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Agenda Item: ID#15-788 (2-A)

Date: 10/8/15

CITY CLERK, FRESNO, CA

## FRESNO CITY COUNCIL



### Supplemental Information Packet

Agenda Related Item(s) – ID#15-788 (2-A)

#### Contents of Supplement: PowerPoint Presentation

##### Item(s)

Actions pertaining to processing of green waste materials and co-mingled recyclable materials (Citywide)

1. Negotiate and execute a Ten-Year Agreement with Mid Valley Recycling, LLC (“MVR”) for co-mingled recyclable material processing as outlined in the Request for Proposal (RFP) issued by the City (Bid File 3405)
2. Negotiate and execute a Ten-Year Agreement with Kochergen Farms Composting, Inc. of Fresno for green waste material processing as outlined in the RFP issued by the City (Bid File 3405)

##### **Supplemental Information:**

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk’s Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk’s website.

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File ID# 15-788

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**VIA HAND DELIVERY**

CITY CLERK, FRESNO CA

Yvonne Spence  
City Clerk  
City of Fresno  
2600 Fresno Street  
Room 2133  
Fresno, CA 93721

Gary Watahira  
Purchasing Manager  
Fresno City Hall  
2600 Fresno Street  
Room 2156  
Fresno, CA 93721

Re: Disclosure of Communications

Dear Ms. Spence and Mr. Watahira:

We write on behalf of our client, West Coast Waste, Inc., a proposer with respect to Request for Proposal #3405, to disclose the attached communication made pursuant to Article 6, Section 4-605(b)(4), which is being served on the identified recipients simultaneously with the service of this disclosure.

Although we do not believe the attached letter represents a "regulated communication" pursuant to Section 4-603(m), because it is permitted and was provided under Section 4-605(b)(4), we hereby disclose the communication pursuant to Section 4-606 out of an abundance of caution.

If you have any questions or need additional information regarding the communication or this disclosure, please do not hesitate to contact me.

Very truly yours,

  
Scott J. Ivy  
McCormick Barstow LLP

SJI:jjj  
Enclosure

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October 6, 2015

**VIA HAND DELIVERY**

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Ashley Swearengin  
City of Fresno Mayor  
2600 Fresno Street  
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Fresno, CA 93721

Re: Request for Proposal #3405/Staff Determination ID#15-788

Dear Mayor Swearengin, Councilmembers, Purchasing Manager and City Manager:

We write on behalf of our client, West Coast Waste, Inc., to contest the Staff Determination regarding processing of green waste materials (ID#15-788). West Coast Waste is not addressing or contesting the portion of the Staff's recommendations regarding the award of the contract for co-mingled recyclable materials to Mid Valley Recycling, LLC.

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The purpose of this letter is to correct certain inaccuracies and/or omissions in the Staff's Report to the City Council and to ask that the Staff reconsider its recommendation and/or that the City Council award the green waste portion of the contract to West Coast Waste based upon the actual content of the bids submitted, as opposed to the incomplete summary set forth in the report. Specifically, the Staff identifies West Coast Waste's proposed price as simply \$18.00 per ton, without consideration or discussion of a \$500,000 immediate cash bonus and other financial incentives offered by West Coast as part of its proposal.

### Summary

The Staff Determination recommending authority to enter into a contract with Kochergen Farms Composting, Inc., for green waste material processing is purportedly based entirely on a finding that the proposal submitted by Kochergen represents the "best value" to the City because it represents the "least cost" to the City. The only evidence identified to support the Staff's conclusion in this regard is a one page "summary of the proposals," (attached as Exhibit 1), that indicates Kochergen's proposed price of "\$16.75" a ton would result in the least cost to the City because it is lower than the price proposed by West Coast Waste, listed in the summary as "\$18.00 a ton."

This abbreviated summary and "analysis" of the proposals based solely on the "gross" price per ton listed by the bidders, leaves out several critical items contained in West Coast's bid yet not addressed anywhere in the Staff's Report, namely (1) **a signing bonus of \$500,000 cash to the City upon acceptance of the bid or 10% of West Coast's gross proceeds from sale of the green waste collected over the life of the contract and** (2) **10,000 yards of finished product to be given back to the City annually** for use in drought relief measures, water conservation and erosion control. (Exhibit 2)

Once the additional benefits contained in West Coast Waste's bid that were overlooked by the Staff and not identified in its Staff Report are considered, there is simply no doubt that the proposal submitted by West Coast Waste represents both the "best value" and "least cost" to the City under any reasonable definition of those terms. West Coast Waste has provided the City of Fresno with green waste processing without interruption or requests for price increases for the past 13 years. West Coast respectfully requests that the City Council continue its 13-year relationship with West Coast Waste for another 10 years thereby assuring customers continued competent and reliable service, and saving taxpayers hundreds of thousands of dollars in the process.

### Request for Proposal No. 3405

Request for Proposal No. 3405 concerned both co-mingled recyclables processing and green waste processing. West Coast Waste will only address those items relating to green waste processing.



The RFP indicated that the proposals would be evaluated on:

- Revenue
- Ability to meet the stated service requirements
- Past Performance and Experience,
- Conformance to the terms and conditions of the RFP and
- Other Related Information.

The RFP indicated that selection would be based on qualitative analysis and revenue, and that the award shall be on the basis of the criteria specified and made to the proposer whose proposal is judged as providing the best value in meeting the interests of the City and the objectives of the project.

