

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION) RESOLUTION NO. 95-2236
TO METRO COMPETITIVE BIDDING PROCEDURES,)
AND AUTHORIZING A SOLE- SOURCE CONTRACT) Introduced by Mike Burton
WITH WASTE RECOVERY, INC. FOR RECYCLING OF) Executive Officer
WASTE TIRES FROM METRO'S SOLID WASTE)
FACILITIES)

WHEREAS, Metro receives approximately 46,000 waste tires annually at its solid waste transfer stations; and

WHEREAS, the state of Oregon prohibits the landfilling of waste tires; and

WHEREAS, Waste tires are currently hauled from the transfer stations to a tire recycling facility; and

WHEREAS, The current contract with Waste Recovery, Inc. for recycling waste tires from Metro's transfer stations expires November 30, 1995; and

WHEREAS, Waste Recovery, Inc. is the only company in the state of Oregon that provides tire recycling services; and

WHEREAS, Metro knows of no other tire recycler close enough for Metro to economically deliver waste tires, and it would not be economical to purchase equipment to recycle its own tires due to its low overall volume of tires and the expenses of necessary equipment; and

WHEREAS, The resolution was submitted to the Executive Officer for consideration and was forwarded to the Metro Contract Review Board for their approval; now therefore,

BE IT RESOLVED,

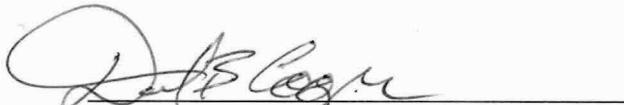
1. That the Metro Contract Review Board hereby exempts the attached contract (Exhibit "A" hereto) with Waste Recovery, Inc. from the competitive bidding requirement pursuant to Metro Code Chapter 2.04.060, because the Contract Review Board finds Waste Recovery, Inc. is the sole provider of the required services.

2. That the Metro Council authorizes execution of the Contract attached as Exhibit "A".

ADOPTED by the Metro Contract Review Board this 30 day of Nov.,
1995.


J. Ruth McFarland, Presiding Officer

Approved as to Form:


Daniel B. Cooper, General Counsel

PUBLIC CONTRACT

THIS Contract is entered into between Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, whose address is 600 NE Grand Avenue, Portland, Oregon 97232, and WASTE RECOVERY, INC., whose address is 8501 N. Borthwick, Portland, Oregon 97217, hereinafter referred to as the "CONTRACTOR."

In exchange for the promises and other consideration set forth below, the parties agree as follows:

**ARTICLE I
SCOPE OF WORK**

CONTRACTOR shall perform the work and/or deliver to METRO the goods described in Attachment A, the Scope of Work, which is incorporated herein by this reference. All services and goods shall be of good quality and, otherwise, in accordance with the Scope of Work.

**ARTICLE II
TERM OF CONTRACT**

The term of this Contract shall be for the period commencing December 1, 1995, through and including November 30, 1997.

**ARTICLE III
CONTRACT SUM AND TERMS OF PAYMENT**

METRO shall compensate the CONTRACTOR for work performed and/or goods supplied as described in the Scope of Work. METRO shall not be responsible for payment of any materials, expenses or costs other than those which are specifically included in the Scope of Work.

**ARTICLE IV
LIABILITY AND INDEMNITY**

CONTRACTOR is an independent contractor and assumes full responsibility for the content of its work and performance of CONTRACTOR's labor, and assumes full responsibility for all liability for bodily injury or physical damage to person or property arising out of or related to this Contract, and shall indemnify, defend and hold harmless METRO, its agents and employees, from any and all claims, demands, damages, actions, losses, and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Contract. CONTRACTOR is

solely responsible for paying CONTRACTOR's subcontractors and nothing contained herein shall create or be construed to create any contractual relationship between any subcontractor(s) and METRO.

ARTICLE V TERMINATION

METRO may terminate this Contract upon giving CONTRACTOR seven (7) days written notice. In the event of termination, CONTRACTOR shall be entitled to payment for work performed to the date of termination. METRO shall not be liable for indirect or consequential damages. Termination by METRO will not waive any claim or remedies it may have against CONTRACTOR.

