

SAN MATEO



LOCAL AGENCY FORMATION COMMISSION

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

October 20, 2020

To: LAFCo Commissioners
From: Martha Poyatos, Executive Officer *M. Poyatos*
Subject: **Addendum Report:** Request for Initiation of Municipal Service Review for East Palo Alto Sanitary District

Since release of the October 14, 2020 staff report, it has come to staff's attention that there is additional background information on proposed development projects in East Palo Alto. In addition, staff has an alternative recommendation should the Commission direct staff to proceed with a municipal service review (MSR) for East Palo Alto Sanitary District (EPASD). Also, LAFCo has received two additional e-mails from a resident of East Palo Alto and a letter from an EPASD Board member (Attachments A & B).

Pending Development Projects

Attachment C is a spreadsheet and map provided by the City of East Palo Alto that details pending city-wide development projects and their status. The spreadsheet lists 1,273 proposed residential units, 121,711 sq. ft. of retail, 4,597,588 sq. ft. of office, and 25,000 sq. ft. of industrial as pending. As indicated in letters from developers, an essential component for carrying out each of these projects is a will serve letter from EPASD.

One of several benefits of an MSR is that it could include analysis of infrastructure needs and deficiencies. The MSR is not a proposal for reorganization or dissolution, rather a study that includes consideration of the following areas of determination.

- (1) Growth and population projections for the affected area.
- (2) The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.
- (3) Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal

COMMISSIONERS: JOSHUA COSGROVE, CHAIR, SPECIAL DISTRICT ■ WARREN SLOCUM, VICE CHAIR, COUNTY ■ RICH GARBARINO, CITY ■ DON HORSLEY, COUNTY ■ MIKE O'NEILL, CITY ■ RIC LOHMAN, SPECIAL DISTRICT ■ ANN DRAPER, PUBLIC

ALTERNATES: KATI MARTIN, SPECIAL DISTRICT ■ HARVEY RARBACK, CITY ■ JAMES O'NEILL, PUBLIC ■ DAVE PINE, COUNTY

STAFF: MARTHA POYATOS, EXECUTIVE OFFICER ■ TIM FOX, LEGAL COUNSEL ■ ROB BARTOLI, MANAGEMENT ANALYST ■ ANGELA MONTES, CLERK

and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.

(4) Financial ability of agencies to provide services.

(5) Status of, and opportunities for, shared facilities.

(6) Accountability for community service needs, including governmental structure and operational efficiencies.

(7) Any other matter related to effective or efficient service delivery, as required by commission policy

Alternative Recommendation

After further consideration of the requests from East Palo Alto residents and developers (Sobrato Organization, Midpeninsula Housing Corporation and East Palo Alto Community Alliance and Neighborhood Development Association/EPA CAN DO) who are currently working with the City of East Palo Alto and EPASD on commercial and affordable housing projects, staff recommends that the Commission consider directing staff to issue a request for proposals for a consultant prepared MSR that would be funded proportionally by the developers since the request is development driven. This alternative would not impact the Commission's adopted work program.

Recommended Action:

By motion:

- 1) Recommend that staff prepare and issue a request for proposals for a consultant prepared Municipal Service Review for the City of East Palo Alto, East Palo Alto Sanitary District, and West Bay Sanitary District that would be funded by willing developers.

Attachments:

- A. E-mails from Dixie-Lee S. Specht-Schulz,
- B. Letter from EPASD Board Member Dennis Scherzer
- C. Table and Map of Pending East Palo Alto Development Projects

cc: Dixie-Lee S. Specht-Schulz, resident
Court Skinner, resident
Duane Bay, EPA CAN DO
Lillian Lew-Hailer, MidPen Housing Corp.
Tamsen Plume and Kevin J. Ashe, Holland & Knight LLP
Jaime M. Fontes, City Manager, City of East Palo Alto
Akintunde A. Okupe, General Manager, East Palo Alto Sanitary District
Sergio Ramirez, General Manager, West Bay Sanitary District
Dennis Scherzer, Board Member, East Palo Alto Sanitary District

Rob Bartoli

From: Dixie Specht-Schulz [REDACTED]
Sent: Thursday, October 15, 2020 11:42 AM
To: Rob Bartoli
Cc: Martha Poyatos
Subject: Re: Request for Review of the East Palo Alto Sanitation District

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.

