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August 13, 2020

Honorable Russell Hom,  
Presiding Judge  
Sacramento County Superior Court  
720 9th Street, Dept. 47  
Sacramento, CA 95624

RE: City of Elk Grove 2019-2020 Grand Jury Response

Dear Judge Hom:

On June 20, 2020, the Sacramento County Grand Jury issued a Grand Jury Report entitled "Elk Grove Parks: Where Have All the Flowers Gone?" Pursuant to California Penal Code sections 933 and 933.05, the Grand Jury has requested that the Mayor of the City of Elk Grove and the City Council of the City of Elk Grove respond to the Grand Jury's findings and recommendations. The response set forth herein encompasses the joint response of both the Mayor and the City Council of the City of Elk Grove. The Grand Jury also invited a voluntary response from Jason Behrmann, City Manager of the City of Elk Grove. Because the response below sufficiently sets forth the City's position, the City Manager respectfully declines to provide a further response.

The Grand Jury Report was also directed to the Cosumnes Community Services District ("CCSD"). The CCSD provided its response to the Grand Jury Report by a letter response dated August 5, 2020. A copy of the CCSD response is attached as Exhibit A, hereto. Given the similarities in responses, the City incorporates the CCSD's response as the City's response, where appropriate.

#### **GENERAL STATEMENT**

The CCSD is the primary parks provider in the City of Elk Grove. With the exception of the City of Elk Grove's Rain Garden near City Hall, and the facilities located at the City's District 56 property – a multi-use property containing the Aquatics Center, Community Center, Veterans Hall, and nature area and open space – the City does not own, operate or maintain parks within the City. The City also does not maintain or manage the landscape and lighting districts; the CSD takes on that role and responsibility.

The City maintains two community facilities districts ("CFDs") that provide funding for parks in the Laguna Ridge Specific Plan and the Southeast Policy Area. These are developing areas in the southern portion of the City. In these areas, the City collects the park fees and transfers funds to the CCSD, which owns and operates the parks. This process

is memorialized through a 2019 Memorandum of Understanding ("MOU"), which was reviewed by the Grand Jury as a part of its investigation. (See Grand Jury Report, at p. 17.) The CFDs created by the City to maintain parks and other facilities in these new areas were established to provide sufficient maintenance funding for these facilities, and these newer areas do not suffer the deficiencies that may be present in older landscape and lighting districts in the City.

### **FINDINGS AND CITY RESPONSES**

**Finding F1:** The current multiple funding mechanisms are neither effective nor sustainable for managing Elk Grove's parks.

**Response:** The City partially agrees with this finding.

As the City's response, the City adopts, and incorporates herein by reference, the CCSD's response to this finding as set forth at Exhibit A.

**Finding F2:** Public confusion and misunderstanding are evidenced by the need for extensive and repeated community outreach meetings and the mixed success in securing timely voter approval for needed revenue increases. Contributing to this confusion are: the division in roles for Elk Grove's parks between the City of Elk Grove and Cosumnes Community Services District (CCSD); priorities among neighborhood and district-wide facilities; and the challenge of managing and understanding the park system as an integrated program.

**Response:** The City partially agrees with this finding.

While the City and the CCSD have had disagreements in the past, which has led to litigation, the City and the CCSD currently enjoy a strong partnership in the development of parks and recreational facilities for the benefit of the community. The City largely defers to the CCSD concerning the maintenance of parks and recreational facilities in the City, and the two agencies work closely and cooperatively to educate the community of park and recreational facilities and opportunities in the City.

As the City's further response, the City adopts, and incorporates herein by reference, the CCSD's response to this finding as set forth at Exhibit A.

**Finding F3:** The 19 different Landscape and Lighting (L&L) district assessment rates, varying by as much as a factor of four, cause significant inequities for Elk Grove residents in terms of payments they make and benefits they derive from Elk Grove parks.

**Response:** The City partially agrees with this finding.

As the City's response, the City adopts, and incorporates herein by reference, the CCSD's response to this finding as set forth at Exhibit A. The City has no role in managing L&L districts in the City.

**Finding F4:** The practice of contributing revenue from individual benefit zones to district-wide facilities as a priority ahead of funding parks within each benefit zone compounds the revenue shortages experienced by certain benefit zones.

