

COMMERCIAL IN CONFIDENCE

**CITY OF MARION
GENERAL COUNCIL MEETING
12 June 2012**

**REPORT RELATING TO:
An Organisation of Excellence Recognised for Service Quality**

Originating Officer: Colin Heath - Manager Contracts
Director: Vincent Mifsud – Acting Director Governance
Subject: Kerbside Waste Collection Contract
Ref No: GC120612F01
File No: 5.21.2.2

If the Council so determines, this matter may be considered in confidence under Section 90(2) and (3)(d) of the Local Government Act 1999 on the grounds that it relates to commercial information of a confidential nature that could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party.



Mark Searle
Chief Executive Officer

Pursuant to Section 90(2) and (3)(d) of the Local Government Act 1999 the Council orders that all persons present, with the exception of the following Mark Searle, CEO, Vincent Mifsud, Acting Director Governance, Adrian Skull, Director City Services, Heather Montgomerie, Director Community and Corporate Development, Kate McKenzie, Manager Governance, Colin Heath, Manager Contracts, Peter Bice, Acting Unit Manager Council Support, Victoria Moritz, Elected Member Support Officer and Craig Clarke, Unit Manager Communication be excluded from the meeting as the Council receives and considers the Kerbside Waste Collection Contract upon the basis that the Council is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep the consideration of the matter confidential as it relates to commercial information of a confidential nature.

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STRATEGIC OBJECTIVES:

*Recognised for Service Quality – SQ2 Perception of value
Healthy Environment – HE1 Active response to climate change; HE4 Waste and contamination avoided*

REPORT OBJECTIVE AND EXECUTIVE SUMMARY:

Following a joint tender process with the City of West Torrens, Council resolved in June 2005 (refer SGC210605F01) to appoint Solo Resource Recovery ('Solo') for the provision of kerbside waste and recycling collection services for a period of 7 years.

A contract was executed on 23 December 2005 (with the City of West Torrens also executing a common contract with Solo) for a 7 year term, with the option to extend for an additional 3 year period. The initial 7 year term expires in March 2013.

The City of Marion currently has a \$ [REDACTED] budget for kerbside waste and recycling collection services in the 2011/12 financial year.

In March 2011 Solo approached both the Cities of West Torrens and Marion offering to begin discussions to consider exercising the option to extend our respective contracts.

In partnership with the City of West Torrens, significant market research and subsequent joint negotiations with Solo has occurred to assess and recommend the best procurement approach to obtain ongoing kerbside waste and recycling collection services.

Solo's offer is predicated on both Council's agreeing to extend their common contracts.

West Torrens Council will be considering a similar recommendation to approve a contract extension at their General Council meeting to be held on 19 June 2012.

The purpose of this report is to:

- share the indicative outcomes of current negotiations to date with Solo, and
- seek Council approval to extend the term of the contract with Solo until 30 April 2018 (being the three year extension period, plus an additional 2 years and one month) on substantially improved commercial terms and conditions.

RECOMMENDATIONS:

That Council;

- 1. In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that this report, Kerbside Waste Collection Contract and the minutes arising from this report having been considered in confidence under Section 90(2) and (3)(d) of the Act be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting. This confidentiality order will be reviewed at the General Council Meeting in December 2012.**
- 2. Extend the term of the existing Solo Resource Recovery contract, for a further 5 years and one month until 30 April 2018.**
- 3. Pursuant to Section 37(b) of the Local Government Act 1999 authorise the Chief Executive Officer to finalise negotiations and enter into and execute all documentation necessary to extend the contract with Solo Resource Recovery for expenditure in the order of \$ [REDACTED] over the proposed extension period.**
- 4. Subsequent to final negotiation outcomes, appropriately consider the application of any resultant budget savings in the Long Term Financial Plan.**

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DUE DATES:

Recommendation 1	12 June 2012
Recommendation 2	12 June 2012
Recommendation 3	31 July 2012
Recommendation 4	31 July 2012

Provide update to Council: Post finalisation of contract

DISCUSSION:

In March 2011 Solo approached both the Cities of West Torrens and Marion to exercise the option to extend their contract.

The Cities of West Torrens and Marion engaged a waste industry expert (Chris Brideson, Water + Waste Innovations Pty Ltd) to undertake a market assessment of the current South Australian waste industry market conditions, identify changes to current technologies and service levels since 2005, and to identify potential opportunities for price reductions.

Chris Brideson had previously assisted Marion in its waste contract tender, and also facilitated the recent Charles Sturt/ Tea Tree Gully tender (contract awarded in May 2011).

