



CITY OF EAST PALO ALTO

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October 20, 2023

San Mateo LAFCo
Attn: Rob Bartoli, Executive Officer
455 County Center, 2nd Floor
Redwood City, CA 94063-1663

RE: LAFCo File No. 22-09: City of East Palo Alto's Response to East Palo Alto Sanitary District's Alternative Submittal

Dear Mr. Bartoli:

Thank you for providing this opportunity for the City of East Palo Alto (City) to comment on the East Palo Alto Sanitary District's (District's) submittal.

The District's Submittal Is Not An Alternative Proposal within the Meaning of the Act

The District submitted an application dated September 19, 2023 purporting to offer up an "alternative proposal" to LAFCo File No. 22-09. However, their application, which proposes a sphere of influence amendment and maintenance of a status-quo governance structure, is not an alternative proposal within the meaning of that term, as set forth in the Cortese Knox Hertzberg Local Government Reorganization Act of 2000 (the Act).

This much is clear from the District's submittal itself:

"The District's alternative proposal is to: (1) **retain the District's current governance model**; (2) amend its Sphere of Influence (SOI) to be coterminous with its geographic service boundaries; and (3) remove the District's territory from the SOI of the West Bay Sanitary District (WBSD) ("Alternative Proposal"). The Alternative Proposal is necessary to **preserve the existing governance structure** of the District; align the District's SOI with its service area, safeguard the interests of existing ratepayers, maintain a sewer services system that has been delivering outstanding results for decades, and ensure the District is efficiently, capably, and democratically governed." (Emphasis added.)

Section 56069 of the Act defines proposal as follows: "...a desired change of organization or reorganization initiated by a petition or by resolution of application of a legislative body or school district for which a certificate of filing has been issued."

Section 56021 defines "Change of organization" as any of the following:

- a) A city incorporation.
- b) A district formation.
- c) An annexation to a city.
- d) An annexation to a district.
- e) A detachment from a city.
- f) A detachment from a district.
- g) A disincorporation of a city.
- h) A district dissolution.
- i) A consolidation of cities.
- j) A consolidation of special districts.
- k) A merger of a city and a district.
- l) Establishment of a subsidiary district.
- m) The exercise of new or different functions or classes of services, or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district as provided in Article 1.5 (commencing with Section 56824.10) of Chapter 5 of Part 3 of this division).

While the District's submittal is not, by definition, an alternative proposal authorized by the Act and therefore LAFCo may choose to give it little consideration, the City offers the following comments on the District's submittal.

Sewer Surcharge Overflows (SSOs)

In their submittal, the District repeatedly states that the sewer system is well-maintained and that the District has not had Sewer Surcharge Overflows (SSOs) for 16 years. This assertion is contradicted by the General Manager's own report on the recent CCTV inspection of the system indicating that significant portions of the sewer system are in "deplorable condition" including broken sewer lines allowing effluent to flow into the ground. In reviewing the District's proposal, the City notes it provides several documents that appear to be the source of the General Manager's statements regarding the poor condition of the existing sanitary sewer system. Attachment 37 to the District's proposal is an October 31, 2022 memorandum from Sierra West Consultants, Inc. (SWC) that presents the results for Areas 1, 3, and 4 of the District's ongoing closed circuit television (CCTV) inspection program. The City also reviewed an additional memorandum from SWC dated October 13, 2023 that includes the results of Area 2 and Trunk Line CCTV inspection program as well as provides a comprehensive review of the all areas of the District's collection system.

The two SWC's memoranda indicate that there are significant structural deficiencies with a significant number of pipeline segments within the collection system that was inspected. The

October 13, 2023 SWC memorandum provided a comprehensive scoring methodology that considers both pipeline defects and the capacity deficiencies identified in the Addendum to the 2015 Master Plan. However, the City notes that regardless of pipeline segments structural score grouping, the commentary identifies dozens of pipeline cracks, holes, and broken pipes within each 10-point structural scoring group. While the City recognizes overlap between pipe segments that SWC has found to be structurally deficient and those that the City's proposal has identified as being under capacity to meet future build-out, the sheer magnitude of structural deficiencies identified by the District's own consultant indicate a significant issue that must be addressed regardless of whether any new users are allowed to connect to the District's collection system. Despite repeated assertions of having a "well-maintained" system, the District finally admitted with issuance of the October 13, 2023 SWC memorandum that the system is in "deplorable condition" and the recent CCTV video bears this out. This is not evidence to persuade LAFCo to revisit its long-standing "zero sphere" determination as to the District.

The City contacted the San Francisco Regional Water Quality Control Board (RWQCB) Sanitary Sewer Overflow (SSO) Enforcement and Pretreatment Program. RWQCB staff provided a copy of a May 5, 2021 Staff Enforcement Letter, included as Attachment A to this letter, citing the District's several violations of State Water Board Order No. 2006-0003-DWQ, as amended by State Water Board Order No. WQ 2013-0058-EXEC. In particular, RWQCB staff noted that the District's Sanitary Sewer Management Plan (SSMP) was out of date.