**Response:** The City partially agrees with this finding.

As the City's response, the City adopts, and incorporates herein by reference, the CCSD's response to this finding as set forth at Exhibit A. The City has no role in managing L&L districts in the City.

**Finding F5:** The requirement in Proposition 218 to secure a public vote in order to increase funding in excess of a Consumer Price Index (CPI) index is an unwieldy restraint that impedes adequate funding to maintain, repair and restore Elk Grove parks.

**Response:** The City agrees with this finding.

**Finding F6:** The existing L&L assessment rates are insufficient to sustain maintenance, repair, and restoration for parks indefinitely. Specifically, in the short term, revenue from L&L assessment rates in BZ3 and BZ4 is insufficient to maintain, repair, and restore all parks in those benefit zones.

**Response:** The City agrees with this finding. The City has no role in managing L&L districts in the City.

**Finding F7:** The emphasis on individual benefit zones and overlay districts creates a complex and costly administrative burden requiring fragmented budgeting and management, and voter approvals to generate adequate revenue.

**Response:** The City agrees with this finding.

As the City's response, the City adopts, and incorporates herein by reference, the CCSD's response to this finding as set forth at Exhibit A. The City has no role in managing L&L districts in the City.

**Finding F8:** The baseline budget for park maintenance, repair and restoration does not take into account, nor is it adequate to fund future park modifications or maintenance associated with new parks and programs.

**Response:** The City partially agrees with this finding.

As the City's response, the City adopts, and incorporates herein by reference, the CCSD's response to this finding as set forth at Exhibit A.

**Finding F9:** CCSD's practice of attempting to increase voter understanding and acceptance of financial responsibility for the parks program through various outreach efforts has had uneven results in terms of gaining greater voter participation and potentially influencing additional funding for this program.

**Response:** The City agrees with this finding.

**Finding F10:** The City of Elk Grove and CCSD have not collaborated effectively to reform and restructure the system.

**Response:** The City disagrees with this finding.

As the City's response, the City adopts, and incorporates herein by reference, the CCSD's response to this finding as set forth at Exhibit A.

### **RECOMMENDATIONS**

**Recommendation R1:** CCSD and the City of Elk Grove, with the support of Sacramento County, should establish a Regional Task Force to examine the feasibility of replacing the existing system of funding park maintenance. The Regional Task Force membership should include all public officials whose constituents are directly affected. Observers may include representatives of all other related and interested agencies and constituencies such as Sacramento Local Agency Formation Commission (LAFCO), public and private advocates, etc. This recommendation should be completed by December 31, 2020.

**Response:** This recommendation will not be implemented because it is not warranted.

As the City's response, the City adopts, and incorporates herein by reference, the CCSD's response to this recommendation as set forth at Exhibit A.

**Recommendation R2:** This task force should identify all relevant laws, ordinances, regulations, policies and procedures that might need to be amended, revised or abolished to replace the existing system with a more simplified, streamlined, equitable and sustainable funding mechanism, such as an annual assessment on all real property in the area based on the assessed value of each parcel. This recommendation should be implemented by June 30, 2021.

**Response:** This recommendation will not be implemented as proposed because it is not warranted.

While the City does not see the need for a Regional Task Force, the City and the CCSD continue to work cooperatively in the development of parks and recreational facilities, including the continual review of applicable laws, policies, and funding mechanisms.

**Recommendation R3:** CCSD and the City of Elk Grove together should evaluate and report to the Regional Task Force on the effect of reversing the existing practice of first transferring new revenues to district-wide and regional facilities, before budgeting for local park maintenance. This recommendation should be implemented by June 30, 2021.

**Response:** This recommendation will not be implemented as proposed because it is not warranted.

While the City does not see the need for a Regional Task Force, the City does intend to continue to cooperatively work with that CCSD to review its existing practice for funding and developing park and recreational facilities in the City. The City does not play a role in the decision to transfer new revenues to district-wide or regional facilities.

