

# **Attachment No. 42**

**EPA Letter to LAFCO, dated  
March 23, 2023**



# City of East Palo Alto

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## Office of the City Manager

March 23, 2023

Mr. Rob Bartoli  
Executive Officer  
San Mateo Local Agency Formation Commission  
455 County Center, 2nd Floor  
Redwood City, California 94063-1663

**RE: Response to Follow-Up Questions for LAFCo File No. 22-09  
Proposed Establishment of the East Palo Alto Sanitary District as a  
Subsidiary District of the City of East Palo Alto**

Dear Mr. Bartoli

The City of East Palo Alto (City) has received the follow up questions from the San Mateo Local Agency Formation Commission (LAFCo) provided by electronic mail (email) dated February 16, 2023, regarding the City's proposal to establish the East Palo Alto Sanitary District (EPASD or District) as a subsidiary district of the City. We have provided responses to each of the follow up questions identified in LAFCo's email and we have organized our responses by first presenting LAFCo's question/comment followed by the City's response.

### **Comment 1**

In the 10/31/22 Sierra West memo prepared for EPASD, over \$64 million of structural and capacity deficiencies have been identified based on CCTV inspection that have been conducted so far. While LAFCo assumes that some of these projects will occur over a period later than the timeframe of the 5-year proposed CIP, please review the costs and data in the Sierra West memo and address if there is any changes to the 5-year CIP budget. Update the budget to also reflect any increase in construction costs.

### **Response 1**

At the City's request, Freyer & Laureta, Inc. (F&L) has reviewed the structural and capacity deficiencies from Areas 1, 3, and 4 presented in the 10/31/22 memorandum prepared by Sierra West Consultants (SWC). F&L had previously developed a map overlaying the Priority 1 projects identified by SWC and a copy is included as Attachment 1 to this letter. Of the \$64 million of structural and capacity deficiencies, approximately \$20 million are considered by SWC to be high priority. F&L compared the Capacity Assurance Deficiencies and Deficiencies under Future Development and estimates that approximately 65% or \$13 million of the deficiencies identified by SWC overlap with the City's proposed 15-year CIP and is budgeted in the 5-Year CIP as the Capacity Assurance Improvements. The remaining \$7 million of SWC identified high priority improvements would be addressed over a five year period utilizing the annual \$1.5 million Sewer Rehab Improvements budget also included in the 5-Year CIP.

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City Manager, Melvin E. Gaines

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The remaining \$44 million of improvements identified by SWC would continue to be addressed on an annual basis but would likely require a 15 year to 20 year timeframe to complete the improvements. The City's annual operation budget included in the 5-Year CIP would allow the City to monitor the condition of the remaining pipe segments to be replaced to prioritize the replacement of the pipe segments each year in the most need within the available annual budget.

### **Comment 2**

The 10/31/22 Sierra West memo identifies approximately \$20 million in "high-priority" projects. Recently, EPASD has allocated \$10 million from reserves to apply towards a portion of these "high-priority" projects. Does this allocation impact the proposed CIP?

### **Response 2**

As noted in Response 1 above, there is significant overlap between the SWC identified high priority projects and the City's identified Capacity Assurance Deficiencies and Deficiencies under Future Development, which is already budgeted in the proposed 5-Year CIP. The 5-Year CIP assumed that the improvements would be implemented over a 15-year timeline and would be partially funded by existing reserves because the existing District customers have been contributing to the reserves and will receive benefit from the Capacity Assurance Deficiencies improvements. The recent District transfer of \$10 million would accelerate the timeline for completing the improvements and thereby reducing the City's proposed 15-year CIP by a minimum of five years. The acceleration of the improvements would not require any modifications to the proposed 5-Year CIP. However, the City will adjust the proposed 5-Year CIP should the District implement any unanticipated expenditures during the time that LAFCo is reviewing the City's application.

### **Comment 3**

Please expand on how the timing of pipeline developments described in Table 6 of the Freyer & Laureta memo dated 11/1/22. Have there been any changes to the timing of these projects since the memo was submitted? For identified capacity upgrades regarding these pipeline developments, will the timing of developments impact when capacity upgrades are required?

### **Response 3**

The timing of new Equivalent Dwelling Units (EDUs) presented in Table 6 is based on information provided to the City by the developers. At this time, there are no changes to timelines presented in Table 6. If there are changes to anticipated EDU development timeline by the developers in the future, the 5-Year CIP will be reviewed and modified as required to provide sanitary sewer service for the proposed developments including collecting the appropriate connection fees to fund the necessary capital improvements.