ARTICLE VI INSURANCE

CONTRACTOR shall purchase and maintain at CONTRACTOR's expense, the following types of insurance covering the CONTRACTOR, its employees and agents:

A. Broad form comprehensive general liability insurance covering personal injury, property damage, and bodily injury with automatic coverage for premises and operation and product liability. The policy must be endorsed with contractual liability coverage.

B. Automobile bodily injury and property damage liability insurance.

Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an aggregate limit, the aggregate limit shall not be less than \$1,000,000. METRO, its elected officials, departments, employees, and agents shall be named as an ADDITIONAL INSURED. Notice of any material change or policy cancellation shall be provided to METRO thirty (30) days prior to the change.

This insurance as well as all workers' compensation coverage for compliance with ORS 656.017 must cover CONTRACTOR's operations under this Contract, whether such operations be by CONTRACTOR or by any subcontractor or anyone directly or indirectly employed by either of them.

CONTRACTOR shall provide METRO with a certificate of insurance complying with this article and naming METRO as an insured within fifteen (15) days of execution of this Contract or twenty-four (24) hours before services under this Contract commence, whichever date is earlier.

**ARTICLE VII
PUBLIC CONTRACTS**

All applicable provisions of ORS chapters 187 and 279, and all other terms and conditions necessary to be inserted into public contracts in the State of Oregon, are hereby incorporated as if such provision were a part of this Agreement, including, but not limited to, ORS 279.310 to 279.320. Specifically, it is a condition of this contract that Contractor and all employers working under this Agreement are subject employers that will comply with ORS 656.017 as required by 1989 Oregon Laws, Chapter 684.

**ARTICLE VIII
ATTORNEY'S FEES**

In the event of any litigation concerning this Contract, the prevailing party shall be entitled to reasonable attorney's fees and court costs, including fees and costs on appeal to any appellate courts.

**ARTICLE IX
QUALITY OF GOODS AND SERVICES**

Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of the highest quality. All workers and subcontractors shall be skilled in their trades.

CONTRACTOR guarantees all work against defects in material or workmanship for a period of one (1) year from the date of acceptance or final payment by METRO, whichever is later. All guarantees and warranties of goods furnished to CONTRACTOR or subcontractors by any manufacturer or supplier shall be deemed to run to the benefit of METRO.

**ARTICLE X
OWNERSHIP OF DOCUMENTS**

All documents of any nature including, but not limited to, reports, drawings, works of art and photographs, produced by CONTRACTOR pursuant to this agreement are the property of METRO and it is agreed by the parties hereto that such documents are works made for hire. CONTRACTOR does hereby convey, transfer and grant to METRO all rights of reproduction and the copyright to all such documents.

ARTICLE XI SUBCONTRACTORS

CONTRACTOR shall contact METRO prior to negotiating any subcontracts and CONTRACTOR shall obtain approval from METRO before entering into any subcontracts for the performance of any of the services and/or supply of any of the goods covered by this Contract.

METRO reserves the right to reasonably reject any subcontractor or supplier and no increase in the CONTRACTOR's compensation shall result thereby. All subcontracts related to this Contract shall include the terms and conditions of this agreement. CONTRACTOR shall be fully responsible for all of its subcontractors as provided in Article IV.

ARTICLE XII RIGHT TO WITHHOLD PAYMENTS

METRO shall have the right to withhold from payments due CONTRACTOR such sums as necessary, in METRO's sole opinion, to protect METRO against any loss, damage or claim which may result from CONTRACTOR's performance or failure to perform under this agreement or the failure of CONTRACTOR to make proper payment to any suppliers or subcontractors.

If a liquidated damages provision is contained in the Scope of Work and if CONTRACTOR has, in METRO's opinion, violated that provision, METRO shall have the right to withhold from payments due CONTRACTOR such sums as shall satisfy that provision. All sums withheld by METRO under this Article shall become the property of METRO and CONTRACTOR shall have no right to such sums to the extent that CONTRACTOR has breached this Contract.