**Recommendation R4:** CCSD and the City of Elk Grove together should analyze and report to the Regional Task Force on the added short-term and long-term costs of the additional staffing and consultant services required for the practice of budgeting and managing 19 individual benefit zones and overlay districts in comparison with budgeting and managing these zones on an integrated basis. That analysis should include an examination of the additional costs for any new parks and zones created over the next decade. That analysis should also examine the costs of conducting educational sessions, surveys and elections, as well as preparing Engineer's Reports to authorize L&L assessment fee increases. This recommendation should be implemented by June 30, 2021.

**Response:** This recommendation will not be implemented as proposed because it is not warranted.

While the City does not see the need for a Regional Task Force, the City will remain an advisory resource to the CCSD, as appropriate, while deferring to the CCSD in its operation and maintenances of the L&L Districts that the CCSD operates and maintains.

**Recommendation R5:** CCSD and the City of Elk Grove together should conduct and report to the Regional Task Force an integrated analysis of all current revenue and projected revenue over 10 years to be collected for park maintenance, repair and restoration over the same period. Such an assessment will help gauge the adequacy of current and projected revenue without regard to the

fragmentation of those resources under the current management structure. This recommendation should be implemented by June 30, 2021.

**Response:** This recommendation has not yet been implemented but will be partially implemented as deemed appropriate and reasonable by June 30, 2021.

The City does not see the need for a Regional Task Force to which it should report. The City performs five year revenue and expenditure analyses on various City funds. While this analysis has not been done yet on the two park maintenance CFDs managed by the City, these CFDs are relatively new and have strong fund balances. The City will work cooperatively with CCSD to conduct a comprehensive five year analysis of all projected revenues and expenditures in these funds and report to the City Council the findings in the next annual budget process.

**Recommendation R6:** CCSD and the City of Elk Grove together should analyze and report to the Regional Task Force on the 10-year growth of revenue permitted under the CPI growth factor, compared with a 10-year forecast of costs associated with park maintenance, repair and restoration. This recommendation should be implemented by June 30, 2021.

**Response:** This recommendation has not yet been implemented but will be partially implemented as deemed appropriate and reasonable by June 30, 2021.

The City does not see the need for a Regional Task Force to which it should report. The City performs five year revenue and expenditure analyses on various City funds. While this analysis has not been done yet on the two park maintenance CFDs managed by the City, these CFDs are relatively new and have strong fund balances. The City will work cooperatively with CCSD to conduct a comprehensive five year analysis of all projected revenues and expenditures in these funds and report to the City Council the findings in the next annual budget process.

**Recommendation R7:** CCSD and the City of Elk Grove should adopt the plan developed by the Regional Task Force for implementation of a new system including relevant MOUs to enable agencies responsible for collecting appropriate tax revenues sufficient to provide park services and maintenance within all neighborhoods. This recommendation should be completed by June 30, 2021.

**Response:** This recommendation has not yet been implemented but will be partially implemented by June 30, 2021.

Honorable Russell Hom,  
Presiding Judge  
Re: City of Elk Grove 2019-2020 Grand Jury Response  
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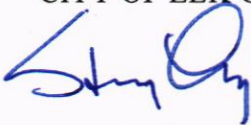
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The City and the City currently have three MOUs regarding services to the community: (1) an MOU for the ownership of park and recreational facilities; (2) an MOU for City-owned trail maintenance; and (3) an MOU for recreational special events. In cooperation with the CCSD, the City will assess potential new tax revenue options for the development of parks and recreational facilities in the City, while properly deferring to the CCSD's role in the development and maintenance of parks and recreational facilities.

### **CONCLUSION**

Pursuant to the authority provided by resolution of the Elk Grove City Council adopted on August 12, 2020, the undersigned submits this response on behalf of the Mayor and the City Council of the City of Elk Grove. Thank you for your consideration of this matter.

Sincerely,  
CITY OF ELK GROVE



Steve Ly, Mayor

cc: City Council  
City Manager  
City Attorney  
City Clerk  
Paul Thorn, Jury Commissioner (via email)  
Erendira Tapia-Bouthillier, Grand Jury (via email)



# **EXHIBIT A**

**CCSD LETTER TO  
HONORABLE RUSSELL HOM,  
PRESIDING JUDGE**



COSUMNES COMMUNITY SERVICES DISTRICT  
ADMINISTRATIVE SERVICES DEPARTMENT

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Elk Grove, CA 95624

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August 5, 2020

Honorable Russell Hom, Presiding Judge  
Sacramento County Superior Court  
720 9th Street, Dept. 47  
Sacramento, CA 95624

RE: Cosumnes Community Services District 2019-2020 Grand Jury Response

Dear Judge Hom;

The Cosumnes Community Services District ("CCSD") is pleased to provide the following response to the recommendations from the 2019-2020 Sacramento County Grand Jury Final Report entitled "Elk Grove Parks: Where Have All the Flowers Gone?"

