



**12.1** **ARTIST ENGAGEMENT SERVICES CONTRACT**

**EXECUTIVE MEMBER:** **LAUREN BIALKOWER, ACTING GENERAL MANAGER, CITY GROWTH AND DEVELOPMENT**

**PREPARED BY:** **JESS HALL, COORDINATOR EVENTS, PARTNERSHIPS & INDUSTRY DEVELOPMENT**

**1. PURPOSE**

To advise Council of the outcomes of the public tender process for Request for Tender 000249, Artist Engagement Services and recommend awarding the contract.**2. EXECUTIVE SUMMARY**

- 2.1 To present the report of the Tender Evaluation Panel (“TEP”) for RFT000249, Artist Engagement Services and recommend awarding the Contract to Auspicious Arts Projects Inc.
- 2.2 This contract provides professional services for artist engagement and auspicing (predominately for sole traders).
- 2.3 The proposed contract term is three years commencing on 18 September 2023 with one further option of 3 years to extend (maximum term of 6 years in total).
- 2.4 Based on the agreed Procurement Plan, the submission from Auspicious Arts Projects Inc. is recommended by the TEP to Council for the delivery of these services.
- 2.5 The contract value of \$4,000,000 inc GST has been calculated with reference to the schedule of rates submitted by Auspicious Arts Projects Inc and the projected Council budget for fees paid to artists (including Superannuation and Workcover) via this auspicing arrangement (estimated at \$3,809,524).
- 2.6 Collaboration with other councils or public bodies was not deemed to be appropriate for the services required by this Tender.

**3. RECOMMENDATION**

That Council:

- 3.1 Awards RFT000249 to Auspicious Arts Projects Inc. for three years commencing on 18 September 2023 with one further option of three years to extend (maximum term of six years in total);
- 3.2 Notes that the contract value of \$4,000,000 inc GST has been calculated with reference to the schedule of rates submitted by Auspicious Arts Projects Inc and the projected Council budget for fees paid to artists (including Superannuation and Workcover) via this auspicing arrangement (estimated at \$3,809,524);
- 3.3 Notes that the projected amount to be retained by Auspicious Arts Projects Inc over the maximum six year term equates to \$190,476.00 (based on their fee of 5%);
- 3.4 Notes that the limit of the contract has no additional budget implications;
- 3.5 Authorises the CEO, or their delegate, to determine if the further three year option is to be exercised at the end of the initial contract term and to execute the extension of the contract term on behalf of Council. The extension will be subject to satisfactory contractor performance.



**4. KEY POINTS/ISSUES**

- 4.1 This contract provides professional services for artist engagement and auspicings (predominately for sole traders). In certain circumstances, contractors must be paid superannuation when they are deemed to be employees for superannuation purposes. The industry most impacted by these rules are sole trader artists and performers. Council is not set up to manage these payments.
- 4.2 Council has multiple teams that deliver programs requiring the engagement of creative professionals registered as sole traders. In addition to projects profiled in the Creative and Prosperous City (CPC) Strategy such as the St Kilda Festival, the St Kilda Film Festival and Live Music Action Plan initiatives, the South Melbourne Market events, Graffiti mitigation program and Library Service also regularly require the assistance of Auspicious Arts to manage multiple projects and payments in an efficient and cost-effective manner.
- 4.3 The current contract for Artist Engagement Services Contract (000732) expires on 31 May 2024. However, increased expenditure on the contract beyond the original forecast over the three-year period means that the contract is now close to reaching its limit.
- 4.4 A report was presented to Council on 15 March 2023 which approved an increase to the limit of the current contract (000732). The report also noted that a competitive market procurement process would commence to ensure the continuity of service delivery for artist engagement. This tender process for RFT000249, Artist Engagement Services follows up the earlier Council report on the matter.
- 4.5 The expenditure on the current contract during the 21/22 FY and 22/23 FY increased beyond the original forecast to aid the recovery of the creative industry from the impacts of the COVID-19 pandemic.
- 4.6 This new contract will enable Council to continue to provide artist engagement services. Accordingly, tenders were recently invited for the service.

**Tender Evaluation and Outcome**

- 4.7 The Request for Tender 000249, Artist Engagement Services was advertised in The Age on 24 June 2023 and closed on 14 July 2023.
- 4.8 One submission from Auspicious Arts Projects Inc. was received in response to the tender. Auspicious Arts Projects Inc. is the incumbent service provider for the past 2 years. Details are shown in Table 1 below.

<b>Table 1: Tenders Received</b>		
<b>No.</b>	<b>Tenderer's name</b>	<b>*\$Price (Inc.GST) over full 6 year contract term</b>
1	Auspicious Arts Projects Inc.	\$190,476.00

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- 4.9 The proposed contract term is for three years commencing on 18 September 2023 with one further option of 3 years to extend (maximum term of 6 years in total).
- 4.10 The tender process has been conducted in accordance with Sections 108 and 109 of the Local Government Act 2020 and Council’s Procurement Policy.
- 4.11 The composition of the Tender Evaluation Panel (TEP) is shown in Table 2 below.

