

2024-048800 CONF

11:14 am 09/16/2024 CCL Fee: NO FEE

Count of Pages 24

Recorded in Official Records

County of San Mateo

Mark Church

Assessor-County Clerk-Recorder



(This space for Recorder's use only)

RECORDING REQUESTED BY:

SAN MATEO LAFCO
LOCAL AGENCY FORMATION COMMISSION

WHEN RECORDED, PLEASE SEND TO:

San Mateo LAFCo

LAF 124

SHORT-FORM DESIGNATION OF DOCUMENT:

LAFCo File 22-09 - Establishment of the East Palo Alto Sanitary District as a subsidiary district of the City of East Palo Alto

RECORDER'S CODE: CCL

(Exempt from filing fees per Government Code 6103)



LOCAL AGENCY FORMATION COMMISSION

455 COUNTY CENTER, 2ND FLOOR • REDWOOD CITY, CA 94063-1663 • PHONE (650) 363-4224 • FAX (650) 363-4849

CERTIFICATE OF COMPLETION

Pursuant to Government Code Section 57200, this Certificate is issued by the Executive Officer of the Local Agency Formation Commission of San Mateo County, California.

1. The short-form designation, as determined by LAFCo, is:

LAFCo File 22-09 - Establishment of the East Palo Alto Sanitary District as a subsidiary district of the City of East Palo Alto

2. The name of each district or city involved in this change of organization or reorganization and the kind or type of change of organization ordered for each city or district are as follows:

<u>City or District</u>	<u>Type of Change of Organization</u>
East Palo Alto Sanitary District	Establishment of East Palo Alto Sanitary District as a subsidiary district of the City of East Palo Alto
City of East Palo Alto	Establishment of East Palo Alto Sanitary District as a subsidiary district of the City of East Palo Alto

3. The above-listed cities and/or districts are located within the following county: San Mateo County
4. The boundaries of the East Palo Alto Sanitary District are not altered by this change of organization. A description of the boundaries of the above-cited change of organization or reorganization is shown on the attached map, marked Exhibit A and by reference incorporated herein.
5. The territory involved in this change of organization or reorganization is inhabited.
6. This change of organization has been approved subject to the following terms and conditions as stated in San Mateo LAFCo Resolution 1312:

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

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

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

STAFF: ROB BARTOLI, EXECUTIVE OFFICER • VACANT, MANAGEMENT ANALYST • TIM FOX, LEGAL COUNSEL •
 DIANE ESTIPONA, CLERK

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. Prior to submittal of the plan to LAFCo, the City of East Palo Alto shall work with the City of Menlo Park regarding the potential composition of the advisory committee. Evidence of correspondence between the two cities shall be submitted to LAFCo staff.

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.

