

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING AN)
EXEMPTION TO METRO CODE CHAPTER)
2.04.41(c), COMPETITIVE BIDDING)
PROCEDURES, AND AUTHORIZING THE)
THE PURCHASE OF A CRAWLER TRACTOR)
FROM CATERPILLAR FINANCIAL SERVICES)
CORPORATION, AND AUTHORIZING THE)
SALE OF THE TRACTOR THROUGH A PUBLIC)
BIDDING PROCESS)

RESOLUTION NO. 95-2167

Introduced by Mike Burton
Executive Officer

WHEREAS, Metro closed the St. Johns Landfill as a general purpose landfill on January 13, 1991; and

WHEREAS, Metro has been taking in free fill since January 1991 as subgrade embankment to help achieve the design slopes and contours for the landfill; and

WHEREAS, Metro has leased a Caterpillar Model D5H Crawler Tractor, Serial No. 1DD04366, since 1992 to help achieve design slopes and contours at the St. Johns Landfill during the closure process; and

WHEREAS, Design slopes and contours have been achieved and the crawler tractor is no longer required by Metro at the Landfill; and

WHEREAS, Metro currently has a lease with Caterpillar Financial Services Corporation, Metro Contract Number 902707, which includes an option to purchase the equipment described above; and

WHEREAS, Metro can purchase the equipment described above from Caterpillar Financial Services Corporation for an amount not to exceed \$48,000; and

WHEREAS, The tractor has an assessed value of \$80,000 to \$85,000; and

WHEREAS, It is in the public interest for Metro to exercise the purchase option under the equipment lease described above and to sell the equipment through a public bidding process; and

WHEREAS, The resolution was submitted to the Executive Officer for consideration and was forwarded to the Council for their approval; now therefore,

BE IT RESOLVED,

1. That the Metro Contract Review Board hereby exempts the purchase of a Caterpillar Model D5H Crawler Tractor, Serial No. 1DD04366, from the competitive bidding requirement pursuant to Metro Code Chapter 2.04.041(c), and authorizes the Executive Officer to exercise the purchase option of the lease agreement with Caterpillar Financial Services Corporation and purchase the tractor described above for an amount not to exceed \$48,000 because the Board finds that the purchase will not encourage favoritism or substantially diminish competition for public contracts and that such exemption will result in substantial cost savings.
2. That the Metro Contract Review Board hereby authorizes the sale of the tractor described above through a public bidding process, and authorizes the release of a Request For Bid (RFB #95B-25-SW), Exhibit "A" hereto.

ADOPTED by the Metro Contract Review Board this 22 day of June, 1995.



J. Ruth McFarland, Presiding Officer

Approved as to Form:

Daniel B. Cooper, General Counsel

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 95-2167 FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO METRO CODE CHAPTER 2.04.041(c), COMPETITIVE BIDDING PROCEDURES, AND AUTHORIZING THE PURCHASE OF A CRAWLER TRACTOR FROM CATERPILLAR FINANCIAL SERVICES CORPORATION, AND AUTHORIZING THE SALE OF THE TRACTOR THROUGH A PUBLIC BIDDING PROCESS

Date: June 5, 1995

Presented by: Jim Watkins

PROPOSED ACTION

Adoption of Resolution No. 95-2167 authorizing an exemption to competitive bidding procedures, and authorizing the purchase of a crawler tractor used at St. Johns Landfill, and authorizing the sale of the tractor through a public bidding process.

FACTUAL BACKGROUND AND ANALYSIS

Metro closed the St. Johns Landfill as a general purpose landfill on January 13, 1991. Since that time Metro has been taking in free fill as subgrade embankment to help achieve the design slopes and contours for the landfill. Metro began leasing a crawler tractor on February 18, 1992 to assist in this work and paid a Metro employee to operate the equipment. Design slopes and contours have now been achieved and Metro no longer requires the use of this tractor. The tractor is leased from Caterpillar Financial Services Corporation. The lease expires October 31, 1995. Under the existing equipment lease (Metro Contract No. 902707), Metro has the option of purchasing the tractor.

