included as Attachment A to this letter, citing the District's several violations of State Water Board Order No. 2006-0003-DWQ, as amended by State Water Board Order No. WQ 2013-0058-EXEC. In particular, RWQCB staff noted that the District's Sanitary Sewer Management Plan (SSMP) was out of date.

The District's September 19, 2023 submittal included as Attachment 36 a copy of its current SSMP that was reportedly revised on August 12, 2021 and adopted by the District Board on September 2, 2021. This document highlights several outstanding deficiencies even though the August 2021 SSMP does address some of the RWQCB's comments. These deficiencies include:

- The SSMP cover sheet includes the incorrect revision date.
- Page 9 includes two highlighted sentences which appear to be questions from the individual updating the SSMP to the District that do not seem to have been addressed. Again, throughout the SSMP, which was included with the District's submittal, there are references indicating that the SSMP revisions were not fully reviewed and addressed before being certified by the District's Board.
- The organizational chart on Page 10 does not correctly reflect that Mr. Okupe serves as both the General Manager and the District Engineer.
- Table 1 included on Page 11 identifies the individuals or entities responsible for implementation of the SSMP, and in several categories, that individual is identified as Mr. Jackey Wilson. The City understands that Mr. Wilson retired from the District in 2017 or 2018. It is possible that the District has now contracted with Mr. Wilson to fulfill the roles identified in Table 1 from the SSMP but LAFCo might ask the District to clarify.

- Again, on Page 17, a highlighted sentence that seems to indicate that the SSMP preparer sought input from the District to provide a more detailed explanation about how the District maintains its system maps.
- The last paragraph on Page 19 titled “Spare Parts and Contingencies” is incomplete.
- As noted in the RWQCB May 5, 2021 letter, the link included on Page 20 to the District’s Standard Plans and Specifications is still broken suggesting poor records management by the District and a failure to place the necessary information where staff and the public can access it quickly. Without making the design and construction standards publicly available, a new service applicant cannot reasonably anticipate and plan for the standards a new single-family home, restaurant, or commercial/office space must utilize for developing its facility design potentially delaying the project and/or requiring unnecessary submittal revisions.

The City comprehensively reviewed the SSMP the District provided, but the deficiencies identified above indicate significant outstanding issues with the District’s management of the community’s sewer utility. Moreover, the District does not provide any of the appendices to the SSMP. Furthermore, as of October 20, 2023, the copy of the SSMP on the District’s web page is the outdated SSMP that the RWQCB commented on in its May 5, 2021 letter. The deficiencies in the revised SSMP transmitted to LAFCo and the District’s inability to provide state regulators with the required current SSMP available for public review is concerning. Again, the very evidence the District provides to defend the status quo and to persuade LAFCo to alter its long-standing zero sphere determination tends to provide the opposite – the District is not well managed.

Lowest Sewer Service Charges in the County

To demonstrate how well-governed it is, the District cites its assertion that its sewer service charges are the lowest in the county and the region. In fact, having artificially low rates is a contributing factor to the severe state of disrepair of the District’s sewer lines. As noted in the 2022 LAFCo Municipal Service Review (MSR), sewer service charges were increased to \$600 per Equivalent Dwelling Unit (EDU) in FY19-20 from \$575 per EDU consistent with a 2019 sewer rate study. The sewer rate study recommended future year rate increases ranging from 4.3% to 5.0% per year. But the District has not increased rates since FY 19-20. The 2019 sewer rate study stated: “Proposed rate increases are 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.” The City’s application to LAFCo proposes to implement the District’s own rate study to repair, improvement, and maintain the community’s sewer lines.

As noted above, the District’s own consultant has determined that all of the pipeline segments must be replaced regardless of whether a segment is currently under capacity or is potentially under capacity to meet future development needs. The SWC October 13, 2023 memorandum estimates that the capital improvement program opinion of probable construction cost to be

over \$65 million¹. The sheer magnitude of the necessary capital improvements to address existing structural deficiencies as well as address both the existing Peak Wet Weather Flow (PWWF) capacity and anticipated development capacity improvements and the District Board would need to demonstrate to its existing customers how the District will continue to maintain safe and reliable service. The District's application notes that its current reserves are around \$23 million – less than half what is needed and it proposes no rate study or increase to close the gap. In short, it proposes more of the same when our community can do better.