The District's September 19, 2023 submittal included as Attachment 36 a copy of its current SSMP that was reportedly revised on August 12, 2021 and adopted by the District Board on September 2, 2021. This document highlights several outstanding deficiencies even though the August 2021 SSMP does address some of the RWQCB's comments. These deficiencies include:

- The SSMP cover sheet includes the incorrect revision date.
- Page 9 includes two highlighted sentences which appear to be questions from the individual updating the SSMP to the District that do not seem to have been addressed. Again, throughout the SSMP, which was included with the District's submittal, there are references indicating that the SSMP revisions were not fully reviewed and addressed before being certified by the District's Board.
- The organizational chart on Page 10 does not correctly reflect that Mr. Okupe serves as both the General Manager and the District Engineer.
- Table 1 included on Page 11 identifies the individuals or entities responsible for implementation of the SSMP, and in several categories, that individual is identified as Mr. Jackey Wilson. The City understands that Mr. Wilson retired from the District in 2017 or 2018. It is possible that the District has now contracted with Mr. Wilson to fulfill the roles identified in Table 1 from the SSMP but LAFCo might ask the District to clarify.

- Again, on Page 17, a highlighted sentence that seems to indicate that the SSMP preparer sought input from the District to provide a more detailed explanation about how the District maintains its system maps.
- The last paragraph on Page 19 titled “Spare Parts and Contingencies” is incomplete.
- As noted in the RWQCB May 5, 2021 letter, the link included on Page 20 to the District’s Standard Plans and Specifications is still broken suggesting poor records management by the District and a failure to place the necessary information where staff and the public can access it quickly. Without making the design and construction standards publicly available, a new service applicant cannot reasonably anticipate and plan for the standards a new single-family home, restaurant, or commercial/office space must utilize for developing its facility design potentially delaying the project and/or requiring unnecessary submittal revisions.

The City comprehensively reviewed the SSMP the District provided, but the deficiencies identified above indicate significant outstanding issues with the District’s management of the community’s sewer utility. Moreover, the District does not provide any of the appendices to the SSMP. Furthermore, as of October 20, 2023, the copy of the SSMP on the District’s web page is the outdated SSMP that the RWQCB commented on in its May 5, 2021 letter. The deficiencies in the revised SSMP transmitted to LAFCo and the District’s inability to provide state regulators with the required current SSMP available for public review is concerning. Again, the very evidence the District provides to defend the status quo and to persuade LAFCo to alter its long-standing zero sphere determination tends to provide the opposite – the District is not well managed.

Lowest Sewer Service Charges in the County

To demonstrate how well-governed it is, the District cites its assertion that its sewer service charges are the lowest in the county and the region. In fact, having artificially low rates is a contributing factor to the severe state of disrepair of the District’s sewer lines. As noted in the 2022 LAFCo Municipal Service Review (MSR), sewer service charges were increased to \$600 per Equivalent Dwelling Unit (EDU) in FY19-20 from \$575 per EDU consistent with a 2019 sewer rate study. The sewer rate study recommended future year rate increases ranging from 4.3% to 5.0% per year. But the District has not increased rates since FY 19-20. The 2019 sewer rate study stated: “Proposed rate increases are needed to fund projected operating expenses, help fund high priority improvements to the District’s aging sewer collection system, pay for the District’s share of operating and capital improvement costs for the regional wastewater treatment plant, and support safe and reliable service.” The City’s application to LAFCo proposes to implement the District’s own rate study to repair, improvement, and maintain the community’s sewer lines.

As noted above, the District’s own consultant has determined that all of the pipeline segments must be replaced regardless of whether a segment is currently under capacity or is potentially under capacity to meet future development needs. The SWC October 13, 2023 memorandum estimates that the capital improvement program opinion of probable construction cost to be

over \$65 million¹. The sheer magnitude of the necessary capital improvements to address existing structural deficiencies as well as address both the existing Peak Wet Weather Flow (PWWF) capacity and anticipated development capacity improvements and the District Board would need to demonstrate to its existing customers how the District will continue to maintain safe and reliable service. The District's application notes that its current reserves are around \$23 million – less than half what is needed and it proposes no rate study or increase to close the gap. In short, it proposes more of the same when our community can do better.

