

**CITY OF SAN ANTONIO
ENVIRONMENTAL SERVICES DEPARTMENT
CITY COUNCIL AGENDA MEMORANDUM**

CONSENT AGENDA

ITEM NO.

24

TO: Mayor and City Council

FROM: Daniel V. Cárdenas, Director of Environmental Services

SUBJECT: Assignment of Curbside Recycling Processor Contract with Allied Vista , Inc., doing business locally as Vista Fibers of San Antonio, LTD, to Mid-America Recycling Company

DATE: April 21, 2005

SUMMARY AND RECOMMENDATIONS

An Ordinance Approving or Consenting to a Proposed Assignment of the Recycling Processing Services Contract between Vista Fibers of San Antonio, LTD (Vista Fibers), and the City of San Antonio, which Contract is anticipated for Assignment from Vista Fibers to Mid-America Recycling Company upon accomplishment of due diligence to confirm the proposed assignee is competent to perform.

Staff recommends approval of this ordinance.

BACKGROUND INFORMATION

The City began implementation of the curbside recycling program in 1993, with once per week collection. Recycling collection is available to all San Antonio residential solid waste ratepayers; however, participation is voluntary. Approximately 24,000 tons of recyclable material is collected annually and includes newsprint/paper; plastics #1 and #2 (milk and juice containers, water bottles, and cleaning supply bottles); steel, aluminum, tin and aerosol cans; and glass bottles and jars (green, amber, and clear).

On June 24, 2004, City Council approved ordinance no. 99386 allowing for the execution of a seven-year contract with Allied Vista, Inc., doing business locally as Vista Fibers of San Antonio, LTD, under Allied Vista General Partner Limited Liability Company. The contract provides for Vista Fibers to process the recyclable materials, utilizing a single stream processing method for items collected from the City's curbside recycling program, for the period of August 1, 2004, to July 31, 2011, and authorizes up to three (3) one (1) year extensions.

Recently, the Environmental Services Department was informed by Mr. Tom Lyon, the CEO of Vista Fibers, of his intent to sell the company to Mid-America Recycling, a national recycling company that primarily serves the central United States. Mid-America Recycling, a Delaware corporation, has been in operation since 1979 and is owned by a private holding company, Bolder Capital, LLC, whose offices are in Chicago, Illinois.

The contract requires that the City be notified of any proposed assignment, and specific documents must be provided to the City describing the proposal or executed agreement for review by City staff. The required documents were reviewed by the City Attorney's Office, Finance Department, Environmental Services and Contract Services Department staffs. City staff also met with Vista Fibers, Mid-America Recycling and Bolder Capital representatives to discuss the proposed assignment and to ensure that, if the assignment is approved, Mid-America Recycling is committed and able to fulfill the contractual requirements for the duration of the performance period.

The Finance Department has reviewed Bolder Capital's submissions on behalf of Mid-America Recycling Company and found the disclosures to be adequate. Vista Fiber's \$1,349,700.00 letter of credit, securing performance, will not be released until Mid-America's financial security is in place and the enabling ordinance is effective, ten (10) days following council action.

Vista Fibers has performed admirably and Mid-America Recycling intends to maintain the local operation. Mr. Lyon will continue in his role as CEO for at least the next year. The local Vista Fibers operations manager, Mr. Jon Rabon, a key employee, will also continue in his current capacity.

POLICY ANALYSIS

In accordance with the contract provisions, the proposed assignment of the contract must be approved by the City Council. The assignment of this contract is "anticipatory" pending the approval of this ordinance.

FISCAL IMPACT

There is no fiscal impact associated with this ordinance.

COORDINATION

This Ordinance has been coordinated with the City Attorney's Office, the Finance Department, and the Contract Services Department.

SUPPLEMENTARY COMMENTS

The Financial Disclosure form for Mid-America Recycling Company is attached as required by the Ethics Ordinance.

