



# CITY OF EAST PALO ALTO

## Office of the City Council

June 13, 2022

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San Mateo Local Agency Formation Commission  
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### **RE: Final Municipal Service Review Updates for the City of East Palo Alto, East Palo Alto Sanitary District, and West Bay Sanitary District**

Mr. Bartoli,

This letter serves as the City of East Palo Alto's official response to the Final Municipal Service Review (MSR) for the City of East Palo Alto ("City"), East Palo Alto Sanitary District (EPASD), and West Bay Sanitary District ("West Bay") published by your agency.

On behalf of the City Council, staff, and the community of East Palo Alto, I extend our thanks to the San Mateo Local Agency Formation Commission ("Commission," SMLAFCo) and the team at Berkson Associates for preparing a final MSR that incorporates updated information provided by the City and responses to comments submitted by interested parties. The Council received a presentation by Executive Officer Rob Bartoli on April 19, 2022, and considered the Draft MSR at the May 3, 2022, Council Meeting. The MSR both: 1) underscores the challenges and priorities that drive the City's strategies for addressing the needs of our diverse and economically disadvantaged community, and 2) offers solutions to enhance the City's financial outlook and improve the economic outlook for all residents. The City reaffirms the message in our comment letter dated May 5, 2022, offers the following comments on the MSR, and urges the Commission to adopt the MSR and sphere recommendations.

#### City of East Palo Alto Fiscal Health

During the MSR process, comments have been made regarding the City of East Palo Alto's overall fiscal health. As stated in the MSR, the City is in a relatively good financial position, which is expected to improve as new developments advance. The City is in the process of completing a General Plan Amendment to accommodate new development, which is estimated to result in a significant increase in annual fiscal benefits from property taxes, potentially generating an annual surplus of between \$25 million and \$30 million for the City and other entities, including the Ravenswood City School District, Menlo Fire, Sequoia Union High School District, and the County Library system. The City also anticipates collecting between \$4

million and \$4.6 million per year in Measure HH taxes, which will support affordable housing and job training initiatives for East Palo Alto residents.

The proposed developments would lead to the following impact fees that will enable the City to leverage funding to improve infrastructure, such as:

- Commercial Linkage Fee to support affordable housing - \$33.5 million to \$40 million
- Public Facilities Fee - \$11 million to \$12.5 million
- Parks and Trails - \$6.3 million to \$7 million
- Transportation - \$25 million to \$30 million
- Water and Storm Drainage - \$36 million to \$40 million

The EPASD's unwillingness to provide sanitation services consistent with industry standards to these new developments has negatively impacted the City's fiscal health over the past three years. When City-approved development projects are delayed or cancelled due to a lack of support from the EPASD, the City is then denied the portion of associated tax revenues and community benefit funds. The City's reserve has been used to balance the City's finances in these cases, but this is not a prudent long-term solution. A logical long-term solution is to advance City-approved projects and develop strategies to accommodate additional development that aligns with the priorities and goals of both the City and residents.

#### City of EPA Water and Storm Drain Infrastructure

During the MSR process, the City's ability to maintain the City's water and storm drain infrastructure has been called into question. Although substantial additional work is necessary, the City has made great progress in several areas, demonstrating our commitment moving forward:

#### **Guiding Documents Connected to the City's Water System**

- 2022 Water Master Plan update currently underway (anticipated completion in June 2022)
- Asset Management Plan (AMP) for the Water System (completed and adopted in 2022)
- Urban Water Management Plan (UWMP) (completed and adopted in 2021)

#### **Water System Improvement Projects**

- Bay Road and Pulgas Avenue (2,700 linear feet of new watermain)
- City-wide water system improvements through the City's water system operator
- Gloria Way Well (2017)
- Pad D Water Tank (Public/Private partnership)
- Water turnout upgrade at O'Brien completed in 2020

#### **Water System Improvement Projects Designed and are now "Shovel Ready"**

- 12" watermain at University/Cooley Avenue (construction to begin Fall 2022)
- University/Woodland watermain gap closure (construction to begin in 2023)
- Emergency Intertie with Palo Alto (construction to begin in 2023)

- 16” Inch Purdue line completed in 2020 (construction to begin in 2023)
- Water Main Replacement Project (Ongoing Citywide effort 2022-2024)
- Pad D Well Design completed in 2020 (construction TBD)

### **Water System Improvement Projects in the Design Process**

- San Francisco Public Utilities Commission (SFPUC) Fourth Turnout
- Demeter Waterline Loop
- Water Tank on West Side (Work with Developer, pending support from EPASD)

### **Stormwater Improvement Projects Completed Over the Last Three Years**

- Drainage improvements completed to mitigate local flooding (Pulgas, Menalto, Runnymede) in 2020
- Annual vacuum of stormdrain inlets city-wide
- Weeks Street Storm Drain design (750 linear feet) completed with developers of the Primary School. (Project construction cancelled due to EPASD failure to issue will-serve notice)
- SFC JPA Flood protection Reach 1 project Levee Project completed in 2019
- Bay Road and Pulgas Avenue Storm Drain (5,200 linear feet) completed in 2021
- Trash Capture Device at O’Connor Pump Station (NPDES Permit Compliance) completed in 2019
- City-wide street sweeping program
- City-wide street sweeping signage project completed in 2022
- Runnymede Channel Improvements completed in 2019

