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Subject: comments on Item #7
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Hello City Council:

I suggest the following revisions to the Records and Information Management Program Policy, specifically to the definitions section starting on page 4 of the agenda report.

- D. Feasibility Studies for Property Acquisition or Public Contracts Unless required to be disclosed by eminent domain law, feasibility studies relative to the acquisition of property, or to prospective public supply and construction contracts, are not disclosed until all the property has been acquired or until the contract or agreement has been executed.

Suggestion: add a definition of the term "feasibility study". "Prospective public supply" in particular is a term the public may not be familiar with so clarifying the term would improve this section. And is this a good policy for Piedmont in general?

Recalling the Piedmont Hills Undergrounding cost overrun, failure to disclose the contract to the public let alone Council resulted in the flawed contract being executed. There may be legitimate public interest in keeping some contract negotiations confidential in which case better clarifying this with a definition of "prosepctive public supply" would strengthen the policy.

H. Public Interest Balancing Test. If a writing does not fit a specific category of exemption, the writing *may* still be exempt if it meets the Public Interest Balancing Test. According to GC §7922.000, "The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of [the Public Records Act] or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record." Since there is a significant body of case law analyzing this balancing test, City staff must consult with the City Attorney's office when determining whether a record may be disclosed upon request.

- E. Suggestion: Have the policy state specifically that in denying a public record request with the balancing test, the City Attorney will provide the requestor with the express provisions of the Public Records Act on which the request is being denied. That is, do not simply refer the requestor to GC §7922.000 but provide specific provisions of the code that pertain to the denial. The policy as written does not clarify that this will occur.

Garrett Keating