The District Falsely Asserts its Fitness to Deliver Services to the Community and that it is Capably Maintained

Throughout the District's submittal, it asserts that it is capable of providing safe and reliable sanitary sewer service to both existing customers and future customers. The District further asserts that the City's application incorrectly distributes capital costs between existing and future customers. However, the District's own submittal seems self-contradictory and misstating conclusions of its own supporting documents. The City has identified the following key discrepancies and misstatements:

- In Exhibit B-2, the District states that it is entitled to average dry weather flow (ADWF) capacity of 2.9 million gallons per day (MGD) in the Palo Alto Regional Water Quality Control Plant (PARWQCP) but uses only 0.61 MGD or 21% of that allocation. The total projected ADWF at full build-out presented in the District's Addendum to the 2015 Master Plan projects a total maximum ADWF of 2.2 MGD - less than the District's total ADWF entitlement. Yet Exhibit C-1 of the District's application incorrectly states that additional capacity in the PARWQCP is required to allow additional development. The inconsistency with the District's understanding of its own existing rights is further evidence of the challenges that District faces in clearly identifying the costs and source of costs for any existing or new customer.
- The District provided Exhibit C-1 to highlight its planned improvements to the collection system. Overall, the discussion seems to be contradictory and incomplete because the District states that it has sufficient capacity for its existing customers and some development referencing the Addendum to the 2015 Master Plan. But that reference shows that existing system - without any new customers - is predicated to operate under significant surcharged conditions during Peak Wet Weather Flow (PWWF) risking SSOs and recommends that the District should implement capacity improvement projects to reduce that risk even if no new development were to occur within the District service area.
- Exhibit C-1 also cites SWC's October 31, 2022 memorandum as additional confirmation of its existing capacity but that memorandum reports only the condition of approximately 117,000 linear feet out of 160,000 linear feet of the collection system and SWC does not

¹ Additional commentary on the City's concerns with inconsistent project cost estimating methodologies is further addressed on the following page.

comment on the capacity of the pipeline segments it inspected, but only their condition, which is poor. The District then provided the SWC October 13, 2023 to LAFCo, after its September 19 alternative submittal, and the memorandum seems to have lower project cost estimates for Areas 1, 3, and 4 than was presented in the October 31, 2022 memorandum, which identified a total of approximately \$53 million total project costs to address the identified structural defects, including \$9 million in capacity improvements, for Areas 1, 3, and 4 only. The current project cost estimates for Areas 1, 3, and 4 provided in the recent SWC October 13, 2023 is a total of approximately \$45 million. In fact, in one year, the potential project costs have been reduced by 15%, whereas the City would expect the estimates to remain the same or increase over one year. Using a seemingly inconsistent project cost estimating methodology coupled with incomplete data to develop a capital improvement program, the City cannot determine if the District's submittal correctly identifies all potential improvements that will be needed to address the significant structural defects identified by the District's own CCTV program and provide adequate capacity to reduce the potential for SSOs and meet development needs. Because of the inconsistent and seemingly incomplete information provided with the District's proposal, the District cannot report that the current rate structure and available reserves will allow the District to implement the necessary capital improvement program on the timeline presented by the District.

- Exhibit C-1 also cites the District's current Sanitary Sewer Replacement Project (Beech St., Clarke Ave, and Green St.). In reviewing Attachment 49 to the District's proposal, for this project, the City notes that the District is proposing to replace, as part of a future project, a portion of the sanitary sewer main at the end of Beech Street that the District apparently replaced in 2017 (without explaining why a line should be replaced after just six years). Additionally, portions of the improvements proposed for the end of O'Connor Street have been removed from the project scope and will be implemented as a separate future project. The City continues to work with the District to issue the necessary encroachment permits to facilitate the District's proposed capital improvement projects but the City is concerned that the District is soliciting construction bids for projects it has already constructed or does not plan to complete.
- Exhibit C-2 discusses a \$64.7 million capital improvement, attributing \$40 million of that to costs to serve new development. But SWC's October 31, 2022 memorandum identifies necessary improvements of structural deficiencies and some capacity improvements but does not clearly attribute the costs between existing and new customers. As noted previously in this letter, the District provided the SWC October 13, 2023 memorandum following the District's submittal to LAFCo and the two SWC memoranda seem to provide inconsistent project costs for similar improvements. The City does acknowledge that the sanitary sewer collection system has structurally deficient portions but SWC's analysis undermines the claim that this can largely be funded by fees on developers. These contradictions between the District's own technical studies and offered in support of the District's submittal undermines confidence in the District's proposal to maintain status quo. In contrast, the City's proposal includes funding for capacity improvement projects

to serve new developments, existing PWWF capacity deficiency improvement projects, and an annual capital improvement program to address non-capacity related structural deficiency issues within 20 years of the reorganization of the District as a subsidiary district of the City.

