

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF REQUIRING)	RESOLUTION NO. 85- 564
MANDATORY PREQUALIFICATION FOR)	
THE CONTRACT FOR OPERATING THE)	Introduced by the
ST. JOHNS LANDFILL)	Executive Officer

WHEREAS, ORS 279.039 authorizes public contracting agencies to require mandatory prequalification for public contracts that are to be let by the agency; and

WHEREAS, The Metro Council finds that it is desirable to require mandatory prequalification for the 1985 contract for operating the St. Johns Landfill; and

WHEREAS, The time for submitting prequalification applications is set to provide current information and prompt responses and is consistent with a reasonable schedule for letting this contract; and

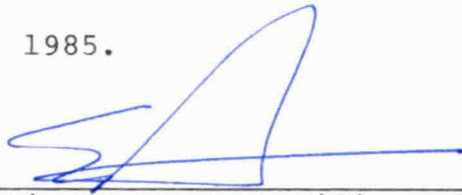
WHEREAS, ORS 279.039(1) requires prequalification applications to be on a standard form prescribed by the Director of the Department of General Services and ORS 279.037(2) allows the public contracting agency to make any necessary investigation and request information to determine whether an applicant is qualified; now, therefore,

BE IT RESOLVED,

1. That prequalification is mandatory for the 1985 contract for operating the St. Johns Landfill.
2. The time for submitting prequalification applications shall begin approximately May 10, 1985, and shall close at 5:00 p.m. on May 29, 1985.

3. That the prequalification application shall be in writing on a standard form prescribed by the Director of General Services, supplemented as necessary by requests for information consistent with the criteria in ORS 279.037.

ADOPTED by the Council of the Metropolitan Service District
this 9th day of May, 1985.



Ernie Bonner, Presiding Officer

ESB/srs
3329C/411-2
04/12/85

CONSIDERATION OF RESOLUTION NO. 85-564 ADOPTING A
PRE-QUALIFICATION PROCESS FOR BIDDING THE
ST. JOHNS LANDFILL OPERATION CONTRACT

Date: May 1, 1985

Presented by: Norm Wietting

FACTUAL BACKGROUND AND ANALYSIS

This Staff Report is revised to address those issues raised by the Council at its April 25 meeting. In the recommendation section of the report the proposed members of the prequalification committee are identified as well as the criteria for making the prequalification decision.

In April 1980 Metro and the City of Portland approved an agreement by which Metro assumed the financial and operational responsibility for St. Johns Landfill. Metro elected at that time to implement a system by which Metro would operate the gatehouse with its own employees and maintain control of all monies flowing through the landfill. Metro then developed specifications and selected, through a public bid process, a private firm to perform the actual onsite operations. Because of the short time frame between the mutual approvals by Metro and the City of Portland, a four-month contract was awarded to operate the landfill to allow time to develop the contracts and specifications for a five-year period. The five-year contract began October 1, 1980, and expires on September 30, 1985.

Alternatives

In order to assure an orderly and timely process for operations at the landfill on October 1, 1985, it is essential that the selection process begin now. Metro staff has reviewed the following alternatives to operate the landfill:

1. Develop a revised set of specifications which take into account any changes that have occurred over the last five years, any changes that we foresee over the next five years and any revised policies set by the Metro Council. Once these specifications are developed we would publicly bid the contract and anticipate Council approval on August 8, 1985.
2. Prior to the public bidding described in Alternative 1, Metro would issue a Request for Qualifications and evaluate all firms that submit qualifications to determine if, in

fact, they are acceptable as bidders on this project. Once a list of qualified bidders is established, only those firms would be allowed to bid on the final specifications.

3. Metro could prepare to take over the operation of the landfill with its own equipment and personnel.

Analysis

In 1980 Metro selected Alternative 1 over Alternative 3 for several reasons. Metro did not feel that the benefits that could be gained from direct operation would offset the increased cost of administration. Metro would have had to borrow funds to purchase the required equipment, and Metro did not feel that hiring a complete staff to operate the landfill was appropriate. In evaluating Alternative 3 today, many of the same concerns are still valid. Specialized equipment would need to be purchased or leased, equipment operators and laborers would need to be hired and trained, contracts for final and daily cover would have to be developed and many smaller contracts for other materials and services would have to be issued.