The District Falsely Asserts its Fitness to Deliver Services to the Community and that it is Capably Maintained

Throughout the District's submittal, it asserts that it is capable of providing safe and reliable sanitary sewer service to both existing customers and future customers. The District further asserts that the City's application incorrectly distributes capital costs between existing and future customers. However, the District's own submittal seems self-contradictory and misstating conclusions of its own supporting documents. The City has identified the following key discrepancies and misstatements:

- In Exhibit B-2, the District states that it is entitled to average dry weather flow (ADWF) capacity of 2.9 million gallons per day (MGD) in the Palo Alto Regional Water Quality Control Plant (PARWQCP) but uses only 0.61 MGD or 21% of that allocation. The total projected ADWF at full build-out presented in the District's Addendum to the 2015 Master Plan projects a total maximum ADWF of 2.2 MGD - less than the District's total ADWF entitlement. Yet Exhibit C-1 of the District's application incorrectly states that additional capacity in the PARWQCP is required to allow additional development. The inconsistency with the District's understanding of its own existing rights is further evidence of the challenges that District faces in clearly identifying the costs and source of costs for any existing or new customer.
- The District provided Exhibit C-1 to highlight its planned improvements to the collection system. Overall, the discussion seems to be contradictory and incomplete because the District states that it has sufficient capacity for its existing customers and some development referencing the Addendum to the 2015 Master Plan. But that reference shows that existing system - without any new customers - is predicated to operate under significant surcharged conditions during Peak Wet Weather Flow (PWWF) risking SSOs and recommends that the District should implement capacity improvement projects to reduce that risk even if no new development were to occur within the District service area.
- Exhibit C-1 also cites SWC's October 31, 2022 memorandum as additional confirmation of its existing capacity but that memorandum reports only the condition of approximately 117,000 linear feet out of 160,000 linear feet of the collection system and SWC does not

¹ Additional commentary on the City's concerns with inconsistent project cost estimating methodologies is further addressed on the following page.

comment on the capacity of the pipeline segments it inspected, but only their condition, which is poor. The District then provided the SWC October 13, 2023 to LAFCo, after its September 19 alternative submittal, and the memorandum seems to have lower project cost estimates for Areas 1, 3, and 4 than was presented in the October 31, 2022 memorandum, which identified a total of approximately \$53 million total project costs to address the identified structural defects, including \$9 million in capacity improvements, for Areas 1, 3, and 4 only. The current project cost estimates for Areas 1, 3, and 4 provided in the recent SWC October 13, 2023 is a total of approximately \$45 million. In fact, in one year, the potential project costs have been reduced by 15%, whereas the City would expect the estimates to remain the same or increase over one year. Using a seemingly inconsistent project cost estimating methodology coupled with incomplete data to develop a capital improvement program, the City cannot determine if the District's submittal correctly identifies all potential improvements that will be needed to address the significant structural defects identified by the District's own CCTV program and provide adequate capacity to reduce the potential for SSOs and meet development needs. Because of the inconsistent and seemingly incomplete information provided with the District's proposal, the District cannot report that the current rate structure and available reserves will allow the District to implement the necessary capital improvement program on the timeline presented by the District.

- Exhibit C-1 also cites the District's current Sanitary Sewer Replacement Project (Beech St., Clarke Ave, and Green St.). In reviewing Attachment 49 to the District's proposal, for this project, the City notes that the District is proposing to replace, as part of a future project, a portion of the sanitary sewer main at the end of Beech Street that the District apparently replaced in 2017 (without explaining why a line should be replaced after just six years). Additionally, portions of the improvements proposed for the end of O'Connor Street have been removed from the project scope and will be implemented as a separate future project. The City continues to work with the District to issue the necessary encroachment permits to facilitate the District's proposed capital improvement projects but the City is concerned that the District is soliciting construction bids for projects it has already constructed or does not plan to complete.
- Exhibit C-2 discusses a \$64.7 million capital improvement, attributing \$40 million of that to costs to serve new development. But SWC's October 31, 2022 memorandum identifies necessary improvements of structural deficiencies and some capacity improvements but does not clearly attribute the costs between existing and new customers. As noted previously in this letter, the District provided the SWC October 13, 2023 memorandum following the District's submittal to LAFCo and the two SWC memoranda seem to provide inconsistent project costs for similar improvements. The City does acknowledge that the sanitary sewer collection system has structurally deficient portions but SWC's analysis undermines the claim that this can largely be funded by fees on developers. These contradictions between the District's own technical studies and offered in support of the District's submittal undermines confidence in the District's proposal to maintain status quo. In contrast, the City's proposal includes funding for capacity improvement projects

to serve new developments, existing PWWF capacity deficiency improvement projects, and an annual capital improvement program to address non-capacity related structural deficiency issues within 20 years of the reorganization of the District as a subsidiary district of the City.

- Exhibit C-2 critiques the City's proposal as unrealistic and expensive to ratepayers without supporting detail. As to cost to ratepayers, the City's proposed budget was developed based on publicly available documents from the District and funds over 15 years the existing PWWF capacity improvements splitting costs between existing customers and the anticipated development. It separately identifies improvements needed to support anticipated development related capacity improvements to be developer funded. Finally, it includes a program to replace over 20 years all pipeline segments that have reached the end of the service life and will not otherwise be replaced as part of the PWWF capacity improvements or new development required improvements. The structural deficiencies SWC identified in its two memoranda are included in the City's pipeline replacement program, although the District erroneously states otherwise. Finally, the District questions the City's \$2.4 million estimate of annual operation and maintenance costs by citing West Bay Sanitary District (WBSD)'s annual budget. However, WBSD recent proposal to contract with the City to operate and maintain the collection system for an annual budget of \$1.7 million.