Metro can purchase the Caterpillar Model D5H Crawler Tractor (Serial No. 1DD043660) from Caterpillar Financial Services Corporation for an amount not to exceed \$48,000. The tractor has had excellent care. It has logged a total of 2,971 operating hours. A local Caterpillar dealer has assessed the value of the tractor at \$80,000 to \$85,000 (see attached letter from The Halton Company). It is proposed that Metro exercise the purchase option of the lease agreement with Caterpillar Financial Services Corporation and purchase the tractor for an amount not to exceed \$48,000. It is further proposed that Metro then sell the tractor through a public bidding process to recoup most of the costs of leasing the tractor for the past three years. A Request For Bid (RFB #95B-25-SW) is attached to Resolution No. 95-2167 as Exhibit "A".

The Contract Review Board must exempt this purchase from the requirement of competitive bidding and must make findings that the purchase will not encourage favoritism or substantially diminish competition for public contracts and that such exemption will result in substantial cost savings.

BUDGET IMPACT

Exercising the purchase option of the lease agreement to purchase the tractor for an amount not to exceed \$48,000 and selling the tractor for approximately \$80,000 will recoup most of the lease costs.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No.95-2167.

RB:gbc
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The Halton Company

June 2, 1995

Mr. Jim Watkins
Metro
Solid Waste Dept.
600 NE Grand Ave.
Portland, OR 97232-2736

Dear Jim:

The Halton Company will put a value on the Caterpillar D5H, S/N 1DD04366 of \$80,000 to \$85,000 FOB The Halton Company, Portland, Oregon.

I hope this will assist you in your appraisal of the tractor.

Sincerely,

THE HALTON COMPANY

Mike Misovetz
Governmental Accounts Manager

MM/mp

cc: C. Lewis
Metro

RECEIVED
JUN 03 1995
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE

Portland
P.O. Box 3377
Portland, OR 97208
(503) 288-6411
Fax # (503) 281-9458
1-800-452-7676

Salem
2244 Judson SE
Salem, OR 97302
(503) 364-0602
Fax # (503) 364-9527

The Dalles
1238 W. 2nd
The Dalles, OR 97058
(503) 296-4642
Fax # (503) 296-1733

Longview
1205 Baltimore
Longview, WA 98632
(206) 423-5760
Fax # (206) 423-5292

ADVERTISEMENT FOR BIDS

Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, is selling and is soliciting bids for the sale of a Caterpillar Model D5H Crawler Tractor. Sealed bids must be delivered to the Solid Waste Department, Metro, 600 NE Grand, Portland, OR 97232-2736, to the attention of Ray Barker, Assistant Operations Manager, no later than 3:00 p.m., Monday, July 31, 1995, at which time they will be publicly opened in the Metro Council Chamber Annex (room 363).

Potential bidders may obtain specifications and bid documents by contacting the Solid Waste Department located at 600 NE Grand, Portland, OR 97232-2736, or by calling 797-1650.

Bid security in the form of a bid bond, certified check or cashier's check for \$500 must accompany each bid submitted.

Bidders must indicate in the proposal form whether the bidder is a "resident bidder" or a "nonresident bidder" pursuant to ORS 279.029.

Metro may reject any bid not in compliance with all prescribed public bidding procedures and requirements and may reject for good cause any or all bids upon a finding of the agency that it is in the public interest to do so.

REQUEST FOR BIDS
FOR
THE SALE OF ONE CATERPILLAR MODEL D5H
CRAWLER TRACTOR

(RFB #95B-25-SW)

JULY 1995

METRO
Solid Waste Department
600 NE Grand Avenue
Portland, OR 97232-2736
(503) 797-1650

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INVITATION TO BID

Metro is selling and requesting bids for sale of the Caterpillar Model D5H Crawler Tractor Serial Number 1DDO4366 (RFB #95-B-25-SW). Potential bidders may obtain bid documents by contacting the Solid Waste Department, 797-1650. Sealed bids must be delivered to the Solid Waste Department at Metro, 600 NE Grand, Portland, Oregon 97232-2736, to the attention of Ray Barker, Assistant Operations Manager, no later than 3:00 p.m., Monday, July 31, 1995, at which time they will be publicly opened and read in the Council Chamber.

INSTRUCTIONS TO BIDDERS

DESCRIPTION OF THE WORK

In this Request for Bids Metro is selling and requesting bids for sale of one (1) Caterpillar Model D5H Crawler Tractor (RFB #95-B-25-SW), Serial Number 1DDO4366 (the Equipment"). Metro shall deliver the Equipment to the Successful Bidder at the St. Johns Landfill, 9363 N. Columbia Blvd., Portland, Oregon. The Successful Bidder shall be responsible for transporting the Equipment to another location. The Equipment has 2,971 operating hours and has received regular maintenance.

