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 16

17 UNITED STATES OF AMERICA and PEOPLE  
 OF THE STATE OF CALIFORNIA ex rel.  
 18 CALIFORNIA STATE WATER RESOURCES  
 CONTROL BOARD and CALIFORNIA  
 19 REGIONAL WATER QUALITY CONTROL  
 BOARD, SAN FRANCISCO BAY REGION,  
 20

21 Plaintiffs,

22 SAN FRANCISCO BAYKEEPER,

23 Intervenor-Plaintiff,

24 v.

25 CITY OF ALAMEDA, et. al,

26 Defendants.

Case No. C 09-05684 RS

**STIPULATED ORDER FOR  
 PRELIMINARY RELIEF**

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1 WHEREAS:

2 1. Plaintiff United States of America (“United States”), on behalf of the United  
3 States Environmental Protection Agency (“EPA”), filed a Complaint against the Defendants City  
4 of Alameda, City of Albany, City of Berkeley, City of Emeryville, City of Oakland, City of  
5 Piedmont, and the Stege Sanitary District pursuant to Section 309 of the Clean Water Act  
6 (“CWA”), 33 U.S.C. § 1319.

7 2. The Complaint alleges that each Defendant has discharged pollutants without a  
8 permit in violation of CWA Section 301(a), 33 U.S.C. § 1311(a), and has discharged pollutants  
9 in violation of the terms and conditions of its National Pollutant Discharge Elimination System  
10 (“NPDES”) Permit. The Complaint joined the State of California to this action pursuant to  
11 Section 309(e) of the CWA, 33 U.S.C. § 1319(e).

12 3. The People of the State of California *ex rel.* California State Water Resources  
13 Control Board (“State Water Board”) and California Regional Water Quality Control Board, San  
14 Francisco Bay Region (“Regional Water Board”) (collectively “Water Boards”) is realigning as a  
15 Plaintiff and is adding state law claims to the Complaint against the Defendants City of Alameda,  
16 City of Albany, City of Berkeley, City of Emeryville, City of Oakland, City of Piedmont, and the  
17 Stege Sanitary District pursuant to Cal. Water Code Sections 13376, 13385 and 13386.

18 4. Each Defendant owns and operates a Collection System. Collectively, these  
19 Collection Systems serve a total population of approximately 650,000. Each Defendant’s  
20 Collection System delivers wastewater to a sewer interceptor system owned and operated by the  
21 East Bay Municipal Utility District (“EBMUD”). The interceptor system transports wastewater  
22 to EBMUD’s year-round main wastewater treatment plant near the eastern anchorage of the Bay  
23 Bridge (“MWWTP”). During wet weather, EBMUD at times discharges wastewater from one or  
24 more of three wet weather facilities, located at 2755 Point Isabel Street, Richmond; 225 5th  
25 Avenue, Oakland; and 5597 Oakport Street, Oakland (collectively the “WWFs”). Defendants’  
26 and EBMUD’s connected systems shall be referred to collectively as the “East Bay Sanitary  
27 Sewer System.”

28 5. In the Amended Complaint filed in this action, the United States and the Water

1 Boards allege that sanitary sewer overflows (“SSOs”) from the Collection Systems of each  
2 Defendant had occurred in violation of the terms and conditions of the NPDES permits  
3 regulating discharges from the Collection Systems, and in violation of the Clean Water Act.  
4 The United States and the Water Boards also alleged that each Defendant violated the terms and  
5 conditions of its NPDES permit regulating discharges from its Collection System by operating  
6 and maintaining its Collection System in such a manner that the Collection System causes or  
7 contributes to discharges from the WWFs.

8 6. On January 22, 2010, the Court granted the motion to intervene by San Francisco  
9 Baykeeper (“Baykeeper” or “Intervenor”), and ordered Baykeeper to file its Complaint in  
10 Intervention forthwith. Defendants filed a challenge in opposition to Baykeeper’s motion for  
11 intervention, but on August 26, 2010, Baykeeper filed a stipulation on behalf of itself and the  
12 Satellites acknowledging Baykeeper’s status as Intervenor. On August 27, 2010, the Court  
13 entered an Order granting the relief requested in the stipulation.

14 7. Defendants do not admit any liability to Plaintiffs or Intervenor for the  
15 transactions or occurrences alleged in the Complaints.

16 8. The Parties desire to avoid further litigation and to work cooperatively on issues  
17 relating to SSOs and wet weather flows.

18 9. To comply with the provisions of this Stipulated Order, Defendants are obligated  
19 to perform work. To pay for their share of the work needed to comply with a valid federal court  
20 order entered for the purpose of facilitating compliance with the Clean Water Act, each  
21 Defendant intends to rely on funds generated through levying taxes, fees and/or assessments.  
22 The work set forth in this Stipulated Order reflects the outcome of inspections conducted by EPA  
23 in March and April, 2009, of each of the Satellites’ Collection Systems. The Stipulated Order  
24 does not specifically address programs that EPA deemed to be satisfactory during those  
25 inspections, but requires the Satellites to maintain these programs. The Parties recognize that, to  
26 address issues relating to wet weather flows in the East Bay Sanitary Sewer System service area,  
27 further analysis of technical issues will be needed, and that doing so will require the active  
28 participation of EBMUD. Therefore, the Parties recognize and agree that this Stipulated Order

1 for Preliminary Relief (“Stipulated Order”) is a partial remedy for the civil claims of the United  
2 States, the Water Boards and Baykeeper for the violations alleged in the Complaints; does not  
3 resolve these civil claims and is without prejudice to the United States’, the Water Boards’  
4 and/or Baykeeper’s right to seek further relief to address these claims or any future claims,  
5 including, but not limited to, further injunctive relief and civil penalties. In addition, the  
6 Satellites reserve all defenses to any such claims, as set forth in Paragraphs 119, 122 and 124.  
7 Such further action may include, but is not necessarily limited to, additional enforcement  
8 litigation involving the Parties and, possibly, EBMUD. The Parties further recognize that, as  
9 appropriate, EBMUD will be informed of the need to cooperate with the work being  
10 implemented pursuant to this Stipulated Order and, therefore, the Parties will jointly undertake to  
11 engage in outreach to and dialogue with EBMUD with regard to work undertaken pursuant to  
12 this Stipulated Order.

13 10. The Parties recognize, and the Court by entering this Stipulated Order finds, that  
14 (1) this Stipulated Order has been negotiated by the Parties in good faith and will facilitate the  
15 ultimate resolution of the claims stated in the Complaints, and (2) this Stipulated Order is fair,  
16 reasonable, and in the public interest.

17 NOW, THEREFORE, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as  
18 follows:

19 I. JURISDICTION AND VENUE

20 11. For purposes of enforcement of this Stipulated Order only, Defendants agree that  
21 this Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331,  
22 1345, 1355, and 1367, Sections 309(b) and 505(b)(1)(B) of the CWA, 33 U.S.C. §§ 1319(b),  
23 1365(b)(1)(B), and Sections 13376, 13385 and 13386 of the California Water Code; and the  
24 Court has jurisdiction over the Parties. Venue lies in this District pursuant to Section 309(b) of  
25 the CWA, 33 U.S.C. § 1319(b), and 28 U.S.C. §§ 1391(b) and 1395(b), because this is the  
26 District in which Defendants are located. For purposes of enforcement of this Stipulated Order  
27 only, Defendants agree that the Complaints state claims upon which relief may be granted  
28 pursuant to the CWA and the California Water Code.