ATTACHMENTS

Financial Disclosure Form

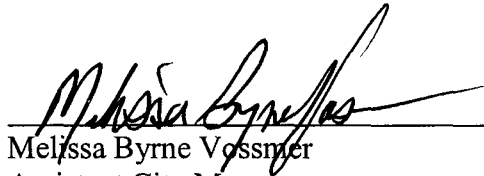
Consent to Assignment in Substantial Form



Daniel V. Cárdenas

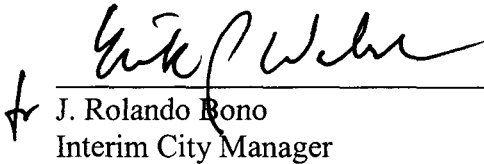
Director

Environmental Services Department



Melissa Byrne Vossmer

Assistant City Manager



J. Rolando Bono

Interim City Manager

ATTACHMENT C

City of San Antonio
Discretionary Contracts Disclosure*

For use of this form, see City of San Antonio Ethics Code, Part D, Sections 1&2

Attach additional sheets if space provided is not sufficient.

State "Not Applicable" for questions that do not apply.

* This form is required to be supplemented in the event there is any change in the information under (1), (2), or (3) below, before the discretionary contract is the subject of council action, and no later than five (5) business days after any change about which information is required to be filed.

Disclosure of Parties, Owners, and Closely Related Persons

For the purpose of assisting the CITY in the enforcement of provisions contained in the CITY Charter and the Code of Ethics, an individual or business entity seeking a discretionary contract from the CITY is required to disclose in connection with a proposal for a discretionary contract:

(1) the identity of any individual who would be a party to the discretionary contract:

None

(2) the identity of any business entity¹ that would be a party to the discretionary contract:

Mid-America Recycling Company

and the name of:

(A) any individual or business entity that would be a **subcontractor** on the discretionary contract;

None

and the name of:

(B) any individual or business entity that is known to be a **partner**, or a **parent** or **subsidiary** business entity, of any individual or business entity who would be a party to the discretionary contract;

None

¹ A business entity means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, unincorporated association, or any other entity recognized by law.

**ATTACHMENT D
LITIGATION DISCLOSURE**

Failure to fully and truthfully disclose the information required by this Litigation Disclosure form may result in the disqualification of your proposal from consideration or termination of the contract, once awarded.

1. Have you or any member of your Firm or Team to be assigned to this engagement ever been indicted or convicted of a felony or misdemeanor greater than a Class C in the last five (5) years?

Circle One

YES

☒ NO

2. Have you or any member of your Firm or Team been terminated (for cause or otherwise) from any work being performed for the CITY of San Antonio or any other Federal, State or Local Government, or Private Entity?

Circle One

YES

☒ NO

3. Have you or any member of your Firm or Team been involved in any claim or litigation with the CITY of San Antonio or any other Federal, State or Local Government, or Private Entity during the last ten (10) years?

Circle One

YES

☒ NO

If you have answered "Yes" to any of the above questions, please indicate the name(s) of the person(s), the nature, and the status and/or outcome of the information, indictment, conviction, termination, claim or litigation, as applicable. Any such information should be provided on a separate page, attached to this form and submitted with your proposal.

- (3) the identity of any lobbyist or public relations firm employed for purposes relating to the discretionary contract being sought by any individual or business entity who would be a party to the discretionary contract.

None

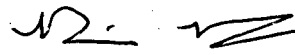
Political Contributions

Any individual or business entity seeking a discretionary contract from the CITY must disclose in connection with a proposal for a discretionary contract all political contributions totaling one hundred dollars (\$100) or more within the past twenty-four (24) months made directly or indirectly to any *current or former member* of CITY Council, any *candidate* for CITY Council, or to any *political action committee* that contributes to CITY Council elections, by any individual or business entity whose identity must be disclosed under (1), (2) or (3) above. Indirect contributions by an individual include, but are not limited to, contributions made by the individual's spouse, whether statutory or common-law. Indirect contributions by an entity include, but are not limited to, contributions made through the officers, owners, attorneys, or registered lobbyists of the entity.

To Whom Made:	Amount:	Date of Contribution:
None		

Disclosures in Proposals

Any individual or business entity seeking a discretionary contract with the CITY shall disclose any known facts which, reasonably understood, raise a question² as to whether any CITY official or employee would violate Section 1 of Part B, Improper Economic Benefit, by participating in official action relating to the discretionary contract.

