



**WASTEWATER SUBCOMMITTEE (WWSC)
MEETING AGENDA
October 2, 2025
7:00 P.M.**



Attend in Person: PINOLE CITY COUNCIL CHAMBERS - 2131 PEAR STREET

Attend VIA ZOOM TELECONFERENCE – Details provided below.

How to Submit Public Comments:

In Person:

Attend the meeting at the Pinole City Council Chambers, fill out a yellow public comment card and submit it to the City Staff.

Via Zoom:

Members of the public may submit a live remote public comment via Zoom video conferencing. Download the Zoom mobile app from the Apple Appstore or Google Play. If you are using a desktop computer, you can test your connection to Zoom by clicking [here](#). Zoom also allows you to join the meeting by phone.

Join from a PC, Mac, iPad, iPhone or Android device:

<https://us02web.zoom.us/j/85670839226>

One tap mobile:

+1 (669) 900-6833,,85670839226# US (San Jose)

+1 (253) 215-8782,,85670839226# US (Tacoma)

Webinar ID: 817 5448 9022

By phone: US: +1 (669) 900-6833 or +1 (253) 215-8782 or +1 (346) 248-7799

International numbers available: <https://us02web.zoom.us/j/85670839226>

Written Comments:

All comments received before 3:00 pm on the day of the meeting will be posted on the City's website on the agenda page and provided to the Committee prior to the meeting. Written comments will not be read aloud during the meeting. Email comments to Public Works at PublicWorks@pinole.gov. Please indicate which item on the agenda you are commenting on in the subject line of your email.

OTHER WAYS TO WATCH THE MEETING

LIVE ON CHANNEL 26. The Community TV Channel 26 schedule is published on the city's website at www.pinole.gov.

VIDEO-STREAMED LIVE ON THE CITY'S WEBSITE at www.pinole.gov. Will remain archived on the site for five (5) years.

- 1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**
- 2. ROLL CALL**
- 3. APPROVAL OF MINUTES FROM THE JULY 10, 2025 MEETING**
- 4. CITIZENS TO BE HEARD - FOR ITEMS NOT ON THE AGENDA**
- 5. WATER POLLUTION CONTROL PLANT (WPCP) OPERATIONS REPORT**
- 6. JOINT POWERS AGREEMENT DOCUMENT REVIEW**
- 7. WWTP TOUR DATES AVAILABLE**
 - i. OCTOBER 22ND 2025 – 10AM**
 - ii. OCTOBER 27TH 2025 – 10AM**
 - iii. NOVEMBER 3RD 2025 – 5PM**
- 8. NEW SEWER CONNECTIONS**
 - i. PINOLE (VERBAL)**
 - ii. HERCULES (VERBAL)**
- 9. ADJOURN TO THE REGULAR SUBCOMMITTEE MEETING OF JANUARY 8, 2025 AT 7:00PM.**

WASTEWATER SUBCOMMITTEE MEETING MINUTES

July 10, 2025

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE

The Subcommittee Meeting was held via a Zoom videoconference and broadcast from the Pinole Council Chambers, 2131 Pear Street, Pinole, California. Pinole Mayor Pro Tempore Anthony Tave called the meeting to order at 8:30pm, as well as chaired the meeting and led the Pledge of Allegiance.

2. ROLL CALL & STATEMENT OF CONFLICT

An official who has a conflict must, prior to consideration of the decision; (1) publicly identify in detail the financial interest that causes the conflict; (2) recuse himself/herself from discussing and voting on the matter; and (3) leave the room until after the decision has been made, Cal. Gov. Code § 87105.

A. COUNCIL MEMBERS PRESENT

Dilli Bhattarai, Council Member - City of Hercules
Norma Martinez-Rubin, Council Member - City of Pinole
Anthony Tave, Mayor Pro Tempore – City of Pinole

COUNCIL MEMBERS ABSENT

Tiffany Grimsley, Council Member - City of Hercules

B. STAFF PRESENT

<u>City of Pinole</u>	<u>City of Hercules</u>
Heba El-Guindy, Public Works Director	Glenn Dombeck, Public Works Director
Josh Binder, Wastewater Treatment Plant Manager	

3. APPROVAL OF THE MINUTES FROM THE APRIL 16, 2025 MEETING

Council Member Bhattarai made a motion to approve the minutes; Mayor Pro Tempore Tave seconded; all in favor; motion passed.

4. CITIZENS TO BE HEARD (Public Comments) - None.

5. WATER POLLUTION CONTROL PLANT (WPCP) OPERATIONS REPORT

WWTP Manager Josh Binder presented the Operations Report for the months of April, May and June 2025 via a PowerPoint presentation, which covered monthly flow data, monthly performance indicators, and project updates. Mr. Binder addressed questions from the April 16, 2025, meeting, and provided a treatment plant operational overview.