The Equipment is located at the St. Johns Landfill, 9363 N. Columbia Blvd., Portland, Oregon. Bidders are encouraged to inspect the Equipment and fully satisfy themselves as to its condition; the maintenance log is available for inspection at the landfill. Bidders may arrange for such an inspection by calling Janell Davis at 286-9615 (Pager 301-5966).

BID

Bids must be enclosed in a sealed envelope and mailed or delivered to the Metro Solid Waste Department, 600 NE Grand, Portland, Oregon 97232-2736, Attention, (name & title), no later than 3:00 p.m., Monday, July 31, 1995, at which time they will be publicly opened in the Metro Council Chamber Annex (room 363). A bid may not be submitted by Facsimile (FAX) transmittal.

The outside of the envelope shall plainly identify the subject of the Bid, the opening date, and the Bid number.

All bids must be clearly and distinctly typed or written with ink or indelible pencil. All blank spaces must be completed. No erasures are permitted. Mistakes must be crossed out and corrections typewritten or written in ink adjacent thereto, and initialed in ink by the party signing the Bid, or his authorized representative.

Written amounts shall be shown in both words and figures. Words shall govern in cases of discrepancy between the amounts stated in words and the amounts stated in figures.

All bids must be on the form furnished by Metro or they may be rejected by Metro. Where plans and specifications are attached to the bid, they must be returned by the Bidder with the bid.

COST OF BID

This invitation to Bid does not commit Metro to pay any costs incurred by any Bidder in the submission of a bid, or in making necessary studies or designs for the preparation thereof, or for selling the items to be sold under the invitation to bid.

ERRORS/OMISSIONS

Any Bid may be deemed non-responsive by the Procurement Officer if it is: Not on the Bid forms provided; contains errors or omissions, erasures, alterations, or additions of any kind; proposes prices which are unsolicited or obviously unbalanced; or not in complete conformance with any and all conditions of the bidding documents.

ADDENDA TO PLANS OR SPECIFICATIONS

Requests for additional information or interpretation of the contract documents shall be delivered to the Project Manager, in writing, at least five (5) business days prior to the Bid opening date and time. If, in the opinion of the Project Manager, additional information or interpretation is needed by the Bidders, an addendum will be issued to all known specification holders. The provisions of any written addenda issued by the Procurement Officer or Project Manager at least forty-eight (48) hours prior to the Bid opening date and time shall be binding upon the Bidders, and failure of a Bidder to obtain such addenda shall not excuse compliance therewith by the successful bidder.

MODIFICATION OF BID

An offer to modify the bid which is received from the successful Bidder after award of Bid which makes the terms of the Bid more favorable or advantageous to Metro will be considered, and may thereafter be accepted. To be effective, every modification must be made in writing over the signature of the Bidder.

WITHDRAWAL OF BIDS

A Bidder may withdraw its bid in person, or by written or telegraphic request which are received prior to the scheduled closing time for filing Bids. A bid may not be withdrawn by FAX. Negligence on the part of the Bidder in preparing his bid confers no right to withdraw the bid after the scheduled closing time for filing Bids.

LATE BID

Bids received after the scheduled closing time for filing Bids will be returned to the Bidder unopened, unless such closing time is extended by Metro.

EXECUTION

Each Bid shall give the Bidder's full business address and bear its legal signature.

Bids by partnerships must list the full name of all partners and be signed by a partner or agent authorized to execute the Bill of Sale on behalf of the partnership and identified by printed name and title.

Upon request by Metro, satisfactory evidence of the authority of the partner or officer shall be furnished. If the Bid is signed by an agent who is not an officer of the corporation or a member of the partnership, a notarized Power of Attorney must be on file with Metro prior to the opening of Bids or be submitted with the Bid. Without such notice of authority, the Bid shall be considered improperly executed, defective and therefore nonresponsive.

A Bid submitted by a joint venture must include a certified copy of the terms and conditions of the agreement creating the joint venture.

EXAMINATION OF THE EQUIPMENT

It is understood that the Bidder, before submitting a Bid, has made a careful examination of the specifications of the Equipment, and that it has fully informed itself as to the quality of the Equipment.