ARTICLE XIII SAFETY

If services of any nature are to be performed pursuant to this agreement, CONTRACTOR shall take all necessary precautions for the safety of employees and others in the vicinity of the services being performed and shall comply with all applicable provisions of federal, state and local safety laws and building codes, including the acquisition of any required permits.

ARTICLE XIV INTEGRATION OF CONTRACT DOCUMENTS

All of the provisions of any bidding documents including, but not limited to, the Advertisement for Bids, Request for Bids or Proposals, General and Special Instructions to Bidders, Proposal, Bid, Scope of Work, and Specifications which were utilized in conjunction with the bidding of this Contract are hereby expressly incorporated by reference. Otherwise, this Contract represents the entire and

integrated agreement between METRO and CONTRACTOR and supersedes all prior negotiations, representations or agreements, either written or oral. This Contract may be amended only by written instrument signed by both METRO and CONTRACTOR. The law of the state of Oregon shall govern the construction and interpretation of this Contract.

ARTICLE XV
ASSIGNMENT

CONTRACTOR shall not assign any rights or obligations under or arising from this Contract without prior written consent from METRO.

WASTE RECOVERY, INC.

METRO

Signature

Signature

Print name and title

Print name and title

Date

Date

Attachment A

SCOPE OF WORK

1. Description of the Work.

- (a) Contractor shall receive and recycle approximately 91,600 waste passenger and truck tires, and approximately 700 bundles of waste bicycle tires (ten tires per bundle) from Metro's solid waste transfer stations. It is estimated that 98% of the tires delivered to the Contractor will be passenger tires (90,500) and 1% will be truck tires (1,100).
- (b) Metro shall be responsible for the hauling of all tires to the Contractor's facility.
- (c) All tires that are on rims less than twenty-four (24) inches in diameter will be dismounted prior to delivery to Contractor's site. Tires on larger rims will be delivered still on the rim.
- (d) Contractor shall recycle all waste tires received from Metro. Tires may be shredded and used as road base material or sold as hog fuel, or recycled in some other manner consistent with Metro's recycling policies.
- (e) Under no circumstances shall any of the tires hauled from a Metro solid waste facility be landfilled or disposed of unlawfully by the Contractor.

2. Payment and Billing.

Metro shall compensate Contractor for recycling of waste tires as follows:

- (a) Passenger tires off the rim: \$0.52 per tire
- (b) Truck tires off the rim: \$3.50 per tire
- (c) Bicycle tires:
 - Single tires: \$0.10 per tire
 - Bundle of 10 tires: \$0.50 per bundle

Contractor shall perform the above work for a maximum price not to exceed FIFTY TWO THOUSAND AND NO/100 DOLLARS (\$52,000.00).

The maximum price includes all fees, costs and expenses of whatever nature. Each of Metro's payments to Contractor shall equal the percentage of the work Contractor accomplished during the billing period. Contractor's billing statements will include an itemized statement of work done and expenses incurred during the billing period, will not be submitted more frequently than once a month, and will be sent to Metro, Attention Regional Environmental Management Department. Metro will pay Contractor within 30 days of receipt of an approved billing statement.

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Competitive quotes, bids or proposals

Submitted by	\$Amount	M/W/DBE	Foreign or Oregon contractor
Submitted by	\$Amount	M/W/DBE	Foreign or Oregon contractor
Submitted by	\$Amount	M/W/DBE	Foreign or Oregon contractor

Comments SOLE - SOURCE NO OTHER VENDORS IN OREGON PROVIDE THIS SERVICE

Attachments Ad for bid Plans and specifications Bidders list (M/W/DBEs included)

Instructions

- Secure contract number from Risk and Contracts Management. Place number on the transmittal summary and all contract copies.
- Complete transmittal summary form to the extent of project completion.
- If contract is:
 - Sole source, attach memo detailing justification pursuant to ORS 279.
 - Less than \$2,500, attach memo detailing need for contract and contractor's capabilities, bids, etc.
 - More than \$2,500 but less than \$25,000, attach quotes, informal solicitations, evaluation forms, etc.
 - More than \$25,000 attach RFP/RFB complete with summary, all required documents and all evaluation, utilization forms.
- List and identify all subcontractors below.
- Provide completed RFB/RFP packet to Risk and Contracts Management.