In addition, Metro must consider its position as a regulator and administrator and whether it would be in Metro's interest to have to make day-to-day decisions when the potential choices for action involve environmental and economic impacts. Under direct operations, when these choices may be at odds, field staff are forced to make difficult choices. If provisions are properly covered under an operations contract the result will be to favor the environmental needs as the priority. In today's atmosphere of municipal funding reductions numerous government agencies that have operated disposal facilities with their own employees are finding contracting to be more attractive.

Under Alternative 2 a pre-qualification process would precede the actual bid phase for the contract. Under ORS 279.039 Metro must adopt a resolution requiring pre-qualification. Metro would review the qualifications and establish a list of qualified bidders. Pursuant to ORS 279.057 the potential bidders are required to submit the same information regarding their experience, key personnel, equipment and any past breaches of contractual obligations as in Alternative 1. The prime advantage in this process is that Metro evaluates the qualifications of each bidder and makes its decision of acceptability without the influence of bid prices. This also lessens the potential of an unqualified bidder submitting an extremely low bid because they were not aware of some of the requirements of this specialty contract. The prime disadvantage is that all companies that submit pre-qualification statements must be evaluated, in contrast to Alternative 1 where only the low bidder must be evaluated.

The process in Alternative 1 of developing a set of detailed specifications for soliciting public bids would be followed under either Alternative 1 or 2. Under Alternative 1 the qualifications

of the bidders are submitted at the same time as the actual bids. If a low bidder is deemed to be unqualified, it is generally much more difficult to exclude them than in a pre-qualification process. Alternative 1 forces a potentially unqualified bidder to go through the significant expense of submitting a bid when it may not be accepted in the end.

Recommendation

While Alternative 2 requires a longer process and more staff time, the benefits to Metro are significant. A sanitary landfill operation can be imagined by different persons to be many different things. For example, from an excavation contractor's perspective a landfill seems like a simple continuous fill sequence. However, in order to properly operate a landfill, one must realize the severe duty that the equipment is subjected to, the problems encountered by operating in all extremes of weather, the necessity to handle many types of special waste, recognize the inherent risk of dealing with hazardous waste, understand the relationship to the community as well as the necessity to deal with the variety of customers of the landfill. From the perspective of the untrained or inexperienced eye these duties seem simple, but one soon learns how much time and expertise these areas require. An unqualified bidder generally takes one of two approaches if they are awarded contracts of this type. They often realize the problems early in the contract and attempt to do a proper job and eventually end up in serious financial problems. In most cases, a contractor will attempt to do the minimum requirements, and then only when forced to by the contracting agency. In either case the contracting agency spends significantly more time and money administering the contract and also suffers the consequences of a substandard operation.

While Alternative 2 does not absolutely guarantee that the contractor that submits the low bid will perform to the expectations of the contracting agency, it does build an early warning stage into the process.

Disqualification of a prospective bidder will be based on the following criteria as described in ORS 279.037:

- a. The person does not have sufficient financial ability to perform the contract. If a bond is required to ensure performance of a contract, evidence that the person can acquire a surety bond in the amount and type required shall be sufficient to establish financial ability;
- b. The person does not have the equipment available to perform the contract;
- c. The person does not have key personnel available of sufficient experience to perform the contract;

- d. The person has repeatedly breached contractual obligations to public and private contracting agencies; or
- e. The person fails to promptly supply information as requested.

The prequalification committee will consist of the following members:

Dave Phillips
Metro Councilor
Dan Durig
Norm Wietting
Chuck Geyer

Clackamas County
Solid Waste Director
Operations Manager
Project Manager

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 85-564 authorizing a pre-qualification procedure prior to bidding the operations contract for the St. Johns Landfill.

NW/gl
3324C/411-3
05/01/85

CONSIDERATION OF RESOLUTION NO. 85-564 ADOPTING A
PRE-QUALIFICATION PROCESS FOR BIDDING THE
ST. JOHNS LANDFILL OPERATION CONTRACT

Date: April 11, 1985

Presented by: Norm Wietting

FACTUAL BACKGROUND AND ANALYSIS

In April 1980 Metro and the City of Portland approved an agreement by which Metro assumed the financial and operational responsibility for St. Johns Landfill. Metro elected at that time to implement a system by which Metro would operate the gatehouse with its own employees and maintain control of all monies flowing through the landfill. Metro then developed specifications and selected, through a public bid process, a private firm to perform the actual onsite operations. Because of the short time frame between the mutual approvals by Metro and the City of Portland, a four-month contract was awarded to operate the landfill to allow time to develop the contracts and specifications for a five-year period. The five-year contract began October 1, 1980, and expires on September 30, 1985.