The District's submittal is internally inconsistent and contradicts its comments on the City's application. Additionally, the District's proposal was apparently incomplete as the SWC October 13, 2023 memorandum was submitted late and seemingly includes different project costs than were presented in Exhibit C-1. The District has identified many improvements required to provide existing customers with safe and reliable sewer service, to reduce the risk of SSOs under existing conditions, and to provide increased capacity for development. The City's application proposes to carefully implement necessary improvements to provide the service to existing customers they already pay for, to increase capacity to serve new development at developers' expense, and to replace the remaining portions of the existing sewer system that have reached the end of their service lives.

Any Subsidiary District Budget and Assets would remain Segregated from the City General Fund and Dedicated Solely for Sanitary Sewer Service

The District states that the City proposes to integrate the District into the City's CalPERS program and to utilize District reserves to reduce the City's pension costs. This is untrue. The City Council would become governing body of the District if it becomes a subsidiary district of the City, but all District assets, liabilities, reserves, revenues and expenditures would be separately accounted for and funded. The City proposes to maintain the separate legal existence of the District, but to change its governance for the better.

Conclusion

The City appreciates the opportunity to comment on the District's submittal and renews its request that the Commission approve the City's pending application to establish District as a subsidiary district of the City so we can get on with the necessary work to address years of deferred maintenance and necessary improvements to serve both existing District customers and new development for the betterment of our community.

Sincerely,



Melvin E. Gaines,
City Manager

Attachment

- A. RWQCB May 5, 2021 Staff Enforcement Letter



San Francisco Bay Regional Water Quality Control Board

Sent by email only (aokupe@epasd.com)

Confirmation of receipt requested

May 5, 2021
CW-630848

East Palo Alto Sanitary District
Akintunde Okupe
P.O. Box 51686
Palo Alto, CA 94303

Subject: Inspection Report and Staff Enforcement Letter, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, State Water Board Order No. 2006-0003-DWQ, as amended by State Water Board Order No. WW 2013-0058-EXEC

Dear Akintunde Okupe,

On March 30, 2021, the Regional Water Board inspected the District's collection system. As noted in the enclosed report, the District violated several conditions of State Water Board Order No. 2006-0003-DWQ, as amended by State Water Board Order No. WQ 2013-0058-EXEC. The District shall submit a Completion Report by **August 16, 2021**, that verifies the District has implemented corrective measures for each violation listed in section 6.A of the inspection report.

Please email your Completion Report – signed and certified as required by Provision J of Order No. 2006-0003-DWQ – to Debbie Phan at debbie.phan@waterboards.ca.gov. Please contact Debbie Phan if you have any questions regarding this matter.

Sincerely,

Jessica Watkins, P.E.
Senior Water Resource Control Engineer
NPDES Wastewater and Enforcement Division

INSPECTION REPORT

Sanitary Sewer Collection System Compliance Evaluation Inspection East Palo Alto Sanitary District Collection System, San Mateo County

(CW-630848)

Inspection Date: March 30, 2021

Prepared By: Debbie Phan, San Francisco Bay Regional Water Quality Control Board
(Regional Water Board)

Date of Report: May 5, 2021

List of Attendees:

Akintunde Okupe, General Manager, East Palo Alto Sanitary District (District)

Dennis Scherzer, Board Member, District

Omar Fuggs, Maintenance, District

Darrin Young, Maintenance, District

Debbie Phan, Regional Water Board

Michael Chee, Regional Water Board



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Appendices

- Appendix A – List of documents reviewed as part of this inspection
- Appendix B – Hot Spot Map
- Appendix C – CCTV Inspection Report, 161 Daphne Way, January 11, 2021
- Appendix D – Financing District Infrastructure Related to Development
- Appendix E – Pipe Replacement Evaluation Criteria
- Appendix F – List of Capital Improvement Projects (2016-2019)

1. PURPOSE OF INSPECTION

The purpose of the inspection was to evaluate compliance with the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, State Water Resources Control Board (State Water Board) Order No. 2006-0003-DWQ (Order), as amended by State Water Board Monitoring and Reporting Program Order No. WQ 2013-0058-EXEC (2013 MRP). The inspection was conducted virtually and included an assessment of the collection system's operations and maintenance, capacity, and rehabilitation and replacement. See Appendix A for the list of documents reviewed as part of the inspection. The District was selected because it reported zero sanitary sewer overflows (SSOs) for the past ten years. Prior to that, the District reported four SSOs to CIWQS, all caused by fats, oils, and grease (FOG) as listed in Table 1.