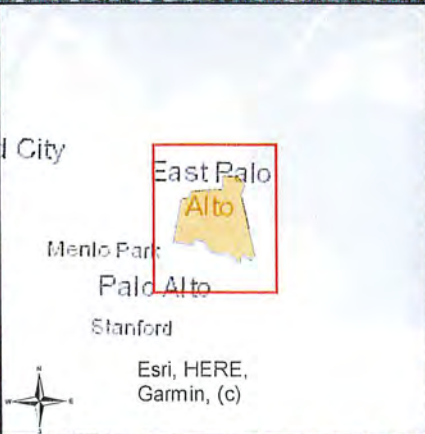
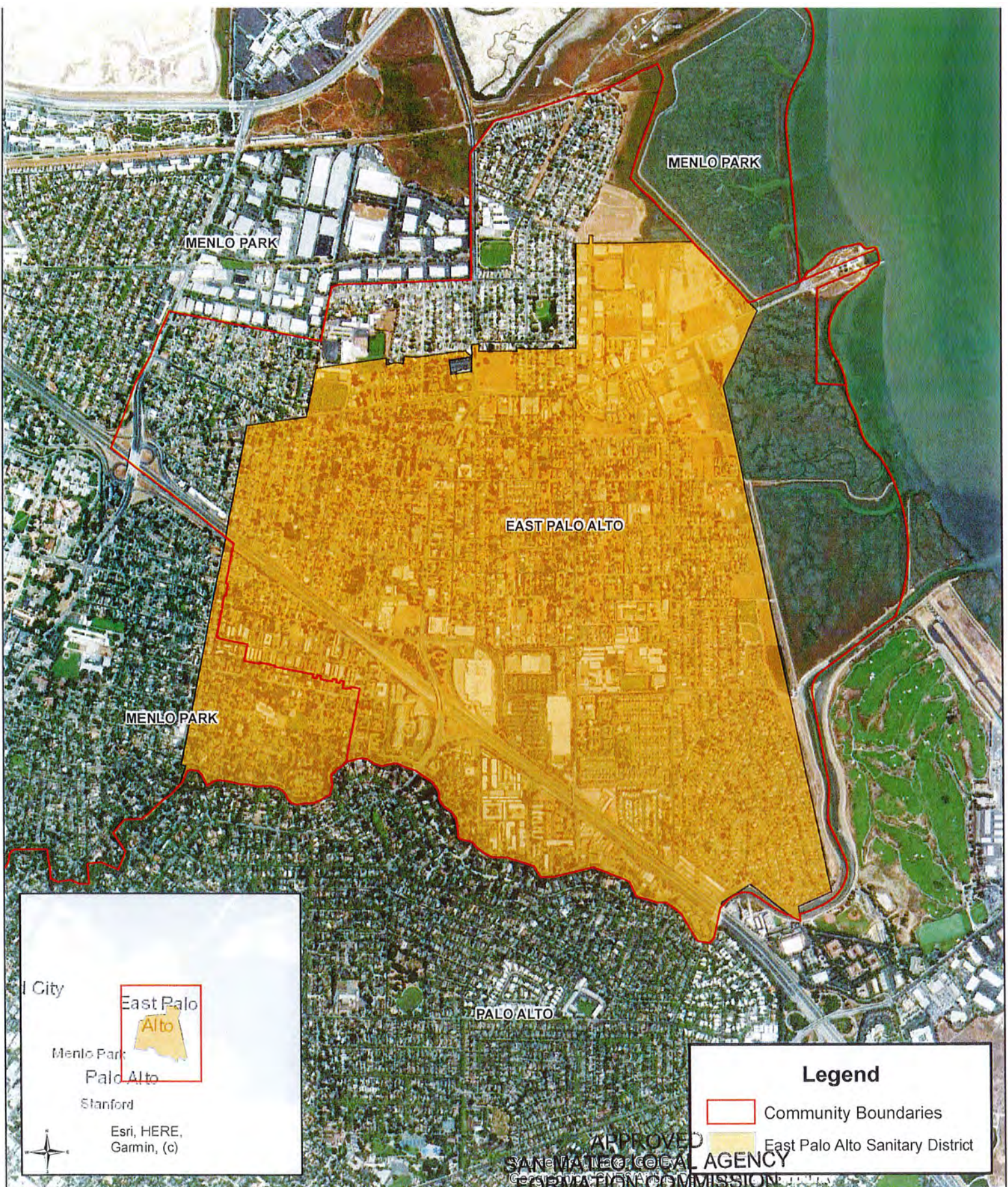
7. The resolution (Resolution 1312) confirming this change of organization was adopted on November 15, 2023 by San Mateo LAFCo, is marked Exhibit B and by reference incorporated herein.
8. The resolution (Resolution 1315) disapproving the request for reconsideration related to this change of organization was adopted on February 7, 2024 by San Mateo LAFCo, is marked Exhibit C and by reference incorporated herein.
9. A protest hearing related to this change of organization was held on May 22, 2024. The resolution (Resolution 1325) making determinations and ordering the change of organization without an election was adopted on July 17, 2024 by San Mateo LAFCo, is marked Exhibit D and by reference incorporated herein.

I hereby certify that I have examined the above-cited resolutions, including any terms and conditions, and the map description and have found these documents to be in compliance with Resolution 1312, adopted on November 15, 2023.

As stated in Terms and Conditions #4 of Resolution 1312, 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. As the thresholds for a landowner protest and registered voter protest were not met (Resolution 1325) the effective date of the establishment of the East Palo Alto Sanitary District as a subsidiary district of the City of East Palo Alto is October 1, 2024.