1 to this Stipulated Order to tailor a final remedy that, when implemented, will fully resolve the  
2 pending litigation.

#### 3 IV. DEFINITIONS

4 18. Unless otherwise defined herein, terms used in this Stipulated Order shall have  
5 the meaning given to those terms in the Clean Water Act, 33 U.S.C. §§ 1251 et seq., and the  
6 regulations promulgated there-under. Whenever terms set forth below are used in this Stipulated  
7 Order, the following definitions shall apply:

8 “Acute Defect” shall mean a failing in a sewer pipe in need of an urgent response to  
9 address an imminent risk of an SSO.

10 “Amended Complaint” shall mean the complaint filed by the United States, as amended  
11 to realign the Water Boards as a Plaintiff and to add state law claims.

12 “Basin” shall mean the major divisions of the Satellite Collection Systems established in  
13 the East Bay I&I Study prepared by EBMUD and the Satellites from 1980-1986 (“Study”), or as  
14 modified by changes in Collection System configuration due to sewer improvements constructed  
15 since completion of the Study or more accurate delineation of the boundaries established in the  
16 Study. In general, a basin represents an area of the Collection System discharging to a single  
17 point on the EBMUD interceptor system or several points in close proximity.

18 “Baykeeper” shall mean San Francisco Baykeeper.

19 “Complaints” shall mean the Amended Complaint and the Complaint in Intervention.

20 “Complaint in Intervention” means the complaint filed by Baykeeper.

21 “Complete Renovation” shall mean that all work required by the EPA approved plan  
22 addressing a pump station or force main is complete, and the Defendant has beneficial use of all  
23 the material improvements.

24 “CWA” shall mean the Clean Water Act, 33 U.S.C. §§ 1251 et seq.

25 “Day”, regardless of whether it is capitalized, shall mean a calendar day unless expressly  
26 stated to be a working day. In computing any period of time under this Stipulated Order, where  
27 the last day would fall on a Saturday, Sunday, or federal or State holiday, the period shall run  
28 until the close of business of the next working day. Wherever this Stipulated Order requires an

1 act to be performed by a specified date (e.g., by December 31, 2011 or by August 31 of each  
2 year), and the date falls on a Saturday, Sunday, or federal or State holiday, the time for  
3 performing the act shall be extended until the close of business of the next working day.

4 “Deliverable” shall mean any written report or other document required to be submitted  
5 to EPA for review and approval, in consultation with the Regional Water Board, pursuant to this  
6 Stipulated Order.

7 “East Bay Sanitary Sewer System” shall mean, collectively, the Satellites’ Collection  
8 Systems and EBMUD’s interceptor system, WWFs, MWWTP and related wastewater handling  
9 facilities.

10 “EBMUD” shall mean East Bay Municipal Utility District.

11 “EBMUD SO” shall mean the Stipulated Order entered in *United States v. East Bay*  
12 *Municipal Utility District* by the Court on July 22, 2009, requiring EBMUD to take certain  
13 actions with regard to the East Bay Sanitary Sewer System.

14 “Effective Date” is that date established in Section XXII (Effective Date).

15 “EPA” shall mean the United States Environmental Protection Agency.

16 “Inflow and Infiltration” or “I&I” shall mean the introduction of storm water and  
17 groundwater into EBMUD’s interceptor system, the Satellites’ Collection Systems and private  
18 sewer laterals via direct connections, mis-connections, cracks and other imperfections in system  
19 pipes, joints and manholes.

20 “Interceptor Connection Point” shall mean a point at which a Satellite’s Collection  
21 System is connected to EBMUD’s interceptor system.

22 “Intervenor” shall mean San Francisco Baykeeper.

23 “MWWTP” shall mean the Municipal Wastewater Treatment Plant located at 2020 Wake  
24 Avenue, Oakland, California, and permitted to operate under NPDES Permit No. CA0037702.

25 “Paragraph” shall mean a portion of this Stipulated Order identified by an Arabic  
26 numeral.

27 “Parties” shall mean the United States, the State Water Board, the Regional Water Board,  
28 Baykeeper and each of the Satellites.

1 "Plaintiffs" shall mean the United States, the State Water Board and the Regional Water  
2 Board.

3 "Regional Water Board" shall mean the California Regional Water Quality Control  
4 Board, San Francisco Bay Region.

5 "Sanitary Sewer Collection System" or "Collection System" shall mean all parts of the  
6 wastewater collection system owned or operated by a Satellite that are intended to convey  
7 domestic or industrial wastewater to EBMUD's interceptor system and wastewater treatment  
8 plants, including, without limitation, sewers, pipes, pump stations, lift stations, sewer manholes,  
9 force mains, and appurtenances to each of the above.

10 "Sanitary Sewer Overflow" or "SSO" shall mean an overflow, spill, or release of  
11 wastewater from a Satellite's Collection System, except that the term "Sanitary Sewer Overflow"  
12 does not include wastewater backups caused by a blockage or other malfunction in a lateral that  
13 is privately owned, but does include backups caused by blockages in a Collection System.

14 "Satellite" shall mean each city and district that owns or operates a Collection System  
15 from which EBMUD's interceptor system receives wastewater. As of the Effective Date, the  
16 Satellites are the cities of Alameda, Albany, Berkeley, Emeryville, Oakland, and Piedmont; and  
17 the Stege Sanitary District.

18 "Section" shall mean a portion of this Stipulated Order (unless another document is  
19 specified) identified by an uppercase Roman numeral.

20 "Sewer System Management Plans" or "SSMPs" shall mean those plans required by State  
21 Water Board Order No. 2006-003-DWQ.

22 "State" shall mean the State of California.

23 "State Water Board" shall mean the California State Water Resources Control Board.

24 "Stipulated Order" shall mean this Stipulated Order for Preliminary Relief.

25 "Sub-Basin" shall mean the subdivision of sewer basins as established in the East Bay  
26 I&I Study, or as modified by changes in Collection System configuration due to sewer  
27 improvements constructed since completion of the Study or by more accurate delineation of the  
28 boundaries established by the Study.

1 “United States” shall mean the United States of America.

2 “Water Boards” shall mean the Regional Water Board and the State Water Board.

3 “WWFs” shall mean EBMUD’s three wet weather facilities, located at 2755 Point Isabel  
4 Street, Richmond, 225 5th Avenue, Oakland, and 5597 Oakport Street, Oakland, respectively.

5 “Year” shall mean the calendar year, beginning on January 1 and ending on December  
6 31, unless otherwise specified herein.

7 V. WORK – GENERAL

8 19. The work requirements set out in Sections VI through XII below are intended to  
9 further each Defendant’s ongoing efforts to improve management of its Collection System, to  
10 address SSOs, to reduce I&I in its Collection System and to develop information, which, in  
11 conjunction with information developed by EBMUD pursuant to the EBMUD SO, will assist in  
12 the development of a final remedy for the violations alleged in the Complaints. The work  
13 requirements are set out separately for each Defendant, and each Defendant is responsible only  
14 for the work described in the Section applicable to it. Where appropriate, this Stipulated Order  
15 requires work in addition to ongoing work identified in the SSMPs. The work requirements of  
16 this Stipulated Order are intended to supplement, not supersede, the SSMPs. The Defendants  
17 may need to amend their SSMPs in order to arrive at consistent obligations under the SSMPs and  
18 this Stipulated Order that are not in conflict; provided, however, that only the requirements of  
19 this Stipulated Order are enforceable, and amendments to the SSMPs are not subject to review  
20 and approval under this Stipulated Order. In addition, each Defendant is aware of Paragraph 39  
21 of the EBMUD SO, which sets out a process by which EBMUD is developing a Collection  
22 System Asset Management Plan Template (“EBMUD Template”) to be provided to the Satellites  
23 and EPA at the last of six meetings. The Satellites reserve their rights to comment on the  
24 EBMUD Template, and to submit an alternative template to EBMUD (“Alternative Template”),  
25 EPA and the Regional Water Board, before the end of the ninety-day comment period set forth in  
26 the EBMUD SO. The Satellites will provide any Alternative Template to Baykeeper at the same  
27 time they provide it to EBMUD, EPA and the Regional Water Board.