As stipulated in the 2019-2020 Sacramento County Grand Jury Final Report and Penal Code Sections 933 and 933.05, the Board of Directors ("Board") of the District submits the following responses to the Grand Jury's findings and recommendations:

**FINDINGS**

**Finding F1:** The current multiple funding mechanisms are neither effective nor sustainable for managing Elk Grove's parks.

**Response:** The CCSD partially agrees with this finding.

The CCSD agrees that the Landscape & Lighting (L&L) assessment fees are not a sustainable funding source to continue the current level of landscape maintenance or capital replacement needs. In order to sustain the required maintenance and capital replacement needs of the 90+ parks in Elk Grove, a new assessment will be required.

The CCSD disagrees with the finding that L&L fees are not effective. The L&L assessment mechanism allows the community to decide the amount of funding available for parks; therefore, it is effectively working as the legislature intended.

**Finding F2:** Public confusion and misunderstanding are evidenced by the need for extensive and repeated community outreach meetings and the mixed success in securing timely voter approval for needed revenue increases. Contributing to this confusion are: the division in roles for Elk Grove's parks between the City of Elk Grove and Cosumnes

**Community Services District**  
Enriching Community Saving Lives

Community Services District (CCSD); priorities among neighborhood and district-wide facilities; and the challenge of managing and understanding the park system as an integrated program.

**Response:** The CCSD partially agrees with this finding.

The CCSD agrees that a new L&L assessment requires extensive and regular community outreach meetings to be considered successful. It is important to note the CCSD hosts multiple public outreach meetings with property owners in various locations of the District throughout the year, works with neighborhood "champions" that help engage and education property owners, and has full-time staff and a hotline available to answer community questions regarding parks, including L&L fees. The District prepares an annual report on each Zone to illustrate the revenues and expenditures for the fiscal year.

The CCSD disagrees with the finding that the different roles of the City of Elk Grove ("City") and the CCSD have created confusion on managing and understanding the parks system as an integrated program. The City and the CCSD have a great partnership and have created a robust parks system that is a model in the region.

**Finding F3:** The 19 different Landscape and Lighting (L&L) district assessment rates, varying by as much as a factor of four, cause significant inequities for Elk Grove residents in terms of payments they make and benefits they derive from Elk Grove parks.

**Response:** The CCSD partially agrees with this finding.

The CCSD agrees that the L&L assessments vary between benefit zones.

The CCSD disagrees that the difference of assessment rates creates inequity. Each benefit zone's annual assessment is based on the amenities within the zone when the assessment was adopted, and the level of current maintenance standards that can be afforded with the annual assessment. In accordance with the Landscape and Lighting District Law (Streets and Highways Code Section 22500 *et seq.*), an engineer's report is prepared for each L&L benefit zone setting forth the estimated benefits to each lot or parcel within that benefit zone. By law, the District cannot assess the same L&L fee to every parcel because each parcel's fee is based on that specific parcel's estimated benefits. The parks in the entire City are available to all residents and non-residents equally.

**Finding F4:** The practice of contributing revenue from individual benefit zones to district-wide facilities as a priority ahead of funding parks within each benefit zone compounds the revenue shortages experienced by certain benefit zones.

**Response:** The CCSD partially agrees with this finding.

The CCSD agrees that revenue shortages within each individual benefit zone may create a challenge to maintain or replace the amenities in the park system.

The CCSD disagrees that the contribution to district-wide will result in revenue shortages in certain benefit zones. The contribution to district-wide facilities provides an opportunity to ensure district-wide facilities are maintained at a level that will provide all residents the ability to utilize the amenities that may not be available in their neighborhood.