For the past 10 years, the green waste processing contract has been split between two vendors, West Coast Waste and Synagro. The RFP indicated that the City “may” select two vendors for the current green waste processing contract if that is determined to be most advantageous to the City.

#### Summary of West Coast Waste’s Response

West Coast Waste’s response first reiterated its long track record processing green waste from the City of Fresno. In addition to its past history providing the work, West Coast Waste also identified ongoing programs intended to benefit the City and its taxpayers going forward, including programs to install upgrades to continue to promote sustainable waste management and water-saving farming practices, and the installation of systems to convert organics into Compressed Natural Gas (CNG) vehicle fuel to help the City and its residence divert material from the landfill and reduce greenhouse gasses.

West Coast Waste’s cost proposal stated a Fixed-Price Proposal of \$18.00\* a ton. The “\*” states “Please see signing bonus in Section 10.” Section 10 contained a list of the “Other Factors” that were being offered in connection with the gross fixed price of \$18.00 a ton. (See Exhibit 2) These additional benefits included:

- Signing Bonus- upon acceptance of this contract, City can select either of the following:
  - . \$500,000 upon acceptance, or
  - . 10% of gross proceeds from material sales
- Material-10,000 yards of finished product will be given back annually to the City of Fresno to use in such areas as median islands and parks for drought relief measures, water conservation and erosion control.

The City currently purchases finished product from West Coast for these purposes, at anywhere from \$20-\$25 a yard, which they would now get for free.



### Staff Recommendation

The Staff Report recommending the award of the green waste portion of the contract to Kochergen did not address or discuss any of the qualitative factors supporting West Coast's proposal that are summarized above. Instead, the Report simply noted that seven of the proposers were qualified to provide the services, and thus, the selection "was based on the best value offered to the City as described in each vendor's written proposal." "For green waste materials, best value was defined to mean the least cost to the City." The Staff's conclusion was that "based on the unit-rate charge offered by Kochergen Farms Composting, Inc., that Kochergen Farms Composting, Inc., offered the best value to the City of Fresno. A summary of the proposals is presented in Exhibit 1"

The "summary of proposals" attached as Exhibit 1 to the report does not contain any information from any of the proposals other than listing Kochergen's price as "16.75 per ton" and West Coast's price as "\$18.00" a ton. (See Exhibit 1) There is no discussion or mention of West Coast's signing bonus of \$500,000 or 10% of its gross sales of the materials, nor of the proposal to provide 10,000 yards of finished material to the City each year, materials for which the City currently pays \$20-\$25 a yard. (See Exhibit 2)

### Objections/Request for Re-Consideration of Staff Recommendation

West Coast Waste's overall objection to the Report and Recommendation is that it provides incomplete data to the Council as to which proposal, Kochergen's or West Coast's, truly provides the "best value" to the City of Fresno.

Focusing solely on the dollars and cents, even a cursory review of the two proposals makes it clear that West Coast's proposal would provide significantly more value to the City over both the short term and the life of the contract. Perhaps through oversight given that it was detailed in the "Other Factors" section of the proposal, the Staff Report fails to mention, let alone attempt to calculate the value of, the \$500,000 cash bonus and other significant monetary benefits provided in West Coast's proposal.

### Conclusion

Based upon a complete review of the proposals, including the bonuses and additional benefits offered by West Coast, we would request that the Staff modify its report to recommend the contract for green waste be awarded to West Coast and that the Council adopt that revised recommendation. In the alternative, and again only based



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upon the value and significant cost benefits provided to the City and its residents, we respectfully requests that the Council exercise its discretion and prudence to award the green waste portion of the contract to West Coast Waste.

Very truly yours,

Scott J. Ivy  
McCormick Barstow LLP

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Enclosure

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Exhibit 1

Summary of Proposals submitted by the seven vendors:

<u>Vendor</u>	<u>Comingled Recyclables</u>	<u>Green Waste</u>
Allen Co	\$-25 per Ton	
CARTS	\$7.50 per Ton	
Harvest Power INC.		\$20.75 per Ton
Kochergen Farms Composting		\$16.75 per Ton
Mid-Valley Recycling	\$10.00 + \$3.00 Bonus	\$19.50 per Ton
Republic Services	Non-Responsive	Non-Responsive
Synagro		\$20.20
West Coast Waste		\$18.00



## Other Factors

West Coast Waste (WCW) feels fortunate and very grateful to the City of Fresno for the privilege of handling the current green waste contract.

Throughout the years, the contract has allowed WCW the opportunity to develop relationships with various groups such as Tree Fresno, Crime Stoppers, Fresno Unified School District, Toys for Tots, Feeding Fresno, Fresno Earth Day.

West Coast Waste offers the following benefits as part of this proposal:

- **Signing Bonus** – upon acceptance of this contract, City can select either of the following:
  1. \$500,000.00 upon acceptance, or
  2. 10% of gross proceeds from material sales
- **Material** – 10,000 yards of finished product will be given back annually to the City of Fresno to use in such areas as median islands and parks for drought relief measures, water conservation and erosion control.
- **Operation Clean Up** – will receive free drop off of all wood and green waste at no cost to the City.
- **Christmas Trees** – the city wide free drop off program will be continued.
- **Earth Day** – programs in place will continue, including free residential drop offs and mulch giveaways.
- **Donation** – continue program of giving landscape materials and equipment to schools and parks.
- **Open-door policy** – will continue to be available to schools and the general public for tours and educational outreach programs.

We are excited about the prospect of continuing our service to the City of Fresno and its residents as a green and wood waste processing facility.