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**Title:** Actions pertaining to processing of Green Waste (Citywide):  
 1. Adopt a finding pursuant to CEQA Guideline 15061(b)(3) of No Possibility these actions may have a significant effect on the environment.  
 2. Award a ten year agreement to Kochergen Farms Composting, Inc. (Kochergen), to process 50 percent of the City's Green Waste (green waste) at a cost to the City of \$16.75 per ton.  
 3. Award a ten year agreement to West Coast Waste, Inc. (West Coast), to process 50 percent of the City's Green Waste at a cost to the City of \$16.75 per ton.

**Sponsors:** Steve Brandau

**Indexes:**

**Code sections:**

**Attachments:** 1. Kochergen Agreement.pdf, 2. West Coast Agreement.pdf

Date	Ver.	Action By	Action	Result
2/25/2016	1	City Council	approved	Pass

**REPORT TO THE CITY COUNCIL**

**February 25, 2016**

**FROM:** DOUG SLOAN, City Attorney  
Office of the City Attorney

**SUBJECT**

Actions pertaining to processing of Green Waste (Citywide):

1. Adopt a finding pursuant to CEQA Guideline 15061(b)(3) of No Possibility these actions may have a significant effect on the environment.
2. Award a ten year agreement to Kochergen Farms Composting, Inc. (Kochergen), to process 50 percent of the City's Green Waste (green waste) at a cost to the City of \$16.75 per ton.
3. Award a ten year agreement to West Coast Waste, Inc. (West Coast), to process 50 percent of the City's Green Waste at a cost to the City of \$16.75 per ton.

**EXECUTIVE SUMMARY**

On December 10, 2015, Council directed the City Attorney to negotiate agreements with the top two proposers for green waste and recyclables processing, with each to receive approximately 50

percent of the City's materials collected.

Council may award two, ten-year agreements - one to Kochergen to process 50 percent of the City's green waste for \$16.75 per ton, and another to West Coast to process the remaining 50 percent on the same terms. After a month of negotiations, the parties have reached agreements, subject to Council approval.

## **BACKGROUND**

In May 2015, the City issued Request for Proposals (RFP) 3405, seeking proposals to process both green waste and recyclables. The RFP sought bidders to create new cost structures for green waste processing agreements, which expired on December 31, 2015. Of the responses received, the lowest proposed processing charge for green waste was from Kochergen, at \$16.75 per ton, and West Coast was second at \$18.00. On October 8, 2015, Council was asked to approve an agreement with Kochergen, subject to negotiation of the final terms. The item was continued to allow the Administration to pursue a "best and final offer" from the top proposers. However, that request was rescinded on October 21, 2015, and the RFP was repealed on October 23, 2015. Subsequently Council directed the City Attorney to negotiate with the top two proposers in each category.

### **2002 Green Waste Agreement**

On October 1, 2002, the city entered into an agreement with Kochergen for processing green waste materials from facilities located at the waste water treatment plant.

### **2005 Green Waste Agreements**

Following distribution of an RFP, on April 30, 2005, Council approved the award of two interim agreements to Kochergen and West Coast for processing curbside green waste materials, to expire on June 30, 2005. Council approved another extension of the agreement, extending the date to November 30, 2005, to allow to finalize the RFP process. On November 29, 2005, Council awarded contracts to Synagro and West Coast Waste for the processing of green waste through December 31, 2010.

### **First Amendments to Green Waste Agreements**

Both Synagro and West Coast Waste agreements were extended for five years, until December 31, 2015. Both entities have agreed to continue processing green waste for the City on a month-to-month basis through June 30, 2016, subject to sixty day's written notice to terminate the agreement.

### **Current Negotiations**

The City Attorney's Office negotiated contracts with the service providers. The agreements before Council are identical, including the following material terms:

- City pays \$16.75/ton of green waste processed (currently City pays \$23.97/ton).
- Request by service provider to change price results in City issuing an RFP for the services or awarding services to another service provider currently contracted to perform the services, at the City's option.

- Only exception to above is, three years or later after effective date of the agreement, if a material change in law causes a greater than 10 percent net decrease in funds to service provider for more than a year, the service provider may submit a request for price adjustment along with documentation supporting a negative effect on its bottom line, and the City may negotiate the rate with the service provider for 60 days. If no agreement is reached, City may issue RFP or award to another service provider currently contracted to perform the services, at the City's option.

The reduction in processing costs for green waste will reduce our current costs from an estimated \$1,800,000 to \$1,250,000, providing a cost reduction of approximately \$550,000 annually. Based upon these negotiations, the City Attorney believes the contractual terms likely would not improve should the City reject these contracts and send the contracts out to another RFP process.

## **ENVIRONMENTAL FINDINGS**

Pursuant to CEQA Guidelines section 15061(b)(3), there is no possibility that awarding these agreements will have a significant effect on the environment and this project is not subject to CEQA. This is because awarding the service agreements does not directly affect the environment. Each service provider must comply with CEQA regulations in performing its services, and construction of any new facilities required to fulfill these agreements will be assessed separately prior to construction.

## **LOCAL PREFERENCE**

Although all the service providers are local businesses, local preference was not considered because FMC 4-109 does not require local preference for non-consulting, non-professional services contracts.

## **FISCAL IMPACT**

Last year the City paid over \$1,800,000 to process approximately 75,000 tons of green waste. The new agreements will reduce costs by \$7.22 per ton, saving the City and rate payers approximately \$550,000 annually.

### **Attachments:**

- Agreement with Kochergen
- Agreement with West Coast