



CH2M (now Jacobs)
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San Diego, CA 92101
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September 8, 2020 (revised 4/6/21)

City of San Diego Development Services Department
Attn: Leonard Wilson
1222 First Avenue, MS 301
San Diego, CA 92101

SUBJECT: AMENDMENT NO. 1 (Revised) - Otay Mesa Central Village Lumina Development On-Site Sewer Study (Tentative Map No. 1972222 | PTS No. 555609)

Dear Mr. Wilson,

CH2M Hill Engineers, Inc. (CH2M, now part of Jacobs), in association with West Coast Civil, is pleased to submit Amendment No. 1 to the Otay Mesa Central Village Lumina On Site Sewer System Study (Study) to the City of San Diego (City) for review and approval. The Study was previously approved by the City on May 7, 2020 (see email attached) in support of the approved Lumina Tentative Map No. 1972222 (July 29, 2019).

The approved Study included the following sewer system recommendations:

- Onsite sewer system sized and manhole locations for Lumina based on the Tentative Map.
- Backbone sewer system sized for the entire Specific Plan Area which drains thru Lumina.
- A preferred major sewer interceptor option conveying all flows to Cactus Road at approximately maximum depth of 20 feet to facilitate City operations and maintenance.

Amendment No. 1 (July 21, 2020), requested by the City, was submitted as part of final design to address the following:

- Updated sewer system inverts and slopes to align with the proposed final sewer improvement design by Project Design Consultants (PDC).
- Updated sewer flow loading in the model at manholes to reflect the latest proposed site development planning for Lumina.
- Confirmation that Lumina II and Lumina III were included in the sewer system sizing.
- Submit an updated hydraulic model and system map (24" x 36 D Sheet size) confirming the re-analysis and final pipe sizes and manhole locations, in accordance with the City's Sewer Design Guide (2015), Land Development Code and Municipal Code.

Amendment No. 1 Revised

At a meeting with the City in July 2020, the City requested revisions to Amendment No. 1 Sewer Study as follows:

1. *The sewer exhibit should be size 24"x36" labeled all proposed developments.*
2. *On the sewer study exhibit, clearly show and label the proposed sewer laterals from the proposed developments to the point of connection to the existing public mains. (revised 4/6/21)*

3. *The sewer calculations table should be revised accordingly.*
4. *Include a basis of design discussion regarding the proposed sewer force main in Cactus Road and Sewer PS 23T future improvements, which will be further detailed in the Draft Otay Mesa Trunk Sewer Phasing Report to be submitted to the City in September 2020.*

In response to this request Amendment No 1 Revised includes an updated sewer exhibit with all proposed developments labeled, and sewer lateral locations shown for each lot(s). The hydraulic calculations have been revised and reflect the final sewer design improvements being prepared by PDC. Based on the analysis, there were no changes to sewer pipe diameters and all City Sewer Design Criteria continues to be satisfied.

On July 29, 2020 the Superior Court of California County of San Diego denied Davisson's Petition for Writ of Mandate and Complaint for Declaratory and Injunction Relief to require a deeper backbone sewer system. Therefore, the preferred recommended backbone sewer system remains as presented in the City Approved Sewer Study (May 7, 2020). Appendix C includes the Minute Order

Table 1 revised below provides the City updated dwelling units by lot and includes Lumina II and Lumina III. These Lumina flows by Lot were included in the updated hydraulic model, with all other tributary flows from outside of Lumina.

Table 1. Proposed Lumina Development Sewer Generation and Loading

TM Lot	Land Use	Gross Acres	Net Acres	Max Commercial Square Feet	Unit Yield	Sewer Generation (mgd)
1 & 2	Medium High Mixed Use	10.3	10.3	24,762	340	0.094
3	Medium High Mixed Use	4.17	4.17	7,975	215 (1)	0.059
4	Medium High Mixed Use	3.93	3.93	7,700	215 (1)	0.059
5	Medium High Mixed Use	2.89	2.89	5,775	105 (1)	0.029
6	Park	3.32	3.32		-	0.002
7	Medium High Mixed Use	3.29	3.29	6,050	86	0.024
8	Medium High Mixed Use	1.90	1.90	3,284	75	0.021
5	Commercial Retail	0.2	0.2	3,490	-	0.000
10	Medium High Mixed Use	4.53	4.53	3,489	150	0.041
11	Medium Density Multi	5.77	5.77		132	0.036
12*	Medium Density Multi	3.40	3.40		88	0.024
13	Medium Density Multi	4.44	4.44		118	0.033
14	Medium Density Multi	5.03	5.03		160	0.044
15/16	Institutional	3.85	3.85		-	0.002
17	Institutional	2.43	2.43		-	0.002
18	Park	3.74	3.74		-	0.002
19	Low Density Multi Family	3.10	3.10		213 (2)	0.059
20	Drainage Basin	2.29	2.29		-	0.001
21	Open Space	2.38	2.38		-	0.002
22	Drainage Basin	1.97	1.97		-	0.001
23	Open Space	2.72	2.72		-	0.002
24	Recreation Center	0.73	0.73		-	0.010
	Lumina II	4.04	4.04		130 (2)	0.036

-	Circulation	16.19	16.19		-	-
	TOTAL	96.26	96.26	62,525	2,027	0.574

- * Includes Lumina III
(1) May be combined into a single lateral at Lot 5.
(2) Combined into one lateral to Cactus Road.

Sewer Pump Station (SPS) 23T and Force Main Improvements.

The City approved 2008 Otay Mesa Trunk Sewer Phasing Plan Report (2008 OMTS Report) recommends sewer system improvements for Otay Mesa to support future growth. Since the 2008 OMTS Report, there have been significant changes in Otay Mesa that are being incorporated into a new OMTS Report Update, which is currently being prepared by the Lumina Developer. These updates include:

- Existing industrial sewer flows continue to trend lower based on building types in Otay Mesa and water conservation.
- The 1984 Otay International Center (OIC) Agreement, which reserved sewer capacity for the OIC development area, which is approximately 90% built-out, is estimated to be producing only about 0.2 mgd of the Agreement sewer flow reservation of 1.6 mgd.
- In 2014, the City adopted the Otay Mesa Community Plan Update (OMCPU) and in 2017 the Central Village Specific Plan (SPA). The latter specific plan added over 4,500 multi-family residential units in Otay Mesa, specifically within the SPS 23T Basin.
- In July 2018 the County of San Diego (County) approved a revised Tentative Map for the Sunroad Development replacing industrial land use with over 3,100 multi-family units, which drains to SPS 23T.
- The City has requested updated Phasing, Capital Cost and a fair share contribution strategy for Developers on Otay Mesa.

The approved 2008 OMTS Report recommended the following improvements in Otay Mesa (Appendix B includes the 2008 Report - Figure 5):

- Phase 1 – Upgrades at SPS 23T to meet City Reliability Criteria
 - 8,000 feet of 24-inch Redundant Force Main
 - 0.25 MG of Emergency Storage
- Phase 2 – Upgrade SPS 23T to 5 mgd Capacity
 - New Pumps
 - Electrical System Upgrades
- Phase 3 – Make Connection to the Otay Mesa Trunk Sewer (“Gap Piece”)
 - Diversion Structure
 - Dual 24-inch force main along Otay Mesa Road from Diversion Structure to proposed gravity sewer
 - 24-inch Force Main replacement from Diversion Structure to SR-905 (upstream)
 - 24-inch Gravity Main along Otay Mesa Road from proposed force main to SR 905
 - 24/30-inch gravity between existing 42" OMTS and existing 24-inch I-805 crossing (San Ysidro TS)

- New SPS 23T facility, including pumps, storage, electrical equipment, and on-site piping (8 mgd capacity)
- Phase 4 – Complete SPS Phasing
 - Add additional emergency storage 0.25 MG
 - 24-inch Force Main replacement (of existing 16-inch) from SR-905 to SPS 23T

Phase 1 was recommended by the City to improve existing system reliability, by meeting City criteria with redundant force mains and emergency storage at SPS 23T. Phase 2 was recommended to replace the old pumping units and upgrade electrical equipment and increase pump station capacity until such time a new pump station could be funded and constructed.