Signature: 	Title: President Company: Mid-America Recycling Company	Date: 03/30/05

² For purposes of this rule, facts are "reasonably understood" to "raise a question" about the appropriateness of official action if a disinterested person would conclude that the facts, if true, require recusal or require careful consideration of whether or not recusal is required.

AN ORDINANCE **99386**

ACCEPTING A PROPOSAL AND AUTHORIZING EXECUTION OF A RECYCLABLES PROCESSING SERVICES CONTRACT WITH ALLIED VISTA, INC., DBA VISTA FIBERS OF SAN ANTONIO, LTD, THROUGH ALLIED VISTA, GENERAL PARTNER, TO ACCEPT, PROCESS, AND MARKET RECYCLABLE MATERIALS COLLECTED BY THE CITY'S CURBSIDE RECYCLING PROGRAM FOR PRODUCTION OF REVENUE; FURTHER AUTHORIZING AN OPTION TO ALLOW THE CITY TO EXERCISE UP TO THREE (3) ONE-YEAR EXTENSIONS UPON APPROVAL OF THE CITY COUNCIL.

* * * * *

WHEREAS, in August, 1990, the City of San Antonio implemented a curbside recycling pilot program consisting of 9,000 homes in five different test areas; and

WHEREAS, the recycling program has since become an integral part of the City's regional plan to divert waste from landfills, as required by state regulation; and

WHEREAS, the recycling program produces revenue for the City predicted upon market conditions, and to this end the City recently solicited Proposals for a new processing and marketing / sales agreement; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The proposal of Allied Vista, Inc., dba Vista Fibers of San Antonio, Ltd., through Allied Vista, General Partner, a Limited Liability Company (Vista Fibers) is hereby accepted, subject to requirements of the City's Request for Proposal, amendments, addenda, and adjustments thereto, all of which constitute the contract documents for the Agreement; and, the City Manager or her designee is authorized to execute an Integration Agreement comprised of all such contract documents, to provide for sale and purchase of recyclable materials collected by the City of San Antonio in its recycling program. A substantially true and correct copy of the Integration Agreement is appended hereto as Attachment I, fully incorporated herein verbatim for all purposes. Subsequent changes to this Attachment, if any, must be approved by the City Attorney.

SECTION 2. The initial periodic performance term for this Agreement shall be seven (7) years, commencing on August 1, 2004, and ending on July 31, 2011. Thereafter, the City shall enjoy options to exercise as many as three (3) one-year (annual) extensions of the Agreement on terms and conditions identical to the terms and conditions of the initial Agreement, which exercise shall be made upon approval of the City Council.

SECTION 3. The following financial adjustments shall be made as necessary to effect this Ordinance:

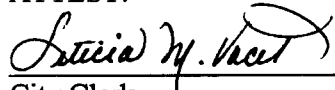
- (a) Funds received shall be deposited in Fund 11-000000 (General Fund) in Index Code 079152 entitled "Vista Fibers".
- (b) The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Index Codes and Fund Numbers as necessary to carry out the purpose of this Ordinance.

SECTION 4. The authority provided by this Ordinance, pertaining to the City Manager's execution of an Agreement, shall terminate 45 days from date of passage of this Ordinance. If during said timeframe, being the period from date of passage of this Ordinance until forty-five (45) days hence, no Agreement should be successfully executed between the City and Vista Fibers, then City staff is authorized at any juncture during such 45 day period to commence negotiations with other proponents and may do so concurrently with negotiations with Vista Fibers and / or may abandon negotiations with Vista Fibers, as may be determined, at the discretion of the Director of Environmental Services Department, to be in the City's best interest.

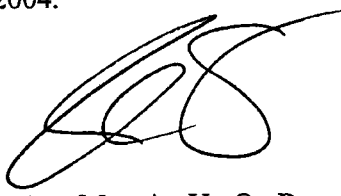
SECTION 5. This Ordinance shall take effect on July 4, 2004.

PASSED AND APPROVED this 24th day of June, 2004.

ATTEST:

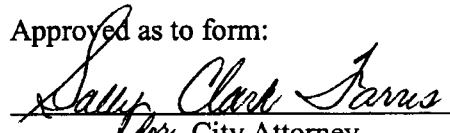


City Clerk



M A Y O R
EDWARD D. GARZA

Approved as to form:



for City Attorney