### **Stormwater Improvement Projects Underway/Upcoming**

- O’Connor Pump Station Improvements Phase I
- Storm Drain upgrades associated with various new developments (contingent upon EPASD approvals)
- Addison Avenue drainage, storm drain, and NPDES improvements
- O’Connor Pump Station Improvements (Phase II) pending Hazard Mitigation Grant approval by FEMA
- Newell Bridge Replacement (partnership with Palo Alto)

### **Subsidiary District Determination**

The recommendation/determination that the City consider assuming sanitary sewer as a subsidiary district of the City responds to a well-documented need to proactively plan for sewer infrastructure necessary to meet the needs of current rate payers and accommodate economic development vital to the City’s fiscal resiliency and quality of life of East Palo Alto residents. This recommendation is consistent with State policies favoring a single multipurpose agency when the broad range of municipal services are to be provided in urban areas. This governance alternative would make East Palo Alto whole as a land use agency and utility provider and allow the City to develop a Capital Improvement Plan (CIP) to meet community needs for jobs, housing, health clinics, etc.

### Portion of EPASD Territory in Menlo Park

The City is prepared to address the fact that Menlo Park residents within EPASD boundaries should have an avenue for engagement with the City in matters related to sewer service, if a subsidiary district is established. The City also recognizes that there are several instances in the State in which a subsidiary district includes territory outside the City. In fact, enabling legislation for subsidiary districts (Government Code Section 57105) permits a subsidiary district to be formed if at least 70% of the land area and 70% of the registered voters are within City boundaries. For example, in San Mateo County, the North San Mateo County Sanitation District, a subsidiary district of the City of Daly City includes unincorporated Broadmoor, Unincorporated Colma and the Town of Colma. Mechanisms such as advisory bodies exist to ensure engagement with neighborhoods located in another city that are included in a subsidiary district.

### Willingness to Partner with City of Palo Alto, West Bay Sanitary District, or Other Entities

The report identifies partnerships with the City of Palo Alto as the treatment plant operator and West Bay as a possible contract sewer service provider. Most recent discussion by the West Bay Board at the April 27, 2022, meeting indicates that, if the community supports a subsidiary district, West Bay would support East Palo Alto by providing maintenance services, as it does to the Towns of Los Altos Hills and Woodside, through an inter-agency agreement.

### Social and Economic Communities of Interest (Section 56425(e)(4))

Since incorporation, the City Council and Staff have organized around improving community safety, the availability of housing, job opportunities and neighborhood serving facilities for a historically disadvantaged and diverse community. The failure of EPASD to plan proactively to accommodate these goals indicates that the determination of social and economic community of interest required by Section 56425 (e)(4) is incongruous with the continued existence of EPASD as an independent special district.

In conclusion, East Palo Alto continues to appreciate the comprehensiveness of the MSR and the recommendations that seem intended to resolve the documented inadequacies of the sewer infrastructure, the lack of a CIP, and the current impasse regarding a funding formula to eliminate an intractable barrier to the achievement of critical City goals. For the past decade and beyond, the City has consistently built its capacity to attain economic self-sufficiency, through policy decisions, funding options, and strategies that result in beneficial development. Ensuring that the City's sanitation infrastructure can support City-approved development is a challenge that must be resolved so that all residents may benefit from citywide improvements and mindful growth.

Like many jurisdictions, the City recognizes the need for improvements to its key infrastructure, such as water, storm water, street, park, and community facilities. Demonstrating the City's commitment to these efforts, the City has adopted comprehensive plans, enacted legal impact fee structures, invested millions of Federal, State, and local funds into improving this much needed

infrastructure. It is imperative that the City hold ultimate land use authority for all development within City borders. At this time, the dependency on the EPASD to authorize developments that have already completed the public City-approval process has become a detriment and an impediment to the City's growth.

The City actively seeks grant funding, proactively designs infrastructure improvements, and has a well-documented track record of delivering complex capital improvement projects. In contrast, the City has concerns about the ability of the EPASD to deliver improvement projects. As an example, although EPASD is contractually obligated to deliver a sewer improvement to support the recent Light Tree affordable housing project, that work has yet to be initiated. As a result, the non-profit housing developer is facing significant risk of not meeting the approved completion date of January 2023 and, thus, being unable to provide much needed affordable housing to our residents.

For these reasons and at the direction of the City Council, I request that the SMLAFCo adopt the Municipal Service Review Updates for the City of East Palo Alto, East Palo Alto Sanitary District, and West Bay Sanitary District.

Sincerely,

*Ruben Abrica*

**Ruben Abrica**  
Mayor