Although development has recently increased, slow development activity since 2008 has resulted in minimal new sewer improvements being constructed on Otay Mesa. SPS 23T continued to age and the City has to proceed with a \$1.5 million upgrade and rehabilitation of the facility to extend its useful life. The construction project, slated to be completed by the end of 2020, will significantly improve overall pump station operations and fully restore existing pump station capacity. The City has reportedly purchased a third pump, potentially increasing the capacity of the SPS 23T if installed, or serving as a spare pumping unit, if needed.

Although the City's current design standard requires a separate dry/wet well for sewer pumps stations, with pump motors and controls all located above grade, the City has also improved SPS 23T by constructing new electrical equipment above grade. The 2008 OMTS Report recommends a new SPS be constructed to meet all current design criteria. The Lumina Developer plans to develop a conceptual site plan for the new SPS to be located at the west end of Siempre Viva Road at Cactus Road. This site plan will be included in the OMTS Update Report.

In summary, once rehabilitated and operational in early 2021, the other major reliability deficiency will be emergency storage at the site, as City criteria requires two hours at peak wet weather flows. Based on an existing peak flow of 1.2 MGD, the required design criteria emergency storage is approximately 100,000 gallons. Once the \$1.5 million SPS 23T rehabilitation is completed and with the addition of emergency storage at the site, the facility should be reasonably be expected to provide another five plus years of service, while the new SPS is being designed and constructed.

The Lumina Development plans to will proceed with the following sewer system improvements as part of its fair share contributions, with development thresholds and estimated timelines as follows:

Sewer System Improvement	Lumina Threshold	Estimated Timeline
Submit Draft OMTS Report Update and continue to work with the City on fair share reimbursements and the nexus issue associated with the existing OIC Fee.	Prior to Sewer Grading Plan Approval.	October 1, 2020
Design and construct the redundant 24-inch Force Main (approximately 2,700 lineal feet) within the required Cactus Road improvements and construct the necessary interconnections to the existing force main to provide operational flexibility.	Occupancy of 100 MF unit in Lumina II.	2021-2022
Complete a pre-design report for SPS 23T address future facility components and emergency storage location.	Occupancy of 300 MF unit in Lumina I and II.	2022
Complete the design of the new SPS 23, and construct the emergency storage portion, allowing existing SPS 23T to continue to operate until the new SPS is constructed.	Occupancy of 600 MF unit in Lumina I, II, and III.	2023-2024

Appendix A includes the revised sewer system calculations, modeling results and the City requested 24" x 36" D Sheet exhibit illustrating the proposed sewer system sizing.

Appendix B includes City approval and correspondence on the sewer studies. The onsite sewer system sizes remain unchanged from the Amendment No. 1 Study submitted in July 2020.

We look forward to continuing to support the City on the sewer infrastructure plan for Otay Mesa. Please feel free to contact me at (619) 272-7283 with any questions or concerns you may have.



Mark B. Elliott, PE
Project Manager



CC:

Jason Shepard, ColRich

Kyle McCarty, West Coast Civil

Greg Shields, Project Design Consultants

Enclosures:

Figure 1 – Proposed Public Sewer System

Figure 2 – 24" x 36" Exhibit with Proposed Sewer Laterals

Appendix A – Sewer System Sizing

Appendix B – City Correspondence

Appendix C – Minute Order

LEGEND

13 TM LOT NUMBER

• MANHOLE

PROPOSED SEWER MAIN

— 18" SEWER MAIN

— 15" SEWER MAIN

— 12" SEWER MAIN

— 8" SEWER MAIN

— LATERAL

PROPOSED SEWER MAIN

- - - 24" FORCEMAIN

EXISTING SEWER MAIN

- - - 16" EX. FORCEMAIN



SCALE: 1" = 400'

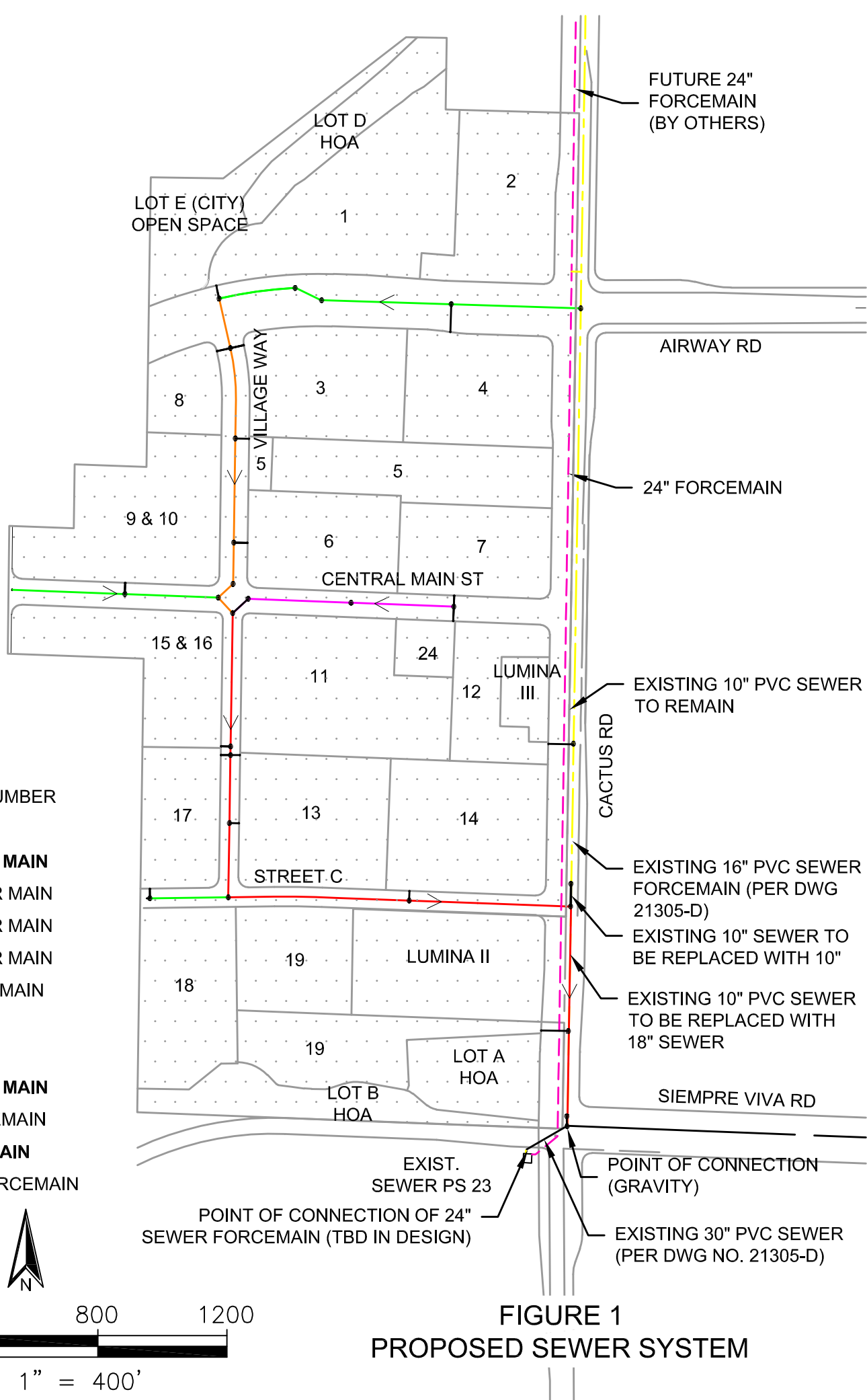
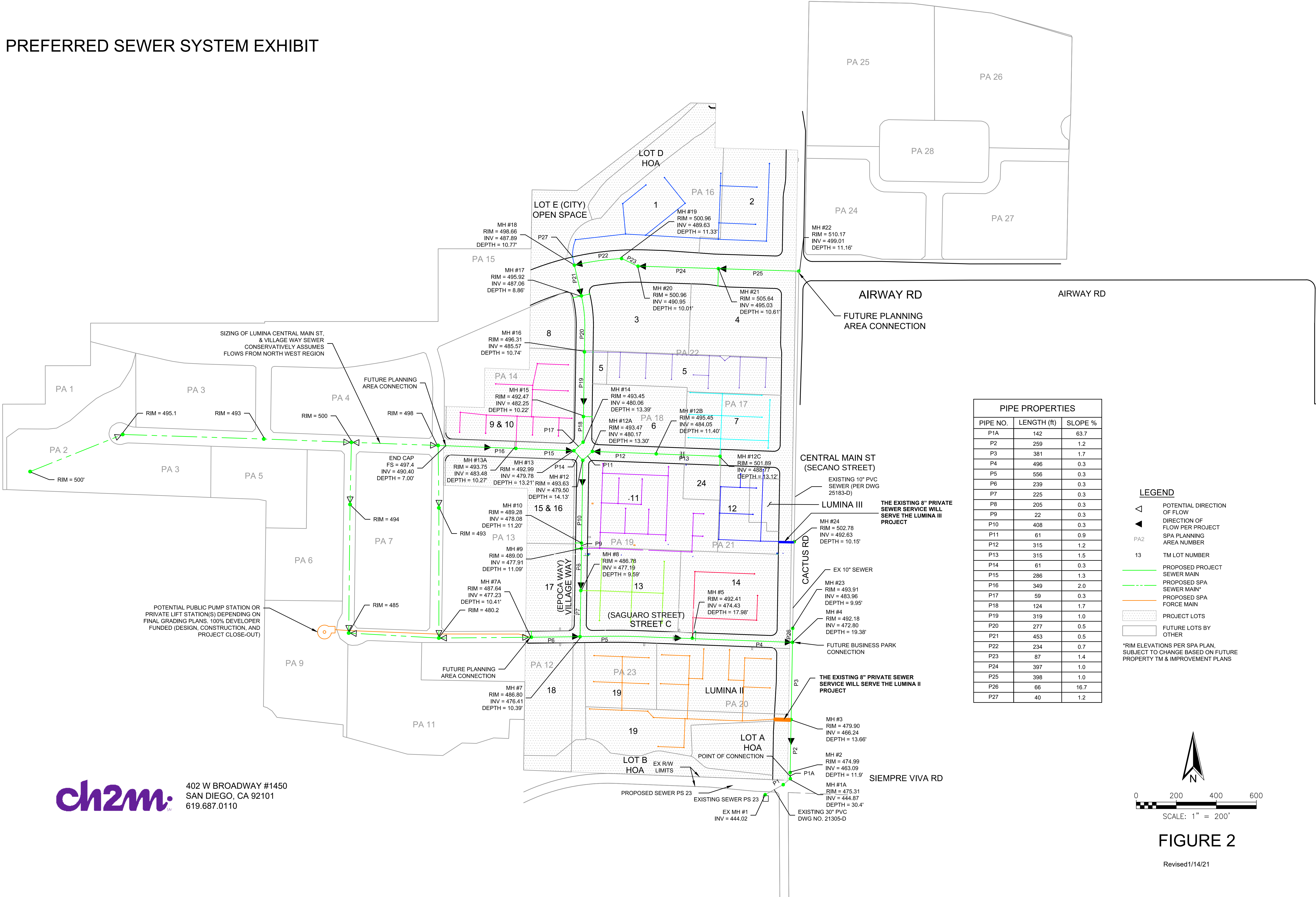


