

MINUTES OF THE COUNCIL SOLID WASTE COMMITTEE  
OF THE METROPOLITAN SERVICE DISTRICT

August 21, 1990

Council Chamber

Committee Members Present: Tom DeJardin (Chair), Judy Wyers (Vice Chair), Roger Buchanan and Tanya Collier

Committee Members Absent: None

1. Committee Tour of Solid Waste Facilities

The Solid Waste Committee, Councilors Buchanan, Collier, DeJardin, Saucy and Wyers; Metro staff, and members of the public left Metro Center at 3:05 p.m. to tour the Riedel Composter and Metro East Station construction sites. The Committee returned to Metro Center to convene the regularly scheduled meeting.

Chair DeJardin called the regular meeting to order at 5:36 p.m.

2. Consideration of Resolution No. 90-1310, For the Purpose of Awarding a Contract to Shredding Systems, Inc. for Design, Manufacture and Installation of a Compaction System at Metro South Station

Chuck Geyer, Senior Solid Waste Planner, gave staff's report. Mr. Geyer said in December 1988, staff recommended a sole source contract with Amfab to obtain a compactor for Metro South Station. He said the Solid Waste Committee rejected that procurement approach for a competitive bidding process. He said in spring 1989, staff issued a competitive RFP to which Amfab and Shredding Systems, Inc. (SSI) responded. He said evaluation of their proposals resulted in procurement of an Amfab compactor installed at Metro South on Thanksgiving weekend 1989. He said in May 1990, staff issued an RFP for Metro South's second compactor.

Mr. Geyer reviewed the differences between the current and previous compactor RFPs issued. He said technical specifications were changed to require higher than average payloads and the ability to extrude the bales further into the trailers up to seven feet. He said evaluation criteria was changed for the current RFP. He said that in the first RFP, compliance with the technical specifications was worth 50 points. He said the second RFP's technical specifications were judged on a pass/fail basis. He said on the previous RFP, project team experience was awarded 10 points and the current RFP awarded 5 points. Staff added the criteria "Long Term Liability Risk Assessment," worth 20 points, to the current RFP. He said "Warranty" was not in the evaluation criteria in the first RFP but worth 20 points in the current RFP. He said "Operational Compatibility," not in the first RFP, was worth 15 points in the current RFP. He said both "Reliability" and "Costs" were in both the first and second RFPs and were both worth 20 points.

Mr. Geyer said the addition of "Long Term Liability Risk Assessment" leveled the playing field for the two vendors. He said the first RFP gave "Operational Reliability" 20 points and none of the additional risk protection measures.

Mr. Geyer discussed the results of the Metro South Station compaction system evaluation. He said both Amfab and SSI proved compliance with "Technical Specifications." He said SSI received a zero on "Operational Reliability" because they had no operational experience and Amfab scored 12.75 of 20 points based on their operations at the other locations and at Metro South. He said SSI received 17 of 20 points for Warranty and Amfab received 8.2 points. He said SSI offered a two-year warranty and AMFAB offered a one-year warranty. He noted staff redrafted Amfab warranty language for Amfab's review because staff was not happy with the warranty Amfab offered. Mr. Geyer noted Warranty language as printed in staff's report was inaccurate because it stated SSI offered a warranty on all items and said SSI, like Amfab, offered a warranty on all items excepting consumables and wear items. He said Amfab received 12.75 of 15 points for "Compatibility with existing Metro South Station configuration and equipment" and SSI received 12.75 points. He said the evaluation team expressed concern about the two-bale system which pushed bales together and then extruded them, but staff believed the computerized safeguards would prevent any problems. He said Amfab and SSI each received 4.75 points of 5 points for "Project team experience." He said a formula was used to derive cost points and Amfab received 16 of 20 points and SSI received 20. He said staff had added \$75,000 into SSI's evaluation because Amfab had to purchase \$3 million in umbrella insurance and that gave Amfab 2 additional points.