Market Assessment & Procurement Strategy:

The outcome of the Chris Brideson review highlighted:

- Solo and Cleanaway are effectively the current active contractors in the market:
 - Only four South Australian metro councils have let contracts for kerbside collection services in the last two years. Solo were successful with Charles Sturt and Tea Tree Gully contracts in May 2011, and Cleanaway successful with Pt Adelaide Enfield and Prospect contracts in May 2010 and July 2010 respectively.
 - The number of active suppliers in the South Australian market was very small, with only Solo and Cleanaway considered currently competitive based on the outcomes of the most recent tenders. SITA is the only other organisation providing services to a small number of the 19 councils within the metropolitan area. East Waste is also present in the market however are currently only providing waste collection services to its member councils plus Unley.
- Enhancement in current technologies and service levels has occurred since Marion's contract was awarded in 2005 (eg in-vehicle data management, vehicle standards, customer service standards, bin supply and maintenance, food organics, service rates, carbon price)
- Opportunities existed to leverage a reduction in the cost of Solo's service to Council (due to market changes, Solo's desire to retain our contract without going through an open tender process, and the ability to strip out of our price costs incorporated to recover the capital cost of initial bin purchases and depreciation of trucks etc).

Chris Brideson's review estimated our Councils could gain an estimated [REDACTED] worth of additional value from our current contract arrangement through direct renegotiation, or through undertaking a new tender against current technology and service standards.

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Supplier Performance:

Council also considered the ongoing performance of Solo as part of this initial assessment. While we acknowledge there are general issues from time to time (eg bin presentation matters, missed collections etc) we consider these are common in terms of the provision of such services.

Overall we considered Solo's performance over the life of the current contract to have been solid. Missed collections has averaged 0.08% of estimated total collections (approx. 250 per month) over the last 28 months to April 2012. In addition, our experience has been Solo have been responsive to promptly address escalated matters.

At the forum on 21 April 2012 Elected Members advised they had received minimal negative feedback to suggest Solo have any systemic issues that would prevent us from extending our contract.

Negotiation Strategy and Objectives:

Based on the outcomes of the Chris Brideson review, representatives from Marion and West Torrens agreed a strategy based on the following principles:

- We had a sound understanding of the current waste market conditions (including the potential value we could expect to achieve) and pricing.
- Both Councils were willing to consider recommending extending their respective agreements with Solo, provided Solo offered adequate value in return to our Councils to do so (compared to what we might reasonably expect to have received had we gone to tender); value would be considered to include:
 - enhanced service levels to residents
 - provision of new technologies
 - reductions to the cost of the service
- In the event Solo didn't offer sufficient value, we reserved the right to re-tender our kerbside waste and recycling collection contracts.

Indicative Negotiated Outcomes:

A joint negotiation team with senior staff from both Councils have met with Solo over a series of meetings since the start of 2012 to progress negotiations.

As part of this process, the Council's identified an opportunity to discuss extending the term for an additional 2 years beyond the 3 year extension option (please refer to 'Proposed Term' discussion below for the basis of this opportunity).

While negotiations have not yet been finalised, the most recent offer from Solo suggests there is significant value being offered to both Council's.

In return for both Marion and West Torrens councils extending their respective contracts to 30 April 2018 and agreeing to vary the labour rise and fall indice on a quarterly basis (rather than annual), Solo have currently offered to Marion:

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1. Effective 1 July 2012 to provide:
 - an annual cost saving in the order of [REDACTED] subject to contractual rise and fall
 - improvements to service levels - reduction in the number of days to provide new bins/repair bins from 5 days to 2 days; implementation of enhanced customer service standards at their Customer Service Centre including monthly reporting - at no cost to Council
 - confirmation they support the promotion of disposal of food waste via the green organics collection service, rather than to landfill - at no cost to Council
2. By 31 March 2013 to:
 - supply and install in-vehicle GPS systems to all Solo collection vehicles to allow Council real time viewing of bin locations and bin collection events - at no cost to Council
 - provide carbon offsets to neutralise the CO2 produced by Solo's collection vehicles - at no cost to Council
 - repaint Solo's fleet of collection vehicles (with revised signage to be agreed with Council) - at no cost to Council
3. In addition, Solo have committed to overhaul its fleet of collection vehicles (engines, transmissions, lifters, body work up to \$ [REDACTED] per vehicle), as required, to present the fleet to Council's ratepayers as new and to ensure continual delivery of a reliable, high quality collection service - at no cost to Council.

In addition to the improved service levels (which have not been quantified in terms of value), the cost saving offered represents savings against budget in the order of \$ [REDACTED] per annum (or \$ [REDACTED] until 30 April 2018). The cost saving reflects a reduction of approximately [REDACTED] compared to current contracted expenditure levels.

We have also assessed Solo are offering to absorb expenditure in the order of \$ [REDACTED] per annum (or \$ [REDACTED] up to 30 April 2018) to fund the remaining activities as outlined above.

The estimated contract expenditure over the proposed extension period after taking into account the indicative cost savings offered is between \$ [REDACTED] (dependent on service growth, rise and fall indices, and waste volumes).