Table 1. SSOs Reported to CIWQS

SSO Start Date	Event ID	Category	SSO Volume
5/12/2007	650605	Category 2	10,000 gallons
12/6/2008	730358	Category 3	300 gallons
4/17/2009	736554	Category 3	200 gallons
5/24/2009	737914	Category 1	1,000 gallons

2. COLLECTION SYSTEM DESCRIPTION

The District's collection system serves a population of approximately 30,000 in portions of East Palo Alto and Menlo Park. The District operates and maintains 35 miles of gravity sewer lines, of which approximately 70 percent are 6 inches in diameter and the remainder range from 8 to 24 inches in diameter. The District is responsible for the collection of wastewater generated from residential, industrial, and commercial users within its 1.92-square-mile service area and conveys all flows to Palo Alto Regional Water Quality Control Plant. Due to the COVID-19 stay-at-home mandate, the District noticed longer peak times at lower volumes.

3. OPERATIONS AND MAINTENANCE

The District flushes and inspects its entire collection system twice a year. The inspections take place after cleaning and utilize a closed-circuit television (CCTV) camera to capture footage inside the sewer line. The General Manager reviews the footage to determine if repair or replacement is needed. Identified hot spots are in flat areas prone to sediment accumulation and are cleaned more frequently (see Appendix B). There are 15 restaurants within the District's service area that are inspected twice a year for FOG.

The District investigates sewage-related calls, but all have been related to sewer laterals, which the District is not responsible for. The Regional Water Board requested records of sewer-related calls from January 2019 to the date of the inspection. The District was unable to provide a call log, but provided a list of sewer lateral CCTV inspections that were prompted

by calls. The Regional Water Board requested the CCTV inspection reports for two of the listed inspections: the November 3, 2020, inspection at 2118 Cooley Avenue and the January 11, 2021, inspection at 161 Daphne Way. The District could only locate the January 11, 2021, CCTV inspection report (see Appendix C).

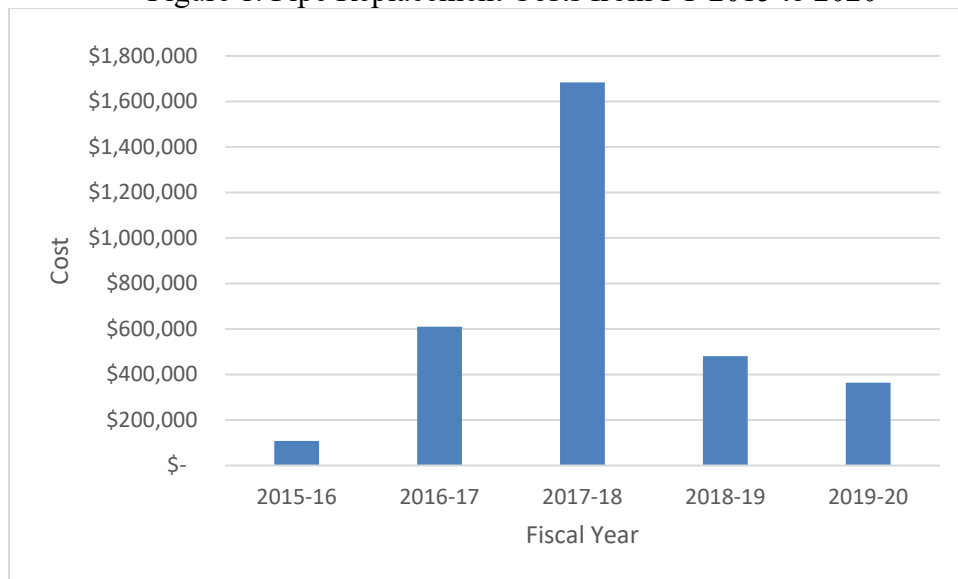
4. CAPACITY

The District’s 2020 condition assessment says that its collection system has adequate capacity to serve existing customers for the next 20 to 30 years. The District received proposals for new developments that are pending because the developers are responsible for the cost to increase sewer capacity (see Appendix D). The District cannot increase its sewer rates for new developments, but plans for these developments through its Master Plan.

5. REHABILITATION AND REPLACEMENT

The District Manager uses CCTV footage to determine which sewer lines need to be replaced. Factors that are taken into consideration are listed in Appendix E. Pipes with deflections or visibly open break lines are prioritized for replacement. Each fiscal year, the District budgets \$750,000 for replacement projects and another \$750,000 for emergencies, but the spending varies depending on the project. The District’s Board has not rejected a pipe replacement request. Figure 1 depicts the cost of pipe replacement-related capital improvement projects from fiscal year (FY) 2015 to 2020 and Appendix F further describes these projects.

Figure 1. Pipe Replacement Costs from FY 2015 to 2020



6. VIOLATIONS, MISCELLANEOUS FINDINGS, AND CORRECTIVE MEASURES

Regional Water Board staff identified the following violations and miscellaneous finding during the inspection. The District must include the corrective measures shown in italics in the Completion Report.

