

**California Regional Water Quality Control Board  
San Francisco Bay Region  
Cleanup and Abatement Order R2-2021-0021  
City and County of San Francisco**

**WHEREAS** the California Regional Water Quality Control Board, San Francisco Bay Region (“Regional Water Board”), finds:

**Purpose**

1. Pursuant to Water Code section 13304, this Cleanup and Abatement Order requires remedial action to abate potential threats<sup>1</sup> to the beneficial uses of groundwaters, which are waters of the State, posed by sewer overflows from the combined sewer systems<sup>2</sup> in certain low-lying areas of the City and County of San Francisco (the “City”) identified in Finding 10 below that occur during some wet weather events. These sewer overflows from the combined sewer systems threaten to create conditions of pollution in the groundwater in the specific low-lying areas identified in this Order.<sup>3</sup>

**Background**

2. The City owns and operates two wastewater collection and treatment systems, the Oceanside and Bayside systems, within San Francisco:
  - a. The Oceanside system includes the Oceanside Water Pollution Control Plant and its wastewater collection system, and discharges to the Pacific Ocean pursuant to NPDES Permit CA0037681 (Order R2-2019-0028).
  - b. The Bayside system includes the Southeast Water Pollution Control Plant, North Point Wet Weather Facility, and their wastewater collection system, and discharges to San Francisco Bay pursuant to NPDES Permit CA0037664 (Order R2-2013-0029).

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<sup>1</sup> Water Code section 13304(e) defines “threaten” to mean “a condition creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate damages to persons, property, or natural resources.”

<sup>2</sup> For the purposes of this Order, the term “sewer overflows from the combined sewer systems” refers to releases or diversions of untreated or partially treated wastewater or combined wastewater and stormwater from the City and County of San Francisco’s combined sewer collection systems. This term does not include releases due to failures in privately-owned sewer laterals or authorized discharges from combined sewer discharge outfalls.

<sup>3</sup> Water Code section 13050(l)(1) defines “pollution” to mean “an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following:

- (A) The waters for beneficial uses.
- (B) Facilities which serve these beneficial uses.”

3. The collection systems are primarily combined sewer systems that transport municipal wastewater (from domestic, commercial, and industrial sources) and stormwater to the treatment plants:
  - a. The Oceanside collection system consists of approximately 250 miles of pipe, 1 major pump station, 6 minor pump stations, and 3 large transport/storage structures.
  - b. The Bayside collection system consists of approximately 600 miles of pipe, 7 major pump stations, 11 minor pump stations, and 7 large transport/storage structures.
4. During dry weather, the Oceanside and Bayside collection systems route wastewater and sometimes stormwater to the treatment plants through pipes, pump stations, and transport/storage structures.
5. During wet weather, when the treatment systems operate at full capacity or when hydraulic constraints within the collection systems preclude additional flows to the treatment systems, certain transport/storage structures provide storage for combined wastewater and stormwater. When the storage capacity of transport/storage structures and the wet weather capacity of their associated treatment plants are exceeded, combined wastewater is discharged through one or more combined sewer discharge outfalls. The Oceanside system has 7 combined sewer discharge outfalls to the Pacific Ocean, and the Bayside system has 29 combined sewer discharge outfalls to San Francisco Bay.
6. During some wet weather events and in specific low-lying areas, sewer overflows from the combined sewer systems occur when the collection systems cannot convey or contain all wastewater and stormwater for storage, treatment, and discharge to the Pacific Ocean or San Francisco Bay. Sewer overflows from the combined sewer systems during wet weather events consist of stormwater mixed with wastewater.
7. During sewer overflows from the combined sewer systems, localized flooding may occur, during which combined wastewater and stormwater may overflow curbs and sidewalks and flow onto surrounding public rights of way or private properties, including at-grade and below-grade homes and businesses, and both paved and pervious land. Pervious surfaces provide a pathway for combined wastewater and stormwater to percolate into groundwater.
8. Because pervious surfaces provide such a pathway, combined wastewater and stormwater that reaches pervious land threatens to percolate through soil to underlying groundwater, particularly where the depth to groundwater is relatively shallow.

9. In San Francisco, groundwater beneficial uses include, among others, municipal and domestic water supply.<sup>4</sup>
10. Combined wastewater and stormwater that reaches groundwater could alter groundwater quality to a degree that unreasonably affects beneficial uses in the following low-lying areas (the “Low-Lying Areas”) in the City: (a) the West Portal neighborhood near 15th Avenue and Wawona Street (the “Wawona Area”), which is in the City’s Westside basin, as delineated in Attachment 1 of this Order; (b) the Mission District neighborhood near 17th Street and Folsom Street (the “Folsom Area”), which is in the City’s Downtown basin, as delineated in Attachment 2 of this Order; and (c) the neighborhood extending below the intersection of Highways 101 and 280 (the “Lower Alemany Area”), which is in the City’s Islais basin, as delineated in Attachment 3 of this Order.
11. The probability of future sewer overflows from the combined sewer systems and the potential to harm groundwater beneficial uses in the Low-Lying Areas make it reasonably necessary to take immediate action to abate the threatened discharge of combined wastewater and stormwater to groundwater in the Low-Lying Areas.

