

## Item 6.

### **Exemption from Tender and Contract Variation – Catering Services – Compass Group (Restaurant Associates)**

**File No: X079066**

#### **Summary**

This report seeks to extend the existing contract for Catering Services for up to 12 months to 2 July 2024. This is to allow for the City to complete its tendering process to award the contract for the services to a successful supplier and allow for a planned transition period to a new supplier.

This report requests Council approve an exemption from tender and contract variation for catering services with Compass Group B&I Hospitality Services Pty Ltd (Restaurant Associates – ABN 82089388143) to provide for the extension of the term.

Restaurant Associates has been contracted to the City for over 15 years, providing catering services for external events in Centennial Hall, Lower Town Hall and Barnet Long Room. Restaurant Associates' current contract commenced on 3 July 2017, following a tender process.

At the start of the Covid-19 pandemic in 2020, Restaurant Associates informed the City of the financial difficulties it was facing due to the dramatic changes in market conditions, and the financial arrangements under the contract were temporarily modified to accommodate these unexpected changes.

An exemption from tender and contract variation was approved by Council in 2021 for a further two years due to the uncertainty and risk in the market and that tendering the service in such an environment would not deliver a satisfactory result for the City. The City's current contract with Restaurant Associates expires on 2 July 2023. There are no further extensions permitted under the current contract.

In light of challenging market conditions post-pandemic, the City took the time to assess the market and review the catering services model to ensure long term viability. After review and consideration of the time required to effectively complete the tender process, the City is seeking approval to extend the contract for up to 12 months based on the same terms and conditions as the current contract. This will ensure continuity of service through the tender period and allow for a planned transition period without reducing the City's capacity to deliver catering for existing or future bookings.

## 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 for the management of the City's Catering Services to extend the term of the existing contract up to 12 months (to 2 July 2024), by reason of extenuating circumstances, noting that the City took the necessary time to assess the challenging market post pandemic and review the catering services model to ensure long-term viability;
- (B) Council note that a satisfactory result would not be achieved by inviting tenders because:
  - (i) additional time is required in order to undertake and finalise the tender process in a market that continues to change rapidly; and
  - (ii) the extension of term to the existing contract will allow a planned transition period should a change in supplier occur as a result of the tender process;
- (C) Council approve a contract variation with Compass Group B&I Hospitality Services Pty Ltd (Restaurant Associates) for Catering Services to extend the contract by up to 12 months to 2 July 2024 on the terms set out in Confidential Attachment A to the subject report;
- (D) Council note that the financial arrangements under the previous contract were temporarily modified by the Chief Executive Officer in 2020 in accordance with the City's Covid-19 recovery response to accommodate the effects of the Covid-19 pandemic, and were approved by Council in 2021 to vary the financial terms of the contract, and extend the contract for an additional two years based on these varied terms as further detailed in Confidential Attachment A to the subject report;
- (E) Council note the financial implications as further detailed in Confidential Attachment A to the subject report for the period 3 July 2023 to 2 July 2024; and
- (F) authority be delegated to the Chief Executive Officer to finalise negotiations and enter into any necessary documentation to give effect to the resolutions above.