### **Comment 4**

For the sewer system, please provide a brief narrative of how the CIP for would be updated beyond FY26/27, the last year of the CIP shown in the Freyer & Laureta memo, and what information would be evaluated in that process.

**Response 4**

The City will prepare an updated 5-Year CIP on an annual basis in accordance with the City's standard budgeting practices. The annual review of the rolling 5-Year CIP will allow City staff to consider updated timelines from potential developers, consider ongoing operation and maintenance of the sanitary sewer system, and modify annual capital improvement budgets to reflect any grants and other funding mechanisms the City intends to pursue if the District is established as a subsidiary district to the City.

**Comment 5**

Provide LAFCo with a copy of the RFQ for Sanitary Sewer Services when it is published. In addition to contract Operations and Maintenance, will other services be provided by the contractor, such as billing, mapping, or managing contracts for projects?

**Response 5**

Please find attached a copy of the RFQ that was issued on March 3, 2023. Please refer to Section 2 of the attached RFQ that includes a summary of the Scope of Work anticipated to be provided by the contract Operations and Maintenance contractor. In particular the Scope of Work being requested includes:

- Prepare and submit monthly operations report to the City outlining activities completed during the previous month, identifying in repairs that may be required, and confirmation that operations followed the Sanitary Sewer Management Plan.
- Manage customer service activities including billing, response to complaints, and outreach.
- Provide capital project planning support including participating in development of master plan updates, annual capital improvement project scopes, and managing the design and construction of the identified capital improvements.
- Provide grant funding support to identify and apply for potential grants, federal earmarks, and state loans.

Please contact me at (650) 853-3100 or [mgaines@cityofepa.org](mailto:mgaines@cityofepa.org) with any further questions.