### **Regulatory Context**

12. The Regional Water Board has jurisdiction over threatened and potential discharges of waste (including municipal wastewater and stormwater) to waters of the State, including groundwaters.<sup>5</sup> It may also restrict or prohibit discharges to land to protect waters of the State.<sup>6</sup>
13. Water Code section 13267 authorizes the Regional Water Board to require the City to submit technical or monitoring program reports regarding its discharges and suspected discharges of waste within the region. The technical and monitoring program reports required by this Order pursuant to Water Code section 13267 are necessary to ensure that the threat to water quality created by the threatened discharges of combined wastewater and stormwater described herein are properly assessed, abated, and controlled. Due to the importance of protecting waters of the State and their applicable beneficial uses, the burden, including costs, of the reports bears a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
14. Water Code section 13383 authorizes the Regional Water Board to establish monitoring, inspection, entry, reporting, and recordkeeping requirements for the City

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<sup>4</sup> See *San Francisco Bay Basin (Region 2) Water Quality Control Plan* (Basin Plan) Table 2-2, available at: [https://www.waterboards.ca.gov/sanfranciscobay/water\\_issues/programs/planningtmdls/basinplan/web/tab/tab\\_2-02.pdf](https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/planningtmdls/basinplan/web/tab/tab_2-02.pdf). State Water Resources Control Board Resolution 88-63 also assigns groundwater the municipal and domestic supply beneficial use, with limited exceptions. Other existing and potential beneficial uses include industrial process supply, industrial service supply, and agricultural supply.

<sup>5</sup> See Water Code sections 13050, 13260, and 13304.

<sup>6</sup> See Water Code sections 13243, 13301, and 13263.

because it owns or operates publicly owned treatment works, discharges to navigable waters, and is regulated under NPDES permits.

15. Water Code section 13304(a) states, in part, “A person who...threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall, upon order of the regional board, clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts.”
16. Water Code section 13304(a) further states, “Upon failure of a person to comply with the cleanup or abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.”
17. A person who violates a cleanup and abatement order may be subject to an administrative civil liability of up to \$5,000 per day of violation or a civil liability of up to \$15,000 per day of violation.<sup>7</sup>

### **Summary of this Order’s Requirements**

18. Pursuant to Water Code section 13304, this Order requires the City to implement overflow reduction projects as required by Provisions 4 through 8 of this Order to abate the threatened discharge of combined wastewater and stormwater to groundwater in the Low-Lying Areas. The City shall design the overflow reduction projects to reduce the probability of overflows and the risk presented by flooding during storm events as set forth in Provisions 4 through 8 of this Order. The timely and successful completion of the overflow reduction projects will reduce the frequency and likelihood of future sewer overflows from the combined sewer systems and abate the threatened impacts to groundwater beneficial uses in the Low-Lying Areas.
19. This Order requires the City to construct the **Wawona Project**, which will benefit the Wawona Area. The Wawona Project will entail construction of 6,900 linear feet of new 36-inch to 54-inch diameter sewer along Vicente Avenue consistent with City Contract No. WW-711, Wawona Area Stormwater Improvement and Vicente Street Water Main Replacement, submitted to the City’s Public Utilities Commission on March 23, 2021, and approved by the Commission on April 13, 2021, by Resolution No. 21-0059. At the time of final design, the City’s hydrologic and hydraulic model predicted that the Wawona Project will result in hydraulic grade lines being maintained below surface elevations (i.e., manholes and other sewer openings)

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<sup>7</sup> See Water Code section 13350.

within the Wawona Area during a 5-year, 3-hour storm as described in Provision 6 of this Order.

**20.** The City is evaluating alternative designs for overflow reduction projects that will benefit the Folsom Area and the Lower Alemany Area. Potential approaches involve both sewer system capacity improvements and surface improvements, such as green infrastructure or retiring certain land uses through property acquisition. Examples of how the City might design the overflow reduction projects that will benefit the Folsom Area and the Lower Alemany Area using sewer system capacity improvements follow:

**a. Folsom Project.** The Folsom Project will benefit the Folsom Area. It could involve, for example, constructing about 3,900 linear feet of a new 12-foot diameter sewer along Alameda Street, from about Treat and 16th Streets to the Channel Transport/Storage Box near the intersection of 7th and Berry Streets, as well as rerouting or upsizing about 12,500 linear feet of upstream sewer pipes and sewer boxes.

