

October 3, 2018

Project No.: 619-20-15-15
SENT VIA: EMAIL

Mr. Tom Crowley
Utility Manager
City of Rialto
333 West Rialto Avenue
Rialto, CA, 82376

SUBJECT: Response to March 13, 2018 RWS Response letter to 2016 Triennial (TEI) Review

Dear Mr. Crowley:

The purpose of this letter is to summarize West Yost's responses to the '2016 Triennial Review' response letter issued by Rialto Water Services (RWS, Concessionaire) on March 13, 2018.

West Yost Associates completed and submitted the City of Rialto water and sewer systems Triennial Inspection (TEI) Reports in November 2016. Prior to proceeding with inspections and completing the reports, West Yost submitted the draft Triennial Inspection (TEI) Plan as per the Concession agreement (CA) criteria and the scope of the work. The submitted draft TEI Plan was finalized after review by the Concessionaire in early 2016, and before inspections commenced. Following the Plan outline, the Concessionaire provided the requested contractual and record documents on 4/5/16; 4/20/16; 4/29/16; 5/2/16 and 5/22/16. The submitted documents were reviewed and review comments summarized in the TEI Reports, along with site visit inspection reports. The draft TEI Reports were submitted to RWS in November 2016 for review, comments, and implementation. The TEI Reports required a remediation plan from the Concessionaire, sufficient to reasonably demonstrate that, *"if implemented, the Wastewater and Water facility will be promptly brought into compliance with requirements of this agreement [CA]. If the Authority accepts the remediation plan, the Concessionaire shall thereupon correct all material deficiencies noted in accordance therewith"* as per CA Article V (u).

The Concessionaire provided their response to the TEI Reports in March 2018. The response was divided into two sections. The first general part of response letter summarized the Concessionaire's interpretation of the CA TEI requirements. The second part included the Concessionaire comments on four (4) specific issues related to the Report. However, the submitted Concessionaire's responses were silent on the *"... remediation plan sufficient to reasonably demonstrate that, if implemented, the Wastewater Facility will be promptly brought into compliance with the requirements of this Agreement"* as requested in CA Section 5.1 (u) Annual and Periodic Inspections. The Concessionaire states their position is the majority of listed deficiencies in the TEI Reports do not fall under the CA criteria. However, West Yost continues to indicate that the critical deficiencies identified in TEI fall under the CA Criteria. It should be noted the Concessionaire has improved many of the issues identified in the 2016 TEI report. However, at the time of the TEI, the Concessionaire could not demonstrate the compliance of the key CIP projects like the S1 design and implementation, SCADA design and implementation and Asset Management registries

with CA provisions. The noncompliance references were clearly identified for each category of the listed deficiencies included in the TEI Reports. The Concessionaire response did not recognize the TEI report was completed based on the scope outlined in the CA Article V, Section 5.1 (u), and summarized in the January 2016 TEI Plan. The TEI scope outlined in the CA does not include an evaluation of the performance with respect to overall financial and infrastructure improvements.

Also, the Concessionaire did not recognize that the deficiencies listed in the TEI Reports provide the “*major or material deficiencies in RWS' performance of contractual obligations*”, and not “*subjective review based on West Yost recommendations for process improvement in the communication of reporting between the parties*”. One of the deficiencies included in TEI Reports that could clearly document the “*major or material deficiencies in RWS' performance of contractual obligations*” is the lack of evidence of implementation of the S1 FIP project at the time of inspection. The City of Rialto and RWS/Veolia (Concessionaire) signed in effect a service contract known as the Concession Agreement (CA) in May 2012 for the design, construction, and financing of capital improvement upgrades and the operation and maintenance of the Rialto Utility Authority Wastewater Facility and Water Facility. Based on the CA Schedule A.10 and B.9, design and construction of water and sewer improvements is the responsibility of the **Concessionaire**. The material deficiencies of the CA contract performance were reported for the period from May 2012 to January 2016.

Also, the Concessionaire failed to recognize that the West Yost provided elaborate references to the CA in the finalized TEI Plan (ten references to CA and it's provisioned) and TEI Reports (thirty-two references to CA and it's provisions). Therefore, the Concessionaire comment “*References to CA/OMS are limited*” is an inaccurate conclusion.

Detailed response to deficiencies

The TEI Reports included assessments by the West Yost inspection team, as outlined in the CA. The resulting list of material deficiencies included the following: FIP Implementation of the S1 and Water SCADA Projects; Implementation of Asset Management for the water and sewer systems; Compliance with the TDS, Cyanide, Nitrate and Chloride WWTP effluent discharge requirements; Availability of the comprehensive WWTP spill management plan; OSHA compliance program for water and wastewater systems; Flare Operation compliance with AQMD permit; WWTP Influent flow meter records; WWTP grit removal records; WWTP lab certificates; Water and sewer system customer service response time, Submittal of the project plan to enact all provisions of the CA based on the best Industry practices; Updated Water System O&M Manuals; and request to provide updated emergency preparedness plan. References to the CA/OMS are included throughout the TEI Report.

The Concessionaire failed to provide a remediation plan to address the noted deficiencies in their detail response, as outlined in the CA.

Availability of Additional Information

The Concessionaire indicated that certain information was available but not shared at the time of TEI reviews. The Concessionaire's response is silent on the fact that the TEI Plan was provided in January 2016, and the Concessionaire had sufficient time to object, request clarification, or

prepare all requested documentation for the review. As we also indicated earlier, the necessary access to the asset management registries and supporting data were provided several months after TEI activities started. In early June 2016, the TEI team had to complete the review and report with information available at the time. The TEI team took information that was provided for the review in 2016 and completed the report based on site inspections and available documents.

Conclusion

West Yost recognizes since November 2016, the Concessionaire has successfully implemented some remedies, as stated in their March 2018 letter. These improvements are noteworthy and commendable. However, the 2016 TEI accurately reflects the circumstances at that time

Recommendations

As part of the March 2018 TEI response, the Concessionaire should have provided the remediation plan and included the required supporting information to demonstrate their compliance with the CA. Further revisiting the 2016 TEI may not be the best use of the City's or Concessionaire's resources and could be a distraction to the upcoming 2019 TEI. As required under the CA, West Yost will be submitting a draft 2019 Triennial Inspection (TEI) Plan for the Concessionaire's review. It is our recommendation that plan identify the areas where the 2018 response was insufficient in its responses to allow the Concessionaire to demonstrate compliance through the 2019 process.

Please let us know if you have questions about our response to the RWS response letter to the 2016 TEI Review.

Sincerely,

WEST YOST ASSOCIATES



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Vice President



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SAD:clp