FIGURE 1
PROPOSED SEWER SYSTEM

PREFERRED SEWER SYSTEM EXHIBIT



ch2m
402 W BROADWAY #1450
SAN DIEGO, CA 92101
619.687.0110

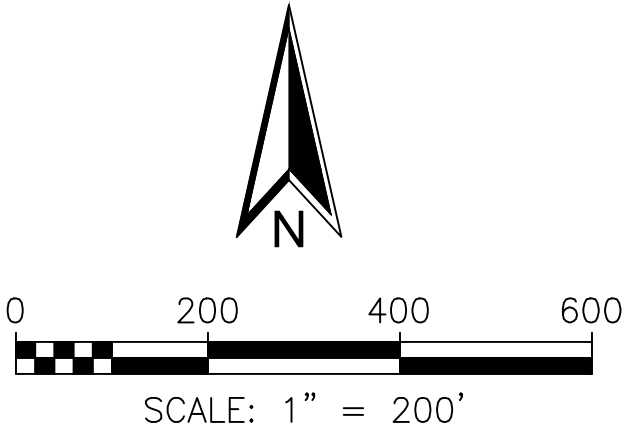


FIGURE 2

Revised1/14/21

Appendix A

Estimated Sewer Generation to Manholes

TABLE A-1 LUMINA DEVELOPMENT		
TM Lot	Avg. Flow (mgd)	Tributary MH
Lumina Development		
1 & 2	0.094	18
3	0.059	17
4	0.059	21
5	0.029	16
6	0.002	15
7	0.024	12C
8	0.021	17
9	0.000	13A
10	0.041	13A
11	0.036	9
12*	0.024	24
13	0.033	8
14	0.044	5
15/16	0.002	10
17	0.002	7A/9
18	0.002	-
19	0.059	3
20	0.001	-
21	0.002	-
22	0.001	-
23	0.002	-
24	0.000	-
Lumina II	0.036	3
Total	0.574	-

* Includes Lumina III

TABLE A-2 ANTICIPATED TRIBUTARY FLOWS		
Planning Area	Avg. Flow (mgd)	Tributary MH
Remaining SPA Areas		
1	0.043	13EC
2	0.081	13EC
3	0.032	13EC
4	0.082	13EC
5	0.000	-
6	0.038	7A
7	0.062	7A
8	0.000	-
9	0.022	7A
10	0.000	-
11	0.032	7A
13	0.011	7A
14	0.030	13EC
15	0.000	-
24	0.063	22
25	0.078	22
26	0.075	22
27	0.055	22
28	0.000	-
Subtotal	0.704	-
Business Park		
-	0.030	4
Total	0.734	-

TABLE A-3 TOTAL FLOWS TO MANHOLES	
Tributary MH	Avg. Flow (mgd)
3	0.095
4	0.030
5	0.044
6	0.000
7	0.000
7A	0.166
8	0.033
9	0.037
10	0.002
11	0.000
12	0.000
12A	0.000
12B	0.000
12C	0.024
13	0.000
13A	0.041
14	0.000
15	0.002
16	0.029
17	0.080
18	0.094
19	0.000
20	0.000
21	0.059
22	0.271
23	0.000
24	0.024
13EC	0.267
Total	1.300

TABLE A-4

PUBLIC SEWER LINE SIZING (TENTATIVE MAP)

Line No.	From MH	To MH	Avg flow (mgd)		Length (feet)	Peak Design Flow		Line Size (inches)	Design Slope (%)	dn (feet)	dn/D	Velocity (fps)	Comments
			In-Line	Total		(mgd)	(cfs)						
P27	-	18	0.09	0.09	40	0.25	0.39	8	1.20	0.25	0.37	3.30	
P25	22	21	0.27	0.27	398	0.63	0.98	12	1.00	0.36	0.36	3.87	
P24	21	20	0.06	0.33	397	0.75	1.16	12	1.00	0.39	0.39	4.05	
P23	20	19	0.00	0.33	87	0.75	1.16	12	1.41	0.36	0.36	4.59	
P22	19	18	0.00	0.33	234	0.75	1.16	12	0.70	0.43	0.43	3.56	
P21	18	17	0.00	0.42	153	0.93	1.44	15	0.47	0.49	0.39	3.22	
P20	17	16	0.08	0.50	277	1.08	1.67	15	0.50	0.52	0.42	3.43	
P19	16	15	0.03	0.53	319	1.13	1.75	15	1.00	0.45	0.36	4.48	
P18	15	14	0.00	0.54	124	1.14	1.76	15	1.66	0.39	0.31	5.38	
P17	14	13	0.00	0.54	59	1.14	1.76	15	0.30	0.62	0.50	2.88	
P16	13EC	13A	0.27	0.27	349	0.62	0.96	12	1.97	0.30	0.30	4.92	
P15	13A	13	0.04	0.31	286	0.70	1.09	12	1.25	0.36	0.36	4.32	
P14	13	12	0.00	0.84	61	1.68	2.61	15	0.30	0.80	0.64	3.15	
P13	12C	12B	0.02	0.02	315	0.08	0.12	8	1.50	0.13	0.19	2.54	
P12	12B	12A	0.00	0.02	315	0.08	0.12	8	1.20	0.14	0.20	2.35	
P11	12A	12	0.00	0.02	61	0.08	0.12	18	0.93	0.11	0.08	1.93	
P10	12	10	0.00	0.87	408	1.73	2.67	18	0.32	0.70	0.47	3.27	
P9	10	9	0.00	0.87	22	1.73	2.68	18	0.32	0.71	0.47	3.27	
P8	9	8	0.04	0.91	205	1.79	2.78	18	0.30	0.73	0.49	3.23	
P7	8	7	0.03	0.94	225	1.85	2.86	18	0.30	0.75	0.50	3.25	
P6	7A	7	0.17	0.17	239	0.41	0.64	12	0.30	0.39	0.39	2.22	Future Planning Area POC
P5	7	5	0.00	1.11	556	2.13	3.29	18	0.34	0.78	0.52	3.53	
P4	5	4	0.04	1.15	496	2.20	3.41	18	0.31	0.82	0.55	3.44	
P26	24	4	0.02	0.02	40	0.08	0.12	10	16.68	0.07	0.08	5.77	
P3	4	3	0.03	1.20	381	2.29	3.55	18	1.70	0.52	0.35	6.51	Business Park Connection
P2	3	2	0.09	1.30	259	2.45	3.79	18	1.17	0.60	0.40	5.78	
P1A	2	1A	0.00	1.30	28	2.44	3.78	18	63.74	0.22	0.14	23.97	
P1	1A	1	0.00	1.30	142	2.45	3.79	30	13.44	0.27	0.11	13.00	