Mr. Bartoli,

Thank you for sending me the link to the LAFC Commission Meeting scheduled for 10/21/2020. Right now I am scheduled to be out of town & may likely not have internet access on this date. I want to be sure my email communication can be entered into the record for consideration, if I am unavailable to attend via a Zoom connect. In addition I am going to ask that the LAFCO Commission have available to review the EPASD's agenda & supporting documentation for their 10/8/2020 regular board meeting. This documentation with photos now shows multiple areas of main sewer pipes with cracks & in direct contradiction to the photos emailed to me on 9/15/2020 by Merwyn Poblete, Supervisor for EPASD. Both Mr. Poblete & GM, Mr. Akin have stated that the EPA main sewer lines, although old, are in "perfect condition" & if not for any additional development could adequately serve the rate payers for "an additional 20-30 years". At the 10/8/2020 EPASD general board meeting Mr. Akin stated that one section of Pulgas St main line "was critical" & would require some \$237,000 immediately from their reserve fund to replace. Again I have repeatedly been told by the EPASD that the main lines are fine, including at the time I spoke to Mr. Poblete in person prior to requesting the photo documentation on 9/14/2020.

Please let me know if there is anything else you need from me to assist in making a determination on a review of the East Palo Alto Sanitation District.

Thank you.

Sincerely,

Dixie-Lee S. Specht-Schulz
952 Baines St.
East Palo Alto, CA 94303

Sent from my iPhone

- > On Oct 15, 2020, at 9:06 AM, Rob Bartoli <RBartoli@smcgov.org> wrote:
- >
- > Good morning Ms. Specht-Schulz,
- >
- > Please see the following link for the October 21, 2020 LAFCo agenda packet: <https://lafco.smcgov.org/events/regular-lafco-meeting-51>. Item 9 on the agenda is a Request for Initiation of Municipal Service Review for East Palo Alto Sanitary District.
- >
- > Please let me know if you have any questions.
- >
- > Thank you,

>
> Rob
>
> Rob Bartoli
> Management Analyst
> San Mateo LAFCo
> 455 County Center, 2nd Floor
> Redwood City, CA 94063
> Direct Tel: (650) 363-1857
> Email: rbartoli@smcgov.org
>
> -----Original Message-----
> From: Martha Poyatos <mpoyatos@smcgov.org>
> Sent: Friday, October 2, 2020 9:23 AM
> To: Rob Bartoli <RBartoli@smcgov.org>
> Subject: FW: Request for Review of the East Palo Alto Sanitation District
>
>
>
> -----Original Message-----
> From: Dixie Specht-Schulz [REDACTED]
> Sent: Thursday, October 1, 2020 2:48 PM
> To: Martha Poyatos <mpoyatos@smcgov.org>
> Cc: Dixie Specht-Schulz [REDACTED]
> Subject: Request for Review of the East Palo Alto Sanitation District
>
> 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.
>
>

Rob Bartoli

From: Dixie Specht-Schulz [REDACTED]
Sent: Thursday, October 15, 2020 11:44 AM
To: Rob Bartoli
Subject: Fwd: Composition of Sewer Main Pipelines
Attachments: PIPE SIZE AND COMPOSITION.xlsx

Follow Up Flag: Follow up
Flag Status: Flagged

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.

Begin forwarded message:

From: Merwyn Poblete [REDACTED]
Subject: RE: Composition of Sewer Main Pipelines
Date: September 15, 2020 at 1:30:12 PM PDT
To: Jeffrey Tarantino [REDACTED] Akin Okupe [REDACTED], Dixie Specht-Schulz <[REDACTED]>
Cc: Borys [REDACTED], Court Skinner <[REDACTED]>, Archelle Funnie [REDACTED]

Hi Everyone.