VI. WORK - CITY OF ALAMEDA

20. Maintain Current Program. The City of Alameda shall implement the programs for controlling SSOs and reducing I&I set forth in its SSMP.

21. Implement Improvements. The City of Alameda shall implement any improvements to its current programs needed to meet the requirements set out below in this Section. To the extent that an existing program satisfies the requirements of this Section, the City of Alameda may submit a description of its program for review and approval by EPA pursuant to Section XIV.

22. Asset Management Program

A. The City of Alameda shall participate and cooperate with EBMUD in the development of the EBMUD Template in accordance with the provisions of Section V.D., Paragraph 39 of the EBMUD SO. The City of Alameda and Baykeeper reserve the right to comment on the EBMUD Template, and/or to submit an Alternative Template to EBMUD, EPA and the Regional Water Board, before the end of the ninety-day comment period set forth in the EBMUD SO. Upon completion of the EBMUD Template, following review of it and any other Alternative Template(s), EPA may provide comments for use as guidance by the City as the basis for the Asset Management Implementation Plan ("AMIP").

B. By July 15, 2012, the City shall submit to EPA for review and approval pursuant to Section XIV an AMIP that uses the EPA comments provided pursuant to subparagraph A above. The City may tailor the EPA comments, and may omit portions of the EPA comments that do not apply to the City. The AMIP shall be updated as necessary to incorporate any revisions to the initial inspection and maintenance schedules, and to ensure that repair, renovation and replacement projects continue to be adequately identified and planned beyond the initial time frames specified in subparagraph 22.B.3. At a minimum, the AMIP shall include a description of the City of Alameda's programs for:

1. **Routine inspection of the Collection System** according to a specified schedule, and that includes the following:

a) Inspection methods to be used, including direct visual

1 inspection and CCTV inspection, and whether CCTV equipment is owned, purchased, leased, or  
2 a combination;

3 b) An inspection schedule, and protocol for determining the  
4 regular time interval on which repeat inspections will be performed; and

5 c) A system for timely evaluation of inspection findings and  
6 documentation of the assessed condition.

7 2. **Collection System maintenance protocols, including the**  
8 following:

9 a) A schedule for routine cleaning of the City of Alameda's  
10 Collection System using standardized responses developed by the City to typical local problems  
11 that cause blockages such as debris, grease and roots. The City shall develop its routine cleaning  
12 schedule after evaluating the cleaning needs of the Collection System;

13 b) A list of locations where pipe blockages and SSOs have  
14 frequently occurred (hot spots), a hot spot cleaning schedule, and procedures for adjusting the  
15 hot spot cleaning schedule based on changing conditions;

16 c) Preventive measures to address blockage of sewer pipes by  
17 roots, including a description of root control methods; locations where root control methods may  
18 be used within the Collection System; and a schedule for application of root control methods;

19 d) A plan for staffing the sewer system cleaning and root  
20 control programs, indicating whether staffing duties will be carried out by agency staff, by staff  
21 from other agencies, or by private contractor(s). To the extent that any sewer cleaning or root  
22 control duties conducted under this program will be carried out by private contractor(s), the City  
23 of Alameda shall retain on file and make available for inspection for a period of three years after  
24 the completion of work a description of each contractor and a copy of each contract, or a  
25 description of the procurement process; and

26 e) A Quality Assurance and Quality Control Program  
27 ("QA/QC Program") to ensure proper sewer cleaning. The QA/QC Program shall include a plan  
28 for inspecting the cleaning quality, which specifies a minimum percentage of cleaned pipe to be



1           23.    Private Sewer Lateral Inspection and Repair or Replacement Program

2           A.     Consistent with the requirements at Section V.C., Paragraph 29 of the  
3 EBMUD SO, EBMUD adopted a Regional Private Sewer Lateral Ordinance (the “Regional  
4 Ordinance”) setting standards for the performance of sewer pipes that extend from privately-  
5 owned structures to the Satellites’ Collection Systems (“private sewer laterals”). The Regional  
6 Ordinance requires that each owner of a private sewer lateral show proof that the lateral meets  
7 the performance standards by obtaining (or already holding) a valid Compliance Certificate upon  
8 transfer of title of the structure, prior to obtaining a permit or other approval authorizing  
9 construction or significant modification of such structure at a cost in excess of \$100,000, and  
10 prior to obtaining approval from EBMUD for a change in the size of the owner’s water service.  
11 The Regional Ordinance applies only to the portion of private sewer laterals that are on the  
12 property of the owner of the privately-owned structure (the “upper lateral”). Portions of the  
13 private sewer lateral connecting the upper lateral to the sewer main on public property, including  
14 public streets, (the “lower lateral”) are not addressed by the Regional Ordinance. The City of  
15 Alameda has the option of submitting an application to EBMUD for a determination that the City  
16 has a private sewer lateral ordinance that is no less stringent than the Regional Ordinance (“No  
17 Less Stringent Application”).

18           B.     By **October 15, 2010**, the City of Alameda shall:

19                   1.     If submitting a “No Less Stringent Application” as described in  
20 (A) above and defined in Section V.C., Paragraph 31 of the EBMUD SO, provide a copy of the  
21 application to EPA at the same time it is submitted to EBMUD, and include in the application, at  
22 a minimum, the following:

23                           a)     Ordinance/Code citation and date of adoption of program,  
24 or proposed amendments to the City’s existing ordinance and a schedule for the adoption of the  
25 amendments;

26                           b)     Criteria under which a lateral is subject to inspection and  
27 repair or replacement;

28                           c)     Testing and performance requirements;

1 d) Duration of certificate issued, including differences in  
2 duration based on whether the lateral passes the test, is repaired, or undergoes replacement;

3 e) A statement that the City does include, as part of the  
4 application process for the permits and approvals described in subparagraph 23.A that it issues, a  
5 requirement that the applicant submit a valid Compliance Certificate;

6 f) A description of how the program is implemented,  
7 including the process for coordination among the following authorities: (i) the City authorities  
8 responsible for enforcing the program; (ii) the City authorities responsible for permitting  
9 activities that trigger the duty to comply with the City's private sewer lateral ordinance,  
10 including, but not limited to, City authorities responsible for building permits; and (iii) the  
11 County authorities responsible for recording transfers of title.

12 g) Program resources (funding and staffing);

13 h) A description of the record keeping system used for  
14 tracking compliance with the lateral program requirements, including, but not limited to, dates of  
15 testing, results of testing, and date and type of certificate issued; and

16 i) Process for enforcing violations of the ordinance, including  
17 a description of the authorities responsible for enforcing the program.