Council Member Bhattarai inquired: What would be our industry benchmark? Going forward, can the industry benchmark numbers be added to the presentation in relation to our performance? Also requested an elaboration on the performance indicators.

WWTP Manager Binder explained the monthly performance indicators that mark the requirements we have to be below for our permit limits.

Council Member Martinez-Rubin inquired if the goal is to have both cities at an equal 50%?

WWTP Manager Binder responded that the system identifies how much flow volume each city represents and how much entered the plant for a particular reporting period. Added that the flow totals vary each month, and during wet season versus dry weather. Since Hercules has a higher population than Pinole, Hercules flow is slightly higher. During the dry season, both cities are close to an even split of 50%.

Council Member Martinez-Rubin requested clarification regarding TSS. Mr. Binder clarified that TSS stands for "Total Suspended Solids", any solids that have not been removed by the treatment plant. The associated data informs us of the amount of solids remaining in the water after the treatment process has been completed and provides the monthly effluent average in milligrams per liter. Currently, the plant is in a range of 95-98% of removal, typically does not reach 100%. Slightly higher levels can be achieved when a biological nutrient removal process is carried out (more advanced than current process). Mr. Binder added that the plant's monthly effluent limit is 25 milligrams per liter, with a percentage of possibly 80% or 85%.

Mayor Pro Tempore Tave inquired about the new regulations, and how they are going to be tracked and reported.

WWTP Manager Binder explained that the State Water Resources and Control Board have adopted stricter regulations that need to be complied with over the next 5-10 years. Certain benchmarks have to be fulfilled each year to show the State that the plant is moving towards compliance. The regulations were adopted in 2024. For the first couple of years, the benchmarks are mainly to start developing a plan on how to potentially modify the treatment plant design to work towards meeting the new regulations. These first couple of years are for strategic planning, followed by design and construction of identified improvements.

Mr. Binder continued with his presentation on Project Updates which include Aeration Basin Maintenance and Switchover, Blower Replacement, Nutrient Probes Installation, Effluent Outfall Project, and development of the WWTP Operations & Maintenance Manual. The same aeration basin has been in use since 2018/19; it was therefore necessary to empty out the aeration basin that has been in service, perform maintenance on all interior parts including air piping and diffusers, and swapping out all of the 1,875 diffusers. Each air diffuser has a perforated rubber plate on top that is scheduled for replacement over a certain time period. The maintenance staff (manually and using the vac truck) cleaned out all the debris that has slowly settled out in the aeration basin over the past seven years.

With regards to the Blower Replacement, its delivery has been postponed by the supplier. Mr. Binder explained that the existing blowers no longer have available parts and that the two remaining blowers are planned for replacement following a trial period of the third/new blower when received.

Mr. Binder also gave an update on the ongoing Nutrient Probes Installation project. After installing the aeration basin probes, installing the nutrient probes can be completed which will allow tracking and historizing the level of nutrients that are in the wastewater as it travels through the aeration basin. This will provide good data and a history that will support the planning efforts regarding future nutrient removal restrictions and stricter effluent limits.

The Effluent Outfall Project which went out to bid in the Summer of 2024, had no bids submitted. Staff are planning to repackage this project and put it out to bid again.

Development of the Wastewater Treatment Plant Operations and Maintenance Manual is still in progress, which has to be updated periodically as a requirement by the State Water Board. The goal is to have the update completed by the end of this year.

Council Member Martinez-Rubin inquired regarding the reasoning behind not receiving any bids in 2024, and the possibility of a similar outcome in the future.

WWTP Manager Binder noted that one of the issues that could have contributed to not receiving any bids, was due to the design fee of only \$150,000 budgeted for the project. With many engineering firms busy during that time, they could have had larger projects they were focusing on. Apart from that, it is not clear why it may not have been attractive to bidders. The planned repackaging of the project will include added items that deal with nutrient removal, and the budget increased to \$250,000.

Council Member Bhattarai noted that it would be beneficial to determine what was the root cause of not attracting bidders. Added that if it is timing, then let us change the timing of the bidding process, or the project budgeted fee needs to be reassessed. Requested to revisit this topic and to be more proactive rather than reactive. Council Member Bhattarai also inquired if the company will continue to manufacture the new type of blowers or we could potentially face the issue of limited parts in the future. In addition, inquired about the cleaning process of the filtration system, and how often does it have to take place.

WWTP Manager Binder noted that there is no set frequency regarding the Aeration Basin Maintenance. Spot maintenance is done if there are large air leaks given that there is a set of 200 horsepower blowers that are feeding air to these diffusers. If a leak is encountered at any given time, the team performs maintenance and addresses any leaks. Treatment plants are generally empty and clean. Added that if air rate pressure in the air header is lost leading to low efficiency, that might be an indicator, but we have not really experienced that. Other maintenance triggers could be that parts are broken or are leaking. Currently the plan is to perform the system cleanout every 3-5 years going forward. The most current sanitary diffusers have shown to be durable, and we are getting full life expectancy out of them.