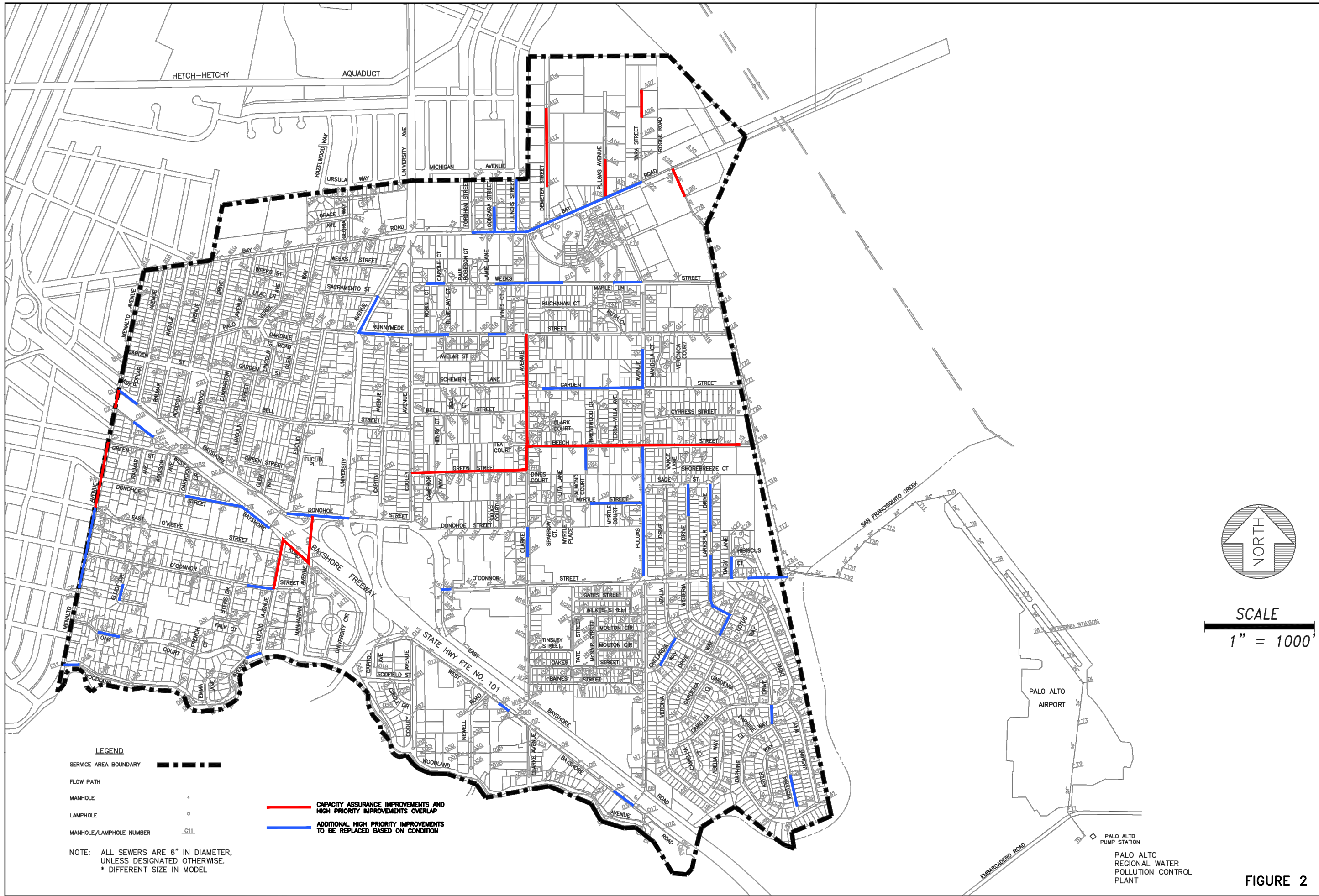
Sincerely,



Melvin E. Gaines  
City Manager

**Attachments**

1. Figure 2 from the Sanitary Sewer Capital Improvement and Operation Plan Development prepared by Freyer & Laureta, Inc. dated November 1, 2022.
2. Request for Qualification for Sanitary Sewer System Operations dated March 3, 2023.



EPASD SANITARY SEWER SERVICE AREA  
 EPASD MASTER PLAN UPDATE  
 EAST PALO ALTO, CA

**FREYER & LAURETA, INC.**  
 CIVIL ENGINEERS • SURVEYORS • CONSTRUCTION MANAGERS  
 144 North San Mateo Drive • San Mateo, CA 94401  
 (650)344-9901 • www.freyerlaureta.com

DATE:	10/1/2020
SCALE:	1" = 1000'
DESIGNED:	RAM
DRAWN:	RAM
CHECKED:	JF
PROJ. ENGR:	JJT

FIGURE	1
JOB NO.	2052

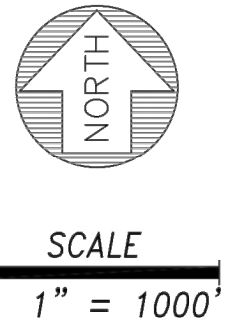


FIGURE 2

PALO ALTO  
 REGIONAL WATER  
 POLLUTION CONTROL  
 PLANT

# Request for Qualifications (RFQ)

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## SANITARY SEWER SYSTEM OPERATIONS



March 3, 2023

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# **1 Introduction**

The City of East Palo Alto (City) recently applied to the San Mateo Local Agency Formation Commission (LAFCo) to establish the East Palo Alto Sanitary District (EPASD) as a subsidiary district to the City. As part of the LAFCo application process, the City must demonstrate how it intends to provide operation and maintenance of the existing EPASD facilities should LAFCo approve the City's subsidiary district application. The City has developed this Request for Qualifications for Sanitary Sewer System Operations and Maintenance Services (RFQ) to identify potentially qualified Contractors that may be invited to a separate, future Request for Proposal (RFP) process.

## **1.1 City General Information and Governance**

The following sections provide general information regarding the City governance structure and financial reporting requirements:

The City of East Palo Alto, incorporated in 1983, is the newest city in San Mateo County in the San Francisco Bay Area, with a population of approximately 30,545 people. East Palo Alto is one of California's most vibrant and diverse communities located in the San Francisco Peninsula and nestled within the heart of Silicon Valley. East Palo Alto is centrally located to international travel and is a central location to major neighboring tech companies and employers. Priding itself on its unique and multi-cultural community, East Palo Alto consists of youthful, diverse, and hard-working individuals.

The City of East Palo Alto operates under a Council/Manager form of government. Its mission is to provide responsive, respectful, and efficient public services to enhance the quality of life and safety for its multi-cultural community. The City's fiscal year begins on July 1 and ends on June 30. City Hall is located at 2415 University Avenue, East Palo Alto, CA 94303.