18 2. If not submitting a "No Less Stringent Application":

19 a) A description of how the City of Alameda will cooperate  
20 with EBMUD in the implementation of its private sewer lateral program within its service area,  
21 including a description of the responsibilities that will be assigned to each City agency or  
22 department involved in the implementation of this program;

23 b) A statement that the City will include, as part of the  
24 application process for permits and approvals described in subparagraph 23.A, a requirement that  
25 the applicant submit a valid EBMUD Compliance Certificate; and

26 c) A copy of an agreement, if any, between the City and  
27 EBMUD regarding cooperation in the implementation of the private sewer lateral program,  
28 which may include a description of the City building permit process that requires permittees to

1 submit compliance certificates before being issued certificates of occupancy.

2 C. The City of Alameda shall provide to EBMUD the information required  
3 by and at the frequency determined necessary by EPA for implementation of the Regional  
4 Ordinance program, unless a No Less Stringent Application has been approved by EPA. If the  
5 City implements a building permit process that requires permittees to submit compliance  
6 certificates before being issued certificates of occupancy, the City, to satisfy the requirements of  
7 this subparagraph, shall annually document, in spreadsheet format, the building permits issued,  
8 the certificates of occupancy issued, and whether a compliance certificate was submitted prior to  
9 issuance of the certificate of occupancy.

10 D. If the City of Alameda continues to use its current Private Sewer Lateral  
11 Ordinance, beginning in 2012, as part of its Annual Report provided for in Section XIII, the City  
12 of Alameda shall submit information to EPA describing the effectiveness of the City's lateral  
13 replacement program. This information shall include the following:

- 14 1. Number and percent of laterals replaced since program adopted;
- 15 2. Number and percent of laterals repaired since program adopted;
- 16 3. Failure rate of laterals in testing
- 17 4. Number and percent of property owners failing to comply with  
18 testing and/or replacement provisions; and
- 19 5. Description of any enforcement actions taken for non-compliance.

20 E. Lower Laterals

- 21 1. Each year from 2011 to 2020, the City of Alameda shall replace  
22 2.6 miles of sewer mains and all lower laterals associated with those sewer mains.
- 23 2. If lower laterals in a particular area are a potential source of  
24 excessive I&I, the City of Alameda shall include such considerations in its planning and  
25 scheduling for sewer main and lower lateral replacements pursuant to Paragraph 23.E.1.
- 26 3. When an event occurs that triggers inspection of an upper private  
27 sewer lateral pursuant to Alameda's private sewer lateral ordinance, the City of Alameda shall  
28 take one of the following actions with respect to the corresponding lower lateral:

1 a) In areas where the sewer main and lower laterals have been  
2 replaced since 1986 pursuant to the City of Alameda's Inflow & Infiltration Correction Program  
3 and Cyclic Sewer Replacement Program, no action need be taken solely as a result of a  
4 triggering event.

5 b) Where the property owner is in possession of a valid  
6 Compliance Certificate for the upper lateral, issued pursuant to the City's private sewer lateral  
7 ordinance, no action need be taken solely as a result of a triggering event.

8 c) In all other areas of the City of Alameda, the City of  
9 Alameda shall require that the lower lateral be inspected at the same time that the upper lateral is  
10 inspected pursuant to the City's private sewer lateral ordinance. The results of such inspections  
11 shall be used in planning and scheduling as set forth in subparagraph 23.E.2.

12 d) In addition to the elements listed in subparagraph 23.D, the  
13 City shall include the following in the Annual Report:

- 14 i) number of lower lateral inspections performed;  
15 ii) results of the inspections; and  
16 iii) whether main work is scheduled and/or has been  
17 conducted for any areas in which lower laterals have failed inspection.

18 24. Sub-Basin Flow Monitoring/I&I Assessment Plan

19 A. The City of Alameda shall cooperate with EBMUD in the development of  
20 the Regional Flow Monitoring/Data Assessment Program described in Section V.A. of the  
21 EBMUD SO, and the Flow Modeling and Limits Report described in Section V.B. of the  
22 EBMUD SO.

23 B. On **July 15, 2010**, the City of Alameda submitted, and EPA has reviewed  
24 and approved, a Sub-Basin Flow Monitoring/I&I Assessment Plan. The City shall take the  
25 actions required by the Plan, in accordance with the schedules and requirements of the Plan as  
26 approved.

1 C. By December 1, 2012, the City of Alameda shall submit a report to EPA  
2 for review and approval pursuant to Section XIV on the activities undertaken pursuant to the  
3 Sub-Basin Flow Monitoring/I&I Assessment Plan to provide the following:

4 1. Classification of Sub-Basins as high, medium, or low priority with  
5 regard to the relative quantities of significant infiltration to the Collection System;

6 2. Classification of Sub-Basins as high, medium, or low priority with  
7 regard to the relative quantities of significant inflow to the Collection System;

8 3. Identification of any bottlenecks in the Collection System which  
9 lack sufficient capacity to convey sewage flows through the Collection System and to the  
10 EBMUD interceptor during wet weather; and

11 4. A plan for using these results to identify and target high priority  
12 areas for repair and rehabilitation work.

13 25. Inflow Identification and Reduction

14 A. On **July 15, 2010**, the City of Alameda submitted, and EPA has reviewed  
15 and approved, an Inflow Identification and Reduction Plan that describes how the City will  
16 implement a program to identify and reduce sources of direct storm water inflow, including roof  
17 leaders and drains directly connected to the Collection System, leaking manhole covers, and  
18 cross connections with storm drains. The City shall take the actions required by the Plan, in  
19 accordance with the schedules and requirements of the Plan as approved.

20 B. Beginning in 2012, as part of its Annual Report provided for in Section  
21 XIII, the City of Alameda shall submit the following information as it becomes available on  
22 implementation of the Inflow Identification and Reduction Program:

23 1. Locations and results of inflow testing done the previous year  
24 including the total number of illicit connections discovered;

25 2. Description of follow-up actions that were conducted including the  
26 number of illicit connections which were disconnected;

27 3. Description of enforcement actions taken against any property  
28 owner which did not comply with disconnection requirements;

1                   4.       Description of methods used to seal manhole covers in Collection  
2 System areas prone to flooding, and list of locations at which this work was done; and

3                   5.       A schedule for locations to be tested in the next year.

4           26.    Pump Station Reliability Certification

5            A.       On **July 15, 2010**, the City of Alameda submitted, and EPA has reviewed  
6 and approved, a Pump Station Prioritization Plan that outlines the criteria to be used in  
7 identifying the highest priority pump station locations. The Plan will serve as the basis for  
8 establishing a schedule in which the pump stations will undergo upgrade and renovation.

9            B.       By July 15, 2012, the City of Alameda shall submit to EPA for review and  
10 approval pursuant to Section XIV a Pump Station Renovation Plan, including a schedule and  
11 financial plan, for completing necessary repairs, renovations, and upgrades on each pump station  
12 and force main using the criteria developed in the Pump Station Prioritization Plan. The  
13 improvements shall be designed to ensure adequate capacity for peak weather flows, and to  
14 provide an automatic alarm system with SCADA communications and backup or redundant  
15 equipment (pumps and power supply) so that pump station operations can be restored in a timely  
16 manner in the event of electrical failure, mechanical failure, or power outage. The schedule and  
17 financial plan shall be sufficient to ensure completion of all improvements to High Priority pump  
18 stations identified in the Pump Station Prioritization Plan by October 15, 2022.

