

Exemption from Tender and Contract Variations - Contracts Impacted by the 2021 Local Government Election 2021

File No: X026413

Summary

This report seeks an exemption from tender and approval to vary and extend the three contracts listed below until 30 June 2022 due to extenuating circumstances.

On 24 July 2021, the Minister for Local Government announced a new date for the local government elections had been set for 4 December 2021.

The City subsequently undertook a review of tenders and contracts that would be impacted by the election schedule, including the implications of the caretaker period. Three contracts were identified as requiring Council approval to extend. These were the Street Signs, Pavement Marking and Tactile Ground Surface Indicator Services with Streets Ahead Maintenance Pty Ltd; the Public Art Collection Basic Maintenance Services with Urban Maintenance Systems Pty Ltd; and the Security Patrols and Alarm Response Services with Southern Cross Protection Pty Ltd.

Due to the impact of the revised schedule for the 2021 Local Government Election, and the implications of the caretaker period the City is seeking approval to extend these contracts to 30 June 2022, to ensure continuity of service whilst associated tender processes are completed.

Recommendation

It is resolved that:

(A) Council approve an exemption from tender in accordance with section 55 (3)(i) of the Local Government Act 1993 to extend the term of the existing contracts for:

- (i) Street Signs, Pavement Marking and Tactile Ground Surface Indicator Services with Streets Ahead Maintenance Pty Ltd;
- (ii) Public Art Collection Basic Maintenance Services with Urban Maintenance Systems Pty Ltd; and
- (iii) Security Patrols and Alarm Response Services with Southern Cross Protection Pty Ltd;

by reason of extenuating circumstances noting that a satisfactory result for the City would not be achieved by inviting tenders at this time;

(B) Council note the reason that a satisfactory result would not be achieved by inviting tenders at this time are that because of the new date for the 2021 Local Government Elections and corresponding later date of the caretaker period, the City will not have adequate time in which to complete the appropriate tender processes which consequently will not result in value for money;

(C) Council approve variations to the contracts for:

- (i) Street Signs, Pavement Marking and Tactile Ground Surface Indicator Services with Streets Ahead Maintenance Pty Ltd;
- (ii) Public Art Collection Basic Maintenance Services with Urban Maintenance Systems Pty Ltd; and
- (iii) Security Patrols and Alarm Response Services with Southern Cross Protection Pty Ltd;

to extend the terms of the three contracts to 30 June 2022; and

(D) authority be delegated to the Chief Executive Officer to negotiate, administer and enter into any necessary documentation to give effect to the clauses above.

Attachments

Nil.

Background

1. On 24 July 2021, the Minister for Local Government announced a new date for the local government elections had been set for 4 December 2021.
2. The Local Government (General) Regulation 2021 restricts a number of functions by a Council or its delegates in the four (4) weeks prior to the election. Due to the deferral of the election, the caretaker period commences on 6 November 2021.
3. Following the release of scheduled dates associated with the 2021 Election, the City undertook a review of tenders, including those that were upcoming or already underway and contracts, including expiry dates and potential variations. Project and tender timelines were reviewed with consideration of the new election schedule.
4. Three current contracts were identified in this review as being impacted by the election schedule. These were:
 - (a) Street Signs, Pavement Marking and Tactile Ground Surface Indicator Services with Streets Ahead Maintenance Pty Ltd;
 - (b) Public Art Collection Basic Maintenance Services with Urban Maintenance Systems Pty Ltd; and
 - (c) Security Patrols and Alarm Response Services with Southern Cross Protection Pty Ltd.
5. In determining impacted contracts, consideration was given to sourcing activity already underway to replace or continue services provided under these contracts. It is recommended that these contracts be extended to 30 June 2022, to ensure continuity of service whilst associated tender processes are completed.
6. The proposed extensions do not exceed six months from current contract expiry dates. It is anticipated that the associated tender processes will be completed by March 2022.
7. The request for contract extensions to 30 June 2022 provides for any unforeseen circumstances and mitigates the risk of interruption to service.

