

Colclasure, James

From: Krivit, Dan <Dan.Krivit@Foth.com>
Sent: Tuesday, August 19, 2014 10:52 AM
To: Gates, Jim
Cc: Shuros, Warren A; Keel, Karl; Casmer, Deb
Subject: RE: Solid Waste Consultant Data

Jim,

Foth's request for information, emails and strategies to remain confidential is more to protect the City's interests and not because Foth considers such information proprietary. Based on Sandra's discussion below, I recommend we share our proposed confidential details with you in verbal/oral form only and not in written form. Then there is no question that Foth owns the documents exclusively as a private entity because we have not submitted any confidential data or information to City staff in written form. Please advise if this is an acceptable alternative.

This will be more clear once we submit our proposal tomorrow. So you may wish to wait until then to react further or circulate this email back to your City Attorney's office.

Thanks.

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From: Gates, Jim [mailto:jgates@BloomingtonMN.gov]
Sent: Tuesday, August 19, 2014 10:46 AM
To: Krivit, Dan
Subject: FW: Solid Waste Consultant Data

Dan,

What I received back from Legal regarding the "confidential or proprietary" request we discussed this morning. Please cite the reasons as necessary.

Thanks.

Jim

From: Johnson, Sandra
Sent: Tuesday, August 19, 2014 10:29 AM
To: Gates, Jim; Kaul, Ann

Cc: Keel, Karl; Lewis, Janet; Schmidt, Amy
Subject: Solid Waste Consultant Data

Jim,
The test is whether or not the data would have value in the hands of a competitor. For instance, if an architect provides us with plans, those could be copied by a competitor and have value in their hands. But, that's an easy example - it's generally a tough test. Generally, all data we receive is presumptively public. There are significant penalties for violating the law. There needs to be an articulated protection for it in the act. Ask Foth to articulate the basis for their claim that the data is confidential and to describe what that data consists of – specifically. We do have a data requestor who is very active on this case.
BTW – Ann Kaul is the Data Practices expert in legal. Please work with her.

Sandra H. Johnson
Bloomington City Attorney
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