19           C.       Beginning in 2013, as part of the Annual Report provided for in Section  
20 XIII, the City of Alameda shall submit information to EPA documenting pump station and force  
21 main renovations, and upgrades during the previous year, and describing projects to be  
22 completed in the next year.

23           27.    Sewer Cleaning and Root Control Program

24           A.       On **July 15, 2010**, the City of Alameda submitted, and EPA has reviewed  
25 and approved, a Sewer Cleaning and Root Control Plan that ensures regular cleaning of sewer  
26 pipes. The City shall take the actions required by the Plan, in accordance with the schedules and  
27 requirements of the Plan as approved. The Plan may be submitted in lieu of the Collection  
28 System Maintenance Protocols required by subparagraph 22.B.2 upon a determination by EPA

1 that the Plan meets or exceeds the criteria specified in the City of Alameda's Asset Management  
2 Plan required under subparagraph 22.B.2.

3 B. Beginning in 2012, as part of the Annual Report provided for in Section  
4 XIII, the City of Alameda shall submit information to EPA documenting activities conducted  
5 under its Sewer Cleaning and Root Control Program during the previous year, including miles of  
6 pipe cleaned as part of the routine and hot spot cleaning programs, and miles of pipe treated by  
7 each method used for controlling roots. The City shall include a description of the success of the  
8 Sewer Cleaning and Root Control Program at preventing blockages and SSOs as well as any  
9 changes to be made to the program to further reduce SSOs. If EPA determines that the City's  
10 Sewer Cleaning and Root Control Plan meets or exceeds the requirements of subparagraph  
11 22.B.2, the reporting obligations of this subparagraph may be incorporated into the section of the  
12 Annual Report pertaining to implementation of the AMIP provided for in subparagraph 22.C.

13 28. Annual Overflow Reports. Beginning in 2011, as part of the Annual Report  
14 provided for in Section XIII, the City of Alameda shall submit a copy to EPA of the Annual  
15 Report of Sanitary Sewer Overflows ("Annual Overflow Report") required by the Regional  
16 Water Board. To the extent that the information is not included in the Annual Overflow Report,  
17 the City shall provide a listing of the number and location(s) of repeat SSOs, a list of any SSOs  
18 in areas in which the sewer pipes have been rehabilitated, and a description of measures that will  
19 be taken to help prevent these SSOs in the future.

#### 20 VII. WORK – CITY OF ALBANY

21 29. Maintain Current Program. The City of Albany shall implement the programs for  
22 controlling SSOs and reducing I&I set forth in its SSMP.

23 30. Implement Improvements. The City of Albany shall implement any  
24 improvements to its current programs needed to meet the requirements set out below in this  
25 Section. To the extent that an existing program satisfies the requirements of this Section, the  
26 City of Albany may submit a description of its program for review and approval by EPA  
27 pursuant to Section XIV.

28 31. Asset Management Program.

1           A.     The City of Albany shall participate and cooperate with EBMUD in the  
2 development of the EBMUD Template in accordance with the provisions of Section V.D.,  
3 Paragraph 39 of the EBMUD SO. The City of Albany and Baykeeper reserve the right to  
4 comment on the EBMUD Template, and/or to submit an Alternative Template to EBMUD, EPA  
5 and the Regional Water Board, before the end of the ninety-day comment period set forth in the  
6 EBMUD SO. Upon completion of the EBMUD Template, following review of it and any other  
7 Alternative Template(s), EPA may provide comments for use as guidance by the City as the  
8 basis for the Asset Management Implementation Plan (“AMIP”).

9           B.     By July 15, 2012, the City shall submit to EPA for review and approval  
10 pursuant to Section XIV an AMIP that uses the EPA comments provided pursuant to  
11 subparagraph A above. The City may tailor the EPA comments, and may omit portions of the  
12 EPA comments that do not apply to the City. The AMIP shall be updated as necessary to  
13 incorporate any revisions to the initial inspection and maintenance schedules, and to ensure that  
14 repair, renovation and replacement projects continue to be adequately identified and planned  
15 beyond the initial time frames specified in subparagraph 28.B.3. At a minimum, the AMIP shall  
16 include a description of the City of Albany’s programs for:

17                   1.     **Routine inspection of the Collection System** according to a  
18 specified schedule, and that includes the following:

19                           a)     Inspection methods to be used, including direct visual  
20 inspection and CCTV inspection, and whether CCTV equipment is owned, purchased, leased, or  
21 a combination;

22                           b)     An inspection schedule, and protocol for determining the  
23 regular time interval on which repeat inspections will be performed; and

24                           c)     A system for timely evaluation of inspection findings and  
25 documentation of the assessed condition.

26                   2.     **Collection System maintenance protocols, including:**

27                           a)     A schedule for routine cleaning of the City of Albany’s  
28 Collection System using standardized responses developed by the City to typical local problems

1 that cause blockages such as debris, grease and roots. The City shall develop its routine cleaning  
2 schedule after evaluating the cleaning needs of the Collection System;

3 b) A list of locations where pipe blockages and SSOs have  
4 frequently occurred (hot spots), a hot spot cleaning schedule, and procedures for adjusting the  
5 hot spot cleaning schedule based on changing conditions;

6 c) Preventive measures to address blockage of sewer pipes by  
7 roots, including a description of root control methods; locations where root control methods may  
8 be used within the Collection System; and a schedule for application of root control methods;  
9 and

10 d) A plan for staffing the sewer system cleaning and root  
11 control programs, indicating whether staffing duties will be carried out by agency staff, by staff  
12 from other agencies, or by private contractor(s). To the extent that any sewer cleaning or root  
13 control duties conducted under this program will be carried out by private contractor(s), the City  
14 of Albany shall retain on file and make available for inspection for a period of three years after  
15 the completion of work a description of each contractor and a copy of each contract, or a  
16 description of the procurement process.

17 e) A Quality Assurance and Quality Control Program  
18 (“QA/QC Program”) to ensure proper sewer cleaning. The QA/QC Program shall include a plan  
19 for inspecting the cleaning quality, which specifies a minimum percentage of cleaned pipe to be  
20 inspected at regular intervals and a schedule for inspections, the procedures for conducting the  
21 inspections, the time interval for any necessary re-cleaning, and criteria for increasing and  
22 decreasing the frequency of inspection.

23 **3. Condition based repair and replacement of sewer pipe plan.**

24 This plan shall include elimination of known improper flow connections, according to a schedule  
25 informed by the inspection results, and address both short-term (repairs of Acute Defects to  
26 occur within one year of completion of inspection and assessment) and long term repair,  
27 rehabilitation and replacement of sewer pipes. The plan shall include the following:

28 a) A schedule and 10-year financial plan for repair,

1 rehabilitation, and replacement of sewer pipes. This schedule shall identify pipe reaches  
2 presently planned as priorities for rehabilitation or replacement over the next three years, with  
3 the understanding that the identified priorities are likely to be further developed and revised  
4 through the inspection and assessment process, and as a result of changed conditions. The City  
5 shall develop its schedule for repair, rehabilitation and replacement of sewer pipes using  
6 standardized responses developed by the City to observed defects, taking into account available  
7 peak flow rate data;

8 b) Measures to control the inflow and infiltration as needed to  
9 reduce flows in the Collection System and reduce the frequency of SSOs; and

10 c) The budget allocated for emergency repair and replacement  
11 of sewer pipe, the length of sewer pipe which underwent emergency repair and replacement  
12 during the previous year, and the cost thereof.