The Folsom Project may not result in maintenance of the hydraulic grade line below surface elevations within an approximately 10,000 square foot area on Enterprise Street (the “Enterprise Street Area”) during a 5-year, 3-hour storm as described in Provision 6 of this Order. Parts of the Enterprise Street Area are up to about four feet lower than the surrounding portions of the Folsom Area, making it demonstrably more difficult to design a project to maintain the hydraulic grade line at or below the surface. The City claims that these difficulties are compounded by Enterprise Street being an unaccepted street for which adjacent property owners, not the City, are legally liable and responsible for maintaining. This Order requires the City to develop and implement a preferred option for a project that will benefit the Enterprise Street Area in accordance with Provision 9.

**b. Lower Alemany Project.** The Lower Alemany Project will benefit the Lower Alemany Area. It could involve, for example, constructing a sewer of more than 6,000 linear feet along an alignment south of I-280 and the installation of about 400 linear feet of new 120-inch diameter sewer, as well as upsizing about 1,000 linear feet of existing sewer to 60-inch diameter sewer.

The Lower Alemany Project would provide ancillary benefits to the Cayuga area (the area along Cayuga Avenue stretching from about Tingley Street to the end of Cayuga Avenue beyond Still Street, immediately south of I-280). Although hydraulic modeling indicates that sewer overflows from the combined sewer system do not occur in this area during the 5-year, 3-hour storm described in Provision 6 of this Order,<sup>8</sup> sewer overflows and related flooding have occurred. Modeling indicates that, during a 25-year, 3-hour storm,<sup>9</sup> sewer overflows may affect about 1 acre of property in the Cayuga area, and floodwaters may rise as

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<sup>8</sup> Modeling also indicates that sewer overflows from the combined sewer system do not occur in this area during a 10-year, 3-hour storm, which would entail about 1.5 inches of rain within 3 hours.

<sup>9</sup> A 25-year, 3-hour storm would entail about 1.8 inches of rain within 3 hours.

high as approximately 3 feet above surface elevations at the lowest point of this area. After the Lower Alemany Project is completed, modeling indicates that no sewer overflows would be expected in the Cayuga area during a 25-year, 3-hour storm, and wastewater in the combined sewer system would remain about 2 feet below grade at the lowest point in this area.

- 21.** The City anticipates completing all three overflow reduction projects required by this Order will cost over \$600 million.
- 22.** Pursuant to Water Code section 13304, this Order also requires the City to install water level sensing devices (e.g., smart manhole covers) within the Low-Lying Areas to continuously monitor water levels at key locations within the collection systems. The devices will allow City staff to promptly respond to possible sewer overflows from the combined sewer systems. The devices may also allow the City to evaluate the accuracy of its hydrological and hydraulic model.
- 23.** Pursuant to Water Code sections 13267, 13383, and 13304, this Order requires the City to prepare, submit, and implement a Sewer Overflow Response Plan that addresses (a) staff resources, (b) preparative measures, (c) initial sewer overflow response measures, (d) follow-up sewer overflow response measures, and (e) recordkeeping. The Sewer Overflow Response Plan is to be designed to mitigate potential water quality threats related to sewer overflows from the combined sewer systems in the Low-Lying Areas prior to the completion of the overflow reduction projects required under Provisions 4 through 8 of this Order.

### **Additional Findings**

- 24.** This Order is an enforcement action and, as such, in accordance with California Code of Regulations, title 14, section 15321, is exempt from the provisions of the California Environmental Quality Act (“CEQA”).<sup>10</sup> Actions associated with implementing this Order are not necessarily exempt from CEQA and may need to be evaluated by the appropriate lead CEQA agency.
- 25.** The Regional Water Board notified the City and interested persons of its intent to consider adoption of this Order and provided an opportunity to submit written comments and appear at a public hearing. The Regional Water Board, in a public hearing, heard and considered all comments.
- 26.** The Regional Water Board understands that the City has objections to the issuance of this Order. Nevertheless, in order to avoid legal disputes over this Order’s issuance, a Regional Water Board Prosecution Team (Prosecution Team) and the City entered a Stipulation under which the City has agreed not to challenge this Order in exchange for the release of any known claims that arise up until the effective date of this Order and from the conditions causing a threatened discharge of waste in the Low-Lying Areas as alleged in Findings 6 through 11 of this Order

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<sup>10</sup> See Public Resources Code section 21000 et seq.

and covenant not to use this Order as a precedent or basis for asserting a defense or claim of estoppel, claim preclusion, issue preclusion, or waiver in any further proceeding.