Council Member Bhattarai requested a site visit of the plant.

WWTP Manager Binder confirmed that a tour can be scheduled any time. With regards to the existing blowers, Mr. Binder noted that critical components could no longer be sourced and that the new blower is not from a different and well-known brand.

Council Member Bhattarai asked why the city of Benicia was chosen as a comparison.

WWTP Manager Binder explained that Benicia is similar in size in relation to the plant flow and the overall process. Also shared how the Pinole-Hercules performance compared to other wastewater treatment plants sharing monthly performance indicators of April 2025. The performance is relatively close, for example, Pinole-Hercules had a TSS effluent average of 20.4 and a removal of 96% while Benicia had an effluent average of 7.4 with a percent removal of 98%. For ammonia Pinole-Hercules had an effluent average of 35 milligrams per liter while Benicia had an effluent average of 38 milligrams per liter. Both cities are relatively close.

Mr. Binder explained that for the effluent average, a lower number is better. For percent removal, the higher the better. There is a cost to bring any number down, whether it be providing more air to the aeration basin, or chemical costs, etc. In the future, the TSS will be significantly lower when a nutrient removal process is run. In time with the stricter permit limits coming and switching to a nutrient removal process, these performance indicators and our effluent averages will come down.

Mayor Pro Tempore Tave inquired on how our plant team coordinates regionally with Rodeo, Benicia, and Richmond and if there is a group that meets to discuss operations and requirements. Also inquired if there is a way to join up with other agencies to go out for one larger bid to become more competitive.

WWTP Binder confirmed that the plant has explored options. The plant shares an outfall with Rodeo Sanitary District. A project that was evaluated with Rodeo did not proceed due to funding reasons. If there

is an opportunity, staff explore options with surrounding agencies. The effluent outfall project is the next possible opportunity with Rodeo.

Mayor Pro Tempore Tave pointed to the synchronization of projects with the other plants. For instance, if the plant needs analyzers in two years and another organization is upgrading their analyzer, there could be benefits to move the timeline up and invest with that group. Also encouraged the plant team to coordinate with other agencies even just on a quarterly basis.

Council Member Martinez-Rubin noted that meetings could be an informational exchange of planning efforts for the next six months to a year. Added that such meetings should be timed with Council's budget discussions. She encouraged WWTP Manager Binder to initiate these meetings.

WWTP Manager Binder mentioned that he has met with Rodeo Sanitary District multiple times over the past four years; also spoke with his counterparts at West County; and met with them at other regular wastewater meetings and events. Added that forming regularly scheduled meetings is possible.

Public Works Director El-Guindy brought up the approved budget which includes the five-year Capital Improvement Plan. For Fiscal Year 2025/26, the CIP contains six sewer projects, two stormwater projects, and two infrastructure assessments. Public Works was also able to add an associate engineer position which was posted on July 1st. The focus of that position will be on sewer-related projects and will support further coordination with other agencies.

WWTP Manager Binder completed his presentation with an aerial view of the treatment plant and a 2D, color-coded flat view of the last major improvement upgrades including years of improvements, equipment and structures. About 70 % of the treatment plant has been upgraded. The digesters had already received a major upgrade in 2007/2008. Aside from the digesters, most of the other equipment was upgraded, refurbished, or at least the interior equipment replaced.

Council Member Martinez-Rubin noted two items that are labeled with 1955 date and inquired about the integrity of the buildings.

WWTP Manager Binder identified the two oldest parts of the treatment plant from 1955 are 1) the chemical feed building, and 2) one of the digesters. The chemical feed building houses all active chemical analyzers, feed pumps and one of the backup power generators. The concrete structure for digester number one is from 1955, however, the digesters received refurbishment in the 2007-2008 timeframe. Both structures are holding up very well.

6. NEW SEWER CONNECTIONS

Mayor Pro Tempore Tave moved to Item 6 on the agenda; and there were no new connections to report.

Mayor Pro Tempore Tave asked if there are any new topics for the next meeting. Council Member Bhattarai recommended a site visit of the plant, and information regarding the bidding process.

Council Member Martinez-Rubin indicated that meeting communication and logistics need improvement. As an alternate, she did not receive the agenda. Moving the meeting to a format similar to the City Council meetings would be preferred.

Public Works Director El-Guindy indicated that this meeting would take place on a quarterly basis, and Public Works will send invites to all regular and alternate Subcommittee members. Future meetings will also include a hybrid setup with Zoom information attached.

Mayor Pro Tempore Tave pointed out that this is a good forum to showcase the sewer plant work in detail. If anything needs to be brought back to both City Councils, such topics can be sorted out in the Subcommittee meeting. Added that the shared resources of both cities, such as Pinole's camera truck,

should be outlined along with information on funding details. Synergies need to be found and explored for resource sharing.

