

EXHIBIT A

Findings in Support of an Exemption from Competitive Bidding Process (Request for Bid) for Metro Council Resolution 17-4821

Pursuant to ORS 279C.335(2) and (4), and Administrative Rule 49-0630, the Metro Contract Review Board makes the following findings in support of exempting the procurement Commercial food waste processing from competitive bidding through a Request for Bid (RFB), in favor of a Request for Proposals (RFP) solicitation for a possible public improvement construction contract.

The exemption is unlikely to encourage favoritism or substantially diminish competition.

The Metro Contract Review Board finds that exempting the procurement of a facility for processing food waste collected at Metro Central Transfer Station from competitive bidding is “unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts” as follows: The RFP will be formally advertised with public notice and disclosure of the planned alternative contracting method and made available to all contractors. Award of the contract will be based on the identified selection criteria and dissatisfied proposers will have an opportunity to protest the award. Full and open competition based on the criteria set forth in the Metro Contract Review Board resolution will be sought, with the contract award going to the contractor that is the most advantageous to Metro. Competition will be encouraged by: posting on ORPIN (Oregon Procurement Information Network), contacting local sub-contractors, including COBID certified business, and notifying them of any opportunities within their area of expertise; utilizing the Oregon Daily Journal of Commerce and a minority business publication for the public advertisement; performing outreach to local business groups representing minorities, women, disabled-veterans, and emerging small businesses; and by contacting contractors known to Metro to potentially satisfy the RFP criteria. Given the type of project, it is likely that the same general contractors that would have bid on the project will also submit a proposal in response to the RFP.

The Metro Contract Review Board finds that the use of an alternative competitive process (RFP) in the procurement of commercial food waste processing services is “unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts” as follows:

The exemption may result in cost savings and other benefits to Metro.

The Metro Contract Review Board finds that the use of an alternative competitive process (RFP) in the procurement of commercial food waste processing services for food waste collected in the region from a competitive bidding process (RFB) will likely result in costs savings and other benefits to Metro, considering the following factors:

a. Limited number of persons available to bid.

This factor is not applicable. As the response to the Request for Qualifications indicated, staff anticipate that numerous firms are interested in participating in the procurement.

b. Construction budget and project operational costs for the completed project.

Utilizing an RFP process to select a food waste processing services will allow Metro to obtain the best option for these services. As set forth in the staff report, Metro seeks proposals across a spectrum of ownership, financing and technology options. Given the unusual nature of the project, it is in the

interest of Metro and the region to move forward with an RFP process that identifies several priority factors used for proposal evaluation.

Given the high degree of complexity of the project and the need to integrate with pre-existing infrastructure (such as cooperation with existing solid waste haulers and private transfer stations); Metro anticipates that the RFP will ensure all public benefits are achieved, including lower overall project costs.

c. Public benefits in granting exemption.

Using the alternative RFP process will promote the efficient and effective completion of the project, thereby providing processing services for use by the public as soon as possible. Through this process Metro will ensure that commercial food processing services will be implemented within a timeframe that is consistent with the overall Food Scraps Program goals and timelines. Public benefits associated with this project include, but are not limited to: protect people's health, protect the environment, get good value for the public's money, keep Metro's commitment to the highest and best use of materials and ensure services are accessible to all types of customers.

d. Value engineering techniques.

Value added engineering techniques are generally responsible for adding value to food waste processing services in a number of ways, including but not limited to: increased processing efficiencies, the strengthening of environmental controls and increased end product value. Because this is an alternative procurement process, technology choice is important to the proposal and is an important evaluation criterion.

e. Reduced risks to Metro or the Public.

The selection of a proposer with demonstrated experience, success and expertise in food waste processing services will result in a lower risk to Metro. The RFP process will take into account each proposer's past performance with similar technology, technical knowledge, and sub-consultant experience.

f. Impact on source of funding.

The alternative contracting process allows greater flexibility in the use of public and private funding mechanisms.

g. Impact on agency's ability to control costs and time necessary for completion.

The alternative contracting process will allow the agency to more effectively and efficiently control the project and ensure its timely completion. The project will not involve off-the-shelf installations. Rather, it will require a high level of coordination both within Metro and with Metro's stakeholders, including local governments, private entities, and individuals. This procurement alternative gives Metro more flexibility as well as a more informed decision making process.

h. Technical complexity of project.

This procurement is a technically complex project in a variety of ways. For example, proposers have many food waste processing technologies to choose from; a variety of facility site location options; funding mechanism options; end product options and their benefits; and differences in cost-to-build scenarios depending on technology choice and end product. The selection of a proposer with demonstrated experience and success in implementing food waste processing services projects will result in a substantially lower risk to Metro, because it increases the likelihood of the project being completed on budget, with fewer delays, resulting in lower costs and increased benefit to Metro and the region. The RFP process will take into account each contractor's past performance and technical

knowledge. Based on the necessary quality and quantity of the process products, and the uniqueness of the undertaking, the Procurement Officer believes an alternative contracting process to be necessary and in the best interest of the agency.

i. New construction.

The project may result in new construction. The need to ensure that this project is properly, safely, efficiently, and successfully implemented is of importance. Some of the design limitations and conditions are likely to be unknown until uncovered by work performed under an early work assignment; a proposer with experience in food waste processing services, facility design, technology expertise, construction development and facility operation will be more likely to limit and plan for foreseen and unforeseen problems in facility development. An RFP process allows for these factors to be integrated into the decision making process.

j. Experienced agency staff.

Metro staff, including project managers, the Finance and Regulatory Services Department, and Office of Metro Attorney, has the expertise and substantial experience in the RFP contracting method and have worked together to develop the alternative contracting method to be used in awarding and executing on this public improvement contract. Agency staff will also help negotiate, administer and enforce the terms of the public improvement contract.