**IT IS HEREBY ORDERED**, in accordance with Water Code sections 13267, 13383, and 13304, the City shall submit technical or monitoring program reports and shall abate threats to groundwater beneficial uses, by complying with the following provisions:

### **Sewer Overflow Response Plan**

1. By February 8, 2022, the City shall prepare, submit, and commence implementing a Sewer Overflow Response Plan (“Plan”) for the Low-Lying Areas. The City shall continue implementing the Plan until the task required by Provision 11 is completed. The Plan shall address (a) staff resources, (b) preparative measures, (c) initial response measures, (d) follow-up response measures, and (e) recordkeeping as follows:
  - a. **Staff Resources.** The Plan shall specify the staff resources necessary to fully implement the Plan.
    - i. The Plan shall specify staffing levels for receiving service requests and performing initial and follow-up responses to sewer overflows from the combined sewer systems (see Provisions 1.c and 1.d) during and outside business hours.
    - ii. The Plan shall describe the training to be provided to staff receiving service requests and staff responding to sewer overflows from the combined sewer systems. The training shall cover how to implement initial response measures (see Provision 1.c) and follow-up response measures (see Provision 1.d).
  - b. **Preparative Measures.** The Plan shall specify the following preparative measures to anticipate and minimize the effects of sewer overflows from the combined sewer systems within the Low-Lying Areas: (i) public outreach, (ii) backflow prevention, (iii) grants, (iv) sandbags, and (v) water level sensing devices.
    - i. **Public Outreach.** The Plan shall specify how the City will educate the public regarding health and safety risks associated with sewer overflows from the combined sewer systems within the Low-Lying Areas and resources available for assistance. Key information shall be communicated in accordance with the City’s Language Access Ordinance.<sup>11</sup>
      - (a) At a minimum, outreach shall consist of the following:

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<sup>11</sup> See City and County of San Francisco Administrative Code section 91.1 et seq.

- Describing the health and safety risks associated with sewer overflows from the combined sewer systems;
  - Explaining how to report sewer problems and submit service requests to the City; and
  - Promoting the City’s backflow prevention, sandbag, and grant programs (see Provisions 1.b.ii, 1.b.iii, and 1.b.iv).
- (b) The City shall post at least one visible sign within each of the Low-Lying Areas describing the health and safety risks associated with sewer overflows from the combined sewer systems and providing instructions for reporting them.
- (c) The City shall alert potentially affected members of the public when, based on rainfall forecast, the City anticipates sewer overflows from the combined sewer systems may occur within the Low-Lying Areas.
- ii. Backflow Prevention.** At a minimum, the Plan shall specify the following measures to promote the use of backflow prevention devices within the Low-Lying Areas:
- (a) Informing the public when backflow prevention devices are required and providing examples of backflow prevention devices,
- (b) Encouraging backflow prevention for properties with plumbing fixtures below curbside vents or at risk of backflow,
- (c) Indicating the types of backflow prevention projects eligible for grants (see Provision 1.b.iii).
- iii. Grants.** The Plan shall describe the City’s grant program to fund projects to minimize intrusion of combined sewage and stormwater onto private property. Starting February 8, 2022, the City shall make at least \$1,500,000 in grant funding available citywide per year.
- iv. Sandbags.** The Plan shall describe the City’s program for making sandbags available to the public within the Low-Lying Areas prior to rain events when, based on rainfall forecast, the City anticipates sewer overflows from the combined sewer systems may occur.
- v. Water Level Sensing Devices.** The Plan shall describe how the City will use water level sensing devices within the Low-Lying Areas to allow City staff to promptly respond to possible sewer overflows from the combined sewer systems (e.g., program the devices to send alarms when water levels reach specific depths below manhole rims). The Plan shall specify the number and location of devices and explain the rationale for choosing each location. The City may also consider deploying devices upstream or downstream of the



Low-Lying Areas. Water level sensing devices shall be installed no later than 12 months after the effective date of this Order.

