

Item 5.

Exemption from Tender and Contract Variation - Mattress Collection and Processing Services

File No: X011995.005

Tender No: SSROC T2017-09

Summary

This report is to provide details on the current Mattress Collection and Processing Services contract with Community Resources Limited trading as Soft Landing (ABN: 90746695414), procured by the Southern Sydney Regional Organisation of Councils (SSROC), and seek approval to extend the contract for two additional terms of 12-months each.

SSROC is an association of 11 municipal and city councils in the southern region of Sydney. SSROC provides a forum for the councils to deal with common issues, including procurement, planning, environment, transport, sustainability and waste management.

SSROC procured the Mattress Collection and Processing Contract on behalf of the participating local government councils in 2018. On 13 August 2018, Council resolved to engage Community Resources Limited trading as Soft Landing for the mattress collection and processing service provision. The contract commenced on 1 August 2018 and will expire on 30 April 2023, including all available extension options.

Soft Landing is a social not-for-profit enterprise that supports the local community by creating jobs for people who experience barriers to employment. They utilise manual methods of mattress processing to provide maximum employment opportunities and it results in 65 per cent of the revenue going to wages. Soft Landing mattress processing methods have a minimal environmental footprint. This is achieved by managing the recycling process within Australia and avoiding energy demanding processing technologies.

The SSROC's Supply Management Group identified that Covid-19 disrupted the market and created unfavourable market conditions that may result in financial inefficiencies if they approach the market to procure another contract. SSROC market research also indicated that the market may recover within two years and provide better competition and value for money to the councils. In consultation with the participating Councils, SSROC approached the providers to negotiate a two-year contract extension based on two 12-month performance-based terms. Soft Landing responded positively to the negotiations and accepted the contract extension.

This report recommends that Council grant an exemption from tender to extend the term of the existing contract for two additional terms of 12 months each and approve a contract variation for the provision of Mattress Collection and Processing Services as per the schedule of prices in Confidential Attachment A.

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 Mattress Collection and Processing Services to extend the term of the existing contract for two additional terms of 12 months each;
- (B) Council note that a satisfactory result would not be achieved by inviting tenders because:
 - (i) the current supplier, approved by Council on 13 August 2018, is one of the two companies that specialise in mattress collection and processing services that are already on the SSROC panel of suppliers and currently there are no additional suppliers; and
 - (ii) SSROC has received information from other councils who have invited tenders and received submissions that were significantly higher in price than SSROC's contract, meaning that SSROC's contract provides the best value for money service for Council;
- (C) Council approve a contract variation for Mattress Collection and Processing Services to extend the term of the existing contract for two additional terms of 12 months each;
- (D) Council note the total contract sum and contingency for Mattress Collection and Processing Services outlined in Confidential Attachment A to the subject report; and
- (E) authority be delegated to the Chief Executive Officer to finalise, execute, administer the variation to the contract and enter into any necessary documentation with the current supplier to give effect to the resolutions above.

Attachments

- Attachment A.** Financial Implications, Schedule of Rates and Contract Terms and Benefits (Confidential)

Background

1. The City of Sydney is a member of the Southern Sydney Regional Organisation of Councils (SSROC), an association of 11 local councils established in 1986.
2. One of SSROC's roles is to act as a facilitator of joint venture procurement activities to enable individual councils to benefit from the available economies of scale.
3. SSROC procured the Mattress Collection and Processing Contract on behalf of the participating local government councils in 2018.
4. On 13 August 2018, the Council resolved to engage Community Resources Limited trading as Soft Landing for the mattress collection and processing service provision.
5. Soft Landing is a social not-for-profit enterprise that supports the local community by creating jobs for people who experience barriers to employment. They utilise manual methods of mattress processing to provide maximum employment opportunities that result in 65 per cent of the revenue going to wages.
6. Soft Landing mattress processing methods have a minimal environmental footprint. This is achieved by managing the recycling process within Australia and avoiding energy-demanding processing technologies.
7. The contract commenced on 1 August 2018 and will expire on 30 April 2023, including all available existing extension options.
8. In accordance with the City's Waste Strategy and Action Plan 2017-2030, mattresses may be booked by the community for weekly collection. Mattresses are also illegally dumped, and the City arranges for these to be processed under the same contract.
9. Mattresses processed under this service deliver 75 per cent diversion rate and increase resource recovery and diversion from landfill.
10. The mattress collection and processing services contract is separate to the current domestic waste collection contract. The new mattress collection and processing services contract permits the City to set when a service provider may provide collection and/or processing services.
11. The volume of work to be provided under the contract is dependent on the number of mattresses presented for collection. There is no guarantee of a minimum or maximum level of work for the appointed service provider.

Contract Extension Variation

12. The SSROC's Supply Management Group identified that Covid-19 disrupted the market and created unfavourable market conditions that may result in financial inefficiencies if they approach the market to procure another contract.
13. The market may recover within two years and provide better competition and value for money to the councils.
14. A two-year contract extension based on two 12-month performance-based terms will provide sufficient time and flexibility to councils.
15. SSROC will commence with the procurement of a new contract that will allow sufficient time to obtain necessary approvals and implementation of the new contract.

Contract Extension Negotiation

16. The SSROC's Supply Management Group approached Soft Landing to negotiate the contract extension terms.
17. Soft Landing responded positively, and the negotiated outcome is listed in Confidential Attachment A.

Performance Measurement

18. Soft Landing will continue to have its performance assessed against the following specific key performance indicators for the duration of the contract:
 - (a) timing of collection and processing; and
 - (b) response time to enquiries and complaints.
19. Soft Landing has performed satisfactorily over the life of the contract and worked with City staff to further improve the services.

Financial Implications

20. There are sufficient funds allocated for this project within the current year's operating budget and future years' forward estimates.
21. The City does not guarantee any minimum quantity of work to the appointed service provider.

Relevant Legislation

22. The exemption from tender process was conducted in accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2021.
23. 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.
24. 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.

25. 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.
26. 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

27. The current contract expires on 30 April 2023.
28. The contract extension needs to commence on 1 May 2023.

Options

29. Not to extend the contract and go to the open market to obtain proposals. This is not recommended because of limited market competition.

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