CONFLICT OF INTEREST

A Bidder filing a bid thereby certifies that no officer, agent, or employee of Metro or Metro has a pecuniary interest in this Bid or has participated in contract negotiations on behalf of Metro; that the bid is made in good faith without fraud, collusion, or connection of any kind with any other Bidder for the same call for Bids; the Bidder is competing solely in its own behalf without connection with, or obligation to, any undisclosed person or firm.

BID SECURITY

All Bids must be accompanied by a Bid deposit in the form of cashier's check or certified check drawn on a bank in good standing, or a Bid bond issued by a surety authorized to conduct such business in the state of Oregon. The deposit will be \$500.00. The deposit shall serve as a guarantee that the Bidder will not withdraw the Bid for a period of sixty (60) days after Bid opening, and if awarded the Bid will execute the attached Bill of Sale and purchase the Equipment as indicated herein.

The Attorney-in-Fact (Resident Agent) who executes any bond on behalf of the Surety must attach a notarized copy of his/her Power of Attorney as evidence of his/her authority to bind the Surety on the date of execution of the bond.

BASIS OF AWARD

The award shall be made to the responsible Bidder(s) submitting the most responsive Bid to Metro. Any determination of the responsible Bidder(s) submitting the most advantageous Bid and the award are subject to review and determination by the Metro Legal Counsel as to legal sufficiency of any Bid submitted. Metro reserves the right to reject any and/or all Bids in whole or in part, and to waive irregularities not affecting substantial rights.

GENERAL CONDITIONS

NOTICE OF AWARD

Within ten (10) calendar days after the opening of Bids, Metro will accept one of the Bids, or combination of Bids, or reject all Bids in accordance with the Basis of Award. The acceptance of the Bid will be by written Notice of Award, mailed or delivered to the office designated in the Bid. The Notice of Award shall not entitle the party to whom it is delivered to any rights whatsoever.

BILL OF SALE

The Successful Bidder shall, within ten (10) days, not including Sundays and legal holidays, after receiving notice of award, sign and deliver to Metro the attached Bill of Sale and a certified or cashier's check in the amount of the successful bid.

BID SECURITY

Bid securities will be held until the Bill of Sale has been finally executed, after which all Bid securities, other than those which have been forfeited, will be returned to the respective Bidders whose Bid they accompanied.

The Bidder who is awarded a Bid and fails to promptly and properly execute the Bill of Sale and purchase the Equipment shall forfeit the Bid security that accompanied his Bid, and the Bid security shall be retained as liquidated damages by Metro, and it is agreed that this sum is a fair estimate of the amount of damages Metro will sustain in case the Bidder fails to enter into a Bill of Sale and purchase the Equipment as required herein. Bid security deposited in the form of a certified check or cashier's check shall be subject to the same requirements as a Bid bond.

NOTICE OF ASSIGNMENT

Metro will not recognize any assignment or transfer of any interest in this Bill of Sale without written notice to the Procurement Officer by the new vendor.

LAW OF STATE OF OREGON

This Bill of Sale is entered into within the state of Oregon, and the law of said State, whether substantive or procedural, shall apply and be followed with respect to this Bill of Sale.

NOTICE TO ALL BIDDERS

The Bill of Sale included herein is a standard agreement approved for use by Metro's General Counsel. This is the Bill of Sale the successful bidder will enter into with Metro; it is included for review prior to submitting a bid.

BID FOR PURCHASE OF TRACTOR

The legal signature on the signature page binds the Bidder to the following bid:

This bid is for one (1) Caterpillar Model D5H Crawler Tractor, Serial Number 1DDO4366 (the "Equipment"), which is further described in paragraph 1 in the Instructions to Bidders section of this Request for Bids (RFB). Metro shall deliver the Equipment to the Successful Bidder at the St. Johns Landfill, 9363 N. Columbia Blvd., Portland, Oregon. The Successful Bidder shall be responsible for transporting the Equipment to another location.

TOTAL BID
AMOUNT: _____ Dollars (\$ _____)
(Words) (Figures)

BIDDER REPRESENTS/CERTIFIES/ACKNOWLEDGES AS PART OF THIS OFFER THAT:

(Check or complete all applicable boxes or blocks.)