- c. Initial Response Measures.** The Plan shall describe the following initial sewer overflow response measures to minimize the immediate effects of sewer overflows from the combined sewer systems:
- i.** Assign service requests related to sewer overflows from the combined sewer systems within the Low-Lying Areas so they receive high response priority relative to other sewer work orders.
  - ii.** Promptly respond to alarms from water level sensing devices within the combined sewer systems. The Plan shall describe the actions City staff will undertake upon receiving alarms from the water level sensing devices.
  - iii.** Notify appropriate departments (e.g., Public Utilities Commission, Public Works Department, Department of Public Health, and Fire Department) about sewer overflows from the combined sewer systems within the Low-Lying Areas in accordance with specified procedures and criteria so they may respond rapidly and effectively as necessary.
  - iv.** Implement the following initial response procedures when crews arrive onsite:
    - (a)** Determine whether sewer overflows from the combined sewer systems are occurring or have occurred;
    - (b)** Identify the area affected by sewer overflows from the combined sewer systems;
    - (c)** Post temporary warning signs in accordance with the City's Language Access Ordinance at areas with standing water from sewer overflows from the combined sewer systems;
    - (d)** Estimate the start and end times for sewer overflows from the combined sewer systems; and
    - (e)** Estimate volumes of sewer overflows from the combined sewer systems.
- d. Follow-up Response Measures.** The Plan shall describe the following follow-up response measures to minimize any effects of sewer overflows from the combined sewer systems remaining after implementing the initial response measures:
- i.** Completing basic clean-ups (e.g., vacuuming, flushing, disinfecting) in public rights-of-way within 24 hours of the end of a rain event associated with a



- e. Locations of water level sensing devices installed and operated in accordance with Provision 1.b.v;
- f. Summaries of each initial response to a sewer overflow from the combined sewer systems in accordance with Provision 1.c, including departments notified, whether signs were posted, area affected, response times, and estimated volume;
- g. Description of clean-up measures implemented and when the City completed them, in accordance with Provision 1.d.i;
- h. Summaries of investigations, including corrective actions identified and completed, in accordance with Provisions 1.d.ii and 1.d.iii; and
- i. Record keeping practices in accordance with Provision 1.e.

The annual reports shall also summarize and evaluate available data on sewer overflows from the combined sewer systems (e.g., CIWQS data and data from water level sensing devices) and associated rainfall within the Low-Lying Areas to identify improvement opportunities for the Sewer Overflow Response Plan. This could include, for example, evaluating trends in the number of overflows within the Low-Lying Areas, locations where overflows are most frequent, and common overflow causes.

The City shall continue this annual reporting until the task required by Provision 11 is completed. For the partial year that occurs immediately before the report required by Provision 11 is submitted, the City shall report the information specified in this provision with the report Provision 11 requires.

### **Overflow Reduction Projects**

- 4. The City shall complete the Wawona Project (benefitting the area within the polygon shown in Attachment 1 of this Order) by constructing 6,900 linear feet of a new 36-inch to 54-inch diameter sewer along Vicente Avenue, consistent with City Contract No. WW-711, Wawona Area Stormwater Improvement and Vicente Street Water Main Replacement, submitted to the City's Public Utilities Commission on March 23, 2021, and approved by the Commission on April 13, 2021, by Resolution No. 21-0059. No later than September 30, 2024, the City shall complete construction of the Wawona Project and take the following actions: (a) notify the Regional Water Board in writing that the City completed the Wawona Project and placed the Wawona Project into service, and (b) update relevant operations and maintenance manuals to reflect completion of the Wawona Project.
- 5. The City shall complete the following overflow reduction projects within the Low-Lying Areas in accordance with Provisions 6 through 8:
  - a. Folsom Project (benefitting the area within the polygon shown in Attachment 2 of this Order), and

- b. Lower Alemany Project (benefitting the area within the polygon shown in Attachment 3 of this Order).
6. The City shall design the Folsom Project and the Lower Alemany Project such that the most up-to-date version of the City’s hydrologic and hydraulic model (the most recent version before the final design specifications for each project is adopted) predicts that hydraulic grade lines shall be maintained below surface elevations (i.e., manholes and other sewer openings) in the areas within the polygons depicted in Attachments 2 and 3 during a 5-year, 3-hour storm. For the purpose of this Order, a “5-year, 3-hour storm” is a storm consisting of 1.3 inches of rain in 3 hours, with a temporal distribution that follows the City’s 5 year intensity-duration-frequency curve as identified in Table 3 of the City’s Flood Resilience Report, dated November 2016.<sup>13</sup> The City will design the Folsom Project and Lower Alemany Project consistent with the City’s design practices, which include designing sewer system improvement projects to maintain the hydraulic grade line two or more feet below surface elevations in areas where it is economically and technically feasible to do so.
7. The City shall demonstrate progress toward completing the Folsom Project and the Lower Alemany Project by completing the following tasks by the deadlines indicated in the table below, unless such deadlines are modified pursuant to Provision 8 or Provision 13.