A. VIOLATIONS

Sanitary Sewer Management Plan (SSMP)

Order Provision 11 requires the District to develop and implement a written Sanitary Sewer Management Plan (SSMP) with the mandatory elements specified in Order Provision 13. The District's SSMP does not comply with the Order and 2013 MRP requirements as follows:

- 1) **Overflow Emergency Response Plan.** Order Provision 13(vi)(a) requires the overflow emergency response plan (OERP) to include proper notification procedures so that primary responders and regulatory agencies are informed of all SSOs in a timely manner. Order Provision 13(vi)(c) requires the OERP to include procedures to ensure prompt notification of all SSOs that potentially affect public health or reach waters of the State in accordance with the 2013 MRP; and that all SSOs shall be reported in accordance with the 2013 MRP. The District's OERP (specifically, SSMP section 6.4) does not reflect the 2013 MRP notification and reporting requirements, which are summarized in Table 2 of the 2013 MRP. For example, the OERP does not reflect the requirement to notify the California Office of Emergency Services (CalOES) and obtain a notification control number within two hours of becoming aware of any Category 1 SSO greater than or equal to 1,000 gallons discharged to surface water or spilled in a location where it will probably be discharged to surface water. Additionally, the District's OERP states that the District shall report SSOs through the obsolete web-based Electronic Reporting System (ERS); however, the 2013 MRP requires the District to report all SSOs into the CIWQS Online SSO Database. The District's OERP also does not reflect the 2013 MRP reporting deadlines for Category 1, 2, and 3 SSOs (e.g., the District is required to submit draft reports to CIWQS within three business days of becoming aware of Category 1 and 2 SSOs).

Corrective Measure: *The District must update its OERP to incorporate the 2013 MRP notification and reporting requirements.*

- 2) **SSMP Program Audit.** Order Provision 13(x) requires the District to conduct periodic internal audits at least every two years and to prepare a report to be kept on file. 2013 MRP section E.1 requires the District to make records documenting compliance with all provisions of the Order and 2013 MRP available for review by the Regional Water Board during an inspection or through an information request. The District was unable to provide the report from its most recent SSMP audit during or after the inspection.

Furthermore, Order Provision 13(x) requires the audit to focus on evaluating the effectiveness of the SSMP, compliance with the mandatory SSMP elements in Order Provision 13, and identification and correction of any SSMP deficiencies. Regional Water Board staff identified the following typographical deficiencies in the SSMP:

- SSMP Table 1: Karen Maxey is listed as the General Manager, but Akintunde Okupe has taken over the role.
- SSMP section 5.3: The Standard Plans and Specifications website link is broken:

<http://38.106.4.240/contractors/forms-permits/standard-requirements-for-sewer-connection>.

- SSMP section 6.4.B: The CalOES phone number is (800) 852-7550, not (800) 825-7550.
- SSMP section 7.7: The CalFOG website link is broken: www.calfog.org.
- Appendices I and J: The appendices are incorrectly labelled.

Corrective Measure: *The District must provide the report from its most recent SSMP audit. If it has been more than two years, the District must conduct an SSMP program audit and provide the report to the Regional Water Board. These reports must be kept on file to be made available during inspections or information requests. As part of its next SSMP program audit, the District must identify and correct any SSMP deficiencies, including the typographical SSMP deficiencies identified above.*

- 3) **SSMP Availability.** 2013 MRP section C.8.iv requires that the District either (1) provide to CIWQS the publicly available website address where a downloadable copy of the approved SSMP, critical supporting documents referenced in the SSMP, and proof of local governing board approval of the SSMP is posted, or (2) submit an electronic copy of the SSMP documentation to the State Water Board via mail. During the inspection, the 2017 SSMP and critical supporting documents were available through the District's website, but the District was unable to provide proof of its local governing board approval of the SSMP. Additionally, all SSMP documentation was not made available through CIWQS.

Corrective Measure: *The District must ensure that all required SSMP documentation is made available via the publicly available website address listed in CIWQS or provided to the State Water Board via mail as described in the 2013 MRP. The District must provide the Regional Water Board documentation that this requirement is satisfied.*

CIWQS Certification

- 4) **Data Submitter.** 2013 MRP section F.3 allows any District employee or contractor to enter draft data into the CIWQS Online SSO Database if authorized by the LRO and registered with the State Water Board; however, only LROs may certify reports in CIWQS. 2013 MRP section F.4 requires the District to submit to the State Water Board any change of a registered Legally Responsible Official (LRO), including deactivation or a change to the LRO's contact information, within 30 days of the change. During the inspection, the District said different people share the same CIWQS login credentials to input draft information. In the Sanitary Sewer Collection System Inspection Form (March 11, 2021), the District listed Merwyn Poblete, Darrin Young, Omar Fuggs, and Daray Meacham as LROs and Data Submitters. Merwyn Poblete and Akin Okupe are the only LROs listed in CIWQS and should not give anyone else access to their accounts.