Mayor Pro Tempore Tave posed some questions including: How would available resources relate to sewer? How would they relate to the plant? What grants are out there? Can both city teams work together on finding these resources and opportunities? The agreement between both cities, was it a joint powers agreement? Does it need to be rewritten? What would it look like ten years from now? How would operations change with the additional regulations and reporting requirements? Does the agreement speak to growth, as several new developments are being built in Hercules and Pinole?

Public Works Director El-Guindy agreed to start the conversation at staff level and present ideas in future meetings.

Council Member Bhattarai suggested to assess operations more strategically: what are the resources available, what are the immediate challenges to staff, what are the grant opportunities, more collaborations, and best practices.

Mayor Pro Tempore Tave inquired if anybody has seen the agreement and noted that it is a good time to revisit and look at the documents to figure out if updates or other items are needed. Once the site visit has been undertaken, the Subcommittee will better understand the agreement, leading to robust conversations.

7. ADJOURNMENT

Mayor Pro Tempore Tave adjourned the meeting at 9:45 pm to the next Wastewater Subcommittee Meeting on October 2nd, 2025.

AI generated and submitted by:
Heba El-Guindy
Public Works Director
City of Pinole

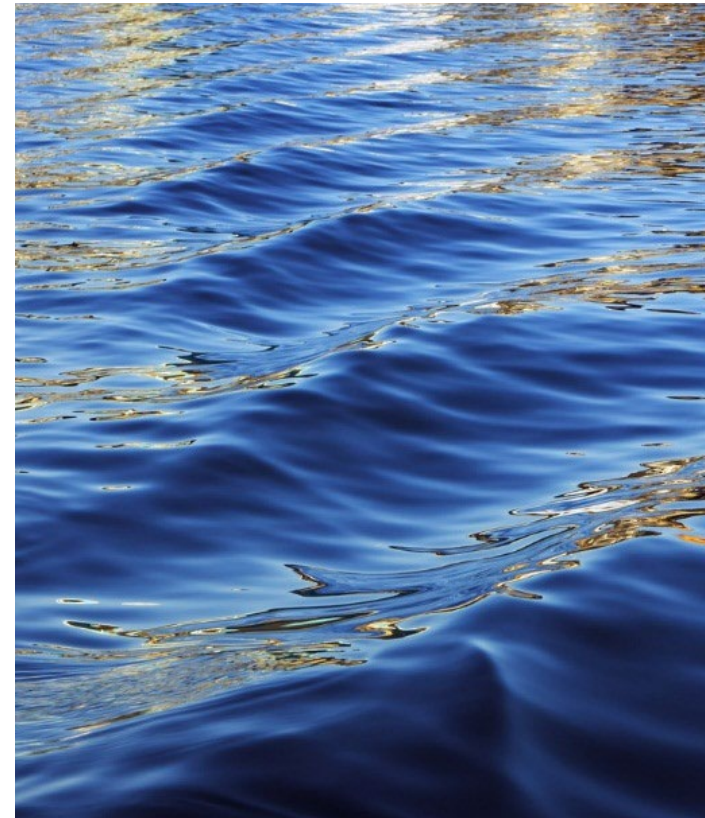
Approved by Wastewater Subcommittee Meeting:

PINOLE-HERCULES WASTEWATER SUBCOMMITTEE

OPERATIONS REPORT

October 02, 2025

Josh Binder, Plant Manager



Topics Will Include:

1. Monthly Flow Data
2. Monthly Performance Indicators
3. Project Updates
4. Operations and Maintenance Updates

Monthly Flow Data

Hercules right to use: 2.27 MGD*

Pinole right to use: 1.79 MGD*

* Average Dry Weather Flow

HERCULES Flow - July 2025			HERCULES Flow - August 2025		
		Gallons			Gallons
Minimum	1.27	1,270,000	Minimum	1.10	1,100,000
Average (MGD)	1.34	1,336,000	Average (MGD)	1.27	1,265,000
Maximum	1.41	1,410,000	Maximum	1.42	1,420,000
Total	41.41 [52%]	41,410,000	Total	39.22 [51%]	39,220,000

PINOLE Flow - July 2025			PINOLE Flow - August 2025		
		Gallons			Gallons
Minimum	1.11	1,110,000	Minimum	1.13	1,130,000
Average (MGD)	1.22	1,218,000	Average (MGD)	1.23	1,225,000
Maximum	1.29	1,290,000	Maximum	1.31	1,310,000
Total	37.77 [48%]	37,770,000	Total	37.96 [49%]	37,960,000

Monthly Performance Indicator Definitions

- Carbonaceous Biochemical Oxygen Demand (cBOD) – Measures dissolved oxygen depletion from organic carbon-containing compounds.
- Total Suspended Solids (TSS) – The dry weight of suspended particles that can be trapped by a filter.
- Enterococcus – An indicator organism used to measure the presence of fecal matter in water.
- Ammonia – A key nutrient in the wastewater nitrification process but is toxic to fish and other aquatic life at higher concentrations.