Contract - Street Signs, Pavement Marking and Tactile Ground Surface Indicator Services with Streets Ahead Maintenance Pty Ltd;

8. The tender for the Street Signs Panel (RFT 1641) was awarded by Resolution of Council on 21 November 2016, for a period of three years with an additional two one-year extension options.
9. The contract awarded to Streets Ahead Maintenance Pty Ltd commenced on 16 January 2017. Both options to extend the terms were exercised, with the contract expiring on 15 January 2022.
10. Public Domain Street Signs and Maintenance, including for Wayfinding, Parks and Cycleways, have been combined in a Request for Tender advertised on 3 September 2021. The tender will close on 11 October 2021. The City anticipates significant competitive interest through multiple tender responses.

11. The value of the tender is expected to exceed caretaker period thresholds. Due to the estimated tender value and closing date, it is anticipated that tender acceptance will be sought in February 2022. Following this, further time would be required to execute a new contract and this can be expected to occur in March 2022.
12. As such, it is requested that current contract ending 15 January 2022, be extended to 30 June 2022, to allow adequate time for tender acceptance, contract award and any unforeseen circumstances. No further options to extend will be offered or required, as a new contract will be awarded before 30 June 2022.
13. There are sufficient funds allocated and no additional funds would be required to meet the forecasted spend to 30 June 2022. The approved contract value is \$4.1M (including GST) and the current spend is well within this.

Contract - Public Art Collection Basic Maintenance Services with Urban Maintenance Systems Pty Ltd;

14. The tender for the Public Art Collection Basic Maintenance Services (RFT 1626) was awarded by Resolution of Council on 12 December 2016, for a period of three years with an additional two one-year extension options.
15. The contract awarded to Urban Maintenance Systems Pty Ltd commenced on 13 February 2017. Both options to extend the terms were exercised, with the contract expiring on 12 February 2022.
16. A tender process is planned with the advertising of the tender to occur in early 2022.
17. The current contract is managed by the Cleansing and Waste team and it is anticipated any new contract will be managed by the Public Art team to streamline the management of contract performance. In determining the extension required, consideration was given to the timeline for the tender process, contract award, internal handover and any unforeseen circumstances.
18. No further options to extend will be offered or required, as a new contract will be awarded before 30 June 2022.
19. It is unlikely that there will be any contract variation required during this extension period. Should any unforeseen circumstances result in a variation to the contract value occur, it is anticipated this can be managed, noting the contract value is \$880,528 (including GST).

Contract - Security Patrols and Alarm Response Services with Southern Cross Protection Pty Ltd

20. The tender for the Security Patrols and Alarm Response Services (RFT 1608) was awarded by Resolution of Council on 21 November 2016, for a period of three years with an additional two one-year extension options.
21. The contract awarded to Southern Cross Protection Pty Ltd commenced on 23 January 2017. Both options to extend the terms were exercised, with the contract expiring on 15 January 2022.

22. Event Security, General Security and Security Patrols and Alarm Response Services have been combined in a Request for Tender that is currently in progress to be advertised in October 2021.
23. Accounting for the time to award any new contract or unforeseen circumstances, it is recommended that this contract be extended to 30 June 2022, to ensure continuity of service. No further options to extend will be offered or required, as a new contract will be awarded before 30 June 2022.
24. It is unlikely that there will be any contract variation required during this extension period. Should any unforeseen circumstances resulting in a variation to the contract value occur, it is anticipated this can be managed, noting the contract value is \$600,000 (including GST).

Performance Measurement

25. All recommendations of extension are made on the basis that the required contract performance assessments have been completed and the supplier has performed at or above the City's expectations.

Financial Implications

26. There are sufficient funds allocated for the above requests within the 2021/22 budget.

Relevant Legislation

27. Local Government Act 1993. Section 55(3)(i) provides an exemption from tender for a contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenders, a council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders by reason of extenuating circumstances.

Critical Dates / Time Frames

28. Contract extensions requested to 30 June 2022 for the below:

Contract Name	Expiry	Current status of associated tender
Street Signs	15/01/2022	Current advertised tender closes 11 October 2021
Public Art Collection Basic Maintenance Services	12/02/2022	Tender is planned for early 2022
Security Patrols and Alarm Response Services	22/01/2022	Tender to be advertised in October 2021

Options

29. No other alternative viable options have been identified. If no extensions are granted, the contracts would lapse and impact services or project delivery.
30. It should be noted the City's initial review of tenders and contracts identified and implemented alternative viable options where available. The contracts identified in this report require extension as no other viable options were identified in order to mitigate the impact of the updated election schedule.

BILL CARTER

Chief Financial Officer

Lena Zeng, Strategic Contract Manager, Procurement