



# CITY OF SAUSALITO

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February 2, 2012

Chair Jeffry Blanchfield and Members of the Commission  
Marin Local Agency Formation Commission  
555 Northgate Drive, #230  
San Rafael, CA 94903

RE: Request for Reconsideration: Annexation of the City of Sausalito to the Southern Marin Fire Protection District (File #1304)

Dear Chairman Blanchfield and Members of the Commission:

At the November 10, 2011 Board Meeting of the Marin Local Agency Formation Commission (LAFCO), the Board of Commissioners considered the proposed annexation of the territory of the City of Sausalito to the Southern Marin Fire Protection District. Following the public hearing, the LAFCO Board of Commissioners took the following actions with unanimous consent:

1. Approved Resolution 11-07 amending the sphere of influence of Southern Marin Fire Protection District to include the incorporated territory of the City of Sausalito;
2. Approved Resolution 11-08 approving the proposed Annexation of the City of Sausalito to Southern Marin Fire Protection District subject to the following Terms and Conditions: That the Southern Marin Fire Protection District adopt and implement a memorandum of understanding between the District and Southern Marin Professional Fire Fighters, Sausalito Group, IAFF Local 1775; and the effective date of annexation shall be the earliest possible date following completion of all other annexation proceedings.
3. Directed staff to conduct protest proceedings pursuant to Government Code §57000 and in accordance with policies and procedures adopted by the Commission.

It should be noted that this annexation simply rationalizes existing service relationships: Southern Marin Fire already serves the people of Sausalito via contract as it has since 2004. Nevertheless, on Saturday, December 10, 2011, the last day of the 30-day reconsideration period, a Request for Reconsideration was filed with the LAFCO Executive Officer by Sausalito resident John Flavin and City of Sausalito Councilmember Linda Pfeifer.

The Request for Reconsideration includes no information that was not already analyzed during literally years of comprehensive analysis of this proposal and therefore does not justify any change in LAFCO's approval. The assumptions and conclusions in the Request for Reconsideration are not only seriously flawed, but also misrepresent the long-term fiscal impacts

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of annexation on the City, the District and citizen taxpayers. Contrary to the filers' claims, annexation's impacts will be positive, as explained below.

In support of the relevant sections of this analysis, I attach letters from the City's pension fund expert, Marilyn Oliver, Vice-President from Bartel Associates, LLC; and from the City's Special Counsel, Michael Colantuono.

#### **Request for Reconsideration Point #1.**

*Applicants for Reconsideration States: "New Information: Double-dipping probability not disclosed, and the estimated potential costs of double-dipping not disclosed. Language in city's application was not clear that eligible firefighters could 'double-dip' by retiring from CalPERS while also receiving a full salary from Southern Marin Fire District (SMFD)"*

The issue raised by the Applicant is not "new information" because it is incorrect and misleading to label as "double-dipping" the continuation of employee pension benefits by employees who will transfer from the City's pension provider (CalPERS) to the Fire District's pension provider (Marin County Employees Retirement Association, or MCERA).

- The actuarial firm of Bartel Associates, LLC notes in the attached letter that "The scenario where someone retains reciprocity, retires from CalPERS, and continues to earn MCERA benefits while drawing an SMFPD salary is not possible" A Sausalito firefighter must choose one or the other as described in the Employee Transfer Plan included as Attachment I to the "Plan for Service" submitted by the City to LAFCO as part of the initial annexation application. The Bartel Associates letter goes on to say, "If the firefighter elects to begin his CalPERS pension while employed at the District, he loses reciprocity which means that he will pay a much higher MCERA member contribution rate and, upon retirement from SMFPD, will not be eligible for immediate payment of MCERA service retirement benefits until he has 10 years of MCERA service."
- Clearly it is not financially advantageous for an employee to begin their CalPERS pension and go to work for the District. But even assuming an employee were to retire from CalPERS with 25 years of service and then work for SMFD drawing a salary there for an additional 5 years, the total compensation to be received by that employee from both the pension and salary over this work life of 30 years would be nearly the same in constant dollars as if the employee were to accept reciprocity in the MCERA retirement system and postpone their retirement to the conclusion of their work life after 30 years of service. This is because the retirement formula increases for employees who work to full retirement age.
- Further, the Applicant for Reconsideration calculates that there are six Sausalito firefighters eligible to retire from CalPERS. The City never said this because in fact, there are only three employees over the retirement age of 50 and only one employee who will reach the CalPERS age and years of service requirements for full retirement by the effective date of annexation. As noted above, the scenario of these three employees

retiring from CalPERS and then going to work for the District is highly unlikely and not to their financial advantage. Bartel Associates, LLC notes that the impact is considerably less than estimated by the Applicants.