Mr. Geyer said Amfab received 11 of 20 points and SSI, 13 points for Long Term Liability Risk Assessment. He said that criteria would protect Metro against damage claims from Jack Gray Transport (JGT) if trailers were damaged by the bales extruded from the compaction system.

Mr. Geyer said firms were asked to provide an indemnification clause to indemnify Metro against claims that might exceed claims Metro currently received from JGT for damage caused by Amfab's compactor to JGT trailers. Staff would use a database to measure such claims. He said Metro had a variety of protections for excessive damage, including removal of the system and reimbursement of Metro's payment or that SSI could remove the two-bale system and replace it with a one-bale system. He said Amfab proposed no indemnification.

Mr. Geyer said both firms met "Compliance with Disadvantaged Business Program" criteria.

Mr. Geyer said the total scores awarded were: SSI - 67.5 and Amfab - 67.45. He said because the scores represented a virtual tie, staff prepared final contract language for the two firms to review and comment

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upon, and sent them back to the firms to make comments and proposed changes. Staff reviewed those comments and proposed changes, developed bottom line criteria in response, and sent back rewritten contracts asking the firms if they would sign them and both firms indicated they would. He said the comments received from both firms did differentiate the proposals. He said SSI proposed two changes which staff denied according to bottom line criteria and SSI agreed to sign without their proposed changes included. He said Amfab returned their proposal with approximately 20 changes. Staff accepted and rejected some changes and some changes were modified. Amfab agreed with staff's changes. Mr. Geyer said based on the final process, staff believed SSI provided the better compaction system contract. Mr. Geyer said staff believed both firms could build a compactor to Metro's satisfaction and the scores were very close, but that the final steps of the process differentiated between the proposers.

Monica Little, Legal Counsel, noted the two changes SSI had made were for the umbrella coverage provision and the number of days notice required for SSI to give Metro in the event their coverage was cancelled. She said Amfab proposed changes to the General Conditions and some substantive changes to the scope of work's Technical Specifications. She said a number of their proposed changes to the General Conditions did not affect Metro unfavorably. She said staff believed several changes Amfab proposed to the scope of work and Technical Conditions were not favorable to Metro. She said the Technical Specifications section contained language on the contractor stepping forward to assume responsibility for costs incurred due to improper loading or overloading and damage during the time period prior to final acceptance of the equipment. She said Amfab rejected the language. She said that meant Metro or another party would have to assume those costs.

Ms. Little said Amfab also requested a language changed under "Installation." She said in discussions about bottom line language Metro submitted, Amfab said there should be a time limit for any delay between the time period when the equipment was ready for delivery, and Metro's issuance of a notice to actually proceed with the installation. She said as staff had originally proposed, Amfab would have been responsible for any standby costs they incurred if there was a delay between the period of time they had completed fabrication and Metro had the facility ready to accept the equipment. She said their language, after the 60th day, charged Metro \$150 per calendar day for any delay between the time they were ready to install the equipment and the time Metro issued Notice to Proceed. Ms. Little said such provisions did not mean significant dollar amounts, but represented a subtle risk exposure, or shift, that was a burden to Metro.

Ms. Little said Technical Specifications contained language related to training and the obligations the contractor was willing to assume with

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regard to training. Metro proposed the contractor provide thorough training which was standard industry practice. She said Amfab had some limited restrictions on the amount of training they would provide and if Metro went beyond the five-day training limit, Metro would have to pay \$400 per day for each additional day of training. Ms. Little said there was also concern about as-built drawings.

Ms. Little said the Amfab warranty did not cover a two-year time period and the SSI warranty did. She said the longer warranty would give Metro more protection. She said General Counsel made the basic assumption it would be in Metro's best interest if the proposers offered warranties of fitness and a warranty of merchantability. She said SSI indicated they would give Metro those warranties for the two-year duration of their general warranty. She said the Amfab proposal expressly disclaimed the warranties of merchantability and the warranty of fitness for intended purposes. General Counsel believed those differences between the two proposers reflected on the kind of protection the proposers would afford Metro.