Corrective Measure: *The District must submit any additional LROs or Data Submitters to the State Water Board by calling (866) 792-4977 or emailing*

help@ciwqs.waterboards.ca.gov. *The District must not allow anyone to enter draft data into CIWQS without first registering with the State Water Board and obtaining login credentials.*

B. MISCELLANEOUS FINDING

- 1) Order section C.8.iii requires the District to complete and certify the CIWQS Questionnaire at least every 12 months. The District provided sewer pipe age ranges in the Sanitary Sewer System Collection Inspection Form (March 11, 2021) that conflict with information the District reported in the certified Collection System Questionnaire in CIWQS and in the District's SSMP. During the inspection, the District stated that it does not track sewer pipe age.

Recommendation: *The Regional Water Board recommends the District begin to track sewer pipe age.*

Appendix A – List of documents reviewed as part of this inspection

Pre-Inspection File Review

1. Sanitary Sewer Collection System Inspection Form provided by the District on March 11, 2021
2. Sewer System Management Plan, March 2015, with the following appendices:
 - a. Sewer Use Ordinance
 - b. Impact Mitigation Sanitary Sewer Overflow, “State Waterway Impact” Flow Chart and Overflow and Sewer Work Order
 - c. SSO Report Form for Immediate Reporting by Fax
 - d. SSO Electronic Reporting Instructions
 - e. Spill Calculation Methods
 - f. San Diego Manhole Flow Rate Reference Sheet
 - g. Temporary Signage and Resident Notification Form
 - h. Grease Trap Component Inspection Form
 - i. East Palo Alto Sanitary Sewer District Wastewater Master Plan
 - j. Annual SSMP Audit Report Form
 - k. SSMP Change Log
3. CIWQS Questionnaire
4. CIWQS SSO Data

Post-Inspection File Review

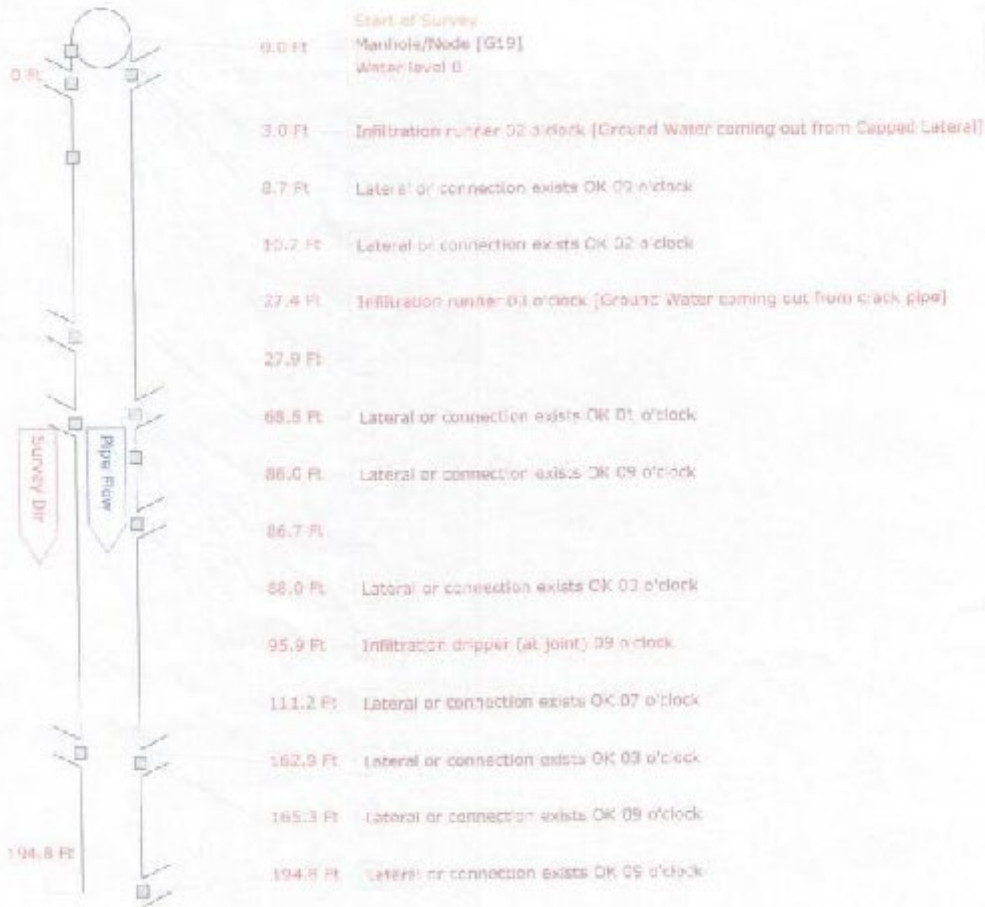
1. Lateral Inspection Log (September 2019 to March 2021)
2. List of 2020 Staff Trainings
3. 2020 Master Plan Updates
4. Revised Sanitary Sewer Collection System Inspection Form provided by the District on April 7, 2021