- The Applicant for Reconsideration includes Overtime Compensation in their calculations of retirement benefits but Overtime is definitively not part of the calculation of a pension. Both CalPERS and MCERA specifically exclude Overtime when calculating pension benefits.
- The City's actuary used the CalPERS demographic assumptions based on age and years of service in calculating the impact of annexation on the City's CalPERS pension costs—consistent with generally accepted professional standards.
- Finally, moving Sausalito Fire personnel from CalPERS to MCERA is no different than what happens when employees change jobs – they get the same pension benefits, but two pension providers share the responsibility to fund that pension based on the employees' years of service to employers covered by each pension plan. This is an established part of the labor market for government employees in California and does neither increase nor decrease the total combine pension liability.

*In summary, Point #1 in the Request for Reconsideration is not “New Information”. Rather it includes false information and contains no new information that could justify LAFCO reconsidering its unanimous approval of the annexation. Annexation will create no added pension costs for the City or the District, nor ultimately for the citizen taxpayers they both serve.*

#### **Request for Reconsideration Point #2.**

*Applicants for Reconsideration States: “New Information: Pension liability after annexation not analyzed/communicated to Sausalito residents. A comparison of the increased cost and pension liabilities to Sausalito residents ‘before and after’ annexation was never done”*

Contrary to the Applicants' statement, in the City's power point presentation to LAFCO, a hard copy of which was provided to LAFCO and its Commissioners, the City did describe specifically that “Sausalito's share of Unfunded Liability before Annexation is \$1,667,694” and “Sausalito's Share of Unfunded Liability after Annexation is \$287,899”. This is substantially different than the calculations by the Applicant for Reconsideration, who has used assumptions quite different from those used by CalPERS and MCERA.

The report from Citygate Associates, consultants to both the City and the District, was part of the City's application to LAFCO. In that report it was noted that the unfunded liability and annual pension cost is “one that the City has now and would continue to have if the employees remained on the City payroll. From that perspective, the retirement liability is ‘cost neutral’....”

CalPERS and MCERA annually produce actuarial reports on the capacity of their investment pools to fund their pension obligations. Point 2 in the Request for Reconsideration provides no

new information, but rather the filer's own, idiosyncratic or nonstandard calculation of pension obligation. In short, the filer makes large assumptions and speculates about pension liabilities using actuarial assumptions different from the professionally accepted assumptions used by CalPERS, MCERA and the respective City and District independent actuaries. The Applicants provides no new information of substance.

As stated above regarding Point #1, Sausalito firefighters cannot transfer to the District, receive reciprocity from MCERA and concurrently receive a retirement from CalPERS. They must choose one or the other. Point #2 relies on the mistaken assumption that Sausalito firefighters can double dip and receive both a CalPERS pension and reciprocity from MCERA and then Point #2 alleges a \$1.4 million impact from this incorrect pension assumption. The incorrect assumptions by the Applicants then produce completely incorrect conclusions.

Pension experts and actuaries annually calculate CalPERS and MCERA's assets and liabilities and forecast the ability of each pension pool to fund its future pension obligations. Those reports forecast the impact on the City's annual pension contributions and are published annually on the City's web site. The impact of annexation on the City's CalPERS pension costs was analyzed by the City's professional actuary and the results were part of the foundation of the financial analysis provided to LAFCO. The City and the District used that analysis in further demonstrating that annexation will have no negative financial impact on Sausalito, Southern Marin Fire, or the residents those agencies serve.

The argument that the pension cost analysis should use a more pessimistic prediction of future investment returns is not new. This argument restates a disputed academic study that argues – contrary to the standard practice of pension actuaries around the country working at all levels of government – that the expected rate of return used by CalPERS is inappropriate for discounting liabilities backed by assets (like stocks), and that liabilities not covered by assets fall to the sponsoring government, and therefore should be discounted by the sponsor's borrowing cost. That academic debate has gone on for years and is not new. The fact is that pension plans are constrained by regulated actuarial standards, not the arguments of academics and the analysis the City and the District provided LAFCO was predicated upon that fact. CalPERS and MCERA have to follow the laws and actuarial standards that exist, not the laws and standards about which academics argue. In any event, a pessimistic forecast of earnings on pension pool assets would affect CalPERS and MCERA alike and that pessimism will predict higher pension costs for the City's fire service whether or not the annexation occurs.