Dated: September 16, 2024


Roberto J Bartoli Jr.
Executive Officer



Legend

- Community Boundaries
- East Palo Alto Sanitary District

APPROVED
 SAN MATEO LOCAL AGENCY
 FORMATION COMMISSION

455 COUNTY CENTER
 REDWOOD CITY, CA 94063

East Palo Alto Sanitary District

**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

APPROVED
SAN MATEO LOCAL AGENCY
FORMATION COMMISSION
455 COUNTY CENTER
REDWOOD CITY, CA 94063

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EXHIBIT B PAGE 2 OF 7

Resolution No. 1312

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.

APPROVED
SAN MATEO LOCAL AGENCY
FORMATION COMMISSION
455 COUNTY CENTER
REDWOOD CITY, CA 94063

Page 3

Resolution No. 1312

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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. Prior to submittal of the plan to LAFCo, the City of East Palo Alto shall work with the City of Menlo Park regarding the potential composition of the advisory committee. Evidence of correspondence between the two cities shall be submitted to LAFCo staff.

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.

APPROVED
SAN MATEO LOCAL AGENCY
FORMATION COMMISSION
455 COUNTY CENTER
REDWOOD CITY, CA 94063

EXHIBIT B PAGE 6 OF 7

Regularly passed and adopted this 15th day of November, 2023.

Ayes and in favor of said resolution:

Commissioners: Harvey Rarback
Kati Martin
Tygarjas Bigstyck
Virginia Chang-Kiraly
Warren Slocum
Ann Draper, Chair

APPROVED
SAN MATEO LOCAL AGENCY
FORMATION COMMISSION
455 COUNTY CENTER
REDWOOD CITY, CA 94063
 EXHIBIT D PAGE 7 OF 7

Noes and against said resolution:

Commissioners Absent:

Ray Mueller



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

ATTEST:



Executive Officer
Local Agency Formation Commission

Date: 11/15/2023

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

Date: 8/16/2024



Clerk to the Commission
Local Agency Formation Commission

RESOLUTION NO. 1315

**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION
OF THE COUNTY OF SAN MATEO
DISAPPROVING THE REQUEST FOR RECONSIDERATION RELATING TO
THE ESTABLISHMENT OF THE EAST PALO ALTO SANITARY DISTRICT (EPASD)
AS A SUBSIDIARY DISTRICT OF THE CITY OF EAST PALO ALTO (LAFCO FILE NO. 22-09)**

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

WHEREAS, On November 15, 2023, the San Mateo LAFCo Commission adopted Resolution No. 1312, which approved LAFCo File 22-09 to establish the East Palo Alto Sanitary District (EPASD), an independent special district, as a subsidiary district of the City of East Palo Alto and related actions, including adopting a resolution approving the dissolution with terms and conditions, adopting findings and determinations pursuant to the California Environmental Quality Act (CEQA), and not approving the alternative application submitted by EPASD; and

WHEREAS, Government Code Section 56895 allows any party to request reconsideration of the Commission's resolution making determinations under specified conditions; and

WHEREAS, a request for reconsideration was filed on December 15, 2023 by the Burke, Williams & Sorensen, LLP on behalf of EPASD; and

WHEREAS, the request is that the Commission should reverse the action taken on November 15, 2023 by 1) Denying the City's Proposal and 2) Approving the District's Alternative Proposal, filed with San Mateo LAFCo on September 19, 2023, which proposed to (i) retain EPASD current governance structure, (ii) amend the District's Sphere of Influence to be coterminous with its service boundaries, and (iii) remove EPASD's territory from the Sphere of Influence of the West Bay Sanitary District; 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 Palo Alto Daily Post because the total number of notices required to be mailed exceeded 1,000; and

WHEREAS, the Executive Officer has reviewed the Request for Reconsideration and prepared a report, at least five (5) days before the February 7, 2024 hearing, and the Request for Reconsideration and report have been presented to and considered by this Commission; and

WHEREAS, a public hearing by this Commission was held on the Request for Reconsideration February 7, 2024 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 Request for Reconsideration and the Executive Officer's report and related matters; and

NOW, THEREFORE, the Local Agency Formation Commission of the County of San Mateo **DOES HEREBY RESOLVE, DETERMINE AND ORDER** that the Commission finds and determines that the request for reconsideration set forth no new or different facts that could not have been presented previously to the Commission at the time LAFCo made its decision to establish the East Palo Alto Sanitary District as a subsidiary district of the City of East Palo Alto as is required by Government Code Section 56895, and the request also did not ask for any specific modifications to a LAFCo approved resolution.

