

**CITY OF MARION
GENERAL COUNCIL MEETING
27 June 2017**

CONFIDENTIAL REPORT

Originating Officer: Colin Heath, Manager Contracts and Operational Support
Corporate Manager: Colin Heath, Manager Contracts and Operational Support
General Manager: Vincent Mifsud, General Manager Corporate Services
Subject: Kerbside Waste Contract Extension
Reference No: GC270617F01

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 the report contains information relating 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 and would, on balance, be contrary to the public interest.



Adrian Skull
Chief Executive Officer

RECOMMENDATION:

1. That 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 persons: Adrian Skull, Vincent Mifsud, Abby Dickson, Tony Lines, Jaimie Thwaites, Colin Heath, Victoria Moritz and Ray Barnwell, be excluded from the meeting as the Council receives and considers information relating to the Kerbside Waste Contract Extension, 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 consideration of the matter confidential given the information 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.

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.

In June 2012, Council resolved (refer GC120612F01) to extend the term of the Solo contract until 30 April 2018, which was executed in July 2012. The City of West Torrens did likewise.

The contract extension has realised significant cost savings (\$█ of contract rebates to the end of June 2017) and service improvements since July 2012 (refer to Annexure 1 for the anticipated indicative outcomes over the life of the existing contract extension).

The City of Marion (with four other councils) is participating in a project led by Council Solutions to explore opportunities for collaboration in the delivery of waste management services. Council Solutions is working through relevant processes with the Australian Competition and Consumer Commission ("ACCC") to obtain approval to facilitate a collaborative tender for the supply of a variety of waste collection and processing services in mid-2018. The City of Marion intends to participate in this potential tender process.

The councils participating in the proposed Council Solutions collaborative waste procurement have contract terms that expire in 2020 or beyond.

Given their respective kerbside waste collection contracts expire in April 2018, the City of Marion and City of West Torrens has undertaken a joint approach to Solo to request an offer of a two year contract extension until 30 April 2020.

The City of Marion is anticipating spending \$█ under the current Solo contract for the 2016/17 financial year for kerbside waste and recycling collection services (this excludes approximately \$1.8m cost of disposal of kerbside waste through Council's separate SRWRA arrangements).

The purpose of this report is to:

- share the outcomes of the final offer made by Solo, and
- seek Council approval to extend the term of the contract with Solo until 30 April 2020 on improved commercial terms and conditions compared to current.

RECOMMENDATIONS:

DUE DATES

That Council:

- | | |
|--|---------------------|
| 1. Extend the term of the existing Solo Resource Recovery contract, for a further 2 years until 30 April 2020. | 27 June 2017 |
| 2. Pursuant to Section 37(b) of the Local Government Act 1999 authorise the Chief Executive Officer to enter into and execute all documentation necessary to extend the contract with Solo Resource Recovery. | 27 June 2017 |

COMMERCIAL IN CONFIDENCE

- 3. Endorse the City of Marion participating in the potential Council Solutions led waste collection and processing services collaborative tender 27 June 2017**

- 4. In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that this report, Kerbside Waste Contract Extension and the minutes arising from this report having been considered in confidence under Section 90(2) and (3)(d) of the Act shall, except when required to effect or comply with Council's resolution(s) regarding this matter, 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 2017. 27 June 2017**

Report Reference: GC270617F01

BACKGROUND

The City of Marion currently has a contract with Solo for the provision of kerbside waste and recycling collection services expiring 30 April 2018.

In November 2015, Council Solutions (on behalf of the City of Marion and four other participating councils) submitted an application to the ACCC seeking authorisation to jointly tender, negotiate and contract for the supply of a variety of waste collection and processing services. After a significantly lengthy and complex process, in December 2016 the ACCC issued a final determination denying authorisation.

Council Solutions is continuing to work with participating councils with a view to reshaping the proposed approach to the market, to ensure a future application to the ACCC (by the end of 2017) to undertake a collaborative procurement for similar waste services is successful. The intent is to approach the market in mid-2018.