- Exhibit C-2 critiques the City's proposal as unrealistic and expensive to ratepayers without supporting detail. As to cost to ratepayers, the City's proposed budget was developed based on publicly available documents from the District and funds over 15 years the existing PWWF capacity improvements splitting costs between existing customers and the anticipated development. It separately identifies improvements needed to support anticipated development related capacity improvements to be developer funded. Finally, it includes a program to replace over 20 years all pipeline segments that have reached the end of the service life and will not otherwise be replaced as part of the PWWF capacity improvements or new development required improvements. The structural deficiencies SWC identified in its two memoranda are included in the City's pipeline replacement program, although the District erroneously states otherwise. Finally, the District questions the City's \$2.4 million estimate of annual operation and maintenance costs by citing West Bay Sanitary District (WBSD)'s annual budget. However, WBSD recent proposal to contract with the City to operate and maintain the collection system for an annual budget of \$1.7 million.

The District's submittal is internally inconsistent and contradicts its comments on the City's application. Additionally, the District's proposal was apparently incomplete as the SWC October 13, 2023 memorandum was submitted late and seemingly includes different project costs than were presented in Exhibit C-1. The District has identified many improvements required to provide existing customers with safe and reliable sewer service, to reduce the risk of SSOs under existing conditions, and to provide increased capacity for development. The City's application proposes to carefully implement necessary improvements to provide the service to existing customers they already pay for, to increase capacity to serve new development at developers' expense, and to replace the remaining portions of the existing sewer system that have reached the end of their service lives.

Any Subsidiary District Budget and Assets would remain Segregated from the City General Fund and Dedicated Solely for Sanitary Sewer Service

The District states that the City proposes to integrate the District into the City's CalPERS program and to utilize District reserves to reduce the City's pension costs. This is untrue. The City Council would become governing body of the District if it becomes a subsidiary district of the City, but all District assets, liabilities, reserves, revenues and expenditures would be separately accounted for and funded. The City proposes to maintain the separate legal existence of the District, but to change its governance for the better.

Conclusion

The City appreciates the opportunity to comment on the District's submittal and renews its request that the Commission approve the City's pending application to establish District as a subsidiary district of the City so we can get on with the necessary work to address years of deferred maintenance and necessary improvements to serve both existing District customers and new development for the betterment of our community.

Sincerely,



Melvin E. Gaines,
City Manager

Attachment

- A. RWQCB May 5, 2021 Staff Enforcement Letter



San Francisco Bay Regional Water Quality Control Board

Sent by email only (aokupe@epasd.com)

Confirmation of receipt requested

May 5, 2021
CW-630848

East Palo Alto Sanitary District
Akintunde Okupe
P.O. Box 51686
Palo Alto, CA 94303

Subject: Inspection Report and Staff Enforcement Letter, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, State Water Board Order No. 2006-0003-DWQ, as amended by State Water Board Order No. WW 2013-0058-EXEC

Dear Akintunde Okupe,

On March 30, 2021, the Regional Water Board inspected the District's collection system. As noted in the enclosed report, the District violated several conditions of State Water Board Order No. 2006-0003-DWQ, as amended by State Water Board Order No. WQ 2013-0058-EXEC. The District shall submit a Completion Report by **August 16, 2021**, that verifies the District has implemented corrective measures for each violation listed in section 6.A of the inspection report.

Please email your Completion Report – signed and certified as required by Provision J of Order No. 2006-0003-DWQ – to Debbie Phan at debbie.phan@waterboards.ca.gov. Please contact Debbie Phan if you have any questions regarding this matter.

Sincerely,

Jessica Watkins, P.E.
Senior Water Resource Control Engineer
NPDES Wastewater and Enforcement Division

INSPECTION REPORT

Sanitary Sewer Collection System Compliance Evaluation Inspection East Palo Alto Sanitary District Collection System, San Mateo County

(CW-630848)

Inspection Date: March 30, 2021

Prepared By: Debbie Phan, San Francisco Bay Regional Water Quality Control Board
(Regional Water Board)

Date of Report: May 5, 2021

List of Attendees:

Akintunde Okupe, General Manager, East Palo Alto Sanitary District (District)

Dennis Scherzer, Board Member, District

Omar Fuggs, Maintenance, District

Darrin Young, Maintenance, District

Debbie Phan, Regional Water Board

Michael Chee, Regional Water Board



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- Appendix B – Hot Spot Map
- Appendix C – CCTV Inspection Report, 161 Daphne Way, January 11, 2021
- Appendix D – Financing District Infrastructure Related to Development
- Appendix E – Pipe Replacement Evaluation Criteria
- Appendix F – List of Capital Improvement Projects (2016-2019)

1. PURPOSE OF INSPECTION

The purpose of the inspection was to evaluate compliance with the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, State Water Resources Control Board (State Water Board) Order No. 2006-0003-DWQ (Order), as amended by State Water Board Monitoring and Reporting Program Order No. WQ 2013-0058-EXEC (2013 MRP). The inspection was conducted virtually and included an assessment of the collection system's operations and maintenance, capacity, and rehabilitation and replacement. See Appendix A for the list of documents reviewed as part of the inspection. The District was selected because it reported zero sanitary sewer overflows (SSOs) for the past ten years. Prior to that, the District reported four SSOs to CIWQS, all caused by fats, oils, and grease (FOG) as listed in Table 1.

