

BEFORE THE METRO CONTRACT REVIEW BOARD

RESOLUTION OF THE METRO COUNCIL	)	RESOLUTION NO. 17-4821
ACTING AS THE METRO CONTRACT REVIEW	)	
BOARD, FOR THE PURPOSE OF	)	Introduced by Chief Operating Officer Martha
AUTHORIZING AN EXEMPTION TO THE	)	Bennett, with the concurrence of Council
COMPETITIVE BIDDING PROCEDURES AND	)	President Tom Hughes
AUTHORIZING PROCUREMENT BY REQUEST	)	
FOR PROPOSALS FOR FOOD WASTE	)	
PROCESSING SERVICES	)	

WHEREAS Metro is responsible for solid waste planning within the region through implementation of the Regional Solid Waste Management Plan (RSWMP) and other policies, programs, and actions and pursuant to Metro's constitutional, statutory, and charter authority; and

WHEREAS, the RSWMP identified commercial food waste as a priority area of focus reflecting the significant quantity of this material remaining in the region's waste stream, and the potential environmental and economic benefits of recovery; and

WHEREAS, in October 2016, the Metro Council directed staff to, among other things, issue a request for proposal for commercial food waste processing services; and

WHEREAS, Metro issued a request for qualifications for food processing services and, in April 2016, issued a Notice of Qualification in which it deemed nine firms qualified to bid on a request for proposal; and

WHEREAS, Metro issued a request for proposal for food processing services in 2017 and is seeking responders that have a verifiable and demonstrated record of successful project implementation; and

WHEREAS, Metro has not decided whether the food processing facility will be publicly owned, privately owned, or a combination public and private partnership and will encourage responders to indicated the type of arrangement that will best suit the proposed facility; and

WHEREAS, Metro is seeking this exemption in the event the successful proposal includes some form of public ownership of the facility that requires a competitive bid; and

WHEREAS, ORS 279C.335 and Metro's Local Contract Review Board "Administrative Rules" require that all Metro public improvement contracts shall be procured based on competitive bids (Administrative Rule 49-0130), unless exempted by the Metro Council, sitting as the Metro Contract Review Board (Administrative Rule 49-0620); and

WHEREAS, ORS 279C.335(2) and Administrative Rule 49-0620 authorizes the Metro Contract Review Board to exempt a public improvement contract from competitive bidding and direct the appropriate use of alternative contracting methods that take account of the public benefits, reduced risks, and efficiencies of such alternative methods, so long as they are consistent with the public policy of encouraging competition; and

WHEREAS, recognizing the unusual and complex qualities of the commercial food waste processing procurement, Metro seeks to obtain an exemption from competitive bidding for the project in the event the resulting contract could be considered a public improvement; and

WHEREAS, ORS 279C.335(2) and (4), and Administrative Rule 49-0620, require that the Metro Contract Review Board hold a public hearing and adopt written findings establishing, among other things, that the exemption of a public improvement contract is unlikely to encourage favoritism in the awarding of public improvement contracts, the exemption is unlikely to substantially diminish competition for the public improvement contracts; and that the exemption will likely result in substantial cost savings to Metro; and

WHEREAS, in accordance with Administrative Rule 49-0630(7), notice of this hearing was published in at least one trade newspaper of general statewide circulation a minimum of fourteen (14) days before this hearing, which notice stated that the purpose of this hearing is to take comments on Metro's findings regarding an exemption from the competitive bidding requirements, and the draft findings were available to the public at the time of the published notice; now therefore:

**BE IT RESOLVED THAT THE METRO CONTRACT REVIEW BOARD:**

1. Exempts from competitive bidding the procurement and award of a public contract for commercial food waste processing; and
2. Adopts as its findings in support of such exemption the justifications, information, and reasoning set forth in the attached Exhibit A, which is incorporated by reference as if set forth in full; and
3. Authorizes the Chief Operating Officer to proceed with the form of Request for Proposals that the Office of Metro Attorney has approved and Metro has issued for food waste processing services that includes as evaluation criteria for contractor selection: Contractor's proposed contract management costs for pre-construction services, contractor's proposed overhead and profit costs for construction services, contractor's demonstrated project experience, contractor's record of completion of projects of similar type, scale and complexity, contractor's demonstrated quality and schedule control, contractor's experience in incorporating sustainability construction practices and design into projects, and contractor's demonstrated commitment to workforce diversity and record of use of businesses Certified by the Office of Business Inclusion and Diversity (COBID) and any other criteria that ensures a successful, timely, and quality project, in the best interest of Metro and in accord with ORS 279C.335(4)(c) and Administrative Rule 49-0620; and
4. Authorizes the Chief Operating officer to receive responsive proposals for evaluation in accordance with Administrative Rule 49-0690; and

5. Following evaluation of the responses to the Request for Proposals authorizes the Chief Operating Officer to execute a contract that is most advantageous to Metro, regardless of whether the contract is a public improvement contract.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_ 2017.

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Tom Hughes, Council President

Approved as to form:

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Alison R. Kean, Metro Attorney