Attached herewith the Pipe Size and Composition of Sewer Pipe as well as Still Photo of the areas requested. FYI

Thanks

Merwyn

From: Jeffrey Tarantino [REDACTED]
Sent: Monday, September 14, 2020 4:55 PM
To: Akin Okupe [REDACTED] Dixie Specht-Schulz [REDACTED]; Merwyn Poblete [REDACTED]
Cc: Borys [REDACTED] Court Skinner <[REDACTED]>; Archelle Funnie [REDACTED]
Subject: RE: Composition of Sewer Main Pipelines

Hi Akin, I noticed Merwyn was not added to your email so I am resending with Merwyn included so Merwyn can review the action item below. Thanks!

Jeff

Jeffrey J. Tarantino, P.E.

Civil Engineers - Surveyors - Construction Managers

Phone: (415) 534-7070

Mobile: (650) 619-3226

In response to the COVID-19 pandemic, F&L has implemented a remote work network. It is F&L's desire to continue to meet our client's needs while keeping our employees safe, and hopefully doing our part to reduce the spread of the virus. Our goal is to continue to provide the responsiveness that we're known for, however we anticipate that we will encounter inefficiencies with working remotely. We appreciate your patience as we navigate through this uncertain time.



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From: Akin Okupe <[REDACTED]>
Sent: Monday, September 14, 2020 3:45 PM
To: Dixie Specht-Schulz <[REDACTED]>; Jeffrey Tarantino <[REDACTED]>
Cc: Borys [REDACTED]; Court Skinner <[REDACTED]>; Archelle Funnie <[REDACTED]>
Subject: Re: Composition of Sewer Main Pipelines

Merwyn,

Please assist in providing the information

Thanks

Akin Okupe, M.B.A.,P.E.

General Manager

East Palo Alto Sanitary District

Tel :(650) 325-9021

From: Dixie Specht-Schulz <[REDACTED]>

Sent: Monday, September 14, 2020 2:20 PM

To: Akin Okupe <[REDACTED]>; [REDACTED] <[REDACTED]>

Cc: Borys <[REDACTED]> Court Skinner <[REDACTED]>; Archelle Funnie <[REDACTED]>

Subject: Composition of Sewer Main Pipelines

Hello Mr. Okupe & Mr. Tarantino,

Would you be so kind as to provide me with the documented composition of the main sewer lines for the following EPA streets:

Clarke

Pulgas

East Bayshore

Bay

OConnor

Accompanying the composition description please provide a still photo of each as example. I understand from Mr. Poblete, Maintenance Supervisor for EPASD that a video surveillance of these pipes has already been done. Therefore it should be a simple matter to provide still photos from street sewer lines, as requested.

Thank you for your prompt attention to this matter.

Sincerely,

Dixie-Lee S. Specht-Schulz

Sent from my iPhone

0000.0'

0035.9'

0035.9'

0131.8'

M 41 M 5

0143.4'

M 41 M2

Basin D-Manhole 'D3'-Manhole 'D2'-

9/1/2020



10.4 FT.

08:29 AM

09/02/20

+1.2 DEG.

0045.8'



M 4 1 M 2

0073.0'



M 4 U M 5

0008.0'



M 41 N 10

0035.9'