## **1.2 Background and City Intention**

EPASD currently provides wastewater collection service to portions of the communities of Menlo Park and East Palo Alto, both in San Mateo County. EPASD operates and maintains the collection system in accordance with the requirements of the State Water Resources Control Board, as administered through the Statewide SSO Waste Discharge Requirements and RWQCB Sewer System Management Plan guidelines. EPASD's service area is primarily residential with several commercial and industrial parcels. EPASD's service area encompasses nearly 1.84 square miles. EPASD's collection system is a gravity system with approximately 70 percent of the existing pipelines being six-inch (6-in) diameter. The larger collector lines range between 8-in diameter and 24-in diameter including a siphon beneath the San Francisquito Creek. A map showing the limits of EPASD service area and key collection system components is included as Attachment A to this RFQ.

All sanitary sewer flows are conveyed to the Palo Alto Regional Water Quality Control Plan (PARWQCP) where flows are treated and discharged to the San Francisco Bay.



According to the existing agreement between City of Palo Alto (Palo Alto) and EPASD, EPASD has flow capacity rights to convey up to 3.06 million gallons per day (MGD) on an annual average flow (AAF) basis to the PARWQCP, which is equivalent to 7.64-percent of the total capacity. The agreement further indicates that Palo Alto will make available 2.9 MGD average dry weather flow (ADWF) capacity for EPASD's utilization.

The City is seeking Statements of Qualifications (SOQs) from qualified firms capable of operating and maintaining the EPASD Sanitary Sewer Collection System in the event that the City is successful in establishing EPASD as a subsidiary district to the City. The scope of work to be performed includes full-service contract operations and maintenance (O&M) of all EPASD sanitary sewer facilities and equipment.

Full-service contract operations require the Contractor to be fully responsible for all aspects of facility management, operation, and maintenance of the EPASD sanitary sewer collection system gravity sewers and siphons. At this time, the City is only requesting potential contractors to demonstrate their qualifying experience. Once the City has identified the shortlisted consultants as part of this RFQ process, a separate RFP will be issued with the proposed scope of services, existing EPASD facilities information, and potential contract terms. The RFP process will be in line with the City's Purchasing Ordinance, but, only those firms found to be qualified under this RFQ process will be allowed to participate.

The desired qualifications include but are not limited to a Contractor that has been in the business of providing O&M services for collection systems in the San Francisco Bay Area of similar in size and scope to the EPASD Sewer System, for at least 30 years. The Contractor would have its own personnel and equipment to provide the O&M services required to operate the collection system.

## **2 Scope of Work**

As noted earlier in this RFQ, the City is only requesting SOQs from potential contractors at this time. However, the City has developed the following potential Scope of Services for consideration by interested contractors when developing the SOQ so responders can demonstrate extensive and comprehensive experience with providing similar services for municipalities within the State of California.

Generally, the scope of services may include but not be limited to:

- Providing complete operations and maintenance services for the Sanitary Sewer Collection System, including all gravity sewer lines, siphons, and all other components of the EPASD Collection System to ensure a free-flowing system conveying all sanitary sewerage to the PARWQCP.
- Preparation of a written operations and maintenance plan detailing routine and non-routine operation and maintenance to be performed in accordance with the EPASD Sanitary Sewer Management Plan (SSMP), State Water Quality Control Board (SWQCB) Statewide General Waste Discharge Requirements (WDR),

Order No. 2006- 0003-DWQ, existing agreement with Palo Alto, and applicable Laws and Regulations.