Table A-5 Manhole Properties

MH#	Rim Elevation	Invert Elevation	Depth of Cover
MH1A	475.31	444.87	30.44
MH2	474.99	463.09	11.90
MH3	479.90	466.24	13.66
MH4	492.18	472.80	19.38
MH5	492.41	474.43	17.98
MH7	486.80	476.41	10.39
MH7A	487.64	477.23	10.41
MH8	486.78	477.19	9.59
MH9	489.00	477.91	11.09
MH10	489.28	478.08	11.20
MH12	493.63	479.50	14.13
MH12A	493.47	480.17	13.30
MH12B	495.45	484.05	11.40
MH12C	501.89	488.77	13.12
MH13	492.99	479.78	13.21
MH13A	493.75	483.48	10.27
MH14	493.45	480.06	13.39
MH15	492.47	482.25	10.22
MH16	496.31	485.57	10.74
MH17	495.92	487.06	8.86
MH18	498.66	487.89	10.77
MH19	500.96	489.63	11.33
MH20	500.96	490.95	10.01
MH21	505.64	495.03	10.61
MH22	510.17	499.01	11.16
MH23	493.91	483.96	9.95

Appendix B

Elliott, Mark/SDO

From: Itkin, Irina <Itkin@sandiego.gov>
Sent: Monday, August 10, 2020 5:34 PM
To: Elliott, Mark/SDO
Cc: Wilson, Leonard
Subject: [EXTERNAL] RE: Lumina Sewer Study-Amendment No. 1 (Final)

Mark,

We have completed our review of sewer study for Amendment No. 1 Otay Mesa Village Lumina Development Sewer study, dated July 21, 2020. The Water and Sewer Development Review Section has the following comments.

Revise the provided sewer exhibit to comply with the discussion on the meeting Wednesday July 1, 2020:

1. The sewer exhibit should be size 24"x36" labeled all proposed developments.
2. On the sewer study exhibit, clearly show and label the proposed sewer laterals from the proposed developments to the point of connection to the existing public mains.
3. The sewer calculations table should be revised accordingly.

Please address the above items and provide two bound copies and PDF of the revised sewer study stamped and signed by a California registered Civil Engineer.

Thank you,

Irina Itkin
Associate Engineer-Civil
Water and Sewer Development Review
Development Services
1222 First Avenue, MS 401
San Diego CA 92101
(619) 446-5422

From: Elliott, Mark/SDO <Mark.Elliott1@jacobs.com>
Sent: Tuesday, July 21, 2020 2:30 PM
To: Wilson, Leonard <LLWilson@sandiego.gov>; Itkin, Irina <Itkin@sandiego.gov>; Jason Shepard <jshepard@colrich.com>; Elliott, Mark/SDO <Mark.Elliott1@jacobs.com>
Cc: greg@projectdesign.com; 'Raul Rodriguez' <raulr@projectdesign.com>; dmitchell@damrce.com; Kyle McCarty <Kyle@westcoastcivil.com>; Austin Frisby <Austinf@westcoastcivil.com>
Subject: Lumina Sewer Study-Amendment No. 1 (Final)

****This email came from an external source. Be cautious about clicking on any links in this email or opening attachments.****

Leonard/Irina—

As requested by the City, Jacobs (legacy CH2M) has updated the previously approved sewer study for the Lumina Project and is pleased to submit a final report for your review and approval. The revised sewer study incorporates the latest design information from Project Design Consultants as it related to pipe slopes, inverts and lateral connections. The amendment builds on the approved study which was performed at the Tentative Map level and further incorporates Lumina II and Lumina III. And since there are no major changes, except for lateral locations, we request that the Development Services continue to review the grading and sewer improvement plans, while the sewer study is being reviewed.

We are submitting a pdf version and can provide a hard copy in the coming days, including the D Sheet exhibit requested.

Please feel free to call me with any questions.

Thanks,

Mark B. Elliott, PE | Jacobs (legacy CH2M)
Client Manager | 619.272.7283 | 715.347.4635 cell
mark.elliott1@jacobs.com | www.jacobs.com

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Remaining Cycle Issues



8/18/20 3:13 pm

THE CITY OF SAN DIEGO
Development Services Department
1222 1st Avenue, San Diego, CA 92101-4154

L64A-003A-2

Page 1 of 1

Project Information

Project Nbr: **661308** Title: Epoca-Cactus Rd PI
Project Mgr: *System Managed, Project (619) 446-5000 DSDProjectInfo@sanidiego.gr



Review Information

Cycle Type: 11 PUD-Water & Sewer (Submit) **Submitted:** 07/28/2020 Deemed Complete on 07/28/2020
Reviewing Discipline: PUD-Water & Sewer Dev **Cycle Distributed:** 07/28/2020
Reviewer: Tadesse, Endalk **Assigned:** 07/28/2020
(619) 446-5479 **Started:** 08/18/2020
ETadesse@sanidiego.gov **Review Due:** 08/18/2020
Hours of Review: 2.00 **Completed:** 08/18/2020 **COMPLETED ON TIME**
Next Review Method: PUD-Water & Sewer (Submit) **Closed:** 08/18/2020

- The reviewer has indicated they want to review this project again. Reason chosen by the reviewer: Partial Response to Cmnts/Regs.
- We request a 3rd complete submittal for PUD-Water & Sewer Dev on this project as: PUD-Water & Sewer (Submit).
- The reviewer has requested more documents be submitted.
- Your project still has 6 outstanding review issues with PUD-Water & Sewer Dev (3 of which are new issues).
- The reviewer has not signed off 1 job.
- Last month PUD-Water & Sewer Dev performed 188 reviews, 93.6% were on-time, and 64.1% were on projects at less than < 3 complete submittals.

1st Review

Improvement Plans

Cleared?	Issue Num	Issue Text
☐	2	Sheet 1: All sewer improvements seem to be proposed on separate plans/permit. If so, please delete the proposed Sewer Main, Manhole, and Force Main from the Legend. (From Cycle 3)

Information

Cleared?	Issue Num	Issue Text
☐	5	To facilitate rechecking, provide an itemized written response to the issues noted in this plan review sheet. The written response shall clearly, concisely and comprehensively address the issues raised.