M 41 N14

PIPE DESCRIPTION AND COMPOSITION

Street	Basin/Area	Pipe Size	Pipe Material
Clarke Ave	Basin F - Bet. Bay Rd & Clarke Ave	6"	(VCP) Clay
	Basin H - Bet. Weeks St & Runnymede	6"	(VCP) Clay
	Bet. Runnymede & Beech St	8"	(VCP) Clay
	Bet. Green St & Beech	15"	HDPE
	Bet. Oconnor & Green St	6"	(VCP) Clay
	Basin M - Bet. E. Bayshore & Oconnor St.	10"	HDPE
Pulgas Ave	Basin A - Bet. Bay Rd. & Weeks St.	6"	(VCP) Clay
	Basin F - Bet Bay Rd & Weeks St	6"	(VCP) Clay
	Basin G - Bet. Weeks and Runnymede	6"	(VCP) Clay
	Basin J - Bet Runnymede & Garden st	6"	(VCP) Clay
	Basin I - Bet. Garden St & Beech St	6"	(VCP) Clay
	Bet. Oconnor & Beech St	12"	HDPE
	Basin N - Bet. E. Bayshore & Oconnor	10"	HDPE
E. Bayshore Rd.	Basin C - Bet. Ralmar & Menalto	8"	HDPE
	Basin D - Bet. Oakwood & Euclid	6"	(VCP) Clay
	Bet. Euclid & University	12"	HDPE
	Basin E - Bet University & Cooley Ave	12"	HDPE
	Basin M - Bet Clarke and Oconnor	6"	(VCP) Clay
Bay Rd.	Basin B - Bet Menalto & Fordham	12"	HDPE
	Basin A - Bet Fordham & Tara Rd	15"	HDPE
Oconnor St	Basin C - Bet. Elliot Dr & Menalto Ave	6"	(VCP) Clay
	Bain D - Bet. Elliot Dr. & Manhattan Ave.	6"	(VCP) Clay
	Basin M - Bet. E. Bayshore & Clarke Ave	8"	(VCP) Clay
	Bet. Clarke & Pulgas Ave	8"	HDPE
	Basin N - Bet. Pulgas & Siphon	12"	HDPE

October 17, 2020

Martha Poyatos, Executive Director
Local Agency Formation Commission
455 County Center, 2nd Floor
Redwood City, California 94063-1663

Dear Director Poyatos:

I have just recently received notice of the upcoming LAFCO meeting whose agenda includes Item 9, "Request for Initiation of Municipal Service Review for East Palo Alto Sanitary District". We at EPASD have been doing our best to impart correct information regarding the District for the persons and corporations requesting this review. Let me be clear about that – although Sobrato and EPACANDO have been developing the plans for their projects for several years, they first brought it to the attention of the EPASD Board through our Engineering Committee on December 3, 2019. The representatives of these developers were concerned about the actuality of connecting to our sewer system.

What was their objection? Cost. They did not consult the EPASD General Manager, Mr. Okupe, regarding the condition of existing EPASD infrastructure until they were ready to build, and assumed that they need only pay connection fees. These assumptions, according to EPACANDO, were based upon information reported in the CEQA checklist and EIS for their project. The Engineering consultant who authored the CEQA report and EPA City planning staff all signed off on that document which stated there would be "No Significant Impact" to our sewer infrastructure from their project. The engineer, and both Sobrato's and EPACANDO's project managers relied upon inaccurate reports and gave assurances to their employers that the CEQA report was accurate based on those incomplete reports. Sobrato's and EPACANDO's engineers and project managers never consulted with Mr. Okupe before reporting to their employers that their projects posed "No Significant Impact" to EPASD's infrastructure. It's these false expectations regarding costs associated with EPASD infrastructure that has caused the upset which has led these people to now bother LAFCO.

Mr. Okupe informed them that adding their projected sewage flows to our system would require enlarging the receiving pipes (downstream improvements), and that the existing pipes were in good repair and adequately handling current sewage flows without overflow. Based on engineering modeling data and construction cost tables, the projected infrastructure upgrade cost for the Sobrato project alone are approximately \$8Million. It is the contention of the above mentioned applicants that the existing rate payers at EPASD pay for these costs.

There are about 4,000 connectors at EPASD. That means that each existing user will have to pay about \$2,000 for Sobrato's sewers. It is projected that sewers for the total build out of the City of EPA's Master Plan will cost \$40Million or more, bringing the share of costs to each home, business, church, school and public building in EPASD for other people's sewers to \$10,000 each or more. The cost to EPACANDO at their "Light Tree" project would be \$400,000. The largest apartment owner in East Palo Alto (1,800+ units) will have to pay \$3.6Million for Sobrato's sewers alone – all of which will be passed on to tenants.

Regardless of who administrates EPASD, and under whatever model, the sewers will cost this much and more. Plus deferring these costs onto existing ratepayers is illegal under the California Constitution Article 13D, Section 6 b.