<b>Tasks</b>	<b>Folsom Project Deadlines</b>	<b>Lower Alemany Project Deadlines</b>
<b>a.</b> Submit engineering report with initial project plans.	June 30, 2023	December 31, 2024
<b>b.</b> Submit certified environmental documentation pursuant to CEQA.	June 30, 2024	December 31, 2026
<b>c.</b> Submit final project design that meets or exceeds the design objective in Provision 6, including but not limited to construction specifications, cost estimates, and implementation schedule.	June 30, 2025	December 31, 2027
<b>d.</b> Certify that construction of the project was completed consistent with the final project design, update operations and maintenance manuals, and confirm that project has been placed into service.	June 30, 2027	March 31, 2028

<sup>13</sup> The City’s Flood Resilience Report, dated November 2016, is available at <https://sfpuc.sharefile.com/share/view/sef7a2305a5fc4144a31deec9bd2c7d94>.

- 8.** No later than 12 months after the effective date of this Order, the City may provide written notice to the Executive Officer indicating it prefers to change its sewer system capacity improvement approach for the Folsom Project and/or the Lower Alemany Project, as identified in Findings 20.a and 20.b. The written notice shall describe an alternative approach (including a schedule for completion) and demonstrate that it achieves equivalent benefits as the design objective in Provision 6. If the alternative approach cannot be implemented in accordance with the design objective set forth in Provision 6 and the schedules set forth in Provision 7 then, within the 90 days following the written notice, the City and the Executive Officer (or his or her designee) shall meet and attempt to in good faith to reach agreement on an alternative approach (including tasks and schedule) for presentation to the Regional Water Board as an amendment to this Order. The decision to present such an amendment shall be in the sole discretion of the Executive Officer. If the Regional Water Board amends this Order to approve an alternative approach (including tasks and schedule) for the Folsom Project and/or Lower Alemany Project, the alternative schedule shall supersede the applicable schedule specified in Provision 7.
- 9.** No later than 12 months after the effective date of this Order, the City shall submit a report for the Enterprise Street Area identified in Finding 20.a that includes the following:

  - a.** Comprehensive discussion of the local sewer system, including the location of private sewer laterals for the surrounding buildings to determine if untreated wastewater could flood Enterprise Street;
  - b.** Map of the area, showing the extent and depth of the flooded area for a 5-year, 3-hour storm as described in Provision 6;
  - c.** Project options, such as rerouting sewer lines or installing backflow prevention devices, or regulatory actions that the City may take, consistent with its legal authority, to prevent or minimize sewer overflows from the combined sewer system;
  - d.** Feasibility of implementing the project options and regulatory actions identified in Provision 9.c, including cost estimates and physical limitations (e.g., siting issues, coordination issues through easements, restrictions on the use of City funds to improve private structures); and
  - e.** The City's selection of a project option or regulatory action that the City possesses legal authority to undertake and an implementation timeline that includes a completion date no later than December 31, 2026. The project option or regulatory action shall achieve the design objective in Provision 6 or effectively separate the portion of the combined sewer system that serves the Enterprise Street Area, or be equivalent to either of the foregoing options.

The City shall implement its project option or regulatory action selected under Provision 9.e in accordance with the timeline set forth in the report.

### **Water Level Sensing Devices**

**10.** No later than 12 months after the effective date of this Order, the City shall install water level sensing devices (e.g., smart manhole covers) in each Low-Lying Areas in accordance with the Plan (see Provision 1.b.v).

### **Other Provisions**

**11.** Upon completion of all tasks required under Provisions 1 through 10, and no later than June 30, 2029, the City shall submit a final report demonstrating that the City has completed all tasks required by those Provisions.

**12.** A principal executive officer or ranking elected official for the City, or a duly authorized representative<sup>14</sup> of such person, shall sign all submittals with the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

**13.** The Executive Officer may extend any deadline set forth in Provisions 1 through 11 with cause.

- a.** The City shall submit any request for a deadline extension in writing, with a justification for the extension, at least 90 days before the deadline to be extended.
- b.** If the Executive Officer agrees to extend a deadline, the Executive Officer shall do so only in writing.
- c.** The Executive Officer may extend any deadline set forth in Provisions 1 through 11 by up to three years. If the same deadline is extended more than once, all the extensions of that deadline combined shall not exceed three years.
- d.** “Cause” may include delays resulting from CEQA appeals or litigation, contracting challenges, and feasibility and other engineering challenges that may

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<sup>14</sup> The duly authorized representative shall be someone responsible for the City’s overall wastewater enterprise operations or its environmental matters, or someone of equivalent responsibility.

arise during the course of designing and constructing the overflow reduction projects required by Provisions 4 through 9 and the installation of water level sensing devices required by Provision 10.

14. The City shall electronically submit all monitoring and technical reports this Order requires using the State Water Resources Control Board's California Integrated Water Quality System ("CIWQS") Program website, available at:

[https://www.waterboards.ca.gov/water\\_issues/programs/ciwqs/](https://www.waterboards.ca.gov/water_issues/programs/ciwqs/)

The CIWQS website will provide additional information for report submittals in the event of a planned service interruption for electronic submittal.