<b>Table 2: Composition of TEP</b>	
<b>Title</b>	<b>Voting/Non-Voting</b>
Head of Arts Festivals and Events	TEP Chairperson - Voting
Coordinator Events, Partnerships and Industry Development	TEP member - Voting
Head of Economic Growth and Activation	TEP member - Voting
Procurement and Contracts Business Partner	TEP member – Non-voting
Live Music Lead	Subject Matter Expert – Non-voting
Senior Financial S&P Advisor	Financial Analyst – Non-voting

- 4.12 All TEP members signed the standard form indicating they had no conflict of interest to declare and that they would keep the tender information confidential.
- 4.13 Prior to the tenders being advertised, the evaluation criteria and weightings were established. The details are shown in Table 3 below.

<b>Table 3: Tender Evaluation Criteria</b>	
<b>Criteria</b>	<b>% Weighting</b>
Price	40%
Capacity to meet the requirements of the specification	25%
Relevant experience and track record	25%
Corporate Social Responsibility	10%

- 4.14 The TEP’s Financial Analyst assessed the financial components (including how superannuation and Workcover was applied) and provided calculations for the tender price.

Financial calculations:

- \$4,000,000 is projected Council budget.



- \$3,809,524 is what Council will pay for artist costs in total over the full contract term.
- Auspicious Arts retain their 5% which equates to \$190,476.

	\$4,000,000.00				
/105	\$38,095.00	X 100	All artist costs (incl super & workcover	\$3,809,524.00	
		X 5	Auspicious Arts 5% fee	\$190,476.00	5%

4.15 Upon discussion and lodging of individual scores, the TEP agreed to a group average for all non-price elements for each submission; and the calculated price as provided by the TEP’s Financial Analyst was applied to obtain the final tender scores (out of 1,000) as shown in Table 4 below.

Table 4: Final Tender Scoring		
No.	Tenderer’s Name	Score (Out of 1,000)
1	Auspicious Arts Projects Inc.	880

- 4.16 The TEP reference check found that reference testimony was consistent with the scoring and opinion of the TEP, including that Auspicious Arts:
- Currently undertakes, and has undertaken, service delivery contracts for both State and LGA organisations for comparable services.
  - Has excellent capacity and knowledge in the staff assigned to the delivery of its services, with no major concerns or incidents raised by referees.
  - Has a strong commitment to customer and client service.

4.17 The TEP concluded that based on the agreed Procurement Plan, the submission from Auspicious Arts Projects Inc. should be recommended to Council for the delivery of these services.

## 5. CONSULTATION AND STAKEHOLDERS

5.1 Relevant Council departments were consulted in the preparation of the specifications, Procurement Plan and the TEP’s Evaluation Plan.

## 6. LEGAL AND RISK IMPLICATIONS

6.1 The recommended tenderer holds public liability insurance, professional indemnity insurance and Workcover insurance equal to the limits specified in the contract terms and conditions.

6.2 The TEP’s Financial Analyst assessed the financial components (including how superannuation and Workcover was applied) and provided calculations for the tender price.

6.3 All TEP members signed the standard form indicating they had no conflict of interest to declare and that they would keep the tender information confidential.



**7. FINANCIAL IMPACT**

- 7.1 The fee for the service is covered under the existing budget provisions of the various teams across Council who use this service.
- 7.2 Tenders were assessed in accordance with the guiding principles of the Procurement Policy, as well as the evaluation criteria and weightings set-out in the procurement plan agreed by the TEP prior to the procurement process.

**8. ENVIRONMENTAL IMPACT**

- 8.1 In line with Council's Procurement Policy, Council is committed to maximising positive social, environmental, and economic outcomes through procurement.
- 8.2 Prospective tenderers were required to provide responses as part of their submission to demonstrate their activities and processes that align with Council's environmental and social procurement principles.

**9. COMMUNITY IMPACT**

- 9.1 Services will be impacted if a contract to provide the provision of professional services for artist engagement and auspicing (predominately for sole traders) is not approved. An alternative payment option would need to be investigated, approved and administered to ensure Council continues to be compliant with the Superannuation Act.

**10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY**

- 10.1 The services delivered under this contract delivers on the Council Plan 2021-31:  
Vibrant: with a flourishing economy, where our community and local business thrive, and we maintain and enhance our reputation as one of Melbourne's cultural and creative hubs.

**11. IMPLEMENTATION STRATEGY**

11.1 TIMELINE

- 11.1.1 It is recommended that the Council awards the proposed contract as soon as possible to the recommended tenderer.

11.2 COMMUNICATION

- 11.2.1 If approved, contract documentation will be prepared and forwarded to Auspicious Arts Projects Inc. within 10 business days.

**12. OFFICER DIRECT OR INDIRECT INTEREST**

- 12.1 No officers involved in the preparation of this report have any material or general interest in the matter.

**ATTACHMENTS**

Nil