The City of Marion intends to participate in this potential tender process.

The Cities of West Torrens and Marion have approached Solo to request an offer to extend their existing kerbside waste collection contracts by a further two year period to expire 30 April 2020.

ANALYSIS

Procurement Strategy:

Council's long term procurement strategy for the provision of waste collection and processing services is to participate in the proposed Council Solutions collaborative tender. In the event ACCC approval is not provided, Councils fall back strategy would be to approach the Cities of West Torrens and Holdfast Bay to undertake a regional collaborative tender for similar services.

Given all other councils participating in the proposed Council Solutions collaborative waste procurement have contract terms that expire in 2020 or beyond, a short term extension to the existing Solo contract is recommended to achieve the following objectives:

- maximise financial benefits to Council (see 'Negotiated Outcomes' and 'Financial Implications' sections below)
- minimise service risks that would arise if we sought to change service provider

Approaching other providers to provide similar services for a two year period is not considered appropriate as the above objectives would not be realised, and is consistent with Councils Procurement and Contractor Management Policy (refer 'Procurement and Contractor Management Policy' section below)

Negotiated Outcomes:

In return for offering a 2 year extension to our existing contract to 30 April 2020 Solo has offered to:

- provide an additional \$ [REDACTED] per month (ex GST) contract rebate (subject to rise and fall), backdated to January 2017, amounting to approximately \$ [REDACTED] per annum.
- explore possible further savings to Council should any further opportunities arise for services not currently provided
- make no change to existing terms and conditions ie the improved services and current contract rebate being received would continue (approx. \$ [REDACTED] per annum)

Other points to note as a consequence of negotiations:

- Under the current contract, Solo is responsible for the replacement of all damaged bins. Solos request to transfer the risk/cost of this activity back to Council as part of their initial offer was rejected during negotiations, and therefore Solo will continue to carry this risk/cost in full.
- Council staff explored whether there would be additional financial benefit from removing the recycling processing element from the Solo contract, enabling Council to consider entering into a recycling processing arrangement with SKM Recycling Pty Ltd (SKM), who has commercial agreements with the City of Onkaparinga and other councils to purchase recyclable product. The City of Marion currently pays Solo to process our recyclable product. Council staff are satisfied there would be minimal benefit to Council in doing so at this time given:
 - the current contract rebate being received and additional rebate being offered
 - Solos contract with Marion is currently structured both from a costing and operational point of view to operate from and dispose the recyclables at their depot at North Plympton. Should the nominated disposal location change requiring further travel to unload to SKM's sites, then an additional truck(s) may be required which would increase collection costs (and potentially erode in part the contract rebate being currently received and/or offered)
 - potential increase in risk/cost to Council related to shifting of responsibility for disposal of contaminated recyclable product (Solo currently bear this risk and cost in full)

Supplier Performance:

Council has considered the ongoing performance of Solo as part of this assessment. While it is acknowledged that there are general issues from time to time (e.g. bin presentation matters, missed collections etc.), available customer data (as noted "below") that these are relatively minor and are being promptly rectified when they occur.

Overall we considered Solo's performance over the life of the current contract to have been solid. Missed collections over the past 60 months to May 2017 has averaged 0.07% of estimated total collections (approx. 175 per month). In addition, our experience has been Solo have been responsive to promptly address escalated matters.

Council receives minimal negative feedback to suggest Solo have any systemic issues that would prevent us from extending our contract.

Proposed Term:

The proposed two year extension is recommended on the basis of:

- Strategic alignment - it aligns our contract end dates on or near other large Councils (Port Adelaide Enfield, Charles Sturt, Tea Tree Gully, Adelaide, West Torrens) who are also under contract with Solo, thereby providing for an opportunity to potentially:
 - participate in the proposed Council Solutions collaborative tender (or a separate regional tender)
 - 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 Council of approximately \$ [REDACTED] (refer 'Financial Implications' section below)
- Risk purposes – it minimises transition risks to a new service provider

Procurement and Contractor Management Policy:

Council's Procurement and Contractor Management Policy allows for a variety of methods of approaching the market, including direct negotiation with suppliers. In determining the most appropriate procurement strategy, the 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.