Councilor Buchanan asked where SSI's center of operations was located. Mr. Geyer said SSI was located in Wilsonville, Oregon. Councilor Buchanan asked what brand of compactor Wastech, Inc. used at their facility in Vancouver, British Columbia. Mr. Geyer said they used an Amfab compactor. Councilor Buchanan asked if staff researched the history of that compactor when they drafted the proposals. Mr. Geyer said staff did research that compactor. Councilor Buchanan asked under what criteria the two-bale system would be changed to a one-bale system. Mr. Geyer said under SSI's long-term indemnification agreement, if their two-bale system caused excessive damage to a JGT truck and SSI was no longer willing to pay those damages as they stated in indemnification language, that after a six-month period SSI had the option to remove the two-bale system and manufacture a one-bale system for replacement purposes.

Councilor Buchanan asked about previous testimony in which JGT expressed concern about how a two-bale system could damage their trailers. Mr. Geyer explained SSI proposed to build an extension chamber to absorb bulging as the two bales were compressed together before they were extruded into the truck trailers. He said the extension chamber represented a design change from SSI's previous proposal.

Councilor Collier asked if SSI met DBE/WBE goals. Mr. Geyer said SSI met the goals. Councilor Collier noted Amfab's letter dated August 20 from Carl Winans stated their liability risk assessment was better than Amfab's. She said Amfab's letter noted after six months, SSI could unilaterally void the contract by removal of the compactor with no further responsibility to Metro, and that SSI's indemnification was illusory and provided Metro with no protection. She said the letter noted Metro could be without service for 95 days if the two-bale system

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had to be converted to a one-bale system. Mr. Geyer said SSI would have to refund Metro's money if they removed their system and Metro would still have the first compactor on-line.

Chair DeJardin opened the public hearing.

Wally Mehrens, Columbia Building Trades Council executive secretary, discussed SSI's proposal. He said he saw no data to confirm SSI was a licensed general contractor with experience in such installation processes. He said Attachment C had two contractors listed, but it was not clear whether those subcontractors worked for Amfab or SSI. He said it was not clear whether those subcontractors were DBE/WBE. He asked if the contractors listed had performed similar installation work before. Mr. Geyer explained DBE/WBE requirements as fulfilled by SSI further.

Tom Garnier, SSI president, said Gresham Transfer and Wilhelm Trucking had both handled previous SSI installations. He said either of those two firms would be chosen for installation at Metro South based on a bid process. Councilor Collier asked if either contractor was a licensed general contractor in the State of Oregon. Mr. Garnier said Wilhelm Trucking was the largest equipment installer in the state. Councilor Collier asked Mr. Mehrens if Mr. Garnier's testimony satisfied his questions about SSI's competency to install the compactor.

Jeff Bachrach, O'Donnell Ramis Crew & Corrigan, emphasized the proposal points awarded were virtually tied and the RFP did not contain any provisions on how to break a tie. He said at this meeting staff testified they made a unilateral decision to break the tie by sending the contract to the two proposers asking for their comments and proposals. He said proposers were not told they would be penalized if they made more changes or requests than other proposers. He said Amfab received the contract with a request from Metro staff asking for comments and proposals. He said Amfab was unaware the revised contract would be used to break the tie and said Metro staff should have informed Amfab of that. He said factors to consider in breaking the tie included the two-bale system. He said if the two-bale system was unsuccessful, removal of the system would involve costs to Metro. He asked why Metro did not choose the one-bale system which did not require extensive indemnification. He said SSI's two-year warranty was not a two-year warranty on all component parts and the points awarded to Amfab were not upgraded accordingly. He said SSI had a one-year warranty, as Amfab did on third party parts and labor, but noted SSI was subcontracting almost the entire contract. He said the point award system used was not equitable. He said staff did not note when awarding points that SSI's two year warranty would not cover everything. He said that should create at least a one or two point deduction from SSI's score in which case Amfab would win.