15. If the City is delayed, interrupted, or prevented from meeting the provisions and time schedule of this Order due to a force majeure event, the City shall notify the Executive Officer in writing within ten days of the date that the City first knows of the force majeure event.<sup>15</sup> The City shall demonstrate that timely compliance with the Order or any affected deadlines will be actually and necessarily delayed and that it has taken measures to avoid or mitigate the delay by exercising all reasonable precautions and efforts, whether before or after the occurrence of the force majeure event.
16. If the City fails to comply with the provisions of this Order, it may be subject to enforcement, including, but not limited to, administrative or judicial civil liability (see Findings 16 through 17).
17. This Order shall be effective immediately upon Regional Water Board adoption.

I do hereby certify the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on November 10, 2021.

  
Digitally signed by  
Michael Montgomery  
Date: 2021.11.17  
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Water Boards

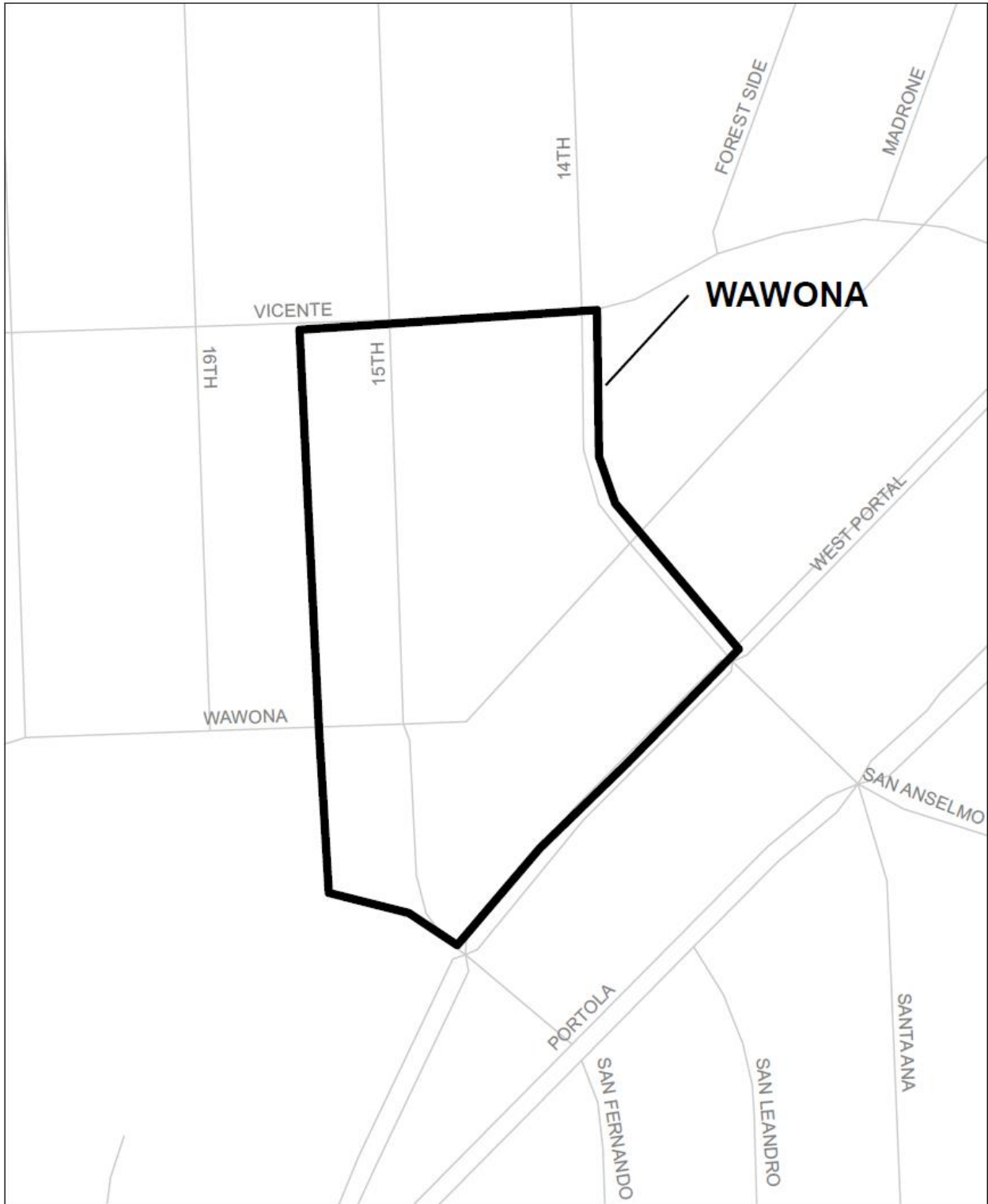
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Michael Montgomery, Executive Officer

