

### 19.3 DELEGATED AUTHORITY - RECYCLABLE MATERIAL RECOVERY SERVICES

**Objective Reference:****Authorising Officer:** Peter Best, General Manager Infrastructure & Operations**Responsible Officer:** Kevin McGuire, Group Manager Water & Waste Operations**Report Author:** Claire Tan, Senior Contracts Advisor**Attachments:** Nil

The Council is satisfied that, pursuant to Section 275(1) of the *Local Government Regulation 2012*, the information to be received, discussed or considered in relation to this agenda item is:

(e) *contracts proposed to be made by it.*

**PURPOSE**

The purpose of this report is to seek Redland City Council (Council) resolution to delegate authority to the Chief Executive Officer, under section 257(1)(b) of the *Local Government Act 2009* to negotiate, make, vary and discharge a contract with total value over \$2,000,000.00 and enter into a contract for the supply of Recyclable Material Recovery Services (the Services).

**BACKGROUND**

The Services are currently provided by Visy Paper Pty Ltd t/a Visy Recycling (Visy) under contract T-1715-14/15-WST-Part B. Recyclable material deposited in residential kerbside (yellow top) and public place recycling bins is collected by Council's waste, recyclables and green waste collection contractor (J.J. Richards & Sons Pty Ltd) and transported to Visy's Material Recovery Facility (MRF) located at Gibson Island, Murrarie. Visy then sort and process the recyclable material for sale and use in its packaging operations.

This current arrangement is due to expire on 30 June 2020 with no further options to extend the contract. The Services are for the provision of a MRF only and does not include collection or transportation of recyclable material.

On average, Council collects approximately 12,500 tonnes of recyclables from kerbside recycling bins and public place recycling bins each year and is a core service.

**ISSUES**

Currently, there is one predominant supplier within the South East Queensland area (Visy) with a fully functioning large scale MRF, however Council is currently involved in a Regional Waste Expression of Interest (EOI) with other participating Local Governments in South East Queensland. The EOI includes the Services to be proposed under this tender (among a wide variety of other waste disposal and resource recovery services) and presents the possibility for the market to propose new and innovative solutions to either Council alone or a group of Councils. However, the timing of the EOI is such that any contract (if any) eventuating from it, would not be in place prior to the current services expiring on 30 June 2020.

Therefore, Council has determined that inviting tenders for a short term contract of two (2) years plus the option to extend for a further two (2) years will allow core services to be continued while the EOI is fully explored. The estimated total value of the contract over a maximum term of four (4) years is expected to be around \$3.2m (Excl. GST).

The tender is proposed to be released by the end of October 2019 with the resultant contract commencing on 1 July 2020. The tender will be advertised in the Redland City Bulletin, on Council's website and posted to QTenders.

The issues related to China National Sword have largely been resolved through the current contractual arrangements and resulted in an increase in recycling processing costs paid to Visy. There are however, ongoing changes to global and national recycling and commodities markets, therefore Council should be prepared to see another price increase.

The Container Refund Scheme (CRS) was introduced in November 2018 which has resulted in further changes to the composition and value of recyclable materials collected from household recycling bins. The CRS however, has also provided additional revenue to Council and is expected to yield approximately \$600,000 (Excl. GST) in the 2019/20 financial year. The ongoing annual revenue that Council may receive is likely to decrease as eligible containers are further diverted out of the household recycling bins.

Council resolution to delegate authority to the CEO to accept the results of the tender and discharge the resulting contract will assist in maximising efficiency of the tender process and administration and ensure disruption of the services is minimised through transition to a new contract, particularly in the context of the upcoming caretaker period.

## STRATEGIC IMPLICATIONS

### Legislative Requirements

The *Local Government Regulation 2012* requires Council to invite written tenders prior to entering into a large-sized contractual arrangement (i.e. contracts worth \$200,000.00 or more exclusive of GST), unless a valid exception applies. There are no relevant exceptions to this requirement that apply to the Services.

Tender documentation will be developed in accordance with section 104 Financial Management Systems, subsection (3) Sound Contracting Principles of the *Local Government Act 2009* with the objective of obtaining submissions from suitable entities who can demonstrate the ability to provide value for money and adequate capacity and capability to provide the required services.

The tender process will be conducted in accordance with the legislative requirements of the *Local Government Act 2009*, *Local Government Regulation 2012* and with adherence to all Council policies, guidelines and procedures relating to the procurement process and probity principles.

### Risk Management

The tender evaluation plan for this ITT contains financial and non-financial evaluation criteria to enable the evaluation panel to effectively assess tender responses and propose the most suitably qualified tenderer, in addition to providing value for money and the required environmental and operational outcomes. The evaluation plan and adherence to all Council policies, guideline and procedures relating to the procurement process and probity principles will effectively mitigate any process risks and ensure all tenderers are assessed fairly.

It is not proposed at this stage to formally appoint a probity advisor for the ITT process. However, due to the strategic significance of this procurement activity, a probity advisor will be available should one be required.

