

Exemption from Tender and Request for Extension - Supply and Maintenance of Street Furniture

File No: S095645.010

Summary

The City of Sydney entered into a Supply and Maintenance of Street Furniture Agreement with JCDecaux Australia Pty Ltd (JCDecaux) in January 1997 and this agreement expires on 31 December 2018.

Along with the City of Sydney, the former Leichhardt Council and the former South Sydney City Council also entered into similar agreements with JCDecaux in 1997 and these agreements expire on 30 April 2019 and 30 June 2019 respectively.

These agreements make no provision for the smooth transition of the services provided under the agreements to a new Service Provider. JCDecaux are obligated to remove all of their street furniture once the agreements have ended. Without adequate transition arrangements in place, the community may be without street furniture for extended periods. A short extension of the current agreements will allow for the smooth continuation and transition of critical street furniture and associated services, while the new contract for these and other services is planned, tendered, awarded and implemented.

An evaluation of the current contract model has identified that it will require significant change to align with industry developments over the past 20 years. The City's new strategic services approach-to-market includes an Early Contractor Involvement (ECI) process followed by a tender. The successful tenderer would require approximately two years transition time to ensure an efficient and seamless handover of services. This will have numerous benefits including improved services and better financial outcomes for the City.

Given the time required to implement the revised contractual model to ensure services meet the City's future needs and to permit an adequate transition period, this report seeks approval to extend the term of all three Supply and Maintenance of Street Furniture agreements with JCDecaux until 31 January 2020.

Recommendation

It is resolved that:

- (A) in order to align all three existing agreements, Council approve an exemption from tender in accordance with section 55(3)(i) of the Local Government Act 1993, for the services currently provided under all three of the existing agreements with JCDecaux Australia Pty Ltd for the period between 1 January 2019 and 31 January 2020;
- (B) Council approve an extension of the term of the current Supply and Maintenance of Street Furniture Agreements with JCDecaux Australia Pty Ltd to 31 January 2020;
- (C) authority be delegated to the Chief Executive Officer to negotiate, execute and administer a variation to the Supply and Maintenance of Street Furniture Agreements to provide for the extension of the term under clause (B);
- (D) Council note that, because of extenuating circumstances, a satisfactory result would not be achieved by inviting tenders for the services described under clause (A) at this time; and
- (E) Council note the reasons why a satisfactory result would not be achieved by inviting tenders for the services described under clause (A) now are:
 - (i) sourcing a provider for a short period of up to 13 months introduces a significant financial risk to Council due to the short engagement period;
 - (ii) due to the size and complexity of Council's street furniture services, introducing a new supplier would result in an unacceptable level of operational risk; and
 - (iii) the City's new strategic services approach-to-market including an Early Contractor Involvement (ECI) process followed by a tender cannot be achieved by the end of the existing contract period and to attempt to do so would not achieve a robust City tender process.

Attachments

Attachment A. Financial Implications (Confidential)