**Finding F5:** The requirement in Proposition 218 to secure a public vote in order to increase funding in excess of a Consumer Price Index (CPI) index is an unwieldy restraint that impedes adequate funding to maintain, repair and restore Elk Grove parks.

**Response:** The CCSD agrees with this finding.

**Finding F6:** The existing L&L assessment rates are insufficient to sustain maintenance, repair, and restoration for parks indefinitely. Specifically, in the short term, revenue from L&L assessment rates in BZ3 and BZ4 is insufficient to maintain, repair, and restore all parks in those benefit zones.

**Response:** The CCSD agrees with this finding.

**Finding F7:** The emphasis on individual benefit zones and overlay districts creates a complex and costly administrative burden requiring fragmented budgeting and management, and voter approvals to generate adequate revenue.

**Response:** The CCSD agrees with this finding.

The CCSD agrees the emphasis on funding on individual benefit zone creates complex and costly administrative burden; therefore, the District has explored options to place a district-wide tax measure that will help mitigate the cost increases or provide funding for rehabilitation and replacement of the current infrastructure.

**Finding F8:** The baseline budget for park maintenance, repair and restoration does not take into account, nor is it adequate to fund future park modifications or maintenance associated with new parks and programs.

**Response:** The CCSD partially agrees with this finding.

The CCSD agrees that L&L funding is not intended to directly support recreational programs.

The CCSD disagrees that all park maintenance is not adequate to fund park modifications or maintenance. The CCSD approves a budget at a level which protects the long-term sustainability of each benefit zone fund. As such many of the benefits zones were created with long term asset replacement in mind. This accounts for the higher assessment rates. The CCSD's Capital Improvement Plan ("CIP") is in place to ensure a level of rehabilitation and replacement is conducted based on the asset condition and available funding.

**Finding F9:** CCSD's practice of attempting to increase voter understanding and acceptance of financial responsibility for the parks program through various outreach

efforts has had uneven results in terms of gaining greater voter participation and potentially influencing additional funding for this program.

**Response:** The CCSD agrees with this finding.

**Finding F10:** The City of Elk Grove and CCSD have not collaborated effectively to reform and restructure the system.

**Response:** The CCSD disagrees with this finding.

Oversite and implementation of the Landscape & Lighting assessment districts are the responsibility of the CCSD. The City has been an active partner in addressing future park needs in the Laguna Ridge and South East Planning Area through the use of a City administered Community Facilities District ("CFD"), but the reform and restructure of the L&L assessment funding is not the responsibility of the City.

### **RECOMMENDATIONS**

**Recommendation R1:** CCSD and the City of Elk Grove, with the support of Sacramento County, should establish a Regional Task Force to examine the feasibility of replacing the existing system of funding park maintenance. The Regional Task Force membership should include all public officials whose constituents are directly affected. Observers may include representatives of all other related and interested agencies and constituencies such as Sacramento Local Agency Formation Commission (LAFCO), public and private advocates, etc. This recommendation should be completed by December 31, 2020.

**Response:** This recommendation will not be implemented because it is not warranted.

The CCSD will not create a Regional Task Force because parks and Landscape & Lighting Assessments are within the jurisdictional authority of the CCSD. The CCSD and City have a great working relationship and the CCSD will continue to collaborate with the City on CCSD parks and services, where warranted.

**Recommendation R2:** This task force should identify all relevant laws, ordinances, regulations, policies and procedures that might need to be amended, revised or abolished to replace the existing system with a more simplified, streamlined, equitable and sustainable funding mechanism, such as an annual assessment on all real property in the area based on the assessed value of each parcel. This recommendation should be implemented by June 30, 2021.

**Response:** This recommendation has been partially implemented as deemed reasonable and appropriate.

The CCSD will continue to evaluate each benefit zone with financial challenges and seek new assessments consistent with California's Proposition 218 in order to fund on-going maintenance and future asset rehabilitation and replacement. As set forth in CCSD's response to Recommendation R1, the CCSD will not create a Regional Task Force.

**Recommendation R3:** CCSD and the City of Elk Grove together should evaluate and report to the Regional Task Force on the effect of reversing the existing practice of first transferring new revenues to district-wide and regional facilities, before budgeting for local park maintenance. This recommendation should be implemented by June 30, 2021.