Monthly Performance Indicators

July 2025 PERFORMANCE INDICATORS					
PARAMETER	UNIT	MONTHLY EFF LIMIT	INFLUENT AVERAGE	EFFLUENT AVERAGE	% REMOVAL
cBOD	mg/L	25	175	7.11	96
TSS	mg/L	30	352	13.21	96
Enterococcus	MPN	260		1.8	
Ammonia	mg/L	110		32	

August 2025 PERFORMANCE INDICATORS					
PARAMETER	UNIT	MONTHLY EFF LIMIT	INFLUENT AVERAGE	EFFLUENT AVERAGE	% REMOVAL
cBOD	mg/L	25	190	8.95	95
TSS	mg/L	30	350	12.6	96
Enterococcus	MPN	260		1.4	
Ammonia	mg/L	110		15	

- ❖ Enterococcus is calculated as a 6-week Rolling Geometric Mean.
- ❖ Influent Ammonia sampling is performed in June and November.

Project Updates

- Blower Replacement
- Nutrient Probes Installation
- Effluent Outfall Project
- WWTP Operations & Maintenance Manual

Project Updates

- Blower Replacement - Delivery Mid October 2025



Project Updates

- Effluent Outfall Project - Out to bid summer of 2024 - No bidders
Update May 2025 - Increased design budget amount and scope of work.
- WWTP Operations & Maintenance Manual - In Progress - Target completion date 12/31/25.

Operations and Maintenance Updates

- Andritz Centrifuge - Motor Replacement
- Influent Flowmeters - Repair and Replacement

Andritz Centrifuge - Motor Replacement



Influent Flowmeters - Repair and Replacement



(File Copy)

Jillian
WWTP
Pinole

ORIGINAL

**JOINT POWERS AGREEMENT
BETWEEN THE CITIES OF PINOLE AND HERCULES FOR THE OPERATION AND
OWNERSHIP OF THE PINOLE/HERCULES WASTEWATER TREATMENT PLANT
AND OPERATION AND MAINTENANCE OF THE CITY OF HERCULES
WASTEWATER COLLECTION SYSTEM**

This Agreement is entered into this 23rd day of January, 2001 by and between the City of Pinole ("Pinole") and the City of Hercules ("Hercules").

RECITALS

WHEREAS, each of the parties hereto is a public agency authorized and empowered to contract for the joint exercise of powers under Article 1, Chapter 5, Division 7, Title 1 (Sections 6500, et seq.) of the Government Code of the State of California: and,

WHEREAS, each of said parties has the authority and power to protect and preserve the quality of the surface and subsurface water supplies within their respective boundaries; and,

WHEREAS, the parties hereto recognize the immediate and continuing necessity for planning, construction, operation, and maintenance of works and facilities for the collection, transmission, treatment, disposal, and/or reclamation of sewage, wastes, and waste waters to meet the requirements of the National Pollution Discharge Elimination System within the boundaries their respective cities; and,

WHEREAS, each of the parties hereto acknowledge the agreements dated February 9, 1983, attached hereto and made a part hereof as Exhibit 1, which provide for the joint use by the parties of the Pinole/Hercules Wastewater Treatment Plant ("plant") which is described in Exhibit 2; and,

WHEREAS, the parties hereto further acknowledge that both parties have directed their flow of wastewater to the plant for treatment; and,

WHEREAS, each of the parties acknowledge that both parties hereto have at some time in the past paid for the construction and expansion of the capacity of the plant and that said construction and expansions have brought benefit to both parties; and,

WHEREAS, each parties' contribution to the construction and expansion of the plant is hereby acknowledged as the investment of capital in the plant; and,

WHEREAS, both parties recognize that they have benefited from their cooperative use of the Plant. Both parties desire to continue to cooperate to their mutual benefit in the future use and ownership of the Plant. Both parties recognize that, as in the past, Hercules' population will grow more quickly than Pinole's, and that its residents will, as a result, require more of the Plant's capacity than it does currently, and that it may eventually require more capacity than the Plant can provide. Both parties recognize, however, that although Pinole's population is relatively stable, it will experience some growth, as well, and that it will, therefore, also need more of the Plant's capacity than it presently does; and,

WHEREAS, the parties hereto have reached the following agreement as a means of proceeding cooperatively to satisfy the present and future needs of both their communities for the collection and treatment of wastewater and other sewage.