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In addition, Metro must consider its position as a regulator and administrator and whether it would be in Metro's interest to have to make day-to-day decisions when the potential choices for action involve environmental and economic impacts. Under direct operations, when these choices may be at odds, field staff are forced to make difficult choices. If provisions are properly covered under an operations contract the result will be to favor the environmental needs as the priority. In today's atmosphere of municipal funding reductions numerous government agencies that have operated disposal facilities with their own employees are finding contracting to be more attractive.

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Recommendation

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While Alternative 2 does not absolutely guarantee that the contractor that submits the low bid will perform to the expectations of the contracting agency, it does build an early warning stage into the process.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 85-564 authorizing a pre-qualification procedure prior to bidding the operations contract for the St. Johns Landfill.

NW/gl
3324C/411-2
04/16/85

ST. JOHNS CONTRACT SCHEDULE

<u>TIME</u>	<u>REQUEST For QUALIFICATIONS (RFQ)</u>	<u>CONTRACT AND BID PROCESS</u>	<u>TASKS</u>
April - -	4/05 .	Draft Report to Council	4/04 . Staff Meeting to Discuss Process & Assignments
	4/12 .	Final Report to Council	4/26 . Assignment Drafts Due
	4/25 .	Council Approves Bid and RFQ Process	
MAY - -		Advertise	5/01 . Staff Meeting to Discuss Revisions
	5/10 .	Mail RFQ	5/17 . Assignments (Final Drafts)
			5/24 . Staff Meeting to Discuss Final Changes
	5/29 .	Receive Statements of Qualification	5/31 . Final Contract Submitted to WP
JUNE - -	6/05 .	Notification of Applicants	
	6/10 .	Receive Appeals of Disqualification	
	6/13 .	Appeals Hearing and Selection of final Bidding List	
JULY - -			6/14 . Contract & Invitation to Bid Mailed
			6/28 . Pre-Bid Conference
			7/12 . Bids Due & Opened
			7/19 . Draft Council Report
AUG. - -			7/26 . Final Council Report
			8/08 . Council Awards Contract
SEPT. - -			
OCT. - -			10/01 . New Contract Starts

Mr. Meyers said Mr. Rich's suggestion could give prime contractors an opportunity to bid shop. He thought this would be destructive to the bidding process.

Vote: A vote on the motion to adopt the Resolution as amended resulted in:

Ayes: Councilors DeJardin, Gardner, Hansen, Kelley, Oleson, Van Bergen, Waker and Bonner

Abstain: Councilor Myers

Absent: Councilors Cooper, Kirkpatrick and Kafoury

A discussion followed regarding whether staff should provide the Council with an amended bid package for review at the May 9 Council meeting. Presiding Officer Bonner request staff provide the Council with relevant portions of the bid package on or before May 9, 1985. Councilors should contact staff if they had concerns with the material.

Councilor Myers entered the Council Chamber.

6. CONSENT AGENDA

Motion: Councilor Waker moved to approve the Consent Agenda and Councilor DeJardin seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors DeJardin, Gardner, Hansen, Kelley, Myers, Oleson, Van Bergen, Waker and Bonner

Absent: Councilors Cooper, Kirkpatrick and Kafoury

The motion carried and the following items on the Content Agenda were adopted or approved:

6.1 Minutes of the Meeting of March 28, 1985

6.2 Resolution No. 85-561, for the Purpose of Amending the Transportation Improvement Program to Include a Fremont Bridge Debris Control Fencing Project

7. RESOLUTIONS

7.1 Consideration of Resolution No. 85-564, for the Purpose of Requiring Mandatory Prequalification for the Contract for Operating the St. Johns Landfill

Mr. Wietting explained the current contract to operate the St. Johns Landfill expired on October 1, 1985. To prepare for rebidding the operations contract, staff considered three alternatives:

1) awarding the contract to the lowest, qualified bidder with qualifications to be reviewed post-bid; 2) requiring a prequalification process before issuing bid documents; and 3) Metro would operate the landfill. Staff recommended pursuing alternative 2 and concentrating efforts on developing a solid waste management system rather than becoming landfill operators.