Table 1. SSOs Reported to CIWQS

SSO Start Date	Event ID	Category	SSO Volume
5/12/2007	650605	Category 2	10,000 gallons
12/6/2008	730358	Category 3	300 gallons
4/17/2009	736554	Category 3	200 gallons
5/24/2009	737914	Category 1	1,000 gallons

2. COLLECTION SYSTEM DESCRIPTION

The District's collection system serves a population of approximately 30,000 in portions of East Palo Alto and Menlo Park. The District operates and maintains 35 miles of gravity sewer lines, of which approximately 70 percent are 6 inches in diameter and the remainder range from 8 to 24 inches in diameter. The District is responsible for the collection of wastewater generated from residential, industrial, and commercial users within its 1.92-square-mile service area and conveys all flows to Palo Alto Regional Water Quality Control Plant. Due to the COVID-19 stay-at-home mandate, the District noticed longer peak times at lower volumes.

3. OPERATIONS AND MAINTENANCE

The District flushes and inspects its entire collection system twice a year. The inspections take place after cleaning and utilize a closed-circuit television (CCTV) camera to capture footage inside the sewer line. The General Manager reviews the footage to determine if repair or replacement is needed. Identified hot spots are in flat areas prone to sediment accumulation and are cleaned more frequently (see Appendix B). There are 15 restaurants within the District's service area that are inspected twice a year for FOG.

The District investigates sewage-related calls, but all have been related to sewer laterals, which the District is not responsible for. The Regional Water Board requested records of sewer-related calls from January 2019 to the date of the inspection. The District was unable to provide a call log, but provided a list of sewer lateral CCTV inspections that were prompted

by calls. The Regional Water Board requested the CCTV inspection reports for two of the listed inspections: the November 3, 2020, inspection at 2118 Cooley Avenue and the January 11, 2021, inspection at 161 Daphne Way. The District could only locate the January 11, 2021, CCTV inspection report (see Appendix C).

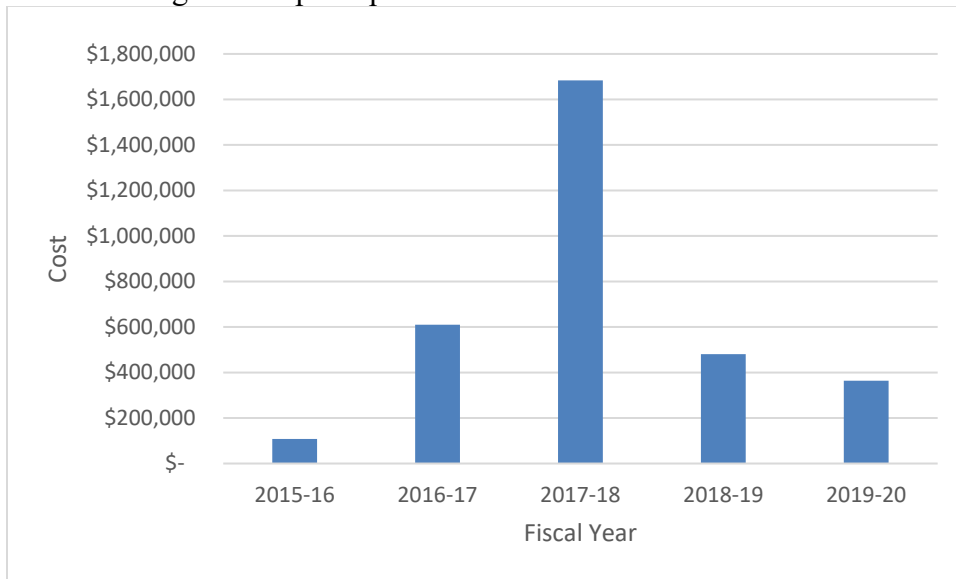
4. CAPACITY

The District’s 2020 condition assessment says that its collection system has adequate capacity to serve existing customers for the next 20 to 30 years. The District received proposals for new developments that are pending because the developers are responsible for the cost to increase sewer capacity (see Appendix D). The District cannot increase its sewer rates for new developments, but plans for these developments through its Master Plan.

5. REHABILITATION AND REPLACEMENT

The District Manager uses CCTV footage to determine which sewer lines need to be replaced. Factors that are taken into consideration are listed in Appendix E. Pipes with deflections or visibly open break lines are prioritized for replacement. Each fiscal year, the District budgets \$750,000 for replacement projects and another \$750,000 for emergencies, but the spending varies depending on the project. The District’s Board has not rejected a pipe replacement request. Figure 1 depicts the cost of pipe replacement-related capital improvement projects from fiscal year (FY) 2015 to 2020 and Appendix F further describes these projects.