13 C. Beginning in 2013, as part of its Annual Report provided for in Section  
14 XIII, the City of Albany shall submit information to EPA summarizing the City's progress in  
15 implementing each element of the AMIP, and must include any proposed revisions to the  
16 maintenance and construction schedules along with any accompanying changes to the financial  
17 plan. If any Acute Defect has not been addressed within one year of the inspection and  
18 assessment identifying it, the City shall explain what new information or changed circumstances  
19 warrant not addressing the Acute Defect.

20 32. Private Sewer Lateral Inspection and Repair or Replacement Program

21 A. Consistent with the requirements at Section V.C., Paragraph 29 of the  
22 EBMUD SO, EBMUD adopted a Regional Private Sewer Lateral Ordinance (the "Regional  
23 Ordinance") setting standards for the performance of sewer pipes that extend from privately-  
24 owned structures to the Satellites' Collection Systems ("private sewer laterals"). The Regional  
25 Ordinance requires that each owner of a private sewer lateral show proof that the lateral meets  
26 the performance standards by obtaining (or already holding) a valid Compliance Certificate upon  
27 transfer of title of the structure, prior to obtaining a permit or other approval authorizing  
28 construction or significant modification of such structure at a cost in excess of \$100,000, and

1 prior to obtaining approval from EBMUD for a change in the size of the owner's water service.  
2 The Regional Ordinance applies only to the portion of private sewer laterals that are on the  
3 property of the owner of the privately-owned structure (the "upper lateral"). Portions of the  
4 private sewer lateral connecting the upper lateral to the sewer main on public property, including  
5 public streets, (the "lower lateral") are not addressed by the Regional Ordinance. The City of  
6 Albany has the option of submitting an application to EBMUD for a determination that the City  
7 has a private sewer lateral ordinance that is no less stringent than the Regional Ordinance ("No  
8 Less Stringent Application").

9 B. By January 31, 2011, the City of Albany shall:

10 1. If submitting a "No Less Stringent Application" as described in  
11 (A) above and defined in Section V.C., Paragraph 31 of the EBMUD SO, provide a copy of the  
12 application to EPA at the same time it is submitted to EBMUD, and include in the application, at  
13 a minimum, the following:

- 14 a) Ordinance/Code citation and date of adoption of program,  
15 or proposed amendments to the City's existing ordinance and a schedule for the adoption of the  
16 amendments;
- 17 b) Criteria under which a lateral is subject to inspection and  
18 repair or replacement;
- 19 c) Testing and performance requirements;
- 20 d) Duration of certificate issued, including differences in  
21 duration based on whether the lateral passes the test, is repaired, or undergoes replacement;
- 22 e) A statement that the City does include, as part of the  
23 application process for the permits and approvals described in subparagraph 23.A that it issues, a  
24 requirement that the applicant submit a valid Compliance Certificate;
- 25 f) A description of how the program is implemented,  
26 including the process for coordination among the following authorities: (i) the City authorities  
27 responsible for enforcing the program; (ii) the City authorities responsible for permitting  
28 activities that trigger the duty to comply with the City's private sewer lateral ordinance,

1 including, but not limited to, City authorities responsible for building permits; and (iii) the  
2 County authorities responsible for recording transfers of title.

3 g) Program resources (funding and staffing);

4 h) A description of the record keeping system used for  
5 tracking compliance with the lateral program requirements, including, but not limited to, dates of  
6 testing, results of testing, and date and type of certificate issued; and

7 Process for enforcing violations of the ordinance, including a description of the  
8 authorities responsible for enforcing the program

9 2. If not submitting a "No Less Stringent Application":

10 a) A description of how the City of Albany will cooperate  
11 with EBMUD in the implementation of its private sewer lateral program within its service area,  
12 including a description of the responsibilities that will be assigned to each City agency or  
13 department involved in the implementation of this program;

14 b) A statement that the City will include, as part of the  
15 application process for permits and approvals described in subparagraph 23.A, a requirement that  
16 the applicant submit a valid EBMUD Compliance Certificate; and

17 c) A copy of an agreement, if any, between the City and  
18 EBMUD regarding cooperation in the implementation of the private sewer lateral program,  
19 which may include a description of the City building permit process that requires permittees to  
20 submit compliance certificates before being issued certificates of occupancy.

21 C. The City of Albany shall provide to EBMUD the information required by  
22 and at the frequency determined necessary by EPA for implementation of the Regional  
23 Ordinance program, unless a No Less Stringent Application has been approved by EPA. If the  
24 City implements a building permit process that requires permittees to submit compliance  
25 certificates before being issued certificates of occupancy, the City, to satisfy the requirements of  
26 this subparagraph, shall annually document, in spreadsheet format, the building permits issued,  
27 the certificates of occupancy issued, and whether a compliance certificate was submitted prior to  
28 issuance of the certificate of occupancy.

1 D. If the City of Albany continues to use its current Private Sewer Lateral  
 2 Ordinance, beginning in 2012, as part of its Annual Report provided for in Section XIII, the City  
 3 of Albany shall submit information to EPA describing the effectiveness of the City's lateral  
 4 replacement program. This information shall include the following:

- 5 1. Number and percent of laterals replaced since program adopted;
- 6 2. Number and percent of laterals repaired since program adopted;
- 7 3. Failure rate of laterals in testing
- 8 4. Number and percent of property owners failing to comply with  
 9 testing and/or replacement provisions; and
- 10 5. Description of any enforcement actions taken for non-compliance.

11 E. Lower Laterals: The City of Albany shall continue its existing practice of,  
 12 when replacing sewer mains, evaluating the condition of lower laterals connected to those sewer  
 13 mains and replacing defective lower laterals. When the owner of a private residence is required  
 14 to repair or replace its upper lateral, the City of Albany shall continue its existing practice of  
 15 ensuring that the lower lateral is repaired or replaced, if needed, at the time the work is  
 16 performed on the upper lateral.

17 33. Sub-Basin Flow Monitoring/I&I Assessment Plan

18 A. The City of Albany shall cooperate with EBMUD in the development of  
 19 the Regional Flow Monitoring/Data Assessment Program described in Section V.A. of the  
 20 EBMUD SO, and the Flow Modeling and Limits Report described in Section V.B. of the  
 21 EBMUD SO.

22 B. On **September 30, 2010**, the City of Albany submitted, and EPA has  
 23 reviewed and approved, a Sub-Basin Flow Monitoring/I&I Assessment Plan. The City shall take  
 24 the actions required by the Plan, in accordance with the schedules and requirements of the Plan  
 25 as approved.

26 C. By December 1, 2012, the City of Albany shall submit a report to EPA for  
 27 review and approval pursuant to Section XIV on all activities undertaken pursuant to the Sub-  
 28 Basin Flow Monitoring/I&I Assessment Plan to provide the following:

1                   1.       Classification of Sub-Basins as high, medium, or low priority with  
2 regard to the relative quantities of significant infiltration to the Collection System;

3                   2.       Classification of Sub-Basins as high, medium, or low priority with  
4 regard to the relative quantities of significant inflow to the Collection System;

5                   3.       Identification of any bottlenecks in the Collection System which  
6 lack sufficient capacity to convey sewage flows through the Collection System and to the  
7 EBMUD interceptor during wet weather; and

8                   4.       A plan for using these results to identify and target high priority  
9 areas for repair and rehabilitation work.