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Carl Winans, Amfab general manager, said 20 Amfab units were in operation, that Amfab had two patents, and Amfab compactors had a good track record. He cited the performance of the Amfab compactor currently in operation at Metro South. He said the two-slug system would have detrimental effects on truck trailers. He said using the SSI compactor would cause higher electrical costs at Metro South. He discussed the differences between the two systems and said the proposed SSI computer controls were unproven. He noted Amfab installed its own compactors and their equipment was hauled by Gresham Transfer. Mr. Winans discussed how Amfab would fulfill DBE/WBE requirements in the execution of this contract.

Councilor Buchanan asked about compaction downtime referred to by Mr. Winans. The Committee and staff discussed downtime and operator error.

The Committee asked both SSI and Amfab representatives if their companies were union-organized. Both representatives said no.

Councilor Collier asked Ms. Little if the Metro Code gave instructions on what to do in the case of a tie. Ms. Little said it did not.

Ms. Little said staff sent a letter to SSI and AMFAB which stated their response to the bottom line contract language would be used in evaluating and developing staff's recommendation for the contract. Councilor Collier asked Mr. Geyer why SSI was selected. Mr. Geyer said evaluation criteria for the first compactor was heavily weighted towards reliability, which eliminated SSI, because they had no operational history. He said during this process staff emphasized indemnification language criteria which SSI fulfilled. Councilor Collier asked if testimony given at this meeting would have changed the points given. Mr. Geyer said Mr. Bachrach's testimony on work contracted by SSI did not alter the issues because the warranty in question was for manufacturer's components which would be covered in any case. Chair DeJardin asked Ms. Little if Metro's award of the contract to SSI could withstand legal challenges. Ms. Little said it would.

Mr. Geyer said staff asked for and got indemnification for damage to JGT trailers. He said if equipment did excessively damage trailers, Metro could reject the equipment and get its money back. He said the long-term reliability risk assessment would protect Metro and JGT.

Councilor Wyers asked why staff believed the two-bale system was better. Mr. Geyer said staff evaluated the systems on a pass/fail basis only. Staff believed the two-bale system would meet the required technical specifications, as would the one-bale system.

Chair DeJardin asked what concerns JGT might have with the two-bale system.

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it was difficult to determine why Metro would choose the untested system.

Mr. Saltzman responded to testimony given. He noted an RFP procedure was used in this process and noted the RFP process was meant to look at factors other than cost and allow some discretion in decision-making. He said SSI realized score differential was very close and said there must be some way to break a tie. He said Council utilized the RFP process and staff's recommendation should be trusted. He noted Metro's diverse approach to transfer stations and said it could be applied to compactors as well. He said the indemnification language and superior compactor design would compensate for the lack of operational experience.

Chair DeJardin asked if anyone else present wished to testify. No one else appeared to testify and the public hearing was closed.

Motion: Councilor Collier moved to recommend the full Council adopt Resolution No. 90-1310.

Vote: Councilors Buchanan, Collier, DeJardin and Wyers voted aye. Councilor Saucy was absent. The vote was unanimous and the motion passed.

The Committee thanked proposers and staff for their hard work in the RFP process.

Chair DeJardin introduced Karla Forsythe, Council Analyst, to the Committee and those present and noted Ms. Forsythe would staff the Solid Waste Committee as analyst.

3. Consideration of Resolution No. 90-1311, For the Purpose of Approving the One Percent for Recycling Program Criteria and Guidelines and Application for Proposal for FY 1990-91

Judith Mandt, Assistant to the Director of Solid Waste, introduced Leigh Zimmerman, Associate Solid Waste Planner, and noted Ms. Zimmerman's work for the 1% for Recycling Committee. She said the resolution and attachments contained the 1% for Recycling Advisory Committee's guidelines and application for proposals for the FY 1990-91 funding cycle. Ms. Mandt thanked Councilor Wyers for her work as chair of the 1% for Recycling Advisory Committee. Ms. Mandt noted the program for FY 1990-91 would be geared towards markets rather than materials re-use. She said the Committee wished to emphasize marketing and "pre-cycling," or reduction at the source. Ms. Mandt discussed markets and their current status.