EPASD collects its Sewer Service charges on the San Mateo County property tax roll. Although characterized as a service charge, the effect of SMC Co collecting them on the tax roll is that the charges act as a tax (quacks like a duck). 13D.6. considers EPASD's sewer service charges as a "Property Related Fee for Service".

13D.6.b forbids EPASD from charging more to a ratepayer for our service than it actually costs to provide it, and requires that the service is "immediately available" to the ratepayer. Since the sewers connecting these projects to EPASD's infrastructure exclusively serve individual properties, they are not immediately available to no other property than the one connected.

It is good that you might want to include the City of EPA and West Bay SD in this process. The last time we did this, WBSD politely refused to consider annexing EPASD, and based on management performance, it was found that it would be better if EPASD were to annex the City of EPA. We politely declined as well.

Finally, there is a serious and distinct political consideration. The concerns expressed by the applicants can all be resolved by EPASD at the Board level. Rather than work with EPASD, they have asked LAFCO to intervene politically at EPASD so that development interests from outside of EPASD will not have to suffer the task of persuading the electorate to support their agenda. I am confident that the elected public officials on the LAFCO Board understand this problem and will refrain from allowing LAFCO to be exploited for the sake of a small group of developers who are trying to evade the responsibility of paying the cost of their infrastructure improvements by imposing their costs on existing ratepayers.

Thank you for this opportunity to address LAFCO on this issue. Hopefully this can lead to developers, their consultants, and EPA City staff to work with EPASD in earnest.