The request for reconsideration is hereby disapproved, and the previously approved LAFCo Resolution 1312 hereby remains in effect.

APPROVED
SAN MATEO LOCAL AGENCY
FORMATION COMMISSION
455 COUNTY CENTER
REDWOOD CITY, CA 94063

EXHIBIT C PAGE 2 OF 3

Regularly passed and adopted this 7th day of February, 2024.

Ayes and in favor of said resolution:

APPROVED Commissioners:
SAN MATEO LOCAL AGENCY
FORMATION COMMISSION
455 COUNTY CENTER
REDWOOD CITY, CA 94063

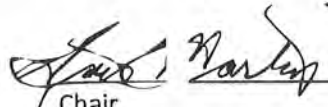
EXHIBIT C PAGE 3 OF 3

Virginia Chang-Kiraly
Harvey Rarback
Tygarjas Bigstyc
Noelia Corzo
James O'Neil
Warren Slocum
Kati Martin, Chair

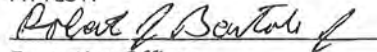
Noes and against said resolution:

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: 2/7/2024

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

Date: 2/14/2024


Clerk to the Commission
Local Agency Formation Commission

**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION
OF THE COUNTY OF SAN MATEO
MAKING DETERMINATIONS AND ORDERING THE ESTABLISHMENT OF
THE EAST PALO ALTO SANITARY DISTRICT AS A SUBSIDIARY DISTRICT OF
THE CITY OF EAST PALO ALTO WITHOUT AN ELECTION
SUBJECT TO THE TERMS AND CONDITIONS OF LAFCO RESOLUTION NO. 1312**

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

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

EXHIBIT D PAGE 2 OF 9

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, on November 15, 2023, the San Mateo LAFCo Commission adopted Resolution No. 1312, which approved LAFCo File 22-09 to establish the East Palo Alto Sanitary District (EPASD), an independent special district, as a subsidiary district of the City of East Palo Alto and related actions, including adopting a resolution approving the dissolution with terms and conditions, adopting findings and determinations pursuant to the California Environmental Quality Act (CEQA), and not approving the alternative application submitted by EPASD; and

WHEREAS, 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; and

WHEREAS, the terms and conditions as imposed by the San Mateo County Local Agency Formation Commission are as follows:

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. Prior to submittal of the plan to LAFCo, the City of East Palo Alto shall work with the City of Menlo Park regarding the potential composition of the advisory committee. Evidence of correspondence between the two cities shall be submitted to LAFCo staff.
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.; and

WHEREAS, a request for reconsideration was filed on December 15, 2023 by the Burke, Williams & Sorensen, LLP on behalf of EPASD; and

WHEREAS, a public hearing by this Commission was held on the Request for Reconsideration February 7, 2024 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 Request for Reconsideration and the Executive Officer's report and related matters; and

WHEREAS, on February 7, 2024 the San Mateo LAFCo Commission adopted Resolution No. 1315 disapproving the request for reconsideration relating to the establishment of the East Palo Alto Sanitary District as a subsidiary district of the City of East Palo Alto; and

WHEREAS, on February 6, 2024 a letter was filed by Burke, Williams & Sorensen, LLP on behalf of EPASD requesting LAFCo schedule the protest hearing 90-135 days from the date of notice pursuant to Government Code Section 57002(b); and

WHEREAS, Government Code Section 57000 et seq. designates the Commission as the Conducting Authority for protest proceedings and allows the Executive Officer to perform this function pursuant to a delegation of authority from the Commission; and

WHEREAS, a notice of the Protest Hearing was published in the San Mateo County Times, The Almanac, and The Palo Alto Daily Post as a 1/8th page display advertisement on because the total number of notices required to be mailed exceeded 1,000 on February 12, 2024; and

WHEREAS, WHEREAS, on May 22, 2024, the Executive Officer opened the Protest Hearing, staff summarized LAFCo Resolution 1312 and LAFCo File 22-09, and opened a Public Hearing to all interested persons, organizations, and agencies to present oral or written protests, objections, and any other information concerning the proposal and all related matters; and

WHEREAS, following the close of the Protest Hearing, staff determined the value of all valid written protests filed and not withdrawn pursuant to Government Code Sections 56704, 56707, 56708,

WHEREAS, as of May 22, 2024 there were 9,672 registered voters in the affected area per the San Mateo County Registrar of Voters (Attachment A); and

