

Item 11.

Exemption from Tender - George Street Beacon Lights, Seasonal Star Lights and Central Management System

File No: S120340.002

Summary

This report seeks an exemption from inviting tenders for the provision of the George Street Beacon Lights, Seasonal Star Lights and Central Management System due to extenuating circumstances.

Smart poles installed along George Street, as part of the CBD and Southeast light rail, feature a beacon light and seasonal star lighting decoration. The City owns 149 beacon lights and a similar number of seasonal star lights along this route. These assets are in reasonable condition and are not expected to need replacement for three years, which is the full term of the proposed contract extension. The financial implications of replacing the beacon lights, star lights and associated control system is outlined in Confidential Attachment A.

The beacon and seasonal star lights are serviced and maintained pursuant to a contract (No. 2659) which is due to expire on 27 December 2024 (inclusive of all options, which have been exercised).

The beacon and seasonal star lights are programmed and managed remotely using a hosted system developed, maintained and operated by the service provider. The same system also controls functional lighting along George Street. Due to the system installation arrangements there are currently no other providers available for this service using the existing hardware and control system.

There are no providers who could service and maintain the beacon and star lights inclusive of the control system other than the original equipment manufacturer, and conducting a tender process would not produce competitive or reliable tenders.

This report recommends that Council approve an exemption from tender for the provision of the George Street Beacon Lights, Seasonal Star Lights and Central Management System.

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 noting that, because of the extenuating circumstances, a satisfactory result would not be achieved by inviting tenders to provide and manage the George Street beacon lights, seasonal star lights and central management system;
- (B) Council note that a satisfactory result would not be achieved by inviting tenders for this work because:
 - (i) going to tender would not deliver a competitive process due to the inability of any other tenderer to provide the services using the existing hardware and control system; and
 - (ii) the existing beacon lights, seasonal star lights and central management system are still in good working order and significant cost would be incurred if they were replaced;
- (C) Council approve entering into a contract with Hub Australasia Pty Ltd for a maximum three year term;
- (D) Council note the revised total contract sum for the extended term is set out in Confidential Attachment A to the subject report; and
- (E) authority be delegated to the Chief Executive Officer to negotiate and finalise the terms of the contract with the contractor, provided that the contract is consistent with this resolution.

Attachments

Attachment A. Financial Implications (Confidential)

Background

1. The Smart poles installed along George Street, as part of the CBD and Southeast light rail project, feature a beacon light and seasonal star lighting decoration. The City owns 149 beacon lights and a similar number of seasonal star lights along this route. In addition, there are purpose designed S3B Smart poles with bespoke inbuilt lighting along the pedestrianised areas of George Street. The beacon and star lighting, together with the functional lighting fitted to these Smart poles is controlled by a Central Management System (CMS) which allows the timing, colour, and patterns to be remotely managed.
2. The beacon and seasonal star lights are bespoke and resulted from a tender for the design, supply, installation and maintenance of the beacon and star lights and the provision of a CMS to manage this lighting. Council resolved at its meeting on 26 June 2017 to accept a tender offer of Hub Australasia Pty Ltd (ABN 87 611 271 937) for the provision of these services.
3. The contract had an initial term of five years, and two further optional extensions of one year each, subject to performance. Contract 2659 for Design, Supply, Installation and Maintenance of Beacon, Star and CMS commenced on 27 December 2017 with an initial term end date of 26 December 2022. The City has previously extended the contract for an initial one-year term and subsequently exercised the final one-year option to extend the contract until 27 December 2024.
4. In addition to the supply of lights, Contract 2659 also includes scheduled rates for the ongoing maintenance of the beacon and star lighting, CMS equipment, CMS licencing and data management as well as the seasonal installation and removal of the star lights to coincide with the City's annual Christmas deployment of decorations. Seasonal removal and installation of the star lights has occurred since 2022.
5. The beacon and star lights are an important part of the George Street design palette. As the contract term concludes, the City needs to determine the most appropriate way to ensure continuity of these services.
6. Whilst the City holds the intellectual property rights of the design, the beacon and star lights are bespoke products designed, prototyped, and manufactured by the incumbent service provider. The incumbent holds spares of the various parts.
7. These products have been prototyped and are in service. As these products have three years of remaining operational service life remaining, the City would be exposed to increased financial, operational, product quality and consistency risks by sourcing these bespoke products from another service provider during this time.
8. The City enjoys the clear end to end accountability that comes from the supplier of the beacon, star and control system to also be responsible for the maintenance and ongoing performance. Whilst the seasonal star lights can be maintained in the workshop between installations, the beacon lights and controls remain at height on the pole all year. For cost efficiency, the annual maintenance of the beacon lights and the associated control system is scheduled to occur during the annual star removal process.
9. The beacon and star lights will be due for renewal at the end of their operational service life in 2028.

10. If the City was to seek fresh tenders to manage the existing assets, other prospective tenderers would need to allow for product development, tooling up, prototyping and manufacture of the existing beacon and star lights. They would also need to reverse engineer, design and implement a CMS system. The asset knowledge and limited remaining life of the assets provides commercial advantages to the incumbent service provider and a satisfactory result would not be achieved by inviting tenders to provide the services.
11. Accordingly, this report recommends that the existing service provider be engaged through to the end of life of the current generation of assets to provide the City with best value and continuity of service. It also provides an opportunity for the City to review the design requirements for the next generation of lights and to test the market for the supply of these lights, generating an opportunity to run a competitive tender process.

Performance Measurement

12. Performance measures are in place with the current provider under the current contract. The provider has met the contract requirements, and will be required to meet similar requirements in a new contract.

Financial Implications

13. There are sufficient funds allocated for this service within the current year's operating budget and future years' forward estimates.
14. The financial implications are outlined in Confidential Attachment A.

Relevant Legislation

15. Local Government Act 1993, the Local Government (General) Regulation 2021 and the City's Procurement and Contract Management Policy in respect of the proposed exemption from tender.
16. 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.
17. 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.
18. 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

19. The existing contract ends on 27 December 2024. It is anticipated that if the recommendations set out in this report are adopted by Council, a new agreement would be in place by that date to enable continuous services to be provided.

Options

20. A range of alternative options have been considered for ensuring the continuity of the services currently provided under Contract 2659. These include:
 - (a) A tender for the ongoing provision of George Street Beacon Lights, Seasonal Star Lights and Central Management System. This is not recommended due to the bespoke nature of the services provided, the remaining life of the asset and a range of commercial disadvantages that this presents for other prospective tenderers.
 - (b) The separation of existing services into other existing service contracts. This is not recommended due to the bespoke nature of the lights and CMS system. The separation of the services would also result in increased operational and financial risk to the City.
 - (c) A tender to remove of existing assets, and then provide and maintain new George Street Beacon Lights, Seasonal Star Lights and Central Management System assets. This is not recommended as it would represent a higher cost to the City, and the City will not have leveraged the greatest benefit from the existing asset.

Public Consultation

21. The infrastructure is already in place, therefore no public consultation is required.

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Director City Services

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