NOTE: Specify on what page/sheet each issue was addressed. Additional comments may follow once all review comments are addressed and resubmitted for review.
(From Cycle 3)

☐	6	Please address all comments and resubmit the revised plans and the required documents to Area 3, on the 3rd floor of the Development Services Department for recheck. If you have any questions, please contact me at 619-446-5102 or by email at DLI@sanidiego.gov. (From Cycle 3)
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2nd Review

Cleared?	Issue Num	Issue Text
☐	7	Per PTS-658080 review comments PTS-661308 suppose to be combined in one plan set (Grading and Improvement) plan set, and please clarify if you are combining Grading and Improvemnt. (New Issue)
☐	8	The sewer study for the project has NOT been approved yet and please resubmit the plans after the study approved. (New Issue)
☐	9	If you want to separate the Grading and Improvement plans , please put all proposed improvement on the improvement plan. (New Issue)



Submittal Requirements



THE CITY OF SAN DIEGO
Development Services Department
1222 1st Avenue, San Diego, CA 92101-4154

8/18/20 2:39 pm

Page 1 of 1

L64A-001

Project Information

Project Nbr: **661308** Title: Epoca-Cactus Rd PI
Project Mgr: *System Managed, Project (619)446-5000 DSDProjectInfo@san-diego.gov



Review Cycle Information

Review Cycle: 20 PUD-Water & Sewer (Submit)

Opened: 08/18/2020 2:38 pm

Submitted:

Due:

Closed:

Required Documents:

<u>Package Type</u>	<u>Pkg Qty</u>	<u>Document Type</u>	<u>Qty Needed</u>
Applicant Response to Ministerial Issues	1	Applicant Response to Ministerial Issues	1
Public Improvement Plan	1	Public Improvement Plans (2.00 copies/pkg)	2
Public Improvement Plans (Redline)	1	Public Improvement Plans (Redline)	1



Otay Mesa
Trunk Sewer
Refinement
Analysis

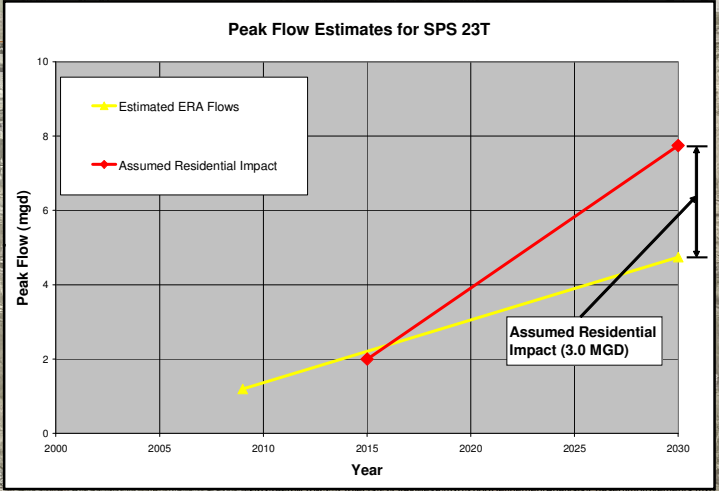
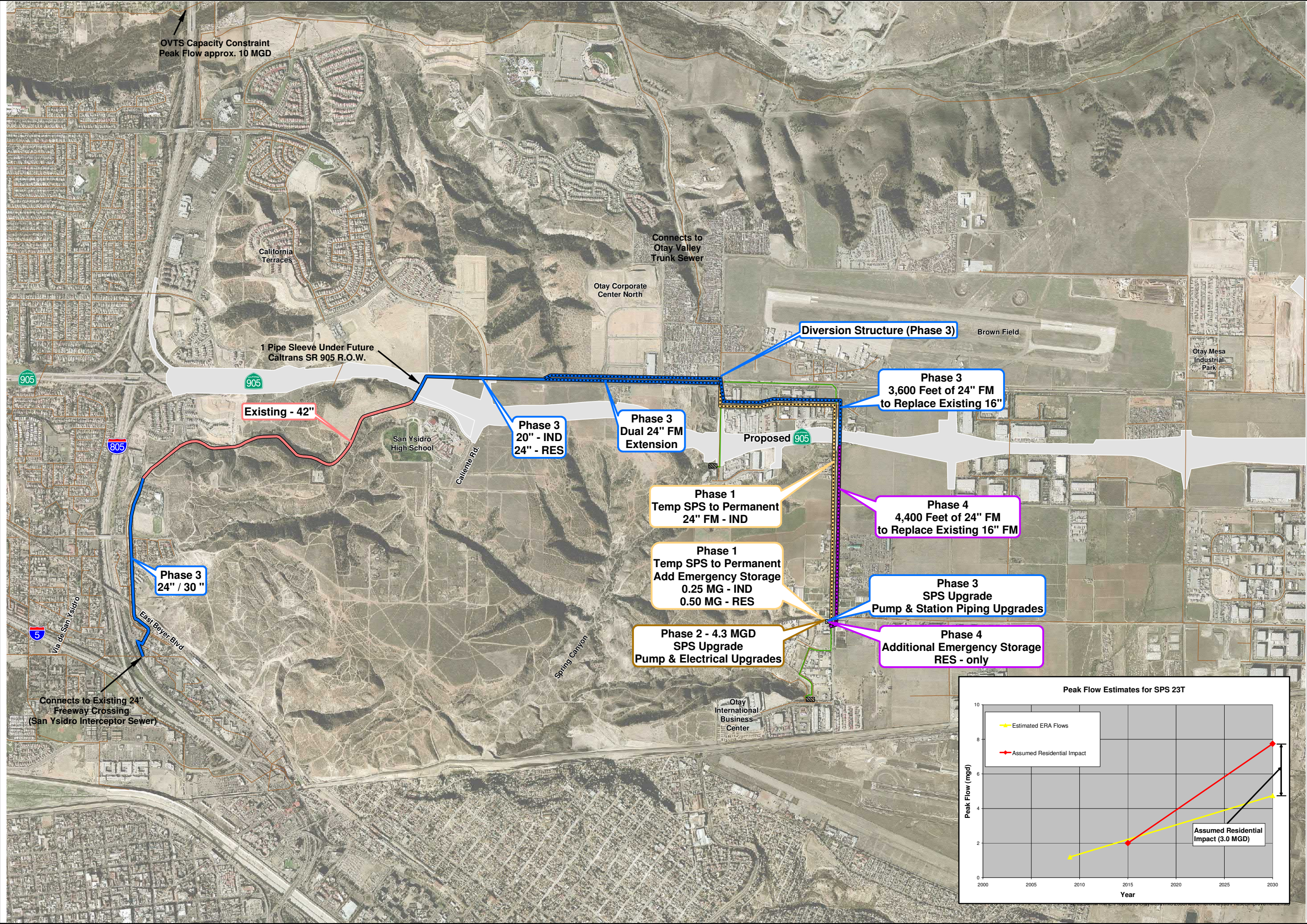
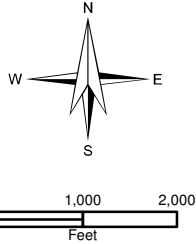
Phased
System
Improvements

Figure 5

- Existing
- Phase 1
- Phase 2
- Phase 3A
- Phase 3B
- Phase 4 (RES)
- Pumped
- Gravity
- Existing Sewer Mains
 - Gravity
 - Force Main
- Pump Station
- SR 905

Revised
5/22/2009

NOTE 1: FM = Force Main



Appendix C

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL

MINUTE ORDER

DATE: 07/29/2020

TIME: 10:28:00 AM

DEPT: C-68

JUDICIAL OFFICER PRESIDING: Richard S. Whitney

CLERK: Richard Cersosimo

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT:

CASE NO: **37-2019-00046002-CU-TT-CTL** CASE INIT.DATE: 08/30/2019

CASE TITLE: **PETITION OF DAVISSON ENTERPRISES INC [E-FILE]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Toxic Tort/Environmental

APPEARANCES

The Court, having taken the above-entitled matter under submission on 07/24/2020 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

Petitioner's Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief is DENIED.

Background

Petitioner Davisson Enterprises, Inc. ("Petitioner") challenges the City of San Diego and City Council of the City of San Diego's ("City") approval of the Otay Mesa Central Village Lumina Project No. 555609 ("Project") proposed by Real Party in Interest CR Otay Canyon Ranch Associates, LLC ("CR Otay"). Petitioner asserts the approval violated the California Environmental Quality Act ("CEQA") and the State Planning and Zoning Law by being inconsistent with the City's Central Village Specific Plan ("CVSP"), Community Plan, and Climate Action Plan ("CAP").

Within the City of San Diego General Plan ("General Plan") is the Otay Mesa Community Plan ("OMCP"), which provides community-scale policy recommendations for specific geographic areas of the City. (Administrative Record ["AR"] 101.005.) In March 2014, the City adopted an update to the Otay Mesa Community Plan ("OMCPU") and at the same time approved the Final Environmental Impact Report ("2014 FEIR") for the City of San Diego General Plan Amendment. (AR 101.005.) The 2014 FEIR made findings regarding biological resources (AR 3406), energy conservation (AR 3596), and greenhouse gas emissions ("GHG") (AR 3798). The 2014 FEIR sets forth the expansion of the Otay Mesa Trunk Sewer ("OMTS") system, designed to accommodate growth in the OMCPU area by providing wastewater and sewer service. (AR 3729.)