There is a significant lack of viable market competition for the Services within the South East Queensland area which is also impacted by global and national changes to recyclable and

commodities markets. This has the potential to negatively affect Council's ability to achieve and effectively ascertain value for money. In order to mitigate the risk of this occurring the following measures will be utilised:

- A short initial contract term of two (2) years is proposed to allow Council to assess the contract prior to extending the arrangement, and explore any potential findings that may arise from the Regional Waste EOI.
- Assistance and advice from the Legal Services Unit and/or external legal advisers will be requested as required prior to, and throughout, the ITT process.
- The ITT sets out Council's expectation that the gate fee submitted by tenderers will be reflected by, and adjusted in accordance with, the market value for each applicable material type. This will be verified by the relevant market indices.

The proposed contract resulting from the ITT contains detailed key performance indicators to support RedWaste's contract management processes and mitigate against the risk of poor contractor performance.

### **Financial**

The annual expenditure for the Services, based on the current gate fee is expected to be around \$800,000 per annum (Excl. GST) however exact annual expenditure will vary dependant on the final gate fee contained in the contract and variance in the volume of recyclable waste, contamination levels and impacts from global recyclable and commodities markets.

Budget will be allocated in the FY 2020/21 annual budget for the Services based on the successful submission provided during the ITT process. The tendered gate fee is proposed to be subject to adjustments in accordance with market value indices or risk sharing mechanisms.

The CRS covers a portion of the recyclable material processed as part of the Services. Therefore Council is eligible to receive some or all of the refund for CRS material which could offset a portion of the costs associated with provision of the Services. Council currently receives 50% of the CRS payment received by Visy as part of the scheme. However, due to uncertainty regarding potential legislative changes and the possible need to negotiate a recovery sharing agreement to allocate CRS funding between Council and the MRF operator, future CRS payments cannot be guaranteed and therefore have not been factored into the cost modelling at this stage. The net cost of the Services will be significantly offset should the current 50% revenue share continue.

### **People**

Suitably qualified and experienced staff are available to ensure the tender process is delivered internally by the Procurement Services Unit and the RedWaste Services Unit. The negotiation, implementation and management of the contract resulting from the tender process will be provided by the RedWaste Services Unit with current staffing levels.

### **Environmental**

Tenders will be required to provide sufficient evidence and satisfy mandatory criteria that their facility is operated in accordance with any and all environmental requirements and licensing.

### **Social**

Issues such as China National Sword, increasing quality standards from South-East Asian countries, the future ban on exporting recyclable material and the current recycling crisis in Victoria has

brought recycling into the spotlight from a community perspective. Social benefits include being able to meet community expectations regarding an essential service and with minimum disruption to that service. Ensuring that recyclable material is beneficially reused and not sent to landfill is critical to community confidence in recycling and waste reduction.

### Alignment with Council's Policy and Plans

The proposed contractual arrangement for the Services aligns to Council's Corporate Plan 2018-2023 outcome of green living, through implementation of Council's waste management strategy, by applying best practice principles in pricing, public awareness, resource management, recycling and recovery.

### CONSULTATION

Consulted	Consultation Date	Comments/Actions
Service Manager RedWaste	26/09/2019	Agree
Group Manager Water and Waste Operations	01/10/2019	Agree
Senior Waste Planner	26/09/2019	The comments relating to the regional EOI are suitable – no amendments required.
General Manager Infrastructure and Operations	October 2019	Review and approve report

### OPTIONS

#### Option One

That Council resolves as follows:

1. To delegate authority to the Chief Executive Officer, under section 257(1)(b) of the *Local Government Act 2009* to:
  - (a) enter into a contract over \$2,000,000 with the preferred tenderer;
  - (b) negotiate, make, vary and discharge the contract for Recyclable Material Recovery Services in accordance with the agreed contract term and conditions; and
  - (c) sign all relevant documentation.
2. That this report remains confidential until the contract is awarded and details published in accordance with legislative requirements, subject to maintaining the confidentiality of legally privileged and commercial in confidence information.

#### Option Two

That Council resolves as follows:

1. To not delegate authority to the Chief Executive Officer and request that a tender report be presented at a General Meeting following evaluation and selection of a preferred tenderer.
2. That this report remains confidential until the contract is awarded and details published in accordance with legislative requirements, subject to maintaining the confidentiality of legally privileged and commercial in confidence information.

**OFFICER'S RECOMMENDATION**

That Council resolves as follows:

1. To delegate authority to the Chief Executive Officer, under section 257(1)(b) of the *Local Government Act 2009* to:
  - (a) enter into a contract over \$2,000,000 with the preferred tenderer;
  - (b) negotiate, make, vary and discharge the contract for Recyclable Material Recovery Services in accordance with the agreed contract term and conditions; and
  - (c) sign all relevant documentation.
2. That this report remains confidential until the contract is awarded and details published in accordance with legislative requirements, subject to maintaining the confidentiality of legally privileged and commercial in confidence information.