Proposed Term:

While the current contract allows for a 3 year extension, both the Cities of Marion and West Torrens are recommending extending the term for an additional 2 year and one month period (to expire on the 30 April 2018) on the basis of:

- Strategic purposes - it aligns our contract end dates with other large Councils (Charles Sturt and Tea Tree Gully) who are also under contract with Solo, thereby providing for an opportunity to potentially:
 - undertake a larger joint procurement activity in the future
 - influence the future supply market for similar services (a larger contract may be more attractive to existing suppliers, or interstate suppliers not currently operating within SA, thereby increasing the competitive pressures at play)
 - influence the level of technology that may be made available at that time
- Financial purposes –
 - it increases the value of cost savings to each Council (Solo have offered in the order of an additional \$ [REDACTED] cost saving per annum over the full extension period of 5 years in return for a 5 year contract extension)
 - it provides an additional 2 years of cost savings
 - it minimises costs to each Council and the market in undertaking a tender process
- Risk purposes – it minimises transition risks to a new service provider

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Procurement Policy:

Council's Procurement Policy allows for a variety of methods of approaching the market, including direct negotiation with suppliers. In determining the most appropriate procurement strategy, Council's Procurement Policy requires Council to consider a range of factors including but not limited to:

- value of the contract
- size of the market and number of competent suppliers
- the cost of approaching the market compared to the potential benefits likely to be realised
- Council's leverage in the marketplace
- costs incurred by suppliers in responding to requests

The chosen strategy will seek to also meet a range of principles, including demonstrating probity accountability and transparency in its decision making processes, striving to achieve the best value for money in the procurement activity, mitigating relevant risks, and adopting efficient procurement practices.

On the basis of the market assessment undertaken by the Chris Brideson review and the outcomes of current Solo negotiations, we consider the principle of adopting an open transparent process (ie an open tender) to procure ongoing kerbside waste and recycling collection services is outweighed by the cost of approaching the market compared to the extremely low likelihood of obtaining a better value for money outcome than what could be achieved through direct negotiation.

Accordingly we consider our Procurement Policy supports the recommended procurement strategy of direct negotiation with Solo.

Risks Considered:

Procurement Process

A risk identified was the perception the proposed process of extending the contract term for an additional two year period through direct negotiation with Solo may not be considered fair and transparent to the market.

To mitigate this risk we have taken reasonable steps to:

- understand the capacity of local suppliers and the current market conditions through the provision of independent expert advice
- identify potential value we could have reasonably achieved had we gone through an open tender process
- validate what value Solo was able to offer, and
- demonstrate sound justification to support the recommendation.

Operational Failure

A major risk identified through the negotiations with Solo was the risk of operational failure of Solo's collection vehicles during the proposed extension period (the general life of a waste collection vehicle is 7-10 years).

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To mitigate this risk Solo have committed to

- repaint all vehicles by 30 March 2013, and
- overhaul all collection vehicles as required to ensure continual delivery of a reliable, high quality collection service

We have confirmed with the manufacturer of Solo's collection vehicles the proposed overhaul commitment would effectively bring the condition of the vehicles back to near-new condition.

INTERNAL ANALYSIS:

Consultation:

Input to preparation for Solo negotiations has been provided by staff from Environmental Sustainability (waste strategy), Operations Support (waste education), Finance (financial analysis), and Contracts (waste contract management).

Legal / Legislative and Risk Management:

Council has the legal authority to extend the contract with Solo for the proposed extension period.

Further legal review of the proposed variation agreement is proposed to occur prior to execution.

Financial Implications:

While negotiations have not been finalised, based on the most recent offer from Solo, it is possible Council could achieve from 1 July 2012 an annual cost saving in the order of \$ [REDACTED] per annum (subject to contractual rise and fall provisions) for the term of the extension period.

It is important to note the potential savings are expected to only be realised for the proposed contract extension period. It is anticipated future contracts will need to allow for replacement of bins, and the provision of a new fleet of collection vehicles.

Savings could be considered by Council to offset any potential unbudgeted increases in Council's costs due to the introduction of carbon pricing and any increase associated with the EPA solid waste levy.

Resource (capacity) Impact:

Marion currently employs a staff member who undertakes Waste Administration activities on behalf of (and jointly funded by) the Cities of Marion, West Torrens and Holdfast Bay. This staff member is currently employed on a term contract expiring March 2013, and assuming Council approve the extension to the Solo contract, their employment contract will similarly be extended in consultation with the joint partners. No additional budget resources would be required.

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EXTERNAL ANALYSIS:

Consultation:

The City of West Torrens has been a joint partner in negotiations with Solo. Market research has been undertaken through the engagement of Chris Brideson (Water + Waste Innovations Pty Ltd) to understand the current market conditions.

Social / Cultural Impact:

Recipients of kerbside waste and recycling collection services within Marion Council will benefit from improved service levels as outlined within this report.

Environmental (Green) Implications:

Solo are offering to provide carbon offsets to neutralise the CO2 produced by Solo's collection vehicles.

Economic Impact:

Solo are based in North Plympton, and employ approximately 132 staff.

CONCLUSION:

In summary, both West Torrens and Marion staff considered:

- the extent of potential cost savings offered by Solo is significantly higher than the expectations considered achievable by the outcomes of Chris Brideson's review (estimated at █████). The potential cost savings alone reflect a reduction of approximately █████ compared to current expenditure levels. We consider this is primarily due to offering a greater extension period.
- the non-cash benefits offered by Solo (to repaint/upgrade its fleet, provide additional technology, commitment to enhanced service standards, and reductions to the impact of their operations on the environment etc) are significant and comparable to current market levels.
- undertaking an open tender process would not achieve equivalent levels of benefit (financial or otherwise) to the residents of either Council.