NOW, THEREFORE, IN CONSIDERATION of the mutual promises and covenants herein contained, the parties hereto agree as follows:

1. Ownership of Plant.

- 1.1. Hercules, by virtue of this Agreement, shall be deemed to have an undivided fifty percent (50%) ownership interest in the Plant.
- 1.2. Nothing in this Agreement nor any use of the Plant by Hercules, even as a part owner of the Plant, shall be deemed to give any ownership, easement, or other property right in the land or easements on which the Plant is presently or may in the future be located, unless the parties agree otherwise in writing.

2. Plant Management and Operation.

- 2.1. Pinole shall have the right and responsibility to manage and operate the Plant in a manner consistent with the operating standards of the wastewater industry. Pinole shall also have the responsibility for planning and implementing all renewal, replacement, and capital improvement projects for the Plant, subject to Sections 2.2 and 2.3.
- 2.2. Hercules shall have the right to review and comment on the annual draft budget for the management and operation of the plant.
- 2.3. As part of the management and operation of the Plant, Pinole and Hercules shall participate in regularly scheduled quarterly joint meetings to share information about, discuss, review, and comment on the following: allocation and usage of Plant capacity; all projects involving capital improvements and/or renewal and replacement; all proposals for such projects; and overall Plant management and operation. All proposals, studies, analyses, reports, plans, and other supporting documents regarding such projects shall be shared between Pinole and Hercules as part of the meetings.
- 2.4. Hercules shall attend any meetings having to do with permitting issues and shall attend any other meeting and seminars that Pinole deems appropriate for Hercules attendance.
- 2.5. Pinole and Hercules shall continue to be party to the effluent disposal agreement with the Rodeo Sanitary District and shall continue to work together on issues relating to this agreement.

3. Rights of Disposal.

- 3.1. Hercules shall have the right to use 2.27 mgd of the Plant's 4.06 mgd design dry weather capacity.

(Based on average usage for year 2000 (January – October) as a percentage of total monthly volume treated.) Hercules shall have the right to allocate its capacity according to its own needs and without input from Pinole, including upon reasonable notice to Pinole the closure of the Hercules Treatment Plant.

Pinole shall have the right to use 1.79 mgd of the Plant's 4.06 mgd design dry weather capacity.

(Based on average usage for year 2000 (January – October) as a percentage of total monthly volume treated.)

- 3.2. Hercules hereby guarantees that it will provide a constant and consistent flow to the Plant of at least 1.40 mgd. Should the parties' expand the Plant's capacity, the parties will cooperatively agree what Hercules' guaranteed minimum flow will be.
- 3.3. The parties hereby recognize that circumstances may necessitate that either party treat wastewater or sewage in excess of their allotted capacity. The cities therefore agree that either party may, upon mutual agreement, exceed their allotted capacity. The amount that Hercules shall pay to Pinole for exceeding its permitted flow shall be determined at the time that the excess usage occurs.
- 3.4. Each party shall give the other reasonable notice of any material changes proposed in volume or characteristic of sewage to be treated by the Plant.
- 3.5. All sewage and industrial waste effluent shall be in conformity with the requirements of the State of California, the County of Contra Costa, and the parties to this Agreement. When necessary, industrial waste shall be sufficiently pre-treated so that it will not be detrimental to the efficient operation of the Plant.
- 3.6. Each party shall adopt such ordinances, orders, and regulations as are necessary to effectuate the provisions of this Agreement regarding the operation and management of the Plant.

4. Continuity of Service.

As the manager and operator of the Plant, Pinole agrees to use reasonable diligence to provide regular and uninterrupted service to Hercules, even after the parties' cumulative need for wastewater treatment exceeds the limits of the Plant's capacity. However, Pinole shall not be liable to Hercules for damages, breach of contract, or otherwise for failure, suspension, diminution, or other variations of service occasioned by or in consequence of any cause beyond Pinole's control, including any ruling or order of any regulatory agency or court of law of the state or federal government.

5. Allocation of Plant Surplus Capacity.

The parties hereby agree that any surplus Plant capacity not explicitly allocated to either party shall remain available to either party on an as-needed basis. Allocation and use of Plant surplus capacity shall be decided at the regularly scheduled meetings between Hercules and Pinole, unless circumstances require otherwise, in which case, either party may initiate an ad hoc meeting.