Ms. Mandt noted proposers would fill out applications with explanations of proposed projects rather than RFPs as done previously.

Councilor Wyers said the 1% for Recycling Advisory Committee's focus on marketing and processing FY 1990-91 was exciting. She noted last year's criteria had been revised. She said the accelerated schedule of events meant the Committee could meet in early November to review applications and funds would be granted in January.

Councilor Wyers said it was necessary to clarify whether the 1% referred to one percent of the Solid Waste Department's operating budget or one percent of the entire Solid Waste Department budget.

Motion: Councilor Wyers moved to recommend the full Council adopt Resolution No. 90-1311.

Vote: Councilors Buchanan, Collier, DeJardin and Wyers voted aye. Councilor Saucy was absent. The vote was unanimous and the motion passed.

Councilor Collier congratulated all those involved with the 1% for Recycling Program. She asked staff to refer to Councilor Wyers as chair of the 1% for Recycling Advisory Committee, rather than member of, if pamphlets for the program were printed again this year.

#### Additional Agenda Item

Councilor Wyers noted also before the Committee was Resolution No. 90-1230, For the Purpose of Confirming the Appointment of Wilbert H. Randle, Jr. to Fill a Vacancy on the 1% for Recycling Advisory Committee and Assigning Terms. She noted Mr. Randle had begun his Committee tenure.

Motion: Councilor Wyers moved to recommend the full Council adopt Resolution No. 90-1230.

Vote: Councilors Buchanan, Collier, DeJardin and Wyers voted aye. Councilor Saucy was absent. The vote was unanimous and the motion passed.

Councilor Collier requested Resolution No. 90-1311 not be placed on the Council Consent Agenda in order to discuss the funding issues.

The Committee and staff briefly discussed funding for thrift/charitable recycling agencies. The Committee asked Ms. Forsythe to identify any funds that might be available for charitable recycling agency rate relief.



4. Presentation of Assumptions for Technical Analysis of Washington County Solid Waste System

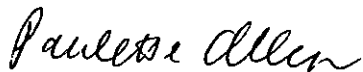
Rich Carson, Director of Planning & Development, introduced Terry Moore, ECO Northwest (ECO/NW).

Mr. Moore referred to ECO/NW's August 8 1990 memorandum and their summary evaluation sheet which addressed: Waste generation, waste composition, waste flow, type and number of facilities, service area boundaries/facility locations, existing facilities, system configurations, facility operating characteristics, recovery rates, facility and transportation costs, financial analysis, rate analysis, and environmental and neighborhood effects. He noted the Steering Committee August 13 did not vote on each of the above categories individually, but did unanimously vote on system configurations.

Chair DeJardin asked if the Committee discussed expansion or additions to facilities. Mr. Moore said either option could be addressed. He said the ECO/NW model would have three reasonable sizes for each facility. Chair DeJardin asked if the Steering Committee had accepted the phase-in strategy. Mr. Moore said yes. Councilor Wyers asked who would pay for the system if the configuration cost more than previously estimated. Chair DeJardin noted Washington County had previously offered to augment any additional costs. Mr. Carson noted ownership options would be the deciding factors. Councilor Wyers complimented staff and Mr. Moore on a complex job well done. The Committee discussed the October 20 meeting to give public officials from Metro and Washington County the opportunity to discuss the plan. Chair DeJardin asked Mr. Moore if ECO/NW's study would address hazardous waste generated by high-tech industries. Councilor Wyers requested Ms. Forsythe to compare the Regional Solid Waste Management Plan to the Washington County Plan for areas of consistency.

Chair DeJardin adjourned the meeting at 7:51 p.m.

Respectfully submitted,



Paulette Allen  
Committee Clerk  
SWC90.233