Mr. Wietting explained the difference between alternatives 1 and 2 were whether bidders qualifications would be examined with or without knowledge of the amount bid for the contract. If alternative 2 was approved, staff would prequalify bidders according to state-adopted criteria and once bidders were approved, staff would recommend awarding the contract to the lowest bidder. Potential bidders deemed not qualified by staff could appeal their status before the Metro Council and appeals would be settled before receiving bids, Mr. Wietting explained. He emphasized staff would rely on a well written contract and good contract management to ensure operations proceed according to standards.

In response to Councilor Waker's question, Mr. Wietting said staff would not limit the number of contractors deemed qualified to bid the project. He further explained the prequalification criteria, based on state law, included experience of personnel and equipment available for performing the work. Once the contract was awarded, staff would assume the low bidder would be financially capable of performing the scope of work if the contractor were able to secure the appropriate bonds, Mr. Wietting said.

Mr. Wietting explained, in response to Councilor Kelley's question, that Metro's prequalification criteria would be published as part of the request for bids. These criteria would be stated in general terms and would read the same as current state law. The evaluation committee would use a more specialized set of criteria also based on the state law. Mr. Wietting explained although the evaluation committee had not been selected, he assumed it would be comprised of Metro staff, possibly one or two people from other agencies (such as the City of Portland), and a Metro Councilor.

Councilor Hansen was concerned the Council could be hearing appeals from contractors deemed unqualified without reviewing the selection committee's criteria. He requested the Council review the committee's criteria in writing before adopting Resolution No. 85-564.

Councilor Myers asked who would appoint the selection committee. Mr. Wietting said in the past the Solid Waste Manager had recommended committee members which were approved by the Executive Officer.

Councilor Van Bergen said he did not think prequalification was necessary for this type of contract. He explained he had supported an exemption from regular procedures for the Zoo project because of unique and specialized construction requirements. He did not think operating a landfill was unique and specialized and thought the work could be performed by most general contractors. Mr. Wietting responded that landfill operation experience would be important in dealing with special and hazardous wastes and because the landfill was a full-time, year-around operation. Councilor Van Bergen thought good contract management would ensure a safe operation without prequalification. Mr. Wietting said good contract management was very important regardless of which contracting process the Council recommended.

Presiding Officer Bonner requested staff return to the Council on May 9, 1985, with written criteria by which potential bidders would be evaluated and a list of the proposed evaluation committee members. Resolution No. 85-564 would be considered by adoption at that time, he explained.

The Presiding Officer read a portion of a letter from Councilor Cooper, who could not attend the meeting, regarding the Resolution: "...because of the technical nature of operating a landfill (I know from firsthand experience), the only alternative that makes any sense at all is #2."

At the end of the meeting, Councilor Van Bergen requested that other jurisdictions, in addition to the City of Portland, be represented on the criteria evaluation committee.

7.2 Consideration of Resolution No. 85-560, for the Purpose of Approving the FY 1985 Highway Allocation Plan for the Interstate Transfer Program and Amending the Transportation Improvement Program Accordingly

In response to Councilor Hansen's question, Councilor Waker reported JPACT unanimously approved this action with all jurisdictions represented.

Motion: Councilor Van Bergen moved the Resolution be adopted and Councilor Hansen seconded the motion.

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Mr. Cotugno explained the two resolutions were budget-related in that a portion of the Transportation Budget dealt with the use of various federal transportation grants and would implement all of the budgeted transportation programs. The first resolution would authorize staff to apply to the Federal Transportation and Highway Administrations for the receipt of grant funds, he said. The second resolution certified the region was in compliance with federal requirements and would allow Metro to continue receiving grant funds. Mr. Cotugno reported one requirement was to maintain an updated five-year transit development program. Because this plan was currently out of date, he said the federal government could question future requests for transit funds.

Councilor Gardner asked if the failure to meet current Disadvantaged Business Enterprise (DBE) program goals could cause problems in receiving grant funding. Mr. Cotugno said he did not expect any problems because Metro could document good faith efforts in meeting DBE goals.