Figure 1. Pipe Replacement Costs from FY 2015 to 2020



6. VIOLATIONS, MISCELLANEOUS FINDINGS, AND CORRECTIVE MEASURES

Regional Water Board staff identified the following violations and miscellaneous finding during the inspection. The District must include the corrective measures shown in italics in the Completion Report.

A. VIOLATIONS

Sanitary Sewer Management Plan (SSMP)

Order Provision 11 requires the District to develop and implement a written Sanitary Sewer Management Plan (SSMP) with the mandatory elements specified in Order Provision 13. The District's SSMP does not comply with the Order and 2013 MRP requirements as follows:

- 1) **Overflow Emergency Response Plan.** Order Provision 13(vi)(a) requires the overflow emergency response plan (OERP) to include proper notification procedures so that primary responders and regulatory agencies are informed of all SSOs in a timely manner. Order Provision 13(vi)(c) requires the OERP to include procedures to ensure prompt notification of all SSOs that potentially affect public health or reach waters of the State in accordance with the 2013 MRP; and that all SSOs shall be reported in accordance with the 2013 MRP. The District's OERP (specifically, SSMP section 6.4) does not reflect the 2013 MRP notification and reporting requirements, which are summarized in Table 2 of the 2013 MRP. For example, the OERP does not reflect the requirement to notify the California Office of Emergency Services (CalOES) and obtain a notification control number within two hours of becoming aware of any Category 1 SSO greater than or equal to 1,000 gallons discharged to surface water or spilled in a location where it will probably be discharged to surface water. Additionally, the District's OERP states that the District shall report SSOs through the obsolete web-based Electronic Reporting System (ERS); however, the 2013 MRP requires the District to report all SSOs into the CIWQS Online SSO Database. The District's OERP also does not reflect the 2013 MRP reporting deadlines for Category 1, 2, and 3 SSOs (e.g., the District is required to submit draft reports to CIWQS within three business days of becoming aware of Category 1 and 2 SSOs).

Corrective Measure: *The District must update its OERP to incorporate the 2013 MRP notification and reporting requirements.*

- 2) **SSMP Program Audit.** Order Provision 13(x) requires the District to conduct periodic internal audits at least every two years and to prepare a report to be kept on file. 2013 MRP section E.1 requires the District to make records documenting compliance with all provisions of the Order and 2013 MRP available for review by the Regional Water Board during an inspection or through an information request. The District was unable to provide the report from its most recent SSMP audit during or after the inspection.

Furthermore, Order Provision 13(x) requires the audit to focus on evaluating the effectiveness of the SSMP, compliance with the mandatory SSMP elements in Order Provision 13, and identification and correction of any SSMP deficiencies. Regional Water Board staff identified the following typographical deficiencies in the SSMP:

- SSMP Table 1: Karen Maxey is listed as the General Manager, but Akintunde Okupe has taken over the role.
- SSMP section 5.3: The Standard Plans and Specifications website link is broken:

<http://38.106.4.240/contractors/forms-permits/standard-requirements-for-sewer-connection>.

- SSMP section 6.4.B: The CalOES phone number is (800) 852-7550, not (800) 825-7550.
- SSMP section 7.7: The CalFOG website link is broken: www.calfog.org.
- Appendices I and J: The appendices are incorrectly labelled.

Corrective Measure: *The District must provide the report from its most recent SSMP audit. If it has been more than two years, the District must conduct an SSMP program audit and provide the report to the Regional Water Board. These reports must be kept on file to be made available during inspections or information requests. As part of its next SSMP program audit, the District must identify and correct any SSMP deficiencies, including the typographical SSMP deficiencies identified above.*

- 3) **SSMP Availability.** 2013 MRP section C.8.iv requires that the District either (1) provide to CIWQS the publicly available website address where a downloadable copy of the approved SSMP, critical supporting documents referenced in the SSMP, and proof of local governing board approval of the SSMP is posted, or (2) submit an electronic copy of the SSMP documentation to the State Water Board via mail. During the inspection, the 2017 SSMP and critical supporting documents were available through the District's website, but the District was unable to provide proof of its local governing board approval of the SSMP. Additionally, all SSMP documentation was not made available through CIWQS.

Corrective Measure: *The District must ensure that all required SSMP documentation is made available via the publicly available website address listed in CIWQS or provided to the State Water Board via mail as described in the 2013 MRP. The District must provide the Regional Water Board documentation that this requirement is satisfied.*

CIWQS Certification

- 4) **Data Submitter.** 2013 MRP section F.3 allows any District employee or contractor to enter draft data into the CIWQS Online SSO Database if authorized by the LRO and registered with the State Water Board; however, only LROs may certify reports in CIWQS. 2013 MRP section F.4 requires the District to submit to the State Water Board any change of a registered Legally Responsible Official (LRO), including deactivation or a change to the LRO's contact information, within 30 days of the change. During the inspection, the District said different people share the same CIWQS login credentials to input draft information. In the Sanitary Sewer Collection System Inspection Form (March 11, 2021), the District listed Merwyn Poblete, Darrin Young, Omar Fuggs, and Daray Meacham as LROs and Data Submitters. Merwyn Poblete and Akin Okupe are the only LROs listed in CIWQS and should not give anyone else access to their accounts.