- Preparation and submittal of monthly operations reports in both electronic and hard copy format. Reports will include a description of all work performed within each month at each facility, metered flows, and anticipated or recommended repairs or upgrades to be made to any facility or equipment. Reports shall generally be submitted within 15 days after the end of each monthly period.
- Preparation of an emergency operation plan for the system.
- Contractor shall promptly report any deficiencies of the system to the City for required action.
- Contractor shall report any overflow violations to the City and the SWQCB during the life of the contract and will take all necessary corrective measures to resolve the cause of the problem.
- Contractor shall provide all labor, materials, tools, equipment, and supplies for correcting any maintenance and operational problems, and will be available during emergencies to resolve any occurrences requiring unanticipated emergency response.
- Provide an industry standard and regulatory requirements for cleaning and flushing program of all sanitary sewer lines. The details of which would depend on the condition of the sewer lines.
- Provide an industry standard and regulatory requirements for closed circuit television inspection (CCTV) program of the municipal sanitary sewer lines and manholes. The sanitary sewer lines that are CCTV inspected shall be PACP (National Association of Sewer Service Companies - Pipeline Assessment Certification Program) defect coded and manholes shall be MACP defect coded for planning and programming future repairs and modifications to facilities.
- Provide design and/or construction improvements and/or major upgrades, for capital improvements and other specific tasks not otherwise included in the scope of work, as recommended by the Contractor and/or the City, and as authorized by the City.
- Provide Underground Service Alert (USA) mark out services of the EPASD sanitary sewer lines for 1) routine USA mark out notifications and 2) after hours emergency calls (4:30 pm – 8:30 am Monday through Fridays, and weekends, Saturdays and Sundays and Town observed holidays).
- Provide inspection services for sewer connections.
- Administer a Fats, Oils, and Grease (FOG) Compliance Program.
- In collaboration with the City, develop and administer a public outreach program including but not limited to description of routine maintenance activities, new service application process, sanitary sewer lateral inspection requirements, and other key items that the Contractor may recommend based on experience with

operating similar sanitary sewer collection systems within a community similar to EPASD's current customers.

- Manage customer service including billing, response to customer complaints, and outreach.
- Provide Capital planning support, including support the development of a master plan, develop annual capital improvement budgets, optimizing the capital improvement program, potentially develop construction drawings, review deliverables prepared by outside engineering consultants, and provide overall project management.
- Provide grant funding support including identifying potential grants, federal earmarks, and state loans. Support would include helping staff determine the best course of action in obtaining outside funding, prepare grant applications including development of supporting material, administer grant programs including all required reporting, and participate in meetings with potential grant funding agencies..

### 3 Proposal and Project Timeline and Contacts

#### 3.1 Key Dates (Subject to Minor Modifications) <sup>1</sup>

RFQ Issued	March 3, 2023
Mandatory Pre-Submittal Conference	March 17, 2023
Deadline for Respondents to Submit RFQ Questions	March 24, 2023, 4 PM
City to Respond to Submitted Questions via Addendum	March 31, 2023
RFQ Due Date	April 14, 2023, 4 PM
Interview of Top Candidates	Late April
Review Panel Reviews all Submittals	Early May
Return to City Council with Recommendations	May 17, 2023

#### 3.2 Contacts

Please forward any questions regarding the RFQ to Greg Henry, Senior Management Analyst, ghenry@cityofepa.org.

The deadline to submit questions for this RFQ is March 24, 2023 @ 4 PM. The City will issue an addendum to this RFQ no later than March 31, 2023, with all questions/answers that were submitted prior to the deadline.

### 4 Proposal Guidelines

#### 4.1 General Guidelines

Failure to comply with the requirements set forth in this RFQ may result in disqualification. Submissions and/or modifications received after the hour and date

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<sup>1</sup> Any changes to the timeline will be documented via a published addendum.

specified above will not be accepted. Submitted SOQs may be withdrawn at any time prior to the submission time specified in this RFQ, provided notification is received in writing before the submittal deadline. No handwritten notations or corrections will be allowed. The responding Contractor is solely responsible for all costs related to the preparation of the SOQ.

The City reserves the right to reject all SOQs and to waive any minor informalities or irregularities contained in any submission. Acceptance of any submission submitted pursuant to this RFQ shall not constitute any implied intent to enter into a contract.

During the evaluation process, the City reserves the right, where it may serve the City's best interest, to request additional information or clarification from Contractors, or to allow corrections of errors or omissions. At the discretion of the City, Contractors submitting SOQs may be requested to make oral presentations as part of the evaluation process.

The City reserves the right to retain all SOQs submitted and to use any idea(s) in a SOQ regardless of whether that SOQ is selected. All SOQs, including any materials submitted as part of this RFQ process, are presumed to be public records and may be released pursuant to applicable law after a contract is fully executed with the City. Contractors are therefore discouraged from submitting confidential or privileged (e.g., trade secret) information as the City may be required to produce such information without prior notice to the Contractor. Submission of a SOQ indicates acceptance by the Contractor of the conditions contained in the RFQ, unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the City and the Contractor selected.

Each proposal will adhere to the following order and content of sections. SOQs should be straightforward, concise and provide "layman" explanations of technical terms that are used. Emphasis should be on conforming to the RFQ instructions, responding to the RFQ requirements, and providing a complete and clear description of the offer. SOQs which appear unrealistic in terms of technical commitments, lack of technical competence or are indicative of failure to comprehend the complexity and risk of this contract may be rejected.