## Attachments

**Attachment A.** Financial and Contractual Implications (Confidential)

## Background

1. Compass Group B&I Hospitality Services Pty Ltd (Restaurant Associates) has been contracted to the City for over 15 years, providing catering services for external events in Centennial Hall, Lower Town Hall and Barnet Long Room. Their current contract commenced 3 July 2017 following a competitive tender process.
2. Restaurant Associates' current contract expires on 2 July 2023. There are no further extensions permitted under the current contract.
3. This report seeks Council approval to extend the contract for Catering Services for a period of up to 12 months to 2 July 2024 to allow for the City to complete the tendering process, and requests Council approve contract variations for catering services with Restaurant Associates.
4. At the start of the Covid-19 pandemic in 2020, Restaurant Associates informed the City of the financial difficulties they were facing due to the dramatic changes in market conditions, and the financial arrangements under the contract were temporarily modified to accommodate these unexpected changes.
5. While there has been some recovery in the gala/catering sector, this has not yet returned to pre-Covid levels.
6. The Covid-19 pandemic and the war in Ukraine continue to impact and present significant uncertainty and risk in the market. Supply chain costs have increased dramatically and continue to rise, while cost of living increases impact on the number of people attending events, and the demand for catered events.
7. An exemption from tender and contract variation was approved by Council in 2021 for a further two years due to the uncertainty and risk in the market at the time and that tendering the service in that environment would not deliver a satisfactory result for the City.
8. Following Council's approval for exemption from tender and contract variation, in light of challenging market conditions post-pandemic, the City took the necessary time to assess the market and review the catering services model to ensure long-term viability. This included assessing the practicality and feasibility of maintaining the status quo, delivering services in-house, engaging a panel of caterers, and/or not having a caterer. The outcome of this review was that maintaining the status quo represented the best practical and financial outcome for the City at this time.
9. The tender is expected to be released to market via Tenderlink in late February 2023. After consideration of the time required to complete the tender process, the City is seeking approval to extend the contract for up to 12 months to 2 July 2024 based on the current contract. This will ensure continuity of service and a smooth transition period through the tender period without reducing the City's capacity to deliver catering for existing and future bookings.
10. It is recommended that the contract is extended to 2 July 2024, without change to the financial arrangements of the existing contract. All current service levels and operating conditions will be retained.
11. Restaurant Associates have advised the City that, should an extension of the current contract be required, they would have the capability and capacity to continue operating for the extended period.

12. If the extension is approved by Council, the contract terms will ensure that the 12-month extension can be terminated early, in line with the end of the procurement process and the period required for a planned transition to the successful tenderer.

### **Performance Measurement**

13. Operational and financial performance targets are monitored on a monthly, quarterly and annual basis and through a combination of meetings, audits, inspections and reporting.

### **Financial Implications**

14. Funding estimates as set out in Confidential Attachment A have been included in the City's draft 2023/24 Budget and future forward year estimates which will be considered by Council in May 2023.

### **Relevant Legislation**

15. The exemption from tender process has been conducted in accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2021.
16. 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 tenderers, a council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders.
17. Local Government Act 1993 - Section 10A provides that a council may close to the public so much of its meeting as comprises the discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.
18. Attachment A contains confidential commercial information which, if disclosed, would:
  - (a) confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business; and
  - (b) prejudice the commercial position of the person who supplied it.
19. Discussion of the matter in an open meeting would, on balance, be contrary to the public interest because it would compromise Council's ability to negotiate fairly and commercially to achieve the best outcome for its ratepayers.

### **Critical Dates / Time Frames**

20. The current contract expires on 2 July 2023. The terms of the extended contract would extend the contract to conclude 2 July 2024.

21. A new tender process is underway and it is anticipated that the full 12-month extension may not be required. However, if any aspect of the process is delayed the City runs the risk of not having a caterer in place. This would mean the City would be unable to deliver on its commitments to confirmed events, and any future events in that period, impacting negatively on the City's reputation.

### Options

22. The implications of not approving the variation to the existing contract are that the City would be required to make an appointment of a new provider by 1 July 2023. This may not be practical or possible to achieve, potentially impacting service to existing and future bookings and the City's reputation.
23. The City considered several options in this process:
- (a) Not engage a caterer. Hirers to use their preferred caterer or source one on an 'as needs' basis. This option is not recommended as it would reduce the City's control, making it difficult to guarantee food safety or maintain consistency and cleanliness. This could have detrimental impacts on the City's reputation as a venue manager.
  - (b) Ad-hoc single supplier engagement or panel of caterers, which would see the City forgo a contract with any one single contractor and instead engage caterers on an ad-hoc as-needs basis. This option is not recommended as it would not be cost effective or efficient to engage a caterer on an as-needs basis and induct them each time. This approach would make it difficult to maintain consistency of food, and could have a significant impact on timelines that would impact on event provision. This could have detrimental impacts on the City's reputation as a venue manager.
  - (c) Delivering the services in-house. This would see the catering services being delivered by City staff. This option is not recommended as the City would incur significant costs for establishment and then ongoing expenses for operational equipment, food and beverage, consumables and other costs. This model is not recommended given the current market.

### Public Consultation

24. Potential suppliers will be notified as part of the forthcoming Tender process through Tenderlink in line with the City's procurement processes.

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