6. Collection System

- 6.1 Pinole shall, at its own cost and at no cost to Hercules, maintain and operate its sewage collection system, other than the Plant. Pinole shall maintain and operate its sewage collection system in the manner that, in its best judgment, with the input of Hercules, best utilizes its portion of the Plant's capacity.
- 6.2 Hercules shall, at its own cost and at no cost to Pinole, maintain and operate its sewage collection system. Hercules shall maintain and operate its sewage system in the manner that, in its best judgment, with the input of Pinole, best utilizes its portion of the Plant's capacity.
- 6.3 Pinole agrees to routinely hydro-flush Hercules' collection system. Pinole further agrees to provide routine preventative maintenance of Hercules' lift stations. The schedule for such services shall be determined by Hercules, with the input of Pinole. Hercules shall be charged for such services in accordance with Section 7.3.
- 6.4 Pinole agrees to provide Hercules sewer main video services on an as needed basis. Hercules shall be charged for such services in accordance with Section 7.3.
- 6.5 Routine preventative maintenance of Hercules' lift stations shall be limited to those routine and/or repetitive activities required by the equipment or facility manufacturer or Hercules to maximize the service life of the equipment and facility. Corrective maintenance and repairs, i.e., those non-routine/non-repetitive activities required for the operational continuity, safety, and performance generally due to failure or to avert failure of the equipment or some component thereof, shall be the responsibility of Hercules.
- 6.6 Should Pinole, during the course of its maintenance activities of Hercules' collection system, discover an illegal discharge and/or connection to the system, it shall bring such issue to Hercules' attention for resolution.

7. Allocation of Costs

- 7.1 Historically, Hercules has, for the usage of the Plant, paid to Pinole a share of the costs of operation and maintenance of the Plant. Hercules' share has been in direct proportion to the flow from Hercules, compared to total flow from Hercules and Pinole, as measured by totaling flow meters. Hercules has paid its share of the costs of operation and maintenance monthly in arrears. The parties hereby

agree that the same allocation of operating costs and payment system shall remain in effect for the term of this agreement.

- 7.2 The total costs of operation and maintenance of the Plant shall include reasonable overhead incurred by Pinole in the operation of the Plant, including but not limited to the costs of all labor and all employee benefits, materials, chemicals, power, supplies, equipment, engineering, permits, and fines. The costs of overhead shall not, however, include the salaries and benefits of Pinole employees who are not assigned to work solely at or for the Plant, excepting a portion of the salaries and benefits of those management personnel that provide oversight of the operation and maintenance of the Plant. The actual costs of any labor that Pinole provides and charges to the Plant shall nevertheless be included as part of overhead.
- 7.3 Hydro-flushing and video services shall be charged on an hourly basis and billed monthly. Hourly costs shall include, but not limited, to the costs of all labor and all employee benefits, equipment leasing, replacement and maintenance, materials, chemicals, power, and supplies. The costs of overhead shall not, however, include the salaries and benefits of Pinole employees who are not assigned to work solely at or for these services, excepting a portion of the salaries and benefits of those management personnel that provide oversight of these services. The actual costs of any labor that Pinole provides and charges to these services shall nevertheless be included as part of overhead.
- 7.4 Routine preventative maintenance of lift station shall be charged on an hourly basis and billed monthly. Hourly costs shall include, but not limited, to the costs of all labor and all employee benefits, equipment leasing, replacement and maintenance, materials, chemicals, power, and supplies. The costs of overhead shall not, however, include the salaries and benefits of Pinole employees who are not assigned to work solely at or for these services, excepting a portion of the salaries and benefits of those management personnel that provide oversight of this function. The actual costs of any labor that Pinole provides and charges to these services shall nevertheless be included as part of overhead.
- 7.5 As part of Pinole's overall recordkeeping responsibility, Pinole shall keep proper books of records and accounts in which complete and correct entries shall be made of all transactions relating to the share of the Plant operation and maintenance costs, hydro-flushing costs, video service costs, and lift station maintenance costs charged to Hercules. The books and records shall be available for inspection by Hercules at any time during normal business hours, and Pinole shall provide such records upon request, made a reasonable time in advance, at any regularly scheduled or specially called meeting.

8. Allocation of Costs of Renewal/Replacement and Capital Improvements.

All costs of renewal and replacement and of capital improvements reasonably determined by Pinole to be required to maintain the Plant's reliability, utility, economy, and regulatory compliance shall be shared among the parties according to their respective ownership percentages or wet weather flow percentages. Determination of sharing

method shall be mutually agreed upon by the parties and shall be based on the reason for such improvement. Example: the addition of another secondary clarifier is needed for treating wet weather flows and, thusly, cost share will be based on wet weather flow percentages.

9. **Obligations Subsequent to Combined Flow Exceeding Plant Capacity.**

Both parties recognize and agree that their need for wastewater treatment will eventually exceed the Plant's total capacity. Projecting Hercules' current growth trends, the capacity will most likely be exceeded in 2010. Anticipating this date, the parties agree to commence, on or before January 2006, with the engineering and permit processing for expansion of the plant and/or negotiating with a third party for the treatment of the amount of flow that is anticipated to exceed the Plant's capacity.

The foregoing notwithstanding, when the parties' need for wastewater treatment exceeds the Plant's capacity, Hercules will nevertheless continue to guarantee, pursuant to Section 3.2, a minimum amount of flow to the Plant. Similarly, even when the parties' cumulative flow exceeds the limits of the Plant's capacity, Pinole will, pursuant to Section 4, continue to use reasonable diligence to provide Hercules with regular and uninterrupted service.

