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TECHNICAL SERVICES ❖ PROCUREMENT ❖ INSPECTION ❖ PROJECT MANAGEMENT ❖ CONSTRUCTION SERVICES

October 21, 2020

Akin Okupe, M.B.A., P.E.
 General Manager
 East Palo Alto Sanitary District

transmitted via email

Subject: Supplemental Cost Share Proposal for City Approved Projects

Dear Mr. Okupe,

Thank you for the opportunity to review and comment on the "Supplemental Cost Share Proposal for the City Approved Projects" dated July 31, 2020. The proposal was prepared by Holland & Knight, 50 California Street, San Francisco, CA 94111 on behalf of the MidPen Housing Corporation and the Sobranto Organization, collectively the "Project". The supporting technical flow study was prepared by BKF Engineers. This memo summarizes our review of the proposal and addresses the District's concerns regarding ratepayer funding of development projects.

BKF Engineering Memorandum

BKF is an engineering company that authored the study on the capacity of the sewer system that is proposed to serve development projects approved by the City of Palo Alto. The City is a completely different entity from East Palo Alto Sanitary District (EPASD). BKF developed updated sewer flow models to identify capacity in the sewer system. They ran different flow scenarios to identify reaches of sewer that were potentially "over capacity" during peak wet weather flow (PWWF) periods. They used a maximum depth to diameter ratio (d/D) of 0.67, reported as the District's standard criteria. BKF makes the following statement as their criteria for determining sewers to be replaced:

"It is important to note that of the sewer mains identified for replacement to support the Projects, significant portions of these mains currently need to be replaced since they meet EPASD criteria for replacement with a pipe flow depth to pipe diameter ration (d/D) that exceeds 0.67 under PWWF conditions".

The 0.67 d/D is appropriate to identify pipes that are theoretically over PWWF capacity. However, designing a replacement project around this criterion is not appropriate. The District has not experienced any sewer overflows or near overflows. Secondly, since the population density of the City of East Palo Alto is much higher than average Bay Area households, this d/D criterion allows accommodation of secondary dwelling units that were not originally envisioned.

The criterion is good for the determination of the size of pipes needed to replace existing pipes due to additional development flow as it will allow the City to make changes and variations to their General Plan without the need for extensive infrastructure upgrades. San Mateo County allows up to 100% d/D

under PWWF conditions while West Bay Sanitary District allows d/D of 0.80 under PWWF conditions. The 0.67 d/D allows for the high population density to accommodate the additional in-service flows. The current sewer system has adequate capacity for existing customers only with no room for additional connections.

Supplemental Cost Share Proposal

The Supplemental Cost Share Proposal quantitatively measured the extent to which upgrades will serve each Project during peak wet weather flow and addressed existing deficiencies in the District's system. Using the methodology of full pipe replacement and upgrade to accommodate the Project shifts more than 70% of the cost burden onto the existing ratepayer. As stated above, there are no deficiencies in the existing sewer system and neither replacement nor upgrade is needed at this time. Regardless of the results of the revised analysis, according to the minutes from the July 16, 2020 Special Meeting, the District does not have the financial means available to accomplish the project. Furthermore, the District should not and cannot burden existing ratepayers with funding project costs that benefit new development. Rather, new development must fund the infrastructure upgrades necessary to accomplish their project. Other sewer Districts prohibit such proposals and for example, El Dorado Irrigation District AR 9028.1 states:

“The District will not pass on to the existing customer the incremental cost for expansion of utility facilities and service to provide for growth. Expansion of District facilities to provide capacity for new development will be financed by facility capacity charges assessed to the developers. The extension of utility lines to the development will be engineered and financed by the developer.”

Because the current sewer capacity is already assigned to existing customers, the cost share allocations contained in the proposal are not an option. The District has suggested the Project consider a parallel gravity pipeline or pipe bursting as alternatives to reconstructing the entire length of the existing sewer. Retention basin options, force main options, I&I reduction options, are all viable alternatives to a major reconstruction effort that have not been examined by the Project. Furthermore, as suggested by the District, the Project should explore other revenue streams such as grants or infrastructure funds to offset project costs.

Project Financing and Long-Term Considerations

The Supplemental Cost Share Proposal contains a table illustrating the District will receive financial benefits from “capacity charges” and monthly sewer fees to help offset project costs. The purpose of the table is to show that although the “Fair Share” cost to the District is on the order of \$9M, there is some cost offset from collecting capacity charges of approximately \$1.4M in capacity fees and \$102K in annual service fees. The proposal further suggests the District go look for other financing options to cover the remainder of the costs.

Annual service fees cover the cost of operations and maintenance of the sewer system only and are not intended nor available for capital project financing. The existing capacity charges are not enough to cover what is purported to be the District's financial obligation.

Conclusions and Recommendations

Conclusions

- The current sewer system has capacity for existing customers only.
- The current theoretical analysis shifts most of the financial burden onto the existing ratepayer.
- The Project has not sufficiently explored alternatives that eliminate the need to replace existing sewer systems.
- Under the proposed Cost Share Proposal, existing customers would bear the cost of new development which is not acceptable.
- The District does not have the funding available to bear the cost of the new development and should not bear that cost.

Recommendations

- The District should prohibit developer attempts to shift infrastructure upgrade costs onto existing rate payers.
- The developer should consider innovative alternatives to replacing major portions of the sewer and explore other funding options.
- The new sewer facilities should be designed and financed by the developer.
- Once the developer has constructed the new sewer, the facilities shall be owned, operated, and maintained by the District.
- The District could consider updating its sewer master plan to determine the extent of new connections over the next several decades and the replacement schedule for existing sewers.

If you have any questions or need further information, please feel free to contact me.

Sincerely,
SR Diversified



David E Powell, P.E.
Senior Project Manager