WHEREAS, 1,012 facially valid registered voter protests were received during the formal protest period; and

WHEREAS, the number of valid registered voter protests submitted represented less than 25 percent of the total number of registered voters within the affected territory; and

WHEREAS, there were 6,567 landowners and a total assessed land value of \$2,264,295,264 in the affected area per the current Equalized Assessment Roll maintained by the County Assessor (Attachment A); and

WHEREAS, 936 facially valid landowner protests were received during the formal protest period with a total assessed value of \$180,654,895; and

WHEREAS, the number of valid landowner protests submitted represented less than 25% of the number of landowners who also own at least 25% of the assessed land value of land in the affected territory within the affected territory; and

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.

That the number of the written protests filed and not withdrawn is less than 25% of the registered voters in the affected territory and less than 25% of the landowners who own at least 25% of the assessed land value in the affected territory (Attachment A).

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

The East Palo Alto Sanitary District is established as a subsidiary district of the City of East Palo Alto (LAFCo File 22-09) without an election.

APPROVED
SAN MATEO LOCAL AGENCY
FORMATION COMMISSION
455 COUNTY CENTER
REDWOOD CITY, CA 94063

EXHIBIT 0 PAGE 5 OF 9

Regularly passed and adopted this 17 day of July.

Ayes and in favor of said resolution:

APPROVED
SAN MATEO LOCAL AGENCY
FORMATION COMMISSION
455 COUNTY CENTER
REDWOOD CITY, CA 94063

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Commissioners:
Tygarjas Bigstyck
Virginia Chang Kiraly
Ann Draper
Harvey Rarback
Warren Slocum
Kati Martin

Noes and against said resolution:

Commissioner(s): None

Absent and/or Abstentions:

Commissioner(s): Ray Mueller



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

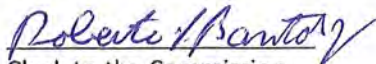
ATTEST:



Rob Bartoli
Executive Officer
Local Agency Formation Commission

Date: 7/17/2024

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



Clerk to the Commission
Local Agency Formation Commission

Date: 8/14/2024

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LOCAL AGENCY FORMATION COMMISSION

455 COUNTY CENTER, 2ND FLOOR • REDWOOD CITY, CA 94063-1663 • PHONE (650) 363-4224 • FAX (650) 363-4849

July 10, 2024

To: LAFCo Commissioners

From: Rob Bartoli, Executive Officer

Subject: Certification of Protest Hearing Results for LAFCo File 22-09 - Proposal to Establish the East Palo Alto Sanitary District as a Subsidiary District of the City of East Palo Alto

Background

On November 15, 2023 the LAFCo Commission voted unanimously, 6-0, to adopt Resolution No. 1312 approving the City of East Palo Alto's proposal to establish the East Palo Alto Sanitary District (EPASD) as a subsidiary district of the City subject to the terms and conditions included in the Resolution and the completion of the Conducting Authority Proceedings. The East Palo Alto Sanitary District objected to the proposal.

Protest Proceedings

As the proposal did not have 100% consent of the affected landowners and registered voters, the approval was subject to Protest Proceedings. The protest period stated on February 12, 2024 and was open for 100 days. A Protest Hearing was held on May 22, 2024 at the City of East Palo Alto Council Chambers and was publicly noticed pursuant to Government Code Section 57025, consisting of newspaper publication in the San Mateo County Times, Palo Alto Daily Post and The Almanac. Protest forms were collected by LAFCo staff via mail and in-person, until the close of the hearing at 2:59pm on May 22, 2024.

Pursuant to Government Code Sections 57077.5 and 57093, the proposal is subject to the following protest thresholds for proposals not initiated by the Commission and where a subject agency has objected by resolution to the proposal:

1. Terminate proceedings if 50% or more of the registered voters residing in the affected territory file a written protest; or
2. Order the change of organization subject to the confirmation of the registered voters residing in the affected territory if written protests have been filed by at least 25% but less

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

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

STAFF: ROB BARTOLI, EXECUTIVE OFFICER • VACANT, MANAGEMENT ANALYST • TIM FOX, LEGAL COUNSEL •
DIANE ESTIPONA, CLERK

than 50% of the registered voters residing in the territory, OR 25% of the number of landowners who also own at least 25% of the assessed land value of land in the affected territory; or

3. Order the change of organization without an election if written protests have been filed by less than 25% of the registered voters in the affected territory and less than 25% of the landowners who own at least 25% of the assessed land value in the affected territory.