In 2017, the City adopted the CVSP for a mixed-use village to be located in the central portion of the Otay Mesa community, as well as an addendum to the 2014 FEIR ("CVSP Addendum"). (AR 8126; 8129; 8734.) CR Otay is the majority landowner in the CVSP area. (AR 19847.) Petitioner argued to the City and CR Otay that both the OMCPU and the CVSP required a gravity sewer main to serve all

properties in the CVSP area, that the CAP GHG emissions standards would preclude any sewer installation that was not gravity flow, and that any deviation from the gravity sewer requirement would require a full analysis under CEQA. (AR 2990; 16759-16771; 16780-16786; 17025-17031.)

In its final Project ("Project" or "Lumina Project") submittal, CR Otay modified its sewer plan and proposed the installation of a smaller 20-foot sewer main, which Petitioner asserts necessitates that future developments in the CVSP area construct private sewer pump stations. (AR 2943; 2985; 8054; 18977.) Notwithstanding Petitioner's assertions, on July 29, 2019, the City approved the Project, granting a Neighborhood Development Permit, adopting a Tentative Map, and approving an addendum to the 2014 FEIR ("FEIR Addendum"). (AR 6; 24; 47.) Both the Planning Commission and City Council determined the 31-foot deep gravity sewer option to be infeasible due to maintenance difficulties, construction and operational cost, health and safety issues associated with installation, maintenance and repairs, and lack of property owners' grading and sewer studies. (AR 8051; 8079; 8083; 8098; 8101-06.) Petitioner asserts the FEIR Addendum was inadequate, that a supplemental EIR ("SEIR") was required given the sewer plan change, and that the City's determinations were inconsistent with the CVSP, Community Plan, and CAP.

Standard of Review

The parties agree CEQA applies in this case.

Under CEQA, courts review quasi-legislative agency decisions for an abuse of discretion. (§ 21168.5.) At both the trial and appellate level, the court examines the administrative record anew. (*Vineyard*, *supra*, 40 Cal.4th at p. 427, 53 Cal.Rptr.3d 821, 150 P.3d 709.)

An "agency may abuse its discretion under CEQA either by failing to proceed in the manner CEQA provides or by reaching factual conclusions unsupported by substantial evidence." (*Vineyard*, *supra*, 40 Cal.4th at p. 435, 53 Cal.Rptr.3d 821, 150 P.3d 709, citing § 21168.5.) "Judicial review of these two types of error differs significantly" however. (*Vineyard*, at p. 435, 53 Cal.Rptr.3d 821, 150 P.3d 709.) For that reason, "a reviewing court must adjust its scrutiny to the nature of the alleged defect, depending on whether the claim is predominantly one of improper procedure or a dispute over the facts." (*Ibid.*)

1. Procedural Claims

Courts must "scrupulously enforce all legislatively mandated CEQA requirements." (*Goleta II*, *supra*, 52 Cal.3d at p. 564, 276 Cal.Rptr. 410, 801 P.2d 1161.) To do so, "we determine de novo whether the agency has employed the correct procedures" in taking the challenged action. (*Vineyard*, *supra*, 40 Cal.4th at p. 435, 53 Cal.Rptr.3d 821, 150 P.3d 709.)

2. Substantive Claims

Compared with review for procedural error, "we accord greater deference to the agency's substantive factual conclusions." (*Vineyard*, *supra*, 40 Cal.4th at p. 435, 53 Cal.Rptr.3d 821, 150 P.3d 709.) We apply "the highly deferential substantial evidence standard of review in Public Resources Code section 21168.5" to such determinations. (*Western States*, *supra*, 9 Cal.4th at p. 572, 38 Cal.Rptr.2d 139, 888 P.2d 1268.) "The agency is the finder of fact and we must indulge all reasonable inferences from the evidence that would support the agency's determinations and resolve all conflicts in the evidence in favor of the agency's decision." (*Save Our Peninsula*, *supra*, 87 Cal.App.4th at p. 117, 104 Cal.Rptr.2d 326.) That deferential review standard flows from the fact that "the agency has the discretion to resolve

factual issues and to make policy decisions." (*Id.* at p. 120, 104 Cal.Rptr.2d 326.)

The CEQA Guidelines define substantial evidence as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached." (Guidelines, § 15384, subd. (a).)

(*California Native Plant Soc. v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 984-85.)

To sum up, the omission of required information constitutes a failure to proceed in the manner required by law where it precludes informed decision-making by the agency or informed participation by the public. (*Sierra Club v. State Bd. of Forestry, supra*, 7 Cal.4th at p. 1236, 32 Cal.Rptr.2d 19, 876 P.2d 505.) We review such procedural violations de novo. (*Vineyard, supra*, 40 Cal.4th at p. 435, 53 Cal.Rptr.3d 821, 150 P.3d 709.) By contrast, we review an agency's substantive factual or policy determinations for substantial evidence. (*Ibid.*; see also, e.g., *Goleta II, supra*, 52 Cal.3d at pp. 566–567, 276 Cal.Rptr. 410, 801 P.2d 1161 [substantial evidence supported agency's conclusion that none of the proffered alternative sites "merited extended discussion in the EIR"].)

(*California Native Plant Soc., supra*, 177 Cal.App.4th at 987.)

"[T]he adequacy of an EIR's discussion of environmental impacts is an issue distinct from the extent to which the agency is correct in its determination whether the impacts are significant." (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 514.)

[T]here are instances where the agency's discussion of significant project impacts may implicate a factual question that makes substantial evidence review appropriate. For example, a decision to use a particular methodology and reject another is amenable to substantial evidence review.... But whether a description of an environmental impact is insufficient because it lacks analysis or omits the magnitude of the impact is not a substantial evidence question.

(*Id.*) If it is not a factual question, but a procedural one, the issue is reviewed de novo. (*Id.* at 512.) Where there are mixed questions of fact and law de novo review is appropriate, "but to the extent factual questions predominate, a more deferential standard is warranted." (*Id.* at 516.) "When a lead agency is considering whether to prepare an SEIR, it is specifically authorized to limit its consideration of the later project to effects not considered in connection with the earlier project. (Guidelines, § 15162, subd. (a)(1).)" (*Temecula Band of Luiseno Mission Indians v. Rancho California Water Dist.* (1996) 43 Cal.App.4th 425, 437.)

[A] subsequent or supplemental EIR is prepared under section 21166 only where it is necessary to explore the environmental ramifications of a substantial change not considered in the original EIR. (Cal.Admin.Code, tit. 14, § 15162, subds. (a)(1) & (2); *Long Beach Sav. & Loan Assn. v. Long Beach Redevelopment Agency* (1986) 188 Cal.App.3d 249, 265, 232 Cal.Rptr. 772.) As was said in *Bowman v. City of Petaluma* (1986) 185 Cal.App.3d 1065 at pp. 1073–1074, 230 Cal.Rptr. 413, "[S]ection 21166 comes into play precisely because in-depth review has already occurred, the time for challenging the sufficiency of the original EIR has long since expired (§ 21167, subd. (c)), and the question is whether circumstances have changed enough to justify repeating a substantial portion of the process. Thus, while section 21151 is intended to create a 'low threshold requirement for preparation of an EIR' [citation], [section 21166] indicates a quite different intent, namely, to restrict the powers of agencies 'by prohibiting [them] from requiring a subsequent or supplemental environmental impact report' unless the stated conditions are met. [Citation.]" (Original italics.)

In deciding whether a public agency properly determined a subsequent or supplemental EIR was unnecessary, the standard of review is "whether the record as a whole contains substantial evidence to support a determination that the changes in the project [or its circumstances] were not so 'substantial' as

to require 'major' modifications to the EIR." (Fn. omitted.) (*Bowman v. City of Petaluma*, *supra*, 185 Cal.App.3d at p. 1075, 230 Cal.Rptr. 413; § 21168.)

(*Fund for Environmental Defense v. County of Orange* (1988) 204 Cal.App.3d 1538, 1544.)

The conditions under Code of Regulations ("Guideline") section 15162 which require a SEIR include when one or more of the following apply:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted....

(Cal. Code Regs., tit. 14, § 15162(a).)