1. **BID BOND:** Bidder has complied with Metro's requirements for \$500.00 bid surety and guarantees that this bid is irrevocable for the period specified herein;
- NA 2. **PERFORMANCE BOND:** Cost of the Bond, if required, will be: _____ (\$ _____). This amount will be reimbursed by Metro over and above the contract bid price.
3. **CONFLICT OF INTEREST:** Bidder hereby certifies that no officer, agent, or employee of Metro has participated on behalf of Metro in preparation of this bid, that the bid is made in good faith without fraud, collusion, or connection of any kind with any other Bidder for the same work, and the Bidder is competing solely in its own behalf without connection or obligation to any undisclosed person or firm.
4. **RESIDENT/NON-RESIDENT:** Undersigned Bidder states that it is a resident or non-resident of the state of Oregon. State in which Bidder resides: _____.
5. **TYPE OF BUSINESS ORGANIZATION:** Bidder operates as an individual, a corporation, incorporated under the laws of the state of _____, a non-profit organization, a partnership. (If partnership, list/attach names of the partners)
6. **OREGON LICENSE:** If a corporation, it is, or is not, licensed with Oregon Corporation Commission.
- NA 7. **REGISTRATION NO:** _____ with Construction Contractors Board.
8. **DOING BUSINESS AS:** Provide any assumed names utilized:

FIRM OR CORPORATION NAME: _____

NAME OF LOCAL REPRESENTATIVE: _____

MAILING ADDRESS: _____

TELEPHONE NUMBER: _____ STREET CITY STATE ZIP

AREA CODE ()

FAX NUMBER: _____ AREA CODE ()

NAME AND TITLE OF PERSON AUTHORIZED TO CONTRACT/SIGN OFFER (TYPE OR PRINT)

SIGNATURE OF AUTHORIZED PERSON:

NOTE: If Bidder desires to make an offer, but cannot sign Bill of Sale, attach letter of explanation re: who will sign and time required for authorized signature.

Proposals must be enclosed in a sealed envelope, endorsed on the outside, indicate the bid subject, Request for Bid number and opening date, and delivered to Metro on or before the date and time of the bid opening. (See Instructions to Bidders)

BID BOND

BOND NO. _____
AMOUNT: \$ 500.00

KNOW ALL MEN BY THESE PRESENTS, that _____
hereinafter called the PRINCIPAL, and _____

_____ a corporation duly organized under the laws of the State of _____ having its principal place of business at _____, in the state of _____, and authorized to do business in the state of Oregon, as SURETY, are held and firmly bound unto Metro, hereinafter called the OBLIGEE, in the penal sum of FIVE HUNDRED DOLLARS (\$500.00), for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS PRINCIPAL IS SUCH THAT:
WHEREAS the PRINCIPAL is herewith submitting a BID FOR purchase of a Caterpillar Model D5H Crawler Tractor; said Bid, by reference thereto, being hereby made a part hereof.

NOW, THEREFORE, if the Bid submitted by the PRINCIPAL is accepted, and the Bid awarded to the PRINCIPAL, and if the PRINCIPAL shall execute the proposed Bill of Sale and shall furnish any bond(s) required by the Contract Documents within the time fixed by the Documents, then this obligation shall be void; if the PRINCIPAL shall fail to execute the proposed Bill of Sale and furnish the bond(s), the SURETY hereby agrees to pay to the OBLIGEE the penal sum as liquidated damages, within ten (10) days of such failure.

Signed and sealed this ____ day of July 1995.

By: _____
PRINCIPAL

By: _____
SURETY

Attorney-in-Fact

EXHIBIT A

BILL OF SALE

In consideration of the purchase price of _____ Dollars (\$_____), the receipt of which is hereby acknowledged, Metro hereby conveys to Buyer all its right, title and interest in and to the Caterpillar Model D5H Crawler Tractor Serial Number 1DDO4366 (the "Equipment"), and shall deliver the Equipment to Buyer at the St. Johns Landfill, 9363 N. Columbia Blvd., Portland, Oregon. Buyer shall be responsible for transporting the Equipment to another location.

Buyer purchased the Equipment in its current condition, "AS IS, WITH ALL FAULTS." Metro makes no representations, warranties or guarantees of any nature, express or implied, and **WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SELLER MAKES NO WARRANTIES WITH RESPECT TO THE QUALITY, CONTENT, CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE EQUIPMENT.**

Buyer acknowledges that it has fully inspected the Equipment and fully satisfied itself as to the condition of the Equipment; in the alternative, Buyer acknowledges that it has declined the opportunity to do so despite Metro's invitation.

METRO

Signature

Signature

Print name and title

Print name and title

Date

Date