The Executive Officer has caused the protest forms to be compared to the current Equalized Assessment Roll maintained by the County Assessor and the current Registrar of Voters maintained by the County Elections Official. All protest forms are evaluated pursuant to Government Code Sections 56704, 57051, and 57052. Landowner protest forms are reviewed under Government Code Section 56708 and 56709, which includes a requirement for how publicly owned parcels are assessed and how parcels that joint tenancy or tenancy in common are valued. Registered voter protests forms are reviewed pursuant to Government Code Section 56707.

Below is a summary of the total number of protest forms collected from both registered voters and landowners in the affected territory:

Results of Protest Received for LAFCo File 22-09					
Total Registered Voters in Affected Area	9,672 ¹ (100%)	Number of Facially Valid Registered Voter Protests Received	1,012 (10.46%)	Number of Facially Deficient Registered Voter Protests Received	57
Total Number of Landowners in Affected Area	6,567 (100%)	Number of Facially Valid Landowner Protests Received	936 (14.25%)	Number of Facially Deficient Landowner Protests Received	105
Total Assessed Land Value in Affected Area	\$2,264,295,264 (100%)	Total Assessed Land Value of Facially Valid Landowner Protests Received	\$180,654,895 (7.98%)	Total Assessed Land Value of Facially Deficient Landowner Protests Received	\$18,113,670

Protest forms were only identified as faciality deficient if there was no date affixed on the forms of when the protest form was completed, the date affixed was outside of the protest period, no signature was affixed to the form, or the person signing the form was either not a registered voter or a landowner in the affected area, depending on the type of protest form submitted.

APPROVED
SAN MATEO LOCAL AGENCY
FORMATION COMMISSION
455 COUNTY CENTER
REDWOOD CITY, CA 94063

¹ As of May 22, 2024 per the San Mateo County Registrar of Voters

For the purposes of calculating registered voter protests, the total number of registered voters in the affected area is as of May 22, 2024, the date of the protest hearing.

Regarding calculations of the amount and value of landowner protest received, Government Code 57093, states that it is the number of landowners submitting protests, not the number of parcels/APNs, that will be reviewed against the applicable protest thresholds. While there are 4,287 parcels within the boundaries of EPASD, there are 6,567 total landowners within the affected area. If a parcel is owned in joint tenancy or tenancy in common (2nd or 3rd owners in the Assessor's data), each person or entity is counted as a separate owner. If a person or entity owns multiple parcels, for each parcel they would be considered a separate owner. The assessed value of parcels owned in joint tenancy or tenancy in common shall be determined in proportion to the proportionate interest of the petitioner in that land as required by Government Code 56710(b).

As the number and value of protests met neither the 50% threshold for terminating the proceedings nor the 25% thresholds for requiring an election, the Commission is under a mandatory statutory duty to approve the change of organization.

After the conclusion of the certification of the protest hearing results, there are no additional actions required to be taken by the LAFCo Commission to establish the East Palo Alto Sanitary District as a Subsidiary District of the City of East Palo Alto as approved by the LAFCo Commission on November 15, 2023 in Resolution 1312.

The City of East Palo Alto City Council will be voting on matters related to a contact with the West Bay Sanitary District and a framework for an advisory body to the EPASD governing body at their July 16 City Council. The tentative date of the governance change for EPASD is August 1, 2024 if all required conditions of approval are met.

Recommended Commission Action by Resolution

1. Open the public hearing and accept public comment.
2. Approve San Mateo LAFCo Resolution 1325 – Making Determinations and Ordering the Establishment of the East Palo Alto Sanitary District as a Subsidiary District of the City of East Palo Alto Without an Election Subject to the Terms and Conditions of LAFCo Resolution 1312

Attachments

- A. LAFCo Resolution 1325
- B. Meeting Summary of May 22, 2024 LAFCo Protest Hearing
- C. Public Comment from Lincoln Webster dated 6/25/2024 and response from LAFCo staff

APPROVED
SAN MATEO LOCAL AGENCY
FORMATION COMMISSION
455 COUNTY CENTER
REDWOOD CITY, CA 94063

EXHIBIT D PAGE 9 OF 9