

September 10, 2019

VIA U.S.P.S. AND EMAIL (MATTYS@CITYOFLACROSSE.ORG)

Mr. Stephen Matty
City Attorney
City of La Crosse
400 La Crosse Street, 6th Floor
La Crosse, WI 54601

RE: Request for 45 Day Extension to Respond to Sanitary Sewer Utility Rate Study

Dear Mr. Matty:

As you know, Godfrey & Kahn, S.C. has been retained by the Shelby Sanitary District #2 (“SSD”) for negotiations with the City of La Crosse (the “City”) for extending the sewer service agreement between the City and SSD. In April of this year, SSD and the Town of Shelby (the “Town”) provided the City with a revised draft of the agreement for the City’s review/comment (“Revised Draft”). At the time we provided the Revised Draft to the City we also asked for more information about any proposed rate increases. After we receive the additional information on rates that we requested, we were looking forward to finalizing these negotiations before the current agreement extension expires at the end of this year.

Since we have provided our Revised Draft in April and before receiving the additional rate information we had requested, the City has recently circulated to its customers (including SSD), a Sanitary Sewer Utility Rate Study and a proposed Rate Increase (“Rate Study/Increase”) for comment. In a letter dated August 30, 2019, the SSD was informed by the City that the Rate Study/Increase will be the subject of a two-hour workshop on September 18 and then, that night, will be submitted to the La Crosse Common Council for approval and adoption and implementation on January 1, 2020 (“Rate Action Notice”). The Rate Study/Increase, if approved by the Common Council, would result in a three-year phased in rate increase in excess of 60 per cent over the current rate structure at the end of this three-year period. A copy of the Rate Action Notice and Agenda for the Workshop are attached with this letter.

Since receiving the Rate Action Notice, SSD has retained consulting engineers and financial advisors to review the Rate Study/Increase and provide written comments to be filed with the City before the Common Council takes final action on the Rate Study/Increase (SSD Written Comments). For your information, one fundamental flaw in the Rate Study is the failure

of that study to incorporate key engineering information contained in a report submitted by SSD to the City and prepared by SEH, called the Sanitary Collection System Facilities Plan-SSD#2.

Obviously, the Rate Increase Notice process is seriously flawed for at least the following reasons: (1) less than three weeks prior notice to prepare for meaningful input is inadequate; (2) the limited two-hour period in the Workshop agenda for all interested parties to comment is insufficient to accommodate questions from all the interested parties so that they can react with meaningful comments; and (3) a proposed decision by the Common Council on the Rate Study/Increase that very night provides no opportunity for meaningful consideration of public comment.

Quite frankly, our client was shocked by this compressed timeline outlined in the Rate Action Notice. This proposed process does not afford a reasonable time for SSD to determine if the increased rates are "fair and equitable" to its customers, nor does it afford a meaningful opportunity to the Common Council to consider public comments before a City decision is made on the Rate Study/Increase. We firmly believe that affording SSD adequate time to file the SSD Written Comments will enhance the likelihood of good decision-making by the Common Council.

We appreciate your timetable to having the increased rates be adopted and in place by the first of 2020 as part of the application process for a Clean Water Loan Program administered by the DNR. At the same time, the SSD has a fiduciary responsibility to its sewer customers and the Town of Shelby citizens that it has taken all reasonable steps to understand and accept the increase from a fairness principal. The SSD does not oppose paying its fair share of the costs of the treatment facility but only wants to provide information and to comment, as appropriate, on the rate study.

Therefore, under the circumstances outlined in this letter, SSD is formally requesting that the Common Council delay making a final decision on the Rate Study/Increase for at least 45 days. This 45 day delay is the absolute minimum necessary to afford an opportunity for SSD to submit the SSD Written Comments before a City decision is made on this important matter. We believe acceding to this request will not only increase the likelihood of success on the ongoing sewer negotiations between the City and SSD, but also serve to mitigate the need for asking the Public Service Commission ("PSC") to resolve a dispute over the reasonableness of future rate increases.

Given the time sensitivity of this extension request, we have also provided a copy of this letter to Mr. Bernard Lenz, Utilities Manager.

Mr. Stephen Matty
September 10, 2019
Page 3

Your prompt written response to this request for a 45 day extension would be greatly appreciated.

Very truly yours,

GODFREY & KAHN, S.C.

A handwritten signature in black ink, appearing to read "Arthur J. Harrington". The signature is written in a cursive style with a large, stylized initial "A".

Arthur J. Harrington
Attorney Shareholder

AJH:smr
Enclosures

21151600.1

cc: Mr. Bernard Lenz, Utilities Manager via email (lenzb@cityoflacrosse.org)