



Municipal Corp. of Cape Charles

TOWN HALL
COPY
NUMBER 114 (BOB)

January 6, 2009

Webtide
16464 Courthouse Rd.
PO Box 395
Eastville, VA 23347

Dear ~~Mr. Corrado~~ ^{Joe},

We are in receipt of your letter of December 28, 2008 concerning the submittal of an unsolicited proposal for the Development, Design, Construction, and Operation of a Regional Water and Wastewater System. This letter addresses your request to protect Volume 2 as confidential and proprietary under Section 2.2-3705 (A) (56) of the Freedom of Information Act. The basis of this request is that Volume 2 contains information on cost and schedule estimates, and design criteria which, if made available to the public, would adversely impact the negotiating positions of the public and private entities, as well as the financial statements for Webtide which is a privately held company.

We have notified the Mayor and Council Members that Volume 1 is available to them and will also make it available upon request to members of the public. We have not yet made a final determination concerning the public releasability of information contained in Volume 2. On an interim basis and in recognition of your request, we have notified the Mayor and Council Members that Volume 2 is available for their use on-site at the Town Hall. It will not be made available to members of the public at this time.

It is clear that specific portions of Volume 2 qualify for protection from public release:

1. The proposed cost of contract operation and routine maintenance of the treatment facilities (pp. 33-38).
2. The preliminary estimated cost for design and construction (p. 41).
3. The financial statement of Mid Eastern Builders (separate supplement to Volume 2).

We do not believe the balance of the information contained in Volume 2 is eligible to be withheld from public release. The project description, design basis, schedule, etc. are quite generic in nature. The information appears to be limited to that already in the public domain or readily obtainable from equipment manufacturers. In any case, much of this information will need to be made available to the public for preparation of any competing proposals during the specified 45 day period should the Town decide to accept your proposal for publication and conceptual-phase consideration.

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Additionally, you indicated in your letter that Volume 2 contains the financial statements of Webtide, a privately held company. However, the only financial statement of a privately held company provided is that of Mid Eastern Builders. No financial statements have been provided for Webtide and its other team partners: Webster Investors, Timmons Group and McGuire Woods Consulting. As you know, the provision of this information is a requirement of the Cape Charles PPEA guidelines.

As you have requested, this letter provides three working days notice (COB January 9, 2009) to provide any clarifying information. Otherwise, only the three pieces of information contained in Volume 2 indicated above will be exempt from public disclosure. As you are aware, if this determination provides less protection than requested, you have the option of withdrawing the proposal.

If you need any further information please contact Mr. Bob Panek, 757-331-3259, ext. 19.

Sincerely,



Joe Vaccaro
Town Manager

Copy to:
Mayor
Members of Council
Town Attorney
Northampton County Administrator
Mayor of Cheriton