Corrective Measure: *The District must submit any additional LROs or Data Submitters to the State Water Board by calling (866) 792-4977 or emailing*

help@ciwqs.waterboards.ca.gov. The District must not allow anyone to enter draft data into CIWQS without first registering with the State Water Board and obtaining login credentials.

B. MISCELLANEOUS FINDING

- 1) Order section C.8.iii requires the District to complete and certify the CIWQS Questionnaire at least every 12 months. The District provided sewer pipe age ranges in the Sanitary Sewer System Collection Inspection Form (March 11, 2021) that conflict with information the District reported in the certified Collection System Questionnaire in CIWQS and in the District's SSMP. During the inspection, the District stated that it does not track sewer pipe age.

Recommendation: *The Regional Water Board recommends the District begin to track sewer pipe age.*

Appendix A – List of documents reviewed as part of this inspection

Pre-Inspection File Review

1. Sanitary Sewer Collection System Inspection Form provided by the District on March 11, 2021
2. Sewer System Management Plan, March 2015, with the following appendices:
 - a. Sewer Use Ordinance
 - b. Impact Mitigation Sanitary Sewer Overflow, “State Waterway Impact” Flow Chart and Overflow and Sewer Work Order
 - c. SSO Report Form for Immediate Reporting by Fax
 - d. SSO Electronic Reporting Instructions
 - e. Spill Calculation Methods
 - f. San Diego Manhole Flow Rate Reference Sheet
 - g. Temporary Signage and Resident Notification Form
 - h. Grease Trap Component Inspection Form
 - i. East Palo Alto Sanitary Sewer District Wastewater Master Plan
 - j. Annual SSMP Audit Report Form
 - k. SSMP Change Log
3. CIWQS Questionnaire
4. CIWQS SSO Data

Post-Inspection File Review

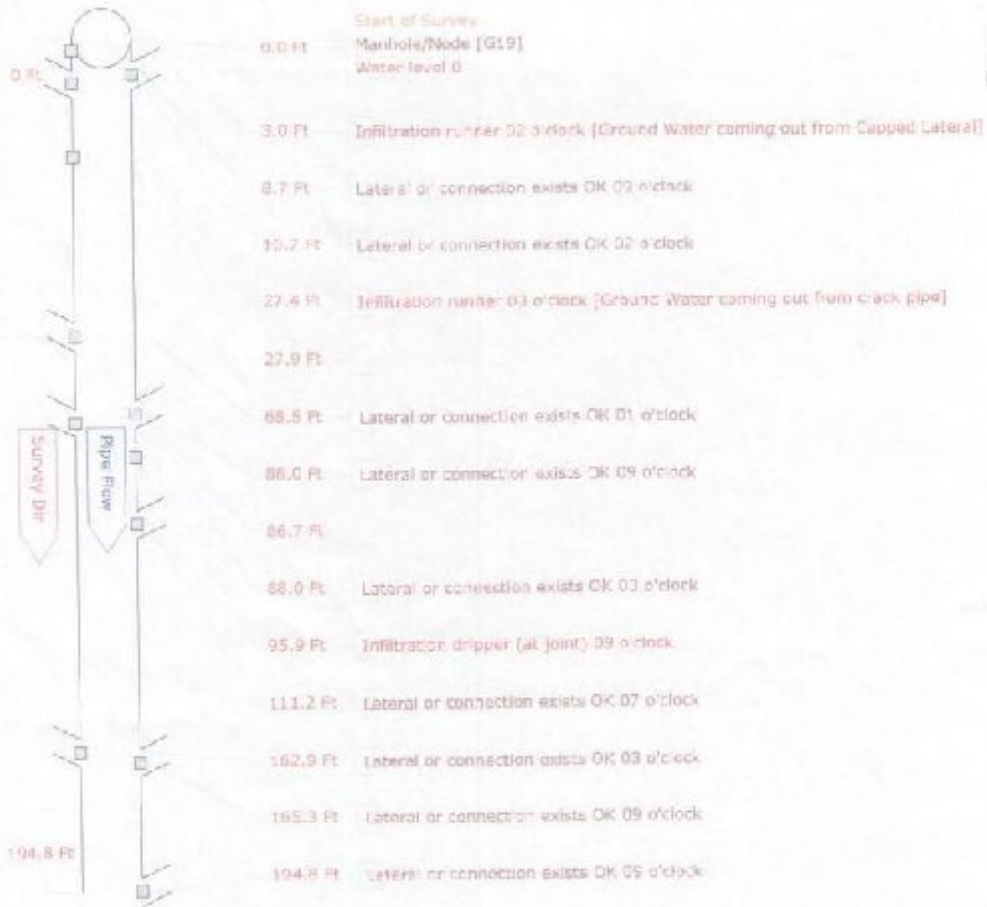
1. Lateral Inspection Log (September 2019 to March 2021)
2. List of 2020 Staff Trainings
3. 2020 Master Plan Updates
4. Revised Sanitary Sewer Collection System Inspection Form provided by the District on April 7, 2021