10. **Plant and Real Property-Loss, Damage, Liability.**

10.1 The parties agree that any replacement of a loss or repair of any damage to the Plant, regardless of the cause, shall be paid by the parties according to their respective ownership percentages. The parties further agree that, in the event of a loss, each party will contribute, in a timely manner, their percentage share of capital required to rebuild, restore, or rehabilitate the facilities. Despite differing amounts of insurance coverage, self insurance, and deductibles, the parties agree that all capital obligations of the parties attributable to any loss shall not be limited, reduced, or affected by the types or amounts of insurance each party may have in effect at the time of such loss.

10.2 Notwithstanding the foregoing, Hercules shall not have to pay for any loss or damage to the real property on which the Plant is located.

10.3 In the event of any general liability claims relating to the treatment facilities, land, joint pipelines, and sludge disposal, including any liability related to violations of the Clean Water Act, 33 U.S.C. § 121 *et seq.*, the parties shall be jointly responsible for all costs resulting from such claims, judgments, orders, fines, and payment of attorney fees and all costs related to defense according to their respective ownership percentages of the Plant.

10.4 In the event of liability related to issues of contamination of soil, water, or air associated with the real property on which the Plant is located or sludge disposal, including fines, orders for remediation, or other legal proceedings, the parties

shall be jointly responsible according to their respective ownership percentages of the Plant.

11. Legal Action.

11.1 Neither party shall initiate any legal action or defense of any claim related to the Plant or the real property on which it is located without the express written permission of the other, which permission shall not be unreasonably withheld.

11.2 In the event that either party declines to participate in either the initiation or defense of a legal action related to the Plant or the real property on which it is located, the other party may proceed with such action on its own behalf. In the event that one party becomes a plaintiff, without the participation of the other, in any action related to the Plant or the real property on which it is located, that party shall be solely entitled to any moneys recovered as a result. In the event that one party elects to defend, without the participation of the other, an action related to the Plant or the real property on which it is located, that party shall be entitled to a pro rata direct reimbursement from the other, upon demand, for all expenses related to the defense according to the parties' respective ownership percentages.

12. Notices.

All notices required under this Agreement will be in writing and served personally or by mail as follows:

To Pinole: City Manager
City of Pinole
2131 Pear Street
Pinole, CA 94564

To Hercules: City Manager
City of Hercules
111 Civic Drive
Hercules, CA 94547

13. Cooperation.

The parties shall fully cooperate with each other in conjunction with this Agreement and act reasonably in the exercise of any discretion to assure that they both continue to benefit from their use of the Plant. Each party shall execute and deliver to the other all instruments and documents as may be reasonably necessary to carry out this Agreement to provide and secure to each party the full and complete enjoyment of its rights and privileges hereunder.

14. **Entire Agreement.**

This Agreement shall supersede the provisions of any and all other agreements between the parties with respect to the subject matter hereof. This writing constitutes the entire Agreement between the parties. No modifications hereof shall be effective unless such modification is in writing signed by all parties to this Agreement.


15. **Indemnification.**

15.1 Except as otherwise set forth in this agreement, neither Pinole nor any officer or employee thereof shall be responsible for any damage or liability by reason of anything done or omitted to be done by Hercules under or in connection with any work, authority, jurisdiction, or obligation of Hercules under this Agreement. It is also understood that Hercules shall fully indemnify and hold Pinole harmless from any liability imposed or injury to person or property occurring by reason of anything done or omitted to be done by Hercules under or in connection with any work, authority, jurisdiction or obligation of Hercules under this Agreement.

15.2 Except as otherwise set forth in this agreement, neither Hercules nor any officer or employee thereof shall be responsible for any damage or liability by reason of anything done or omitted to be done by Pinole under or in connection with any work, authority, jurisdiction, or obligation of Pinole under this Agreement. It is also understood that Pinole shall fully indemnify and hold Hercules harmless from any liability imposed or injury to person or property occurring by reason of anything done or omitted to be done by Pinole under or in connection with any work, authority, jurisdiction or obligation of Pinole under this Agreement.


IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers thereunto duly authorized by their respective governing bodies, and have caused their official seals to be affixed hereto.

FOR THE CITY OF PINOLE:



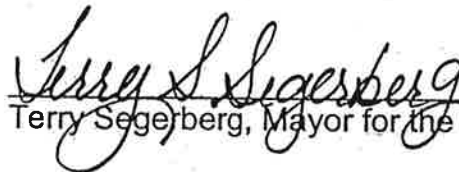
Mary A. Horton, Mayor of the City of Pinole

ATTEST:




Dawn Abrahamson, Deputy City Clerk

FOR THE CITY OF HERCULES:



Terry Segerberg, Mayor for the City of Hercules

ATTEST:



Claudette Wade - Interim City Clerk