It is interesting to note that CalPERS reported a 20.7% return on investment for the one year ending June 30, 2011. This is substantially higher than its target return of 7.75%. While there may be years of loss or lower return for retirement systems, there are also years of higher return that reduce the unfunded liability and therefore the retirement rates paid by member agencies.

*In summary, Point #2 in the Request for Reconsideration relies on the Applicants' nonstandard assumptions and conjecture. It contains no new information that could justify LAFCO reconsidering its unanimous approval of the annexation. Despite the filer's contrarian view, City and District calculations and information using professional and industry standards demonstrate that annexation will impose no added pension costs on the City or the District, nor on citizen taxpayers.*

### **Request for Reconsideration Point #3.**

*Applicants for Reconsideration State: "New Information: Sausalito Residents will be funding replacement of 2008-09 losses by both MCERA and CalPERS. The estimation of funding these losses is new information. An analysis showing the extent to which Sausalito residents will have to fund replacement losses incurred by both MCERA and CalPERS to the fire employees was never done."*

The issue raised by the Applicants is not new information. This issue was covered in two ways in the City's application and presentation to the LAFCO Board. It was covered directly in the City's power point presentation, on the slide labeled "Two Frequently Asked Questions" where the City noted that "The amount of property tax transferred to the District includes only the incremental pension costs for the City of Sausalito employees, i.e. City of Sausalito taxpayers will not be paying from their property taxes for unfunded liability costs for existing District employees." Also, as the agreement between the City and the District clearly establishes, the revenue transferred is a fixed formula that will not be adjusted in the future to reflect any further current or future pension fund losses, should any occur.

The issue of the existence of investment losses by both MCERA and CalPERS was also in the pension assumptions used by the City and District in calculating the amount of revenue to be transferred to the District. This amount of revenue is less than the current cost of fire services for the City.

Further, what the applicant fails to note is that they are requesting an analysis of the impact of investment gains and losses for a fiscal year "three" years prior to the actual date that Sausalito employees would become District employees. The retirement rate that applies to these employees is based on the date that they become employees of the District and the financial health of the pension fund at that time, not FY 2008-09. To illustrate the outdated nature of FY 2008-09 data, losses for both CALPERS and MCERA have been reduced with MCERA net assets increased by 31.5% between June 30 2009 and June 30, 2011. CalPERS has experienced similar changes.

*In summary, Point #3 in the Request for Reconsideration also includes misinformation, a faulty financial analysis and contains no new information that might justify a change in LAFCO's unanimous approval of the annexation and fails to demonstrate that annexation will impose additional pension costs on the City or the District, nor on citizen taxpayers they serve. An*

*actuarial analysis by the District's actuary (EFI Actuaries) has reflected that the transfer of City employees to the District "will not" increase the pension rates applicable to these or current District employees.*

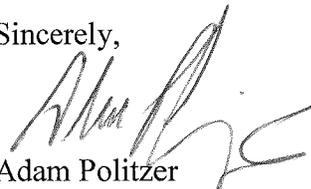
## **CONCLUSION**

In conclusion, annexing Sausalito to the Southern Marin Fire Protection District will continue the excellent and high quality level of fire protection service for the residents and businesses in the City of Sausalito, with no negative impact on taxpayers. The annexation provides both the City and the District, and ultimately the citizen taxpayers they serve, with the most cost-effective and efficient level of fire services, with the fiscal stability necessary to meet future challenges. It is \$1.4 million cheaper each year than the best alternative to annexation – namely, a Fire Department staffed and funded by the City. Finally, the Southern Marin Fire Protection District makes important decisions affecting the life and safety services provided to residents of Sausalito and those residents cannot have a voice in the election of the leaders of that District until the annexation is approved. Annexing the City to the District rationalizes existing service arrangements and accomplishes LAFCO's very purpose – drawing sensible boundaries for government agencies so that government makes sense to the governed and provides efficient and effective service.

## **RECOMMENDATION**

Therefore, the City of Sausalito urges the Commission to unanimously affirm its previous 7 – 0 vote approving Resolution Nos. 11-07 and 11-08, and directing staff to conduct protest proceedings pursuant to Government Code §57000 and in accordance with policies and procedures adopted by the Commission.

Sincerely,



Adam Politzer  
City Manager

### **Attachments:**

1. Letter from Marilyn Oliver, Vice-President, Bartel Associates, LLC
2. Letter from Michael G. Colantuono, Attorney