## **4.2 SOQ Sections**

This section of the RFQ establishes standards of experience and financial capability that the City requires for a Contractor to be deemed qualified. SOQs from firms that do not meet the prescribed standards will be considered by the City to be nonresponsive. The City, in its sole discretion, will decide if a Contractor meets the standards. Each firm must provide responses to the following requests for information honestly and completely. An incomplete or inaccurate response will preclude the firm from further consideration for work described in this RFQ.

#### 4.2.1 Letter of Transmittal

A signed letter of transmittal briefly stating the Contractor's understanding of the work to be completed, the commitment to perform the work, and a statement why the Contractor believes itself to be the best qualified to perform the engagement. List all anticipated subcontractors, if any.

The letter shall make a declarative statement that the Contractor has reviewed all aspects of the RFQ and agrees with these documents. If the Contractor has concerns, those concerns shall be identified in the letter.

#### 4.2.2 Technical Response

The SOQ will address all points outlined in this RFQ. The SOQ shall be prepared simply and economically, providing a straightforward, concise description of the Contractor's capabilities to satisfy the requirements of this RFQ. While additional data may be presented, the following subjects must be included and shall represent the criteria against which the proposal will be evaluated:

##### 4.2.2.1 *Qualifications and Experience*

- Contractor must have been in the business of providing O&M services for collection systems within the San Francisco Bay Area similar in size and scope to the EPASD Sewer System, for at least 30 years.
- Experience with Capital Program Management for capital programs of at least \$30 Million.
- Experience with grant application funding of at least \$5 Million.
- Contractor must currently be providing contract operations for at least two sanitary sewer collection systems. In order to be responsive to this requirement, Contractor must supply, at a minimum, the client name, contact, address, phone number and a description of the respective facilities' size and complexities. Do not list any facilities operated by Contractor's current or past employees while employed by firm(s) other than Contractor.
- Contractor must furnish the City Certificate(s) of Insurance for the following coverages.
  - Comprehensive General Liability
  - Property Damage & Bodily Injury Liability
  - Automobile Liability
  - Workman's Compensation and Employees Liability
  - Pollution Prevention Liability
  - Professional Liability

- Contractor must submit evidence of bonding capability in the annual contract amount.
- Contractor must have experience in the implementation of a Fats, Oils, and Grease (FOG) Program for wastewater collection systems.
- Constructor must demonstrate approach to public outreach and communications to customers including general updates, project notifications, emergency notifications, and other key public communication strategies suggested by the Contractor.
- Any Sub-Consultant that the firm may intend to use for City projects must be pre-approved first by the City. Should the firm propose to engage the services of a sub-consultant, provide the name/names, relevant experience and contact information for the persons who would be the primary and secondary contacts for this engagement and copies of their biographies/resumes. Provide a description of relevant work experience in years and level(s) of responsibility for each sub-consultant who will perform the work proposed in this RFQ.

#### 4.2.3 References

Provide the client's name, contact, address, and phone number for at least two full-service wastewater contract operations projects within the San Francisco Bay Area that the firm has operated during the last ten (10) years.

#### 4.2.4 O&M Approach

Provide a written approach to provide the requested O&M services outlined in Section 2 focusing on how the Contractor's experience with the similar systems will be applied to operation of the EPASD system. The City desires specific description of how the Contractor will collaborate with the City to perform the necessary O&M tasks, identify potential deficiencies, develop, and implement both capital improvements and emergency repair projects, and effectively communicate with the customers.

#### 4.2.5 Public Outreach Approach

Provide a sample community outreach plan that includes stakeholder engagement, sample communication tools, and metrics for measuring engagement. Develop the framework of a community outreach plan that acknowledges the complexities with communicating with the existing EPASD customers that include residents of both the City and Menlo Park. Identify other key stakeholders including community members, ratepayers, government officials, non-profit organizations, and other key stakeholders.

### **4.3 Submission Requirements**

#### 4.3.1 General Requirements

All SOQs must be submitted in PDF format only via email to the attention of:

Greg Henry  
Senior Management Analyst  
City of East Palo Alto  
ghenry@cityofepa.org

The email submittal subject line will read: SOQ – Sanitary Sewer O&M Services. The PDF file title should be:

CONTRACTOR NAME-SOQ-SANITARYSEWER\_OM\_SERVICES.