Petitioner bears the burden to show the presumption of correctness of the agency's determinations is overcome. (*State Water Res. Control Bd. Cases* (2006) 136 Cal.App.4th 674, 723.) Where an agency has already prepared an EIR, the deferential substantial evidence standard applies to its decision not to prepare a supplemental or subsequent EIR. (*Latinos Unidos de Napa v. City of Napa* (2013) 221 Cal.App.4th 192, 204.) To meet its burden, Petitioner "must set forth in its brief all the material evidence on the point, not merely its own evidence. (Ibid.) A failure to do so is deemed a concession that the evidence supports the findings." (*Citizens for a Megaplex-Free Alameda v. City of Alameda* (2007) 149 Cal.App.4th 91, 112–113.)

As to consistency with the City's CVSP, Community Plan, and CAP, the Court applies the abuse of discretion test pursuant to Code of Civil Procedure ("CCP") section 1094.5 to determine if the agency "has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence." (Code Civ. Proc., § 1094.5, subd. (b); see *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 717.) "[A]buse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record." (Code Civ. Proc., § 1094.5, subd. (b).)

Petitioner asserts a de novo standard applies because, according to Petitioner, this matter involves mixed questions of law and fact – whether the FEIR Addendum was appropriate instead of a SEIR, and whether the descriptions of environmental impacts were sufficient. However, the questions that predominate are factual. Petitioner's assertion as to a lack of analysis as to air emissions, odor, habitat, noise, energy use, sewers, GHG emissions, and CAP consistency is dependent on the assumption that the City was incorrect in making the factual determination that the modification to the Project was not so substantial as to require a major modification to the 2014 FEIR. Further, to the extent City could have potentially anticipated future projects, it was entitled to defer further analysis until a later time when the impacts were better known given that the City certified a Program Environmental Impact Report. Thus, the issue must be reviewed under the substantial evidence standard.

Substantial Evidence

Petitioner first argues the City violated CEQA because it approved the Project with changes to the sewer plans when such changes represented a significant change requiring a SEIR. The CVSP Addendum and the FEIR Addendum indicate the 2004 OMTS Sewer Master Plan and 2009 Refinement Report previously identified the improvements pertinent to the Project and that "the additional improvements would occur within existing utility line easements and the facilities would not result in significant impacts to the environment." (AR 101.140; AR 19939.) Petitioner asserts this is misleading because the "additional wastewater system improvements" would lead to the need for additional pump stations and the 2004 OMTS Sewer Master Plan and 2009 Refinement Report indicate a preference for gravity sewers over pump station and forcemain facilities. (AR 11361.) It is undisputed that the 2014 FEIR did not analyze the environmental impact of the necessity for the installation of multiple private pump stations in the future.

The City recognized there were proposed future developments, but noted "they will be required to provide a sewer study in accordance with the Public Utilities Sewer Design Guide to specifically identify how proposed future development will provide sewer service. Such sewer service will be dependent upon the respective elevations of future projects, which may necessitate the use of pump or lift stations." (AR 7888.) Petitioner points to discussion in a San Diego Planning Commission meeting as support that the proposed sewer installation would have a significant effect on the environment, but the discussion also recognized the future development was not certain that private pump stations would be required. (AR 8104-8105.) Rather, the development was in an early stage where no final design or grading studies had been done, where the need for pump stations depends on grading. (AR 8104.) The level of certainty as to the need for future pump stations at that time was based on the fact the development area was far enough away from the main that "it's gonna be hard to get that gravity feed to work at a grade that meets the standards and gets the velocity." (AR 8104.)

[A]n EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects. Absent these two circumstances, the future expansion need not be considered in the EIR for the proposed project.

(*Laurel, supra*, 47 Cal.3d at 396.) "[W]here future development is unspecified and uncertain, no purpose can be served by requiring an EIR to engage in sheer speculation as to future environmental consequences." (*Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal.App.4th 351, 372 [Citation omitted].)

Substantial evidence does not include "[a]rgument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence." (Cal. Code Regs., tit. 14, § 15384(a).) The City would not have been able to conduct an analysis of the impacts of pump stations where the amount, if any, of the pump stations needed depended on grading, which was unknown at the time the Project was approved. The City was not required to speculate, as such would not have amounted to substantial evidence.

At best, Petitioner asserts that it advised the City that it would be forced to pump some or most of their flows before knowing what grading, and its impact, would occur. (AR 18977; AR 18979) Petitioner does not provide specifics as to the number of pumps, if any, and the resultant increase in odor, biological

impacts, air emissions, GHG emissions, or energy consumption.

CEQA does not mandate that a first-tier program EIR identify with certainty particular sources of water for second-tier projects that will be further analyzed before implementation during later stages of the program. Rather, identification of specific sources is required only at the second-tier stage when specific projects are considered.

(*In re Bay-Delta etc.* (2008) 43 Cal.4th 1143, 1169.) "Where, as here, an EIR cannot provide meaningful information about a speculative future project, deferral of an environmental assessment does not violate CEQA." (*Id.* at 1172 [Citations omitted].)

Petitioner has not demonstrated that the City was provided information that made Petitioner's purported future development reasonably foreseeable as to the environmental effects. Petitioner did not provide the City or CR Otay with "their technical documentation, analysis or studies to assist in the consideration of the sewer infrastructure proposals." (AR 16966.) The information that was provided to CR Otay led CR Otay to determine "that there may be a need for a public pump station in the southwestern portion of the CVSP" but that "future grading to the west may mitigate the need, as this evaluation was based on the preliminary grades developed in the CVSP." (AR 2943.)

Further, there is support in the record for the conclusion that the information as to the potential need for future pump stations, given the topography of the CVSP area, was known at the time of the 2014 FEIR such that it did not represent new information or could not have been known with the exercise of reasonable diligence at the time the 2014 FEIR was certified. (AR 19830.) Petitioner has not demonstrated there is not "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion" that the purported future development should be analyzed in a later EIR tier or that the project was not reasonably foreseeable as to the environmental effects at the time the Project was approved.

Petitioner next asserts the CVSP Addendum was inadequate. An agency must prepare "an addendum to a previously certified EIR" if it has decided "some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred." (Cal. Code Regs., tit. 14, § 15164(a).) "A brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in an addendum to an EIR, the lead agency's required findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence." (Cal. Code Regs., tit. 14, § 15164(e).)

Petitioner asserts the City should have analyzed the impact of future pump stations. As discussed above, the City properly determined there were no substantial changes from the Project given the improvements were previously identified and "the additional improvements would occur within existing utility line easements and the facilities." Petitioner argues the City was required to analyze indirect and cumulative impacts. However, as discussed above, the City did not have sufficient specifics as to the purported project by Petitioner to determine environmental impacts at the time the subject Project was approved. Deferring evaluation until project details are provided such that environmental impacts are reasonably foreseeable is proper under CEQA. (*Citizens for a Sustainable Treasure Island v. City and County of San Francisco* (2014) 227 Cal.App.4th 1036, 1058.)

The City was required to analyze the Project, where project "means an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." (Pub. Resources Code, § 21065.) The indirect impacts were not reasonably foreseeable

at the time the Project was approved. Petitioner, for approval of its purported project,

will be required to provide a sewer study in accordance with the Public Utilities Sewer Design Guide to specifically identify how the proposed development will provide sewer service. Such sewer service will be dependent upon the respective elevations of the proposed project, which may necessitate the use of pump or lift stations as authorized by the City Engineer. Such determination cannot be made until sewer studies are prepared and submitted for review by the Public Utilities Department.

(AR 19843.) "Such sewer service will be dependent upon the respective elevations of the proposed project." (AR 19843.) Further, "it is possible that [Petitioner] may be able to design a grading scheme to minimize or eliminate future pumping." (AR 2943.)