Appendix B – Hot Spot Map



Appendix C – CCTV Inspection Report, 161 Daphne Way, January 11, 2021

Pipe Graphic Report of PLR G19 X		for EPASD	
Work Order	Contract	Video	Setup 5
Facility	Operator MERWYN	Van Ref	Surveyed On 09/07/2011
Street Name RUNNYMEDE	City	EAST PALO ALTO	
Location type			
Surface			
Survey purpose		Weather	Dry
Pipe Use	Schedule length	Ft	From G19 Depth 4.60 Ft
Shape	Size 8 by	no	To T23 Depth Ft
Material Vitrified clay	Joint spacing	Ft	Direction Downstream
Lining	Year laid		Pre-clean Y Last cleaned 9/7/2011
General note		Structural	Service Constructional
Location note		Miscellaneous	Hydraulic



East Palo Alto

Appendix D – Financing District Infrastructure Related to Development

Irving Vails
(730) 508-2017
Irvine
(949) 203-2000
Los Angeles
(213) 617-6100
Marlton Beach
(978) 848-8448
Orlando
(408) 888-8594



Tiverside
(951) 888-1797
Sacramento
(916) 325-4000
San Diego
(619) 525-1300
Walnut Creek
(925) 977-3300
Washington, DC
(202) 785-0800

Memorandum

To: East Palo Alto Sanitary District
From: Best Best & Krieger
Date: February 3, 2021
Re: Financing District Infrastructure Related to Development

QUESTIONS PRESENTED

1. Can the East Palo Alto Sanitary District ("District") charge existing rate payers for development projects?
2. What are the legal requirements for the District to place a bond measure on the ballot to pay for development projects?

ANALYSIS

1. The District Cannot Subsidize the Cost of Infrastructure Supporting Growth Related Development Unless such Infrastructure Benefits the District's Ratepayers

In November 1996, California voters approved Proposition 218, which amended the California constitution by adding articles XIII C and XIII D. Article XIII C establishes requirements for voter approval of general and special taxes, and article XIII D establishes procedural and substantive requirements for a property-related fees, charges, and assessments. Article XIII C excepts from the definition of a "tax" any property-related fees imposed in accordance with the provisions of Article XIII D. Cal. Const., art. XIII C, § 2. Article XIII D, section 6, subdivisions (a) and (c) contain procedural and substantive requirements for the approval of sewer rate increases.

An agency is prohibited from adopting a new property-related fee, or increasing the rate or changing the methodology for imposing a fee if such change could result in any person paying a higher amount than they previously paid, without complying with certain notice, protest, and public hearing requirements. Specifically, the agency must provide written notice at least 45 days in advance of the public hearing to all owners of property upon which the proposed new or increased fee or charge will be imposed at least 45 days in advance of a public hearing. If written

Appendix E – Pipe Replacement Evaluation Criteria

The Closed-Circuit Television (CCTV) videos are observed for the following:

- A. Pipe Materials
- B. Earth Loading Effect
- C. Surrounding Material Migration
- D. Location of Water Table
- E. Defective Lateral Joints
- F. Hydrogen Sulphide attack
- G. Loss of Side Support
- H. Evaluation of Crack Type
- I. Evaluating Broken Pipe
- J. Visible Hole
- K. Deformation
- L. Pipe Collapse
- M. Joint Effect
- N. Limited Minor Defects (Stage 1)
- O. Fractures and Open Break Lines (Stage 2)
- P. Loss of Support from the Surrounding Soil (Stage 3)
- Q. Defect Distribution
- R. Depth, Loading, and Ground Water
- S. Roots
- T. Fats, Oil, and Grease
- U. Obstruction/Blockages
- V. Improper Pipe Repairs
- W. Soil Quality
- X. Position of Ground Water
- Y. Loads
- Z. Original Pipe Length and Loss
- AA. Alignment and Sags

Notes:

Pipes with Stage 1 and Stage 2 defects are replaced immediately.

Appendix F – List of Capital Improvement Projects (2016-2019)

1. Siphon Project 2016 (\$107,635)
2. Sewer Replacement Project Miscellaneous Areas 2017 (\$609,809)
3. Demeter Pipe Replacement 2017 (\$1,683,802)
4. Sewer Replacement Miscellaneous Areas 2018 (\$480,493)
5. Sewer Replacement Miscellaneous Areas 2018 (\$363,673)



October 19, 2023

Robert Bartoli
Executive Officer
San Mateo County Local Agency Formation Commission
455 County Center, 2nd Floor
Redwood City, CA 94063

RE: SMCO LAFCo EPASD Alternative Proposal Response

West Bay Sanitary District's (West Bay) response to the East Palo Alto Sanitary District (EPASD) Alternative Proposal:

West Bay would like to address three items in the EPASD Alternative Proposal that are not accurate and misleading.

1. Narrative Exhibits of EPASD Alternative Proposal EXHIBIT A - THE PROPOSAL

- a. **Exhibit A-1: The Alternative Proposal (3)** "remove the District's territory from the SOI of the West Bay Sanitary District (WBSD)"
- b. **EXHIBIT A-2 SUPPORT FOR THE PROPOSAL:** "The adjacent Sanitary District is not in support of a reorganization of the District without it's concurrence.²⁷"

2. LAFCo MSR page 6 - Statement that "WBSD is ... not willing to initiate a reorganization ... in the absence of EPASD concurrence."