All SOQs should be limited to no more than 30 pages including titles, cover letters, resumes, and other information deemed necessary by the potential Contractor to demonstrate its experience.

## **5 Evaluation Process and Selection Criteria**

### **5.1 Evaluation Process**

The project's core implementation team, comprised of City staff, will be responsible for the SOQ evaluations. This team, in accordance with the criteria listed below, will evaluate all SOQs received as specified. The City team members, in applying the major criteria to the proposals, may consider additional criteria beyond those listed.

The final selection of shortlisted Contractors will be the Contractor's which, in the City's opinion, is the most responsive and responsible, meets the City's requirements in providing this service, and is in the City's best interest. The skill and ability of the entity performing the services is a key component of the selection criteria. Contractors will be objectively evaluated based on their responses to the project scope outlined in the RFQ. The written SOQ should clearly demonstrate how the vendor could best satisfy the requirements of City.

The City maintains the sole and exclusive right to evaluate the merits of the SOQs received. The City will consider the ability, capacity, skill, character, integrity, reputation, judgment, and expertise in identifying the shortlisted Contractors.

The City will undertake the following evaluation process:

- The City will review and evaluate all submitted documents received in response to the RFQ.
- After the submittals are evaluated and ranked, the City, at its sole discretion, may elect to interview (including a demonstration of capabilities) one or more respondents. Please note that respondents may be asked to submit additional documentation. In addition, the City reserves the right to establish a shortlist of Contractors without conducting interviews.

## 5.2 Evaluation Criteria

Description	Possible Points
<p><b>Capacity to Perform:</b> Respondents shall demonstrate the capacity to provide the services described in the RFQ and to respond to the public, the City, and other stakeholders in a timely manner. Defined expectations for timeliness of service delivery and stakeholder communication should be outlined with the submittal. All respondents shall have at least: 1) 30-years' experience providing sanitary sewer services, 2) extensive experience delivering capital improvement projects, and 3) a Bay Area presence that would ensure a smooth transition.</p>	50
<p><b>Community Outreach Strategy:</b> All proposals will be evaluated on community outreach. Respondents must submit a detailed sample community outreach plan that includes stakeholder engagement ranging from community members, governmental/private organizations that are ratepayers/stakeholders in EPASD's current service area, elected officials, etc. This includes specific outreach to the property owners/households who reside in Menlo Park but are part of the EPASD's current service area.</p>	30
<p><b>Submission Quality:</b> Proposal shall be well-organized, professionally communicated, and meet all RFQ specifications</p>	20
<p><b>Total Available Points</b></p>	<p><b>100</b></p>

## 5.3 RFQ Process

At the completion of the RFQ process, staff will evaluate all proposals and bring the list of the qualified respondents to the City Council for consideration. In accordance with 2.84.170 - Prequalification of contractors for projects exceeding fifty thousand dollars, the City Council's action will be to approve all eligible respondents to move forward with the process. At that time, the eligible respondents will be invited to submit a detailed proposal on how their entity would operate and maintain the EPASD Sanitary Sewer Collection System in the event that LAFCo approves the City's subsidiary district application. Direction on what will be expected in the future proposal will be provided when the list of eligible respondents is created.

## 6 General Conditions

Contractors are advised to become familiar with all conditions, instructions, and specifications of this RFQ. By submitting a SOQ, Contractor represents and warrants that it has thoroughly examined and is familiar with work required under this RFQ, that



Contractor has conducted such additional investigation as it deems necessary and convenient, that Contractor is capable of providing the services requested by the City in a manner that meets the City's objectives and specifications as outlined in this RFQ, and that Contractor has reviewed and inspected all materials submitted in response to this RFQ. Once the Contractor has been selected, a failure to have read the conditions, instructions, and specifications herein shall not be cause to alter the contract or for Contractor to request additional compensation.

### **6.1 Non-Discrimination Requirement**

By submitting a proposal, the Contractor represents that it and its subsidiaries do not and will not discriminate against any employee or applicant for employment on the basis of race, religion, sex, color, national origin, sexual orientation, ancestry, marital status, physical condition, pregnancy or pregnancy-related conditions, political affiliations or opinion, age, or medical condition and will comply with the City of East Palo Alto's Policy Against Discrimination, Harassment, and Retaliation adopted by the East Palo Alto City Council on December 21, 2004.