**Response:** This recommendation has not yet been implemented but will be partially implemented as deemed reasonable and appropriate by June 30, 2021.

The CCSD will investigate budgeting practices and will report findings to the CCSD Board during the next budget process. As set forth in CCSD's response to Recommendation R1, the CCSD will not create a Regional Task Force.

**Recommendation R4:** CCSD and the City of Elk Grove together should analyze and report to the Regional Task Force on the added short-term and long-term costs of the additional staffing and consultant services required for the practice of budgeting and managing 19 individual benefit zones and overlay districts in comparison with budgeting and managing these zones on an integrated basis. That analysis should include an examination of the additional costs for any new parks and zones created over the next decade. That analysis should also examine the costs of conducting educational sessions, surveys and elections, as well as preparing Engineer's Reports to authorize L&L assessment fee increases. This recommendation should be implemented by June 30, 2021.

**Response:** This recommendation has not yet been implemented but will be partially implemented as deemed appropriate and reasonable by June 30, 2021.

The CCSD will investigate budgeting practices and will report findings to the CCSD Board during the next budget process. The L&L assessment amounts and benefit zone services cannot be changed without a Proposition 218 vote by property owners. Therefore, the CCSD will continue to assess the feasibility of new assessment benefit zones to supplement existing benefit zones. As set forth in CCSD's response to Recommendation R1, the CCSD will not create a Regional Task Force.

**Recommendation R5:** CCSD and the City of Elk Grove together should conduct and report to the Regional Task Force an integrated analysis of all current revenue and projected revenue over 10 years to be collected for park maintenance, repair and restoration over the same period. Such an assessment will help gauge the adequacy of current and projected revenue without regard to the fragmentation of those resources under the current management structure. This recommendation should be implemented by June 30, 2021.

**Response:** This recommendation has not yet been implemented but will be partially implemented by June 30, 2021.

The CCSD will look at this, but not with the City in regards of L&L assessment funding. The CCSD will conduct an integrated analysis of all current revenue and protected revenue over 10 years and report to the CCSD Board the findings in the next budget

process. The CCSD will continue to work collaboratively with the City on the application of their CFD funding when warranted. As set forth in CCSD's response to Recommendation R1, the CCSD will not create a Regional Task Force.

**Recommendation R6:** CCSD and the City of Elk Grove together should analyze and report to the Regional Task Force on the 10-year growth of revenue permitted under the CPI growth factor, compared with a 10-year forecast of costs associated with park maintenance, repair and restoration. This recommendation should be implemented by June 30, 2021.

**Response:** This recommendation has not yet been implemented but will be partially implemented by June 30, 2021.

The CCSD currently has a financial forecasting document in place. This document is a 10-year forecast which shows revenues, ongoing maintenance costs, and asset replacement and rehabilitation. The CCSD will continue to work on updates to the financial forecast and present such updates to the Board during the development of the Fiscal Year 2021-22 budget. As set forth in CCSD's response to Recommendation R1, the CCSD will not create a Regional Task Force.

**Recommendation R7:** CCSD and the City of Elk Grove should adopt the plan developed by the Regional Task Force for implementation of a new system including relevant MOUs to enable agencies responsible for collecting appropriate tax revenues sufficient to provide park services and maintenance within all neighborhoods. This recommendation should be completed by June 30, 2021.

**Response:** This recommendation has not yet been implemented but will be partially implemented by June 30, 2021.

The CCSD and City currently have 3 MOUs regarding services to the community: (1) an MOU for the ownership of park and recreational facilities; (2) an MOU for City-owned trail maintenance; and (3) an MOU for recreational special events. The CCSD will assess potential new tax revenue options and report its findings to the Board in the next budget process. The CCSD will work collaboratively with the City on future CFD opportunities. As set forth in CCSD's response to Recommendation R1, the CCSD will not create a Regional Task Force.

Please do not hesitate to contact me at [fuentes@yourcsd.com](mailto:fuentes@yourcsd.com) if you have any questions.

Sincerely,



Orlando Fuentes Board President

cc: Becky Castaneda, Grand Jury Coordinator: [castanb@saccourt.com](mailto:castanb@saccourt.com)