Appendix B – Hot Spot Map



Appendix C – CCTV Inspection Report, 161 Daphne Way, January 11, 2021

Pipe Graphic Report of PLR G19 X		for EPASD	
Work Order	Contract	Video	Setup 5
Facility	Operator MERWYN	Van Ref	Surveyed On 09/07/2011
Street Name	RUNNYMEDE	City	EAST PALO ALTO
Location type			
Surface			
Survey purpose		Weather	Dry
Pipe Use	Schedule length	Ft	From G19 Depth 4.60 Ft
Shape	Size 8 by	no	To T23 Depth Ft
Material Vitrified clay	Joint spacing	Ft	Direction Downstream
Lining	Year laid		Pre-clean Y Last cleaned 9/7/2011
General note		Structural	Service Constructional
Location note		Miscellaneous	Hydraulic



East Palo Alto

Appendix D – Financing District Infrastructure Related to Development

Irving Vails
(730) 508-2017
Irvine
(949) 203-2000
Los Angeles
(213) 617-6100
Marlton Beach
(978) 848-8448
Orlando
(408) 888-8594



Tiverside
(951) 888-1797
Sacramento
(916) 325-4000
San Diego
(619) 525-1300
Walnut Creek
(925) 977-3300
Washington, DC
(202) 785-0800

Memorandum

To: East Palo Alto Sanitary District
From: Best Best & Krieger
Date: February 3, 2021
Re: Financing District Infrastructure Related to Development

QUESTIONS PRESENTED

1. Can the East Palo Alto Sanitary District ("District") charge existing rate payers for development projects?
2. What are the legal requirements for the District to place a bond measure on the ballot to pay for development projects?

ANALYSIS

1. The District Cannot Subsidize the Cost of Infrastructure Supporting Growth Related Development Unless such Infrastructure Benefits the District's Ratepayers

In November 1996, California voters approved Proposition 218, which amended the California constitution by adding articles XIII C and XIII D. Article XIII C establishes requirements for voter approval of general and special taxes, and article XIII D establishes procedural and substantive requirements for a property-related fees, charges, and assessments. Article XIII C excepts from the definition of a "tax" any property-related fees imposed in accordance with the provisions of Article XIII D. Cal. Const., art. XIII C, § 2. Article XIII D, section 6, subdivisions (a) and (c) contain procedural and substantive requirements for the approval of sewer rate increases.

An agency is prohibited from adopting a new property-related fee, or increasing the rate or changing the methodology for imposing a fee if such change could result in any person paying a higher amount than they previously paid, without complying with certain notice, protest, and public hearing requirements. Specifically, the agency must provide written notice at least 45 days in advance of the public hearing to all owners of property upon which the proposed new or increased fee or charge will be imposed at least 45 days in advance of a public hearing. If written

Appendix E – Pipe Replacement Evaluation Criteria

The Closed-Circuit Television (CCTV) videos are observed for the following:

- A. Pipe Materials
- B. Earth Loading Effect
- C. Surrounding Material Migration
- D. Location of Water Table
- E. Defective Lateral Joints
- F. Hydrogen Sulphide attack
- G. Loss of Side Support
- H. Evaluation of Crack Type
- I. Evaluating Broken Pipe
- J. Visible Hole
- K. Deformation
- L. Pipe Collapse
- M. Joint Effect
- N. Limited Minor Defects (Stage 1)
- O. Fractures and Open Break Lines (Stage 2)
- P. Loss of Support from the Surrounding Soil (Stage 3)
- Q. Defect Distribution
- R. Depth, Loading, and Ground Water
- S. Roots
- T. Fats, Oil, and Grease
- U. Obstruction/Blockages
- V. Improper Pipe Repairs
- W. Soil Quality
- X. Position of Ground Water
- Y. Loads
- Z. Original Pipe Length and Loss
- AA. Alignment and Sags

Notes:

Pipes with Stage 1 and Stage 2 defects are replaced immediately.

Appendix F – List of Capital Improvement Projects (2016-2019)

1. Siphon Project 2016 (\$107,635)
2. Sewer Replacement Project Miscellaneous Areas 2017 (\$609,809)
3. Demeter Pipe Replacement 2017 (\$1,683,802)
4. Sewer Replacement Miscellaneous Areas 2018 (\$480,493)
5. Sewer Replacement Miscellaneous Areas 2018 (\$363,673)