Motion: Councilor Kirkpatrick moved to adopt Resolution No. 85-558. Councilor Kafoury seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Cooper, DeJardin, Gardner, Kirkpatrick, Kafoury, Kelley, Myers, Oleson, Van Bergen, Waker and Bonner

Absent: Councilor Hansen

The motion carried and Resolution No. 85-558 was adopted.

Motion: Councilor Kirkpatrick moved to adopt Resolution No. 85-559. Councilor Kafoury seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Cooper, DeJardin, Gardner, Kirkpatrick, Kafoury, Kelley, Myers, Oleson, Van Bergen, Waker and Bonner

Absent: Councilor Hansen

The motion carried and Resolution No. 85-559 was adopted.

7.2 Consideration of Resolution No. 85-564, for the Purpose of Requiring Mandatory Prequalification for the Contract for Operating the St. Johns Landfill

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Presiding Officer Bonner explained this item had been considered at the meeting of April 25. The Council requested staff return to the Council with a list of members who would serve on the prequalification application evaluation committee and the specific criteria the committee would use in evaluating applications. Doug Drennen reported the material requested by the Council was included in the agenda materials. He then introduced Chuck Geyer, manager for the project. Mr. Geyer explained the materials in the agenda packet and reported that Ron Sonnerberg, Principal Engineer with the Bureau of Environmental Services, City of Portland, should be added to the list of evaluation committee members. The Presiding Officer said if the Resolution were adopted, he would appoint Councilor Cooper to the committee.

After Mr. Geyer explained the criteria for evaluation and the qualifications of the evaluation committee, Councilor Waker asked about the requirement that applicants must have the equipment available to perform the work. Mr. Geyer responded the appropriate equipment could be owned or rented but the applicant must demonstrate the equipment would be available. Councilor Waker requested the application be reworded to indicate equipment could be either owned or rented.

The Presiding Officer asked how staff would evaluate the solvency of bonding companies used by the successful bidder. Eleanore Baxendale said the prequalification form requested information about bonding companies applicants had used in the past. This would provide some indication of each applicants' experience and of how bonding companies assessed the quality of the applicants' work products, she said. The successful bidder would be given the opportunity to secure a bond but the contractor could be disqualified if that bond did not provide the kind of protection required by law. She said staff would have access to a list of state-rated bonding companies by which to evaluate these companies.

Councilor Waker asked if Metro were obligated to disqualify applicants who did not meet all the established prequalification criteria. Ms. Baxendale explained a company could technically be allowed to bid that did not meet all the criteria. However, she did not think this would happen because it would not be in Metro's best interests to allow unqualified companies to bid on the project.

Councilor Hansen, referring to Criteria "D," asked if a company could be rejected for one breach of a previous contract. Ms. Baxendale replied that although the criteria seemed to imply several breaches must exist, an Attorney General's opinion interpreted this criteria to mean that one breach of contract could disqualify an applicant. She said the evaluation committee could exercise judgment to determine how serious a contractor's past actions had been.

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Motion: Councilor Kirkpatrick moved to adopt Resolution No. 85-564. Councilor Kelley seconded the motion.

Councilor Van Bergen asked how many applications staff expected to receive. Mr. Geyer said 14 prequalification applications would be distributed by staff and an advertisement for the project had been placed in a national publication. Staff estimated about six applicants would be qualified to bid on the project.

Vote: A vote on the motion resulted in:

Ayes: Councilors Cooper, DeJardin, Gardner, Hansen, Kirkpatrick, Kafoury, Kelley, Myers, Oleson, Waker and Bonner

Nay: Councilor Van Bergen

The motion carried and Resolution No. 85-564 was adopted.

8. ORDINANCES

8.1 Consideration of Ordinance No. 85-188, Relating to Public Contracting Procedures and Amending Code Section 2.04.030 (i)

Presiding Officer Bonner announced he was removing this item from the agenda and that it might be considered at a later date.