10           34.    Inflow Identification and Reduction

11           A.    On **September 30, 2010**, the City of Albany submitted, and EPA has  
12 reviewed and approved, an Inflow Identification and Reduction Plan that describes how the City  
13 will implement a program to identify and reduce sources of direct storm water inflow, including  
14 roof leaders and drains directly connected to the Collection System, leaking manhole covers, and  
15 cross connections with storm drains. The City shall take the actions required by the Plan, in  
16 accordance with the schedules and requirements of the Plan as approved.

17           B.    Beginning in 2012, as part of the Annual Report provided for in Section  
18 XIII, the City of Albany shall submit the following information as it becomes available on  
19 implementation of the Inflow Identification and Reduction Program:

20                   1.       Locations and results of inflow testing done the previous year  
21 including the total number of illicit connections discovered;

22                   2.       Description of follow-up actions that were conducted including the  
23 number of illicit connections which were disconnected;

24                   3.       Description of enforcement actions taken against any property  
25 owner which did not comply with disconnection requirements;

26                   4.       Description of methods used to seal manhole covers in Collection  
27 System areas prone to flooding, and list of locations at which this work was done; and

28                   5.       A schedule for locations to be tested in the next year.

1           35.     Computerized Maintenance Management System (MMS). On **October 15, 2010**,  
2 the City of Albany certified to EPA that the City's MMS has been linked to a Geographic  
3 Information System (GIS) map of the Collection System, which is linked to an inventory of  
4 Collection System assets that includes available information on asset age, material, dimensions,  
5 and capacities, and locations of SSOs, along with information on inspection history, condition  
6 ratings and sewers repaired, rehabilitated, or replaced.

7           36.     Sewer Cleaning And Inspection Program

8           A.     On **July 15, 2010**, the City of Albany submitted, and EPA has reviewed  
9 and approved, a Sewer System Cleaning and Inspection Program Plan to ensure regular cleaning  
10 of sewer pipes. The City shall take the actions required by the Plan, in accordance with the  
11 schedules and requirements of the Plan as approved. This Plan may be submitted in lieu of the  
12 Routine Inspection and Collection System Maintenance Protocols required by subparagraphs  
13 31.B.1 and 31.B.2 upon a determination by EPA that the Plan meets or exceeds the criteria  
14 specified in subparagraphs 31.B.1 and 31.B.2.

15           B.     Beginning in 2011, as part of the Annual Report provided for in Section  
16 XIII, the City of Albany shall submit information to EPA documenting activities conducted  
17 under its Sewer Cleaning and Inspection Program during the previous year, including miles of  
18 pipe cleaned as part of the routine and hot spot cleaning programs, and miles of pipe treated by  
19 each method used for controlling roots. The City shall include a description of any changes to be  
20 made to the program to further reduce SSOs. If EPA approves the City's Sewer Cleaning and  
21 Inspection Program in lieu of the Routine Inspection and Collection System Maintenance  
22 Protocols required by subparagraphs 31.B.1 and 31.B.2., the reporting obligations of this  
23 subparagraph may be incorporated into the section of the Annual Report pertaining to  
24 implementation of the AMIP provided for in Paragraph 31.C.

25           37.     Annual Overflow Reports. Beginning in 2011, as part of the Annual Report  
26 provided for in Section XIII, the City of Albany shall submit a copy to EPA of the Annual  
27 Report of Sanitary Sewer Overflows ("Annual Overflow Report") required by the Regional  
28 Water Board. To the extent that the information is not included in the Annual Overflow Report,

1 the City shall provide a listing of the number and location(s) of repeat SSOs, a list of any SSOs  
2 in areas in which the sewer pipes have been rehabilitated, and a description of measures that will  
3 be taken to help prevent these SSOs in the future.

4 VIII. WORK – CITY OF BERKELEY

5 38. Maintain Current Program. The City of Berkeley shall implement the programs  
6 for controlling sewage SSOs and reducing I&I set forth in its SSMP.

7 39. Implement Improvements. The City of Berkeley shall implement any  
8 improvements to its current programs needed to meet the requirements set out below in this  
9 Section. To the extent that an existing program satisfies the requirements of this Section, the  
10 City of Berkeley may submit a description of its program for review and approval by EPA  
11 pursuant to Section XIV.

12 40. Asset Management Program

13 A. The City of Berkeley shall participate and cooperate with EBMUD in the  
14 development of the EBMUD Template in accordance with the provisions of Section V.D.,  
15 Paragraph 39 of the EBMUD SO. The City of Berkeley and Baykeeper reserve the right to  
16 comment on the EBMUD Template, and/or to submit an Alternative Template to EBMUD, EPA  
17 and the Regional Water Board, before the end of the ninety-day comment period set forth in the  
18 EBMUD SO. Upon completion of the EBMUD Template, following review of it and any other  
19 Alternative Template(s), EPA may provide comments for use as guidance by the City as the  
20 basis for the Asset Management Implementation Plan (“AMIP”).

21 B. By July 15, 2012, the City shall submit to EPA for review and approval  
22 pursuant to Section XIV an AMIP that uses the EPA comments provided pursuant to  
23 subparagraph A above. The City may tailor the EPA comments, and may omit portions of the  
24 EPA comments that do not apply to the City. The AMIP shall be updated as necessary to  
25 incorporate any revisions to the initial inspection and maintenance schedules, and to ensure that  
26 repair, renovation and replacement projects continue to be adequately identified and planned  
27 beyond the initial time frames specified in subparagraph 39.B.3. At a minimum, the AMIP shall  
28 include a description of the City of Berkeley’s programs for:

1                   1.       **Routine inspection of the Collection System** according to a  
2 specified schedule, and that includes the following:

3                   a)       Inspection methods to be used, including direct visual  
4 inspection and CCTV inspection, and whether CCTV equipment is owned, purchased, leased, or  
5 a combination;

6                   b)       An inspection schedule, and protocol for determining the  
7 regular time interval on which repeat inspections will be performed; and

8                   c)       A system for timely evaluation of inspection findings and  
9 documentation of the assessed condition.

10                  2.       **Collection System maintenance protocols, including:**

11                  a)       A schedule for routine cleaning of the City of Berkeley's  
12 Collection System using standardized responses developed by the City to typical local problems  
13 that cause blockages such as debris, grease and roots. The City shall develop its routine cleaning  
14 schedule after evaluating the cleaning needs of the Collection System;

15                  b)       A list of locations where pipe blockages and SSOs have  
16 frequently occurred (hot spots), a hot spot cleaning schedule, and procedures for adjusting the  
17 hot spot cleaning schedule based on changing conditions;

18                  c)       Preventive measures to address blockage of sewer pipes by  
19 roots, including a description of root control methods; locations where root control methods may  
20 be used within the Collection System; and a schedule for application of root control methods;

21                  d)       A plan for staffing the sewer system cleaning and root  
22 control programs, indicating whether staffing duties will be carried out by agency staff, by staff  
23 from other agencies, or by private contractor(s). To the extent that any sewer cleaning or root  
24 control duties conducted under this program will be carried out by private contractor(s), the City  
25 of Berkeley shall retain on file and make available for inspection for a period of three years after  
26 the completion of work a description of each contractor and a copy of each contract, or a  
27 description of the procurement process.