1.a. West Bay does not support the EPASD Alternative Proposal **Exhibit A-1: "The Alternative Proposal (3)"**. LAFCO should not remove West Bay's territory from its current SOI. Additionally, as stated in the **Municipal Services Review - West Bay Sanitary District (WBSD) Governance Options:** (Page 6) *"WBSD has indicated a willingness and ability to provide sewer services to the community but is not willing to initiate a reorganization, for example Option #3 above, in the absence of EPASD concurrence."* West Bay is not willing to initiate a reorganization, however it is in support of assisting the City of East Palo Alto if it initiates the reorganization and dissolution of EPASD. West Bay is in support of providing operation and maintenance services to City residents as it does in other areas of the City of East Palo Alto. West Bay currently serves areas of East Palo Alto, so removing areas from its SOI would be counterproductive to a long-term solution. Therefore, West Bay is opposed to this alternative. Furthermore, after a period of time and once West Bay understands and has fully assessed the EPASD sewer system it could entertain annexation of the sewer system into the West Bay Sanitary District as stated in the MSR Executive Summary Option #2.

West Bay is in support of the MSR Executive Summary **Option #2 under West Bay Sanitary District No 11. Governance options:** Option #2 states: *"contract services to a City subsidiary district, depends on action by the City, LAFCo and area residents to reorganize EPASD as a subsidiary district. A longer-term option, if a subsidiary district is formed as in Option #2, could involve future dissolution of the City subsidiary district and annexation to WBSD."*

1.b. West Bay does not support the EPASD Alternative Proposal. West Bay does support the MSR Executive Summary **Option #2 under East Palo Alto Sanitary District No. 7 Governance options:** *Option #2 states: "...contract services by WBSD to the City of EPA following reorganization of EPASD as a subsidiary district to the City of EPA; and 3) WBSD annexation of EPASD following dissolution of EPASD.* It is for this reason that West Bay is not willing to initiate a reorganization without knowing the true condition of the EPASD's sanitary sewer system. Although 15 years of zero overflows has been reported there is reason to believe this is not the case.

Lastly, **Alternative Proposal - Exhibit A-2 "SUPPORT FOR THE PROPOSAL"** is misleading. West Bay is not in support of the Alternative Proposal.

2. LAFCo MSR page 6 - Statement that "WBSD is ... not willing to initiate a reorganization ... in the absence of EPASD concurrence."

West Bay supports the reorganization but is not willing to initiate the reorganization. This would have to be initiated by the City of East Palo Alto or the East Palo Alto Sanitary District. West Bay has submitted responses to the Request for Qualifications and Request for Proposals in order to assist the City with the possible transition.

As stated in the MSR, West Bay is a well-managed organization and holds a high level of transparency. West Bay serves areas of East Palo Alto and is familiar with the needs of the community. It appropriately plans for infrastructure needs proactively and reinvests in the sewer system through the collection of Connection Fees and annual Sewer Service Charges. West Bay is in support of the City's application and can assist in the transition. During the West Bay Regular Board Meeting of September 27th, 2023, the Board of Directors' consensus was to support the City with the LAFCo application, and to respond to LAFCo with the disapproval of reducing West Bay's sphere of influence. It was clear during the meeting that West Bay is not in favor of giving up territory or changing West Bay's Sphere of Influence. Therefore, West Bay supports the MSR's determination to reaffirm the existing Sphere of Influences.

West Bay has a proven track record of providing efficient, reliable, and effective operation and maintenance of collection systems. For example, since 2014 West Bay has performed operation and maintenance services on the sewer collection systems of the Town of Los Altos Hills and the Town of Woodside through interagency agreements. Interagency agreements work well to make government agencies more efficient and to avoid wasteful overhead and duplication of services.

If you have any questions, please feel free to contact me.

Sincerely,

WEST BAY SANITARY DISTRICT



Sergio Ramirez

General Manager

cc: ABC Law, West Bay Sanitary District Board of Directors



COUNTY OF SAN MATEO
OFFICE OF THE CONTROLLER

Juan Raigoza
Controller

Kristie Silva
Assistant Controller

Kim-Anh Le
Deputy Controller

Patrick Enriquez
Deputy Controller

County Government Center
555 County Center, 4th Floor
Redwood City, CA 94063
650-363-4777
<http://controller.smcgov.org>

December 21, 2022

RE: East Palo Alto Sanitary District Subsidiary District Proposal (LAFCo File No. 22-09)

Hi Rob,

Thank you for the detailed information on the proposed action. Our team has reviewed it and concluded that, since the boundaries and the service of the district do not change, there is no tax increment for negotiation in this proposal. Upon receipt of a notice of completion of the proposed action, we are prepared to make the necessary adjustments to our apportionment process. Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Amanda Johnson". The signature is written in a cursive, flowing style.

Amanda Johnson
Property Tax Division Manager