9. OTHER BUSINESS

9.1 Consideration of Resolution No. 85-571, Stating Policies Relating to Alternative Methods of Solid Waste Disposal and Siting of a General Purpose Landfill

The Executive Officer explained the Resolution reiterated past policies adopted by the Council including: 1) the Council would continue its investigation of the Solid Waste Management Planning process of alternative disposal methods; 2) the Council would develop ways as part of that process to receive full public review and would cooperatively respond to and, if feasible, implement those waste disposal proposals; and 3) the Council had recognized the need for a long-term general purpose landfill site as an integral component in any comprehensive waste disposal system. He said the reiteration of policy would be useful in working with Legislators for the passage of SB 662.

Motion: Councilor DeJardin moved Resolution No. 85-571 be adopted. Councilor Kirkpatrick seconded the motion.

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5. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

5.1 Request to Amend Resolution No. 85-564 (A Resolution Requiring Mandatory Prequalification for the Contract for Operating the St. Johns Landfill) by Extending the Deadline for Filing a Prequalification Application by Roadway Constructors Corporation

Councilor Myers excused himself from considering this matter because his law firm was general counsel to Riedel International. Councilor Cooper also excused himself from considering this matter because his company did business with Riedel International.

Councilor Waker announced the Council had received written communications from Riedel Resources, Inc., Mr. Westerman, Kedon Services Ltd., and the Herzog Contracting Corporation regarding this matter and asked they be considered part of the official record.

Chuck Geyer reviewed information contained in the staff report. He explained on May 9, 1985, the Council adopted Resolution No. 85-564, the prequalification application process, which contained provisions for a deadline by which applicants must submit prequalification applications. After the Resolution was adopted, staff advertised the application process and mailed instructions for the process to firms deemed qualified to perform the work. Staff began mailing applications to interested parties on May 10 and a prequalification meeting was held on May 23, Mr. Geyer reported. He said the details of Roadway Constructors Corporation's request for extension of the application deadline were contained in the staff report.

Mr. Geyer then reviewed the options before the Council: 1) the Council could not extend the application submission deadline; 2) the deadline could be extended for firms which received prequalification packets but did not submit applications; and 3) the deadline could be extended and the entire advertising process could be repeated.

Mr. Geyer explained positive effects of extending the application deadline: 1) if Roadway's application or other applications were approved, at least one additional local firm would be bidding for the contract; 2) no bid amounts had been disclosed so the bid process would not be damaged.

Negative effects of extending the deadline, Mr. Geyer reported, would include: 1) a minimum of two weeks would be added to the application submission process - four weeks could be added if any additional firm's application was denied and a firm decided to appeal before the Council; 2) the project schedule would be delayed 45 to 60 days if the Council decided the entire advertising for applications process should be repeated; 3) Roadway Constructors

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Corporation had received names of firms submitting applications and other firms did not have this benefit; and 4) if the application deadline were extended, other deadlines and procedures could be questioned.

Councilor Oleson asked which of the nine companies submitting applications were Oregon companies. Norm Wietting said Browning & Ferris International of Oregon was an Oregon company.

Councilor Waker invited parties to speak who were in favor of the Council extending the deadline for prequalification applications.

Art Riedel, Chairman of Roadway Constructors Corporation and Chairman of Riedel Resources, Inc. who owned Roadway and Riedel International, thanked the Council for considering this matter. Mr. Riedel then introduced the following gentlemen: Roger Huntsinger, Chief Estimator for Roadway (present at the meeting by permission of his physician); Gary Newbore with KFD; John Spencer, President of Riedel Environmental Services; and Dennis Lindsay, Attorney.

Mr. Riedel asked the Council to consider waiving the deadline for Roadway's prequalification application which had been submitted two days after the deadline date. Roadway had been looking forward to bidding on the St. Johns operations contract for the last several years, he said. However, an unfortunate series of accidents resulted when the Chief Estimator Roger Huntsinger became ill. Mr. Huntsinger requested his assistant start the application process in his absence and the "baton was dropped" when the assistant delayed starting the work until the afternoon applications were due to Metro. The prequalification application was submitted two days late, Mr. Riedel reported.

Mr. Riedel asked the Council to consider the fact that Roadway Constructors would be the only local bidder for the landfill contract if the deadline extension were granted. Riedel International had worked hard in Oregon and could be considered a homegrown company, he said. Browning & Ferris, he explained, was a large, international firm which had set up a corporation in Oregon. He also advocated the addition of more competitors to the bidding process explaining the public would benefit from the competition.