Subcontractor/supplier

Address

City/state/ZIP

Phone

M/W/DBE certified

Ethnicity

Type of work

Dollar amount

Subcontractor/supplier

Address

City/state/ZIP

Phone

M/W/DBE certified

Ethnicity

Type of work

Dollar amount

Attach additional list(s) as necessary.

Total utilization: \$ _____

Total contract: \$ _____

Percent utilization: _____

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 95-2236 FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO COMPETITIVE BIDDING PROCEDURES, AND AUTHORIZING A SOLE-SOURCE CONTRACT WITH WASTE RECOVERY, INC. FOR RECYCLING OF WASTE TIRES FROM METRO'S SOLID WASTE FACILITIES

Date: November 1, 1995

Presented by: Terry Petersen

PROPOSED ACTION

Adoption of Resolution No. 95-2236, authorizing an exemption to competitive bidding procedures and authorizing the execution of a public contract with Waste Recovery, Inc. for recycling of waste tires from Metro's solid waste transfer stations.

FACTUAL BACKGROUND AND ANALYSIS

During 1994 Metro received 43,417 waste tires at its solid waste transfer stations. It is estimated that Metro will receive 46,000 waste tires during FY 1995-96 (29,716 at Metro South and 16,284 at Metro Central). The state of Oregon prohibits the landfilling of waste tires. Currently, Metro has a contract with Waste Recovery, Inc. (WRI), located in North Portland, to recycle the tires from the transfer stations. The contract expires November 30, 1995.

On June 6, 1995, the Council Solid Waste Committee considered the release of a Request For Bids (RFB) for recycling of waste tires from Metro solid waste facilities. A memorandum from Pacific/West Communications Group, Inc. was given to the Committee at the June 6, 1995 meeting suggesting some changes to the RFB Scope of Work. The suggested changes included language about the disposal of residue material. No action was taken by the Committee regarding the RFB at that time. Metro staff has since met with Waste Recovery, Inc. officials four times regarding the issue of residue material. As a result of these meetings, WRI is expected to apply for a Metro franchise and is expected to agree to a plan designed to virtually eliminate their residue within three years.

It has been determined that there is now only one company in Oregon that can recycle tires. Therefore, a RFB is no longer required or recommended. It is proposed that Metro enter into a sole-source contract with Waste Recovery, Inc. for recycling waste tires. The term of the proposed contract, attached, is December 1, 1995 through November 30, 1997. The contract provides that the contractor shall recycle all waste tires received from Metro. Tires may be shredded and used as road base material or sold as hog fuel, or recovered in some other manner consistent with Metro's recycling policies. The contract provides the following rates: \$0.52 per tire for passenger tires, and \$3.50 for truck tires. Current rates are \$0.50 and \$3.50 respectively.

SOLE-SOURCE JUSTIFICATION

Waste Recovery, Inc. is the only company in the state of Oregon that provides tire recycling services. Previously, one other company recycled tires: RMAC International, Inc. in Troutdale, Oregon. That company is no longer in business. There are tire recycling facilities in other states but it is not feasible to transport waste tires to those facilities. The closest facility known to Metro, other than WRI, is located in Redding, California. Another alternative is for Metro to install its own tire shredding equipment. The cost for purchasing this equipment is estimated to be \$260,000. In addition, there would be installation and operating costs. Also, there may not be room to install the equipment at either of Metro's transfer stations. Given the relatively small number of tires Metro receives at its facilities, Metro staff has concluded that purchasing tire shredding equipment would not be cost effective. The cost of contracting tire recycling for the next ten years is estimated to be \$298,000. The cost is estimated to be \$382,000 if Metro purchased, installed and operated its own equipment for the same time period.

BUDGET IMPACT

The total amount of the proposed two-year contract is \$52,000. The estimated cost of the contract for FY 1995-96 is \$14,850. A total of \$25,516 is budgeted for tire recycling in FY 1995-96.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 95-2236.

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