Contractor and its subsidiaries shall comply with all applicable federal, state, and local laws, rules and regulations regarding nondiscrimination and non-harassment in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, sexual orientation, medical condition, or physical handicap. Contractor agrees to abide by the City of East Palo Alto's Policy Against Discrimination, Harassment, and Retaliation adopted by the East Palo Alto City Council on December 21, 2004.

### **6.2 Indemnification**

Contractor shall indemnify, defend (with independent counsel approved by the City), and hold harmless the City, its officers, officials, directors, employees, agents, volunteers and affiliates and each of them from any and all claims, demands, causes of action, damages, costs, expenses, actual attorney's fees, Contractor's fees, expert fees, losses or liability, in law or in equity, of every kind and nature whatsoever arising out of or in connection with Contractor's operations, or any subcontractor's operations, to be performed under this Agreement, for the fullest extent permitted by law, with the exception of the sole active negligence or willful misconduct of the City.

### **6.3 Insurance**

Below are the City's general insurance requirements. The City reserves the right to require additional insurance if required by the unique nature of a future agreement for Sanitary Sewer System Operations and Maintenance.

- Commercial General Liability Insurance: Contractor's General Liability insurance shall include contractual liability coverage. Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance (Commercial General Liability Insurance) on an occurrence basis as shall protect it while performing work covered by this Agreement from

any and all claims for damages for bodily injury, including accidental death, as well as claims for property damage which may arise from the Contractor's operations under this Agreement, whether such operations be by Contractor or by any sub-Contractor or by anyone directly or indirectly employed by either of them. Contractor shall provide the City with certificates of insurance and copies of additional insured and primary coverage endorsements evidencing the insurance coverage required by this Agreement.

- **Automobile Liability Insurance:** Contractor shall take out and maintain during the life of this Agreement such Automobile Liability Insurance. Contractor shall provide the City with certificates of insurance and copies of additional insured and primary coverage endorsements evidencing the insurance coverage required by this Agreement.
- **Worker's Compensation and Employer's Liability Insurance:** Contractor shall have in effect during the entire life of this Agreement Worker's Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, Contractor makes the following certification, required by Section 18161 of the California Labor Code: "I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement".
- **Professional Liability Insurance:** Contractor shall take out and maintain during the life of this Agreement a policy of professional liability insurance, protecting it against claims arising out of the acts, errors, or omissions of Contractor pursuant to this Agreement. The professional liability insurance is to be kept in force for not less than one (1) year after completion of services described herein.
- **Broader Insurance Coverage:** If Contractor maintains broader coverage and/or higher limits than the City's minimum requirements, the City requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City before the City's own insurance shall be called upon to protect it as a named insured.
- **Additional Insured Status:** The City of East Palo Alto, its subsidiary agencies, directors, officers, employees, agents, independent contractors, and volunteers shall be named as additional insureds on any such policies of comprehensive general and automobile liability insurance.
- **Primary and Non-Contributory Coverage:** Except for professional liability and worker's compensation insurance, the policies shall also contain a provision that the insurance afforded to the City, its subsidiary agencies, and their directors, officers, employees, agents, independent contractors and volunteers based on additional insured status shall be primary and non-contributory insurance to the

full limits of liability of the policy, and that if the City, its subsidiary agencies and their directors, officers, employees, agents, independent contractors and volunteers have other insurance against a loss covered by a policy, such other insurance shall be excess insurance only.

- **Verification of Coverage:** Contractor shall furnish the City with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause). All certificates and endorsements are to be received and approved by the City Attorney's Office at least five days before Contractor commences work to be performed pursuant to the agreement.

#### **6.4 Conditions of Proposal Acceptance**

This RFQ does not commit the City to award a contract, to pay any costs incurred in the preparation of a SOQ in response to this RFQ, or to procure or contract for any services. The City reserves the right to: waive any minor irregularities or informalities contained within an RFQ, and/or reject any or all proposals received as a result of this request, and negotiate with any qualified contractor, or to cancel the RFQ in part or whole. All proposals and material submitted will become the property of the City and will not be deemed confidential or proprietary. The City reserves the right to award in whole or in part, by item or group of items, by section or geographic area, when such action serves the best interests of the City. The City and Contractor may agree to add additional areas to the contract by mutual agreement later. The City may elect to stop work at any time in the contract and will pay for work completed to that point on a time and material basis.

**Attachment A**  
**Service Area Map**