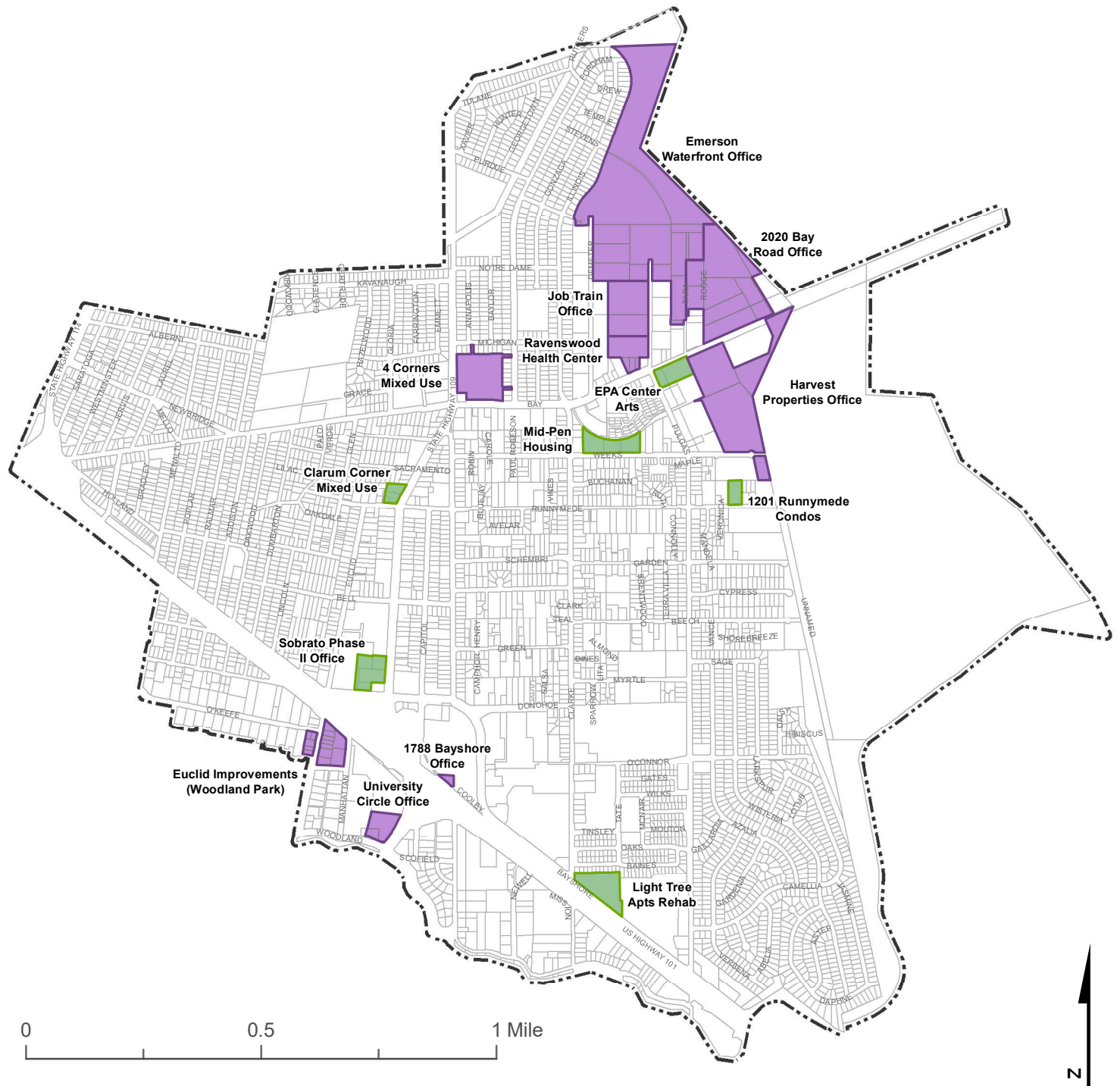
In Unity,

Dennis C. Scherzer, Director
East Palo Alto Sanitary District

Attachment C

Projects	Status	Environmental	Address	Net New Units	Net Retail (Sq Ft)	Net Office (Sq Ft)	Net Industrial (Sq Ft)
Four Corners/Ravenswood				835	112,400	1,235,853	267,987
<i>Constructed</i>							
Courtyard at Bay Rd	Constructed	N/A	Bay Road	77			
<i>Pipeline</i>							
EPA Center Arts	Approved	Completed	1950 Bay Road				25,000
Midpen Housing @ 965 Weeks	Approved	Completed	965 Weeks Street	136			
1201 Runnymede	Planned	Infill Exemption	1201 Runnymede	32			
2020 Bay Road	Planned	NOP: 5/18/17	2020 Bay Road		14,000	1,343,292	
Four Corners	Preliminary	Not started	1675 Bay Road	180	20,000	500,000	
Harvest Properties	Planned	Not started	1990 Bay Road, 1175/1250 Weeks St	260	50,000	1,300,000	
EPA Waterfront (Emerson)	Preliminary	Not started	2555 Pulgas Avenue			100,000	
Job Train Office	Planned	Not started	2535 Pulgas Avenue			60,000	
Ravenswood Health Center (Sobrato)	Preliminary	Not started	2519 Pulgas Avenue				
Subtotal So Far				685	107,521	4,197,771	25,000
Remaining				150	4,879	(2,961,918)	242,987
Westside				900	45,000	0	0
Euclid Improvements (Woodland Park)	Planned	NOP: 4/22/20	2001 Manhattan Ave	444	3,000		
University Circle II	Planned	NOP: 6/8/20	2050 University Ave			180,000	
Subtotal So Far				444	3,000	180,000	-
Remaining in Subtotal				456	42,000	(180,000)	-
All Other Areas Citywide				665	176,006	704,000	0
<i>Individual Single-Family Units</i>	Approved	N/A	Various	20			
Light Tree	Approved	Completed	1805 East Bayshore Road	91			
Sobrato University Plaza Phase II	Approved	Completed	2111 University		8,690	203,967	
Clarum Corner	Approved	Completed	2331 University Ave	33	2,500		
1788 E Bayshore Rd	Preliminary	Not started	1788 Bayshore			15,850	
Subtotal So Far				144	11,190	219,817	0
Remaining in Subtotal				521	164,816	484,183	-
TOTAL SO FAR				1,273	121,711	4,597,588	25,000
REMAINING OF TOTAL				1,246	211,695	(2,657,735)	242,987
TOTAL				2,519	333,406	1,939,853	267,987

Major Development Projects in East Palo Alto



Legend

- Planned
- Approved

September 1, 2020