Councilor Waker asked Mr. Riedel if it were a somewhat common occurrence to miss a proposal deadline. Mr. Riedel explained his company responded to perhaps one request for prequalification applications a year. Because of the rarity of this procedure, Roadway staff had never prepared a prequalification before and it fell through the cracks, Mr. Riedel said. He said it was very rare that his company had missed a bid submission deadline.

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No other proponents of the deadline extension addressed the Council.

Councilor Waker asked if any individuals wished to speak against the deadline extension.

Alex Cross of Genstar Corporation explained he was not speaking as an opponent of the deadline extension but wished to make a statement regarding the decision. Mr. Cross said in the five years he had been working with Metro he found the agency played by the rules. Genstar had spent considerable time and effort playing by Metro's rules, he said, and his company would accept any decision made by the Council on this matter. If the Council decided to add more bidders to the prequalified list, Mr. Cross hoped the other nine bidders who had already submitted applications would receive similar, favorable consideration during the bidding process when other items of precedent needed to be addressed.

Councilor Gardner asked if staff had any indication that firms other than Roadway Constructors would submit prequalification applications if the deadline were extended. Mr. Wietting said he did not know of other firms that would be interested in participating.

Councilor Oleson noted the staff report for this item did not include a staff recommendation and asked if Mr. Durig or Executive Officer Gustafson could explain whether extending the application period would discredit or compromise the criteria and procedures for Metro's bidding processes, specifically or generally.

Mr. Durig responded he thought the staff report was self-explanatory and he indicated there would be negative factors involved if the deadline were extended. He said the Council would have to take these factors into consideration along with Mr. Cross' testimony and the letters received by Councilors from other applicants.

Executive Officer Gustafson added that if this were a request for extending a bid process, there would be no consideration of the issue because of the proprietary nature of the submitted material. However, in this case, the material submitted was not proprietary and no harm to a public process would exist, he said. He explained Roadway Constructors had asked for the opportunity to bring the matter before the Council. The Council was being asked to decide whether the deadline should be extended and the Council would have to weigh the factors of Roadway being a local firm, the extenuating circumstances and the importance of the Council's rigorous process. He then reviewed the decision options before the Council as explained earlier by Mr. Geyer.

Presiding Officer Bonner entered the Council Chamber.

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Councilor Waker explained that in his experience in the engineering field, it was not uncommon to submit prequalification statements to a contracting agency as a first step of the bidding process. He said those processes had deadlines and he would find it difficult to support a change of this deadline. There were always excuses for not meeting deadlines, but one had to play by the rules of the game and try again when the next opportunity presented itself, he said.

Presiding Officer Bonner asked if Councilors wished to make a motion regarding the request. Hearing no motion, the Presiding Officer announced the Council had taken no action and Roadway Constructors Corporation request for extending the deadline for submitting prequalification applications had been denied.

6. CONSIDERATION OF A CONTRACT WITH BISHOP CONTRACTORS, INC. FOR CONSTRUCTION OF THE WEST BEAR GROTTO REMODEL AND RELATED AREAS

Kay Rich reviewed the bid process, particularly the process for consideration of cost savings ideas, as reported in the agenda materials. There were no questions from the Council.

Motion: Councilor Kirkpatrick moved the Bear Grotto contract be approved. Councilor Kelley seconded the motion.

In response to Councilor Waker's question, Mr. Rich said the total contract sum would be under the amount previously bid based on deductibles submitted for gunnite work. Councilor Waker said he was concerned that the aesthetic quality of the project would be compromised if decorative items and outdoor furniture were deducted from the contract. Mr. Rich explained many of these items would be purchased directly by the Zoo at a considerable cost savings and the aesthetics of the overall exhibit would therefore not be damaged.

Vote: A vote on the motion resulted in:

Ayes: Councilors Cooper, DeJardin, Gardner, Kirkpatrick, Kelley, Myers, Oleson, Van Bergen, Waker and Bonner

Absent: Hansen and Kafoury

The motion carried and the contract was approved.

7. CONSIDERATION OF SOLID WASTE RATE POLICIES

Doug Drennen introduced new staff member Rich McConaghy to the Council. Mr. Drennen explained this item was before the Council because as part of adopting last year's rate policy, the Council requested the policies be reviewed prior to beginning a new rate