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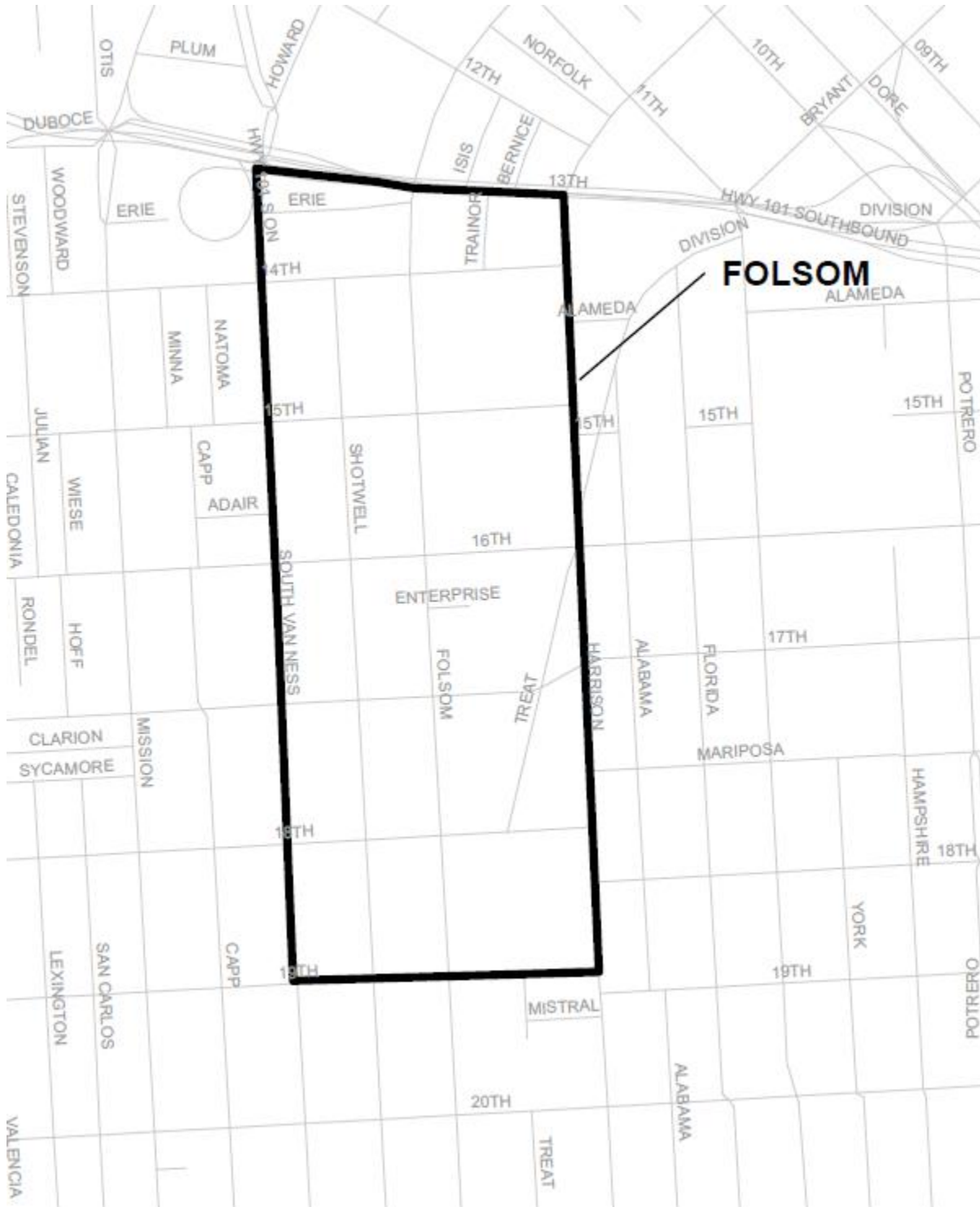
<sup>15</sup> A "force majeure event" is an event that could not have been anticipated by, and is beyond the control of, the City, such as an act of God; earthquake, flood, or other natural disaster (not including drought, which is a known condition); civil disturbance; fire or explosion; declared war within the United States; or embargo. "Force majeure" does not include delays caused by COVID-19, funding, contractor performance, equipment delivery and quality, weather (other than a disaster), permitting, other construction-related issues, or CEQA challenges.

# Attachment 1





# Attachment 2



# Attachment 3