Given the discussion outlined in the 'Procurement Strategy' section above, it is considered that the principle of adopting an open transparent process (i.e. an open tender) to procure kerbside waste and recycling collection services for a 2 year term 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, Council's Procurement and Contractor Management 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. The “Procurement and Contractor Management Policy’ section above addresses this concern.

Operational Failure

A major risk identified through the July 2012 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).

To mitigate this risk Solo previously committed to

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

It was confirmed in 2012 with the manufacturer of Solo’s collection vehicles that the proposed overhaul commitment would effectively bring the condition of the vehicles back to near-new condition. It is considered that this will enable the vehicles to operate effectively and reliably for the additional two year proposed extension period (Solo ultimately bears the risk of vehicle failure in full).

Consultation:

Input to preparation for Solo negotiations has been provided by staff from Finance (financial analysis), and Contracts (waste contract management and procurement).

The City of West Torrens has been a joint partner in current negotiations with Solo, and has formally accepted Solo’s offer.

Legal / Legislative and Risk Management:

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

Financial Implications:

Based on the offer from Solo, the total additional benefit by financial year offered is approximately \$ [REDACTED] (subject to contractual rise and fall provisions):

	2016/17	2017/18	2018/19	2019/20	Total
Additional rebate (\$ [REDACTED])	\$ [REDACTED] (6 mths)	\$ [REDACTED] (12 mths)	\$ [REDACTED] (12 mths)	\$ [REDACTED] (10 mths)	\$ [REDACTED]
Extension of existing rebate (\$ [REDACTED])	-	\$ [REDACTED] (2 mths)	\$ [REDACTED] (12 mths)	\$ [REDACTED] (10mths)	\$ [REDACTED]
Total Indicative Benefit	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

* subject to contractual rise and fall provisions. Council is currently achieving higher than anticipated rebates due to the application of these contractual rise and fall provisions.

The above benefits have been appropriately incorporated into the proposed 2017/18 Annual Business Plan, and the Long Term Financial Plan being considered by Council at the 27 June 2017 General Council meeting.

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.

Resources (Capacity) Impact:

Marion currently employs a staff member who undertakes Waste Administration activities on behalf of (and jointly funded by) the Cities of Marion and Holdfast Bay. This staff member is currently employed on a term contract expiring April 2018, and assuming Council approves the extension to the Solo contract, their employment contract will similarly be extended in consultation with our joint partners. No additional budget resources will be required.

Social / Cultural Impact:

Recipients of kerbside waste and recycling collection services within Marion Council will benefit from a reduction in contract costs as outlined within this report.

Environmental (Green) Implications:

Solo will continue to provide carbon offsets to neutralise the CO² produced by Solo's collection vehicles over the proposed extended contract term.

Economic Impact:

Solo are based in North Plympton, and employ in excess of 150 staff.

CONCLUSION:

In summary:

- the extent of additional benefit to Council offered by Solo (approximately \$██████) is significant
- any other procurement process other than direct negotiation with Solo would not achieve equivalent levels of benefit (financial or otherwise) to the residents of Council.

Accordingly, it is recommended that Council endorse a two year extension of its Solo contract on the basis detailed in this report.

Annexure 1

Previously Negotiated Outcomes - Kerbside Waste Contract Cost Savings and Service Improvements from contract extension to 30 April 2018

The following cost savings and service improvements were noted as outcomes likely to be achieved (refer GC120612F01) as a consequence of the previous contract extension negotiations to extend the kerbside waste contract to 30 April 2018.

1. Effective 1 July 2012 to provide:
 - an annual cost saving in the order of \$ [REDACTED] (\$ [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.