28                  e)       A Quality Assurance and Quality Control Program

1 (“QA/QC Program”) to ensure proper sewer cleaning. The QA/QC Program shall include a plan  
 2 for inspecting the cleaning quality, which specifies a minimum percentage of cleaned pipe to be  
 3 inspected at regular intervals and a schedule for inspections, the procedures for conducting the  
 4 inspections, the time interval for any necessary re-cleaning, and criteria for increasing and  
 5 decreasing the frequency of inspection.

6 **3. Condition based repair and replacement of sewer pipe plan.**

7 This plan shall include elimination of known improper flow connections, according to a schedule  
 8 informed by the inspection results, and address both short-term (repairs of Acute Defects to  
 9 occur within one year of completion of inspection and assessment) and long term repair,  
 10 rehabilitation and replacement of sewer pipes. The plan shall include the following:

11 a) A schedule and 10 year financial plan for repair,  
 12 rehabilitation, and replacement of sewer pipes. This schedule shall identify pipe reaches  
 13 presently planned as priorities for rehabilitation or replacement over the next three years, with  
 14 the understanding that the identified priorities are likely to be further developed and revised  
 15 through the inspection and assessment process, and as a result of changed conditions. The City  
 16 shall develop its schedule for repair, rehabilitation and replacement of sewer pipes using  
 17 standardized responses developed by the City to observed defects, taking into account available  
 18 peak flow rate data;

19 b) Measures to control the inflow and infiltration as needed to  
 20 reduce flows in the Collection System and reduce the frequency of SSOs; and

21 c) The budget allocated for emergency repair and replacement  
 22 of sewer pipe, the length of sewer pipe which underwent emergency repair and replacement  
 23 during the previous year, and the cost thereof.

24 C. Beginning in 2013, as part of its Annual Report provided for in Section  
 25 XIII, the City of Berkeley shall submit information to EPA summarizing the City’s progress in  
 26 implementing each element of the AMIP, and must include any proposed revisions to the  
 27 maintenance and construction schedules along with any accompanying changes to the financial  
 28 plan. If any Acute Defect has not been addressed within one year of the inspection and

1 assessment identifying it, the City shall explain what new information or changed circumstances  
2 warrant not addressing the Acute Defect.

3 41. Private Sewer Lateral Inspection and Repair or Replacement Program

4 A. Consistent with the requirements at Section V.C., Paragraph 29. of the  
5 EBMUD SO, EBMUD adopted a Regional Private Sewer Lateral Ordinance (the “Regional  
6 Ordinance”) setting standards for the performance of sewer pipes that extend from privately-  
7 owned structures to the Satellites’ Collection Systems (“private sewer laterals”). The Regional  
8 Ordinance requires that each owner of a private sewer lateral show proof that the lateral meets  
9 the performance standards by obtaining (or already holding) a valid Compliance Certificate upon  
10 transfer of title of the structure, prior to obtaining a permit or other approval authorizing  
11 construction or significant modification of such structure at a cost in excess of \$100,000, and  
12 prior to obtaining approval from EBMUD for a change in the size of the owner’s water service.  
13 The Regional Ordinance applies only to the portion of private sewer laterals that are on the  
14 property of the owner of the privately-owned structure (the “upper lateral”). Portions of the  
15 private sewer lateral connecting the upper lateral to the sewer main on public property, including  
16 public streets, (the “lower lateral”) are not addressed by the Regional Ordinance. The City of  
17 Berkeley has the option of submitting an application to EBMUD for a determination that the City  
18 has a private lateral sewer lateral ordinance that is no less stringent than the Regional Ordinance  
19 (“No Less Stringent Application”).

20 B. By **October 15, 2010**, the City of Berkeley shall:

21 1. If submitting a “No Less Stringent Application” as described in  
22 (A) above and defined in Section V.C., Paragraph 31 of the EBMUD SO, provide a copy of the  
23 application to EPA at the same time it is submitted to EMBUD, and include in the application, at  
24 a minimum, the following:

25 a) Ordinance/Code citation and date of adoption of program,  
26 or proposed amendments to the City’s existing ordinance and a schedule for the adoption of the  
27 amendments;

28 b) Criteria under which a lateral is subject to inspection and

1 repair or replacement;

2 c) Testing and performance requirements;

3 d) Duration of certificate issued, including differences in  
4 duration based on whether the lateral passes the test, is repaired, or undergoes replacement;

5 e) A statement that the City does include, as part of the  
6 application process for the permits and approvals described in subparagraph 41.A that it issues, a  
7 requirement that the applicant submit a valid Compliance Certificate;

8 f) A description of how the program is implemented including  
9 the process for coordination among the following authorities: (i) the City authorities responsible  
10 for enforcing the program; (ii) the City authorities responsible for permitting activities that  
11 trigger the duty to comply with the City's private sewer lateral ordinance, including but not  
12 limited to, City authorities responsible for building permits; and (iii) the County authorities  
13 responsible for recording transfers of title;

14 g) Program resources (funding and staffing);

15 h) A description of the record keeping system used for  
16 tracking compliance with the lateral program requirements, including but not limited to dates of  
17 testing, results of testing, and date and type of certificate issued; and

18 i) Process for enforcing violations of the ordinance, including  
19 a description of the authorities responsible for enforcing the program.

20 2. If not submitting a "No Less Stringent Application":

21 a) A description of how the City of Berkeley will cooperate  
22 with EBMUD in the implementation of its private sewer lateral program within its service area,  
23 including a description of the responsibilities that will be assigned to each City agency or  
24 department involved in the implementation of this program;

25 b) A statement that the City will include, as part of the  
26 application process for permits and approvals described in subparagraph 41.A, a requirement that  
27 the applicant submit a valid EBMUD Compliance Certificate; and

28 c) A copy of an agreement, if any, between the City and

1 EBMUD regarding cooperation in the implementation of the private sewer lateral program,  
 2 which may include a description of the City building permit process that requires permittees to  
 3 submit compliance certificates before being issued certificates of occupancy.

4 C. The City of Berkeley shall provide to EBMUD the information required  
 5 by and at the frequency determined necessary by EPA for implementation of the Regional  
 6 Ordinance program, unless a No Less Stringent application has been approved by EPA.

7 D. If the City of Berkeley continues to use its current Private Sewer Lateral  
 8 Ordinance, beginning in 2012, as part of its Annual Report provided for in Section XIII, the City  
 9 of Berkeley shall submit information to EPA describing the effectiveness of the City's lateral  
 10 replacement program. This report shall include the following information:

- 11 1. Number and percent of laterals replaced since program adopted;
- 12 2. Number and percent of laterals repaired since program adopted;
- 13 3. Failure rate of laterals in testing
- 14 4. Number and percent of property owners failing to comply with  
 15 testing and/or replacement provisions; and
- 16 5. Description of any enforcement actions taken for non-compliance.

17 E. Lower Laterals

18 1. The City of Berkeley shall, by 2020, replace all lower laterals that  
 19 have not been replaced since 1986 through its existing program of replacing lower laterals when  
 20 it repairs or replaces sewer mains.

21 2. The City of Berkeley shall amend its existing ordinance and/or  
 22 policies limiting trenching in public streets to exempt lower laterals it determines are in need of  
 23 immediate replacement.

24 3. When the City of Berkeley learns that lower laterals in an area are  
 25 potentially a source of excessive I&I, it shall include such considerations in its planning and  
 26 scheduling for sewer line and lower lateral replacements.

27 4. When an event occurs that triggers inspection of a private sewer  
 28 lateral (upper lateral) under the City's Private Sewer lateral ordinance (BMC Chapter 17.24) the