Background

1. The City of Sydney entered into a Supply and Maintenance of Street Furniture Agreement with JCDecaux Australia Pty Ltd (JCDecaux) in January 1997 and this agreement expires on 31 December 2018.
2. Along with the City of Sydney, the former Leichhardt Council and the former South Sydney City Council also entered into similar agreements with JCDecaux in 1997 and these agreements expire on 30 April 2019 and 30 June 2019 respectively. These agreements are both applicable for the relevant portion of these former Councils that now form part of the City of Sydney.
3. The Supply and Maintenance of Street Furniture Agreements include the design, supply, installation and management of street furniture across the municipality, including bus shelters, kiosks, automated public toilets, payphones, advertising bollards, seats and street litter bins. As part of these agreements, JCDecaux own and manage approximately 1,155 street furniture items.
4. Under these agreements, JCDecaux are also required to display advertising for an appropriate selection of street furniture. The advertising generates revenue that funds the capital and operational costs for street furniture and provides a valuable revenue stream to the City of Sydney.
5. JCDecaux has continued to perform in keeping with the Councils expectations throughout the life of the agreements. During this time they have also made innovative improvements to the furniture design to meet the changing needs of a global city.
6. The agreements with JCDecaux make no provision for any performance based extension of the term. Upon expiry of each agreement, JCDecaux is obligated to remove all of their street furniture and there is no requirement that would support a smooth transition of services to a future Service Provider. Without adequate arrangements in place, the community and the kiosk tenants may be without street furniture for extended periods. The revenue the City receives from advertising would also cease until the successful tenderer has established a new portfolio of furniture with associated advertising.
7. An extension of the current agreements will allow for the smooth continuation and transition of critical street furniture and advertising services, while a future service is planned, tendered, awarded and implemented.
8. In keeping with best practice procurement approaches for a contract of this size, complexity and value, and aligning with the City's new strategic services approach-to-market through the Early Contractor Involvement (ECI) process, the City has commenced discussions with potential service providers regarding this strategic procurement. Industry feedback has been very positive to date, particularly with regard to the use of the ECI model. These discussions will be followed by an extensive scoping phase, formal ECI and Tender process.
9. The transition period required for street furniture services is anticipated to be completed within a two year timeframe (post contract expiry) to allow for the successful Tenderer to recruit staff, design, prototype and supply new furniture items, obtain approvals, arrange service connections and complete installation activities. New furniture items to be designed to complement existing Council endorsed furniture includes bus shelters, kiosks, communications panels and automated public toilets. A

similar timeframe was required when JCDecaux first installed the street furniture at the commencement of the contract.

10. To ensure that the City procures the most suitable contractor to meet the challenges associated with the City's street furniture and associated services, the City requires an extension to the services provided by JCDecaux to complete the ECI and Tender process and to also then transition to the successful Tenderer. This means that the current Supply and Maintenance of Street Furniture Agreements with JCDecaux will need to be extended until 31 January 2020. After this date, and for a transition period of up to two years existing furniture will be progressively replaced.
11. The City has changed considerably since 1997 when the contract was initially awarded. Challenges faced in upgrading the City's street furniture include the requirement for new development applications, greater accessibility needs, advanced utility connection requirements, higher volumes of pedestrians and increased worksite obligations.
12. The contract extension will include provisions for the street furniture to be incrementally removed after the proposed expiry date. JCDecaux will be required to continue to maintain furniture and display advertising through to a time when the City and the successful tenderer are in a position to commence site works. This arrangement will ensure outage time for a particular furniture item is diminished, impacts to the community are minimised, kiosk tenants may continue to trade and revenue to Council is sustained where possible.

Key Implications

Organisational Impact

13. The contract extension will allow for a well-planned ECI and Tender process that will provide an efficient, timely and cost effective transition of the Supply and Maintenance of Street Furniture services to the successful tenderer.

Risks

14. Without the extension, the City will need the new contract to commence on 1 January 2019. This does not allow enough time to run an Industry appropriate ECI and Tender process, nor to transition services as required.
15. Without the extension, the City will not be able to minimise outage times for street furniture and the revenue generated for the Council will cease until the successful tenderer has established a new portfolio of furniture with associated advertising.

Budget Implications

16. The Supply and Maintenance of Street Furniture Agreements are based on a schedule of rates with annual rise and fall adjustments. The value of the revenue generated for Council for the extension and transition is outlined in Attachment A.
17. The revenue anticipated for the extension and transition period meets the amounts projected within the City Services operational budget and future year forward estimates.

Relevant Legislation

18. Attachment A contains confidential information which, if disclosed would confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business, under Section 10A(2) of the Local Government Act 1993.

Critical Dates / Time Frames

19. The first Supply and Maintenance of Street Furniture Agreement with JCDecaux expires on 31 December 2018, and the remaining agreements expire on 30 April 2019 and 30 June 2019. It is recommended that the contract expiry dates of all three agreements are aligned and extended to 31 January 2020.
20. If the expiry dates in these agreements are extended, then the tender for future street furniture and associated services would go to market in September 2018.
21. Council approval will be sought in early 2019 to appoint the successful tenderer.
22. An extended transition period will be provided for the successful tenderer to design, prototype and supply new furniture, obtain approvals and recruit new staff to ensure a comprehensive and smooth upgrade to the furniture may commence on 1 February 2020.

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