As to cumulative impacts, the City was required to prepare an EIR "if the cumulative impact may be significant and the project's incremental effect, though individually limited, is cumulatively considerable." (Cal. Code Regs., tit. 14, § 15064(h)(1).) However, as is relevant in this case, the City is required to consider "the effects of other current projects, and the effects of probable future projects." (Cal. Code Regs., tit. 14, § 15064(h)(1).) Mere awareness of a proposed development does not necessarily trigger analysis under Guideline section 15064(h)(1). (*Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1127.) "[W]here future development is unspecified and uncertain, no purpose can be served by requiring an EIR to engage in sheer speculation as to future environmental consequences." (*City of Maywood v. Los Angeles Unified School Dist.* (2012) 208 Cal.App.4th 362, 397–398 [Citation omitted].) Here, as discussed above, the City and CR Otay did not receive "technical documentation, analysis or studies to assist in the consideration of the sewer infrastructure proposals." (AR 16966.) There was a lack of specificity with the purported project. Petitioner fails to address the evidence in the record that "[Petitioner] may be able to design a grading scheme to minimize or eliminate future pumping." (AR 2943.) Petitioner's entire discussion of impacts from pump stations is dependent on specifics it has not provided. Further, Petitioner has not commenced the development process. (CR Otay Request for Judicial Notice, Exhibits 1-3.) Petitioner has not demonstrated the City failed to consider probable future projects.

Petitioner next argues the City failed to analyze biological impacts; however, Petitioner again relies on the assumption that its purported future project and its impacts were reasonably foreseeable. Even if the details of Petitioner's purported future project were reasonably foreseeable at the time, and the future grading of Petitioner's project were considered a foreseeable consequence of the Project, Petitioner's purported future project will be subject to future CEQA compliance and mitigation, as was the case in *Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal.App.4th 351. As discussed further above, the CVSP requires sewer studies to be conducted prior to approval for any sewer system by future developers. (AR 8871.)

Petitioner next argues the City failed to adequately consider project alternatives.

CEQA requires that an EIR...consider and analyze project alternatives that would reduce adverse environmental impacts. (Pub. Resources Code, § 21061; see also *id.*, §§ 21001, subd. (g), 21002, 21002.1, subd. (a), 21003, subd. (c); *Goleta, supra*, 52 Cal.3d at pp. 564–565, 276 Cal.Rptr. 410, 801 P.2d 1161.) The CEQA Guidelines state that an EIR must "describe a range of reasonable alternatives to the project ... which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project...." (Cal.Code Regs., tit. 14, § 15126.6, subd. (a).) An EIR need not consider every conceivable alternative to a project or alternatives that are infeasible. (*Ibid.*; see also *Goleta, supra*, at p. 574, 276 Cal.Rptr. 410, 801 P.2d 1161.)

... CEQA defines "feasible" as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." (Pub. Resources Code, § 21061.1; see also Cal.Code Regs., tit. 14, § 15364.)

(*In re Bay-Delta etc.* (2008) 43 Cal.4th 1143, 1163.) Infeasibility findings are entitled to great deference. (*California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 997.)

The City considered the 31 feet depth sewer system, but concluded that "due to maintenance, operational, cost and safety issues" it was not recommended. (AR 7881.) More specifically, the "deeper sewer depths exceed the City's maximum recommended depth per the City Sewer Design Guideline," the "deeper sewer will increase maintenance and operational cost to the City," it "will increase health and safety concerns due to required confined-space equipment to maintain the over 30-foot deep sewer, it "will require redundant parallel dual sewer system to be constructed above the deeper sewer," and it "will add over \$640,000.00 in cost to" CR Otay's Project with no commitment from Petitioner to reimburse CR Otay within a timely period. (AR 8083.) While Petitioner cites evidence to combat the concerns, there is substantial evidence to support the City's policy decision to approve the 20-foot sewer design.

Petitioner next argues the CVSP Addendum failed to analyze the potential impact of GHG emissions and consistency with the CAP. As to GHG emissions, the argument is dependent on the assumption that impacts from pump stations required as part of a future project were reasonably foreseeable. However, as discussed above, the amount, if any, of pump stations was not reasonably foreseeable. The City adopted a CAP Consistency Checklist ("Checklist") as the 2014 FEIR recognized the impacts would be potentially significant at the program-level. (AR 101.152.) "In accordance with the recommendations from the State of California and the California Air Resources Board, the City's CAP includes a target to achieve a 15 percent reduction from 2010 GHG baseline levels by the year 2020. The CAP also includes the City's 2050 GHG emissions reduction target at 80 percent below the 2010 baseline." (AR 101.152.) "The Checklist is part of the CAP and contains measures that are to be implemented on a project-by-project basis to ensure that the specified emissions targets identified in the CAP are achieved. Implementation of these measures would ensure that new development projects are consistent with the CAP's assumptions and relevant CAP strategies to assist the City in achieving its identified GHG reduction targets." (AR 101.152-101.153.) "The Project's CAP Consistency Checklist analysis determined that the Project, a discretionary Tentative Map that does not entail specific development, is compliant with the City's CAP." (AR 101.153.) "No new impact would occur in comparison to the GHG analysis presented in the OMCPU EIR, and the proposed Project would reduce the OMCPU EIR's significant and unavoidable impact to less-than-significant levels. Therefore, implementation of the proposed Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the OMCPU EIR and no further environmental review is necessary for this topic." (AR 101.153.) Again, Petitioner's argument as to the CAP is based on the conclusion the 2014 FEIR should not have assumed no expansion of the sewer system. As discussed above, the 2014 FEIR did not need to consider pump stations that were not reasonably foreseeable. Further, to the extent there are future projects, the Checklist will be implemented on a project-by-project basis. If Petitioner's project in fact goes forward, it will be reviewed for consistency at that time.

Finally, Petitioner argues the City failed to address inconsistencies between the Project and applicable general plans, specific plans and regional plans, as required by CEQA Guidelines. This argument fails for the reasons discussed below.

Abuse of Discretion

Projects and tentative maps must be consistent with the adopted specific plan. (Gov. Code, § 65455.) The CVSP, a specific plan, states "Design Standards are mandatory requirements for all future implementing developments" while "Policies are recommendations which offer guidance for the design for future development within the Specific Plan, and are provided to encourage creative and flexible design solutions during implementation." (AR 8752.) The CVSP further states:

The infrastructure plans included in this subsection are conceptual and show how water, sewer, and drainage systems will be incorporated into the CENTRAL VILLAGE area and provide adequate levels of service. Therefore, the specifications provided in this subsection may be subject to change based on the outcome of final design and engineering performed at the individual tract map/implementation stage.

(AR 8870.) It is in this section of the CVSP that the "Conceptual Sewer Plan" is depicted in Figure 2.6-2. The design standard 2.6-2 states:

Facility sizes and locations presented in this Specific Plan are conceptual and may be larger or smaller than indicated on Figure 2.6-1, *Conceptual Water Plan*, and Figure 2.6-2, *Conceptual Sewer Plan*. Additionally, the exact siting of these facilities will be determined through technical studies associated with the processing of future development permits to ensure future development within the CENTRAL VILLAGE complies with the policies and the intent of the CENTRAL VILLAGE Specific Plan.

(AR 8871.)

However, the CVSP also states:

The sewer mains shall be installed at adequate depths to serve all planning areas within the CENTRAL VILLAGE. Prior to approval of a Tentative Map or any other discretionary entitlement approval, a sewer study will be required to analyze its sewer basin and the contribution of others in the basin.

(AR 8871.) The CVSP further provides that:

In cases where an implementing development project is required to install sewer lines at a greater depth and/or at an increased size than is required to service the development for the purpose of accommodating gravity sewer service to another property, the Reimbursement Financing for Water and Sewer Facilities approved in the Otay Mesa Public Facilities Financing Plan (City Council Resolution #R-308811) may be implemented.

(AR 8871.)

The mandatory statement regarding adequate depths to serve all planning areas is not identified as applying to only the first developer. It is unclear Petitioner's purported future project would have allowed CR Otay, at the time, to determine what the necessary depth would be given the lack of detail as to Petitioner's grading plans. Further, the City recognized the "goal is gravity," but that "the information contained within the site Specific Plan are conceptual" and that "it does not restrict engineering design, applications, or strategies that is used throughout the City of San Diego to implement in order to provide that adequate sewer service." (AR 8097-98.) In any event, the CVSP allows for minor modifications of the "[f]inal sizing and precise location of water, sewer, storm drainage, and other like infrastructure

improvements with concurrence of the City Engineer." (AR 8896-97.) The City's approval of the sewer design changes could qualify as a minor modification. Ultimately, the City reviewed the Project and proposed Tentative Map and determined the "proposed sewer contains supplemental size, capacity and length to accommodate service for the entire CVSP area" and that the Tentative Map was consistent with the CVSP. Such determination is afforded great deference. (*San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 26.)

Petitioner's petition is denied. CR Otay's requests for judicial notice are granted.



Judge Richard S. Whitney