

Public Art Contracting Plan

Quote or Tender Consideration Plan prepared in accordance with section 179 of the *Local Government (Finance, Plans and Reporting) Regulation 2010*.

<p>CORPORATE PLAN REFERENCE:</p>	<p>1.0 ROBUST ECONOMY 1.1.3 FACILITATE THE DEVELOPMENT OF THE REGION’S KNOWLEDGE-BASED ECONOMY IN PARTICULAR THE CREATIVE, HEALTHY, ENVIRONMENTAL, LEISURE, AND SPORTING SECTORS 1.2 SUPPORT FOR LOCAL BUSINESS 1.2.1 CREATE ATTRACTIVE AND VIABLE URBAN AND HINTERLAND CENTRES 1.2.4 ENSURE COUNCIL’S PROCUREMENT POLICIES SUPPORT LOCAL BUSINESS AND HELP GENERATE LOCAL EMPLOYMENT</p> <p>3.0 INNOVATION AND CREATIVITY 3.2.3 SUPPORT EDUCATION, TRAINING, AND APPRENTICESHIP INITIATIVES THAT HELP BUILD SKILLS WITHIN THE REGION AND RETAIN YOUNG PEOPLE 3.3.2 PROVIDE AND FACILITATE LOCAL AND REGIONAL ARTS AND CULTURAL FACILITIES AND PROGRAMS WITHIN THE COMMUNITY</p> <p>5.0 SOCIAL COHESION 5.3.1 SUPPORT COMMUNITY PROGRAMS AND INFRASTRUCTURE THE ENCOURAGE INTERACTION, CONTRIBUTE TO PLACE MAKING AND A SENSE OF COMMUNITY</p> <p>7.0 MANAGING GROWTH 7.1.2 DEVELOP AND IMPLEMENT STRATEGIES TO RETAIN THE UNIQUE CHARACTER OF OUR CENTRES, VILLAGES, AND TOWNS 7.3.2 ENSURE COUNCIL DEVELOPMENTS AND PROJECTS ARE WELL DESIGNED, LANDSCAPED, AND HAVE AESTHETIC APPEAL 7.5.3 MAINTAIN AND RENEW COUNCIL ASSETS TO AGREED STANDARDS</p> <p>8.0 GREAT GOVERNANCE 8.1 ETHICAL, ACCOUNTABLE AND TRANSPARENT DECISION-MAKING 8.1.2 ENSURE LEGISLATIVE COMPLIANCE AND AWARENESS 8.3 STRONG FINANCIAL MANAGEMENT</p>
<p>UNITED NATIONS STANDARD PRODUCTS AND SERVICES CODE</p>	<p>82151500 – VISUAL ARTS SERVICES</p>
<p>ENDORSED BY COUNCIL ON:</p>	
<p>DOCUMENT OWNER AND DEPARTMENT:</p>	<p>MANAGER COMMERCIAL & PROCUREMENT, FINANCE & BUSINESS DEPARTMENT</p>

Table of Contents

INTRODUCTION	3
1. OBJECTIVES OF THE PLAN.....	4
Plan scope.....	4
Plan objective	4
2. HOW THE OBJECTIVES ARE TO BE ACHIEVED.....	5
3. HOW THE OBJECTIVES WILL BE MEASURED	7
4. ALTERNATIVE WAYS OF ACHIEVING THE OBJECTIVES	7
5. PROPOSED TERMS OF THE CONTRACT.....	8
6. RISK ANALYSIS OF THE RELEVANT MARKET.....	8

INTRODUCTION

The *Local Government Act 2009* ('the Act') the *Local Government (Finance, Plans and Reporting Regulation 2010* ('the regulation') provide the considerations for, and methods by which Council may establish medium and large sized contracts. These regulations require local governments to use a written quote process for medium sized contracts and a written tender process for large sized contracts. The regulations also provide a number of exceptions to those processes. Preparation of a quote or tender consideration plan is one of those exceptions.

Council seeks to provide public artwork in various community locations across the region, to promote public art in the landscape and built environment. Public art is provided by a wide variety of artists working in a range of media, such as metal, wood, and ceramic.

The arts community is not structured in a method conducive to a tender process. As a result, the tender process will not enhance Council's ability to attract artists, but rather likely to inhibit it.

As a result, Council intends to depart from the standard tendering process and conduct procurement and contracting relevant to the arts community by way of a quote or tender consideration plan.

The regulations provide that a quote or tender consideration plan will contain the following information:

1. the objectives of the plan;
2. how the objectives are to be achieved;
3. how the achievement of the objectives will be measured;
4. any alternative ways of achieving the objectives, and why the alternative ways were not adopted;
5. the proposed terms of the contract for the goods or services; and
6. a risk analysis of the market from which the goods or services are to be obtained.

This plan will provide the information required to comply with the regulations and justify the use of the plan as an effective and appropriate alternative to the open tender process.

1. OBJECTIVES OF THE PLAN

Plan scope

This plan has been prepared to assist Council to conduct sustainable and effective procurement processes and establish best practice contracts with professional artists. This plan covers all procurement and contracting activities conducted by council officers in sourcing the services of artists for a public art commission.

1. Developing a business case, including: artwork specification, risk analysis and contingency planning, assessing the site(s) for the artwork, preparing the artwork brief, and researching artists fit; selection of proposed artists for work, determining the value, and identifying response required to the artwork brief;
2. Calling for submissions;
3. Evaluating the Call for Submissions responses and Concept Design proposals;
4. Governance and delegated authorisation;
5. Negotiating contract conditions; and
6. The final artwork agreement (contract).

Plan objective

This Public Art Contracting Plan will:

1. Support Council's objectives in promoting the Sunshine Coast as a vibrant, green and diverse region;
2. Provide an approach for evaluating the selection of artists to enable strategic decision making; and
3. Assist administrators in procuring service and establishing contracts in accordance with the procurement policy, probity requirements and sound contracting principles:
 - (a) value for money;
 - (b) open and effective competition;
 - (c) the development of competitive local business and industry;
 - (d) environmental protection; and
 - (e) ethical behaviour and fair dealing.

While this plan provides an exemption for Council officers sourcing providers from the invitation to offer process for procurement, all other areas of the process will proceed in accordance with the strategic procurement framework and Council's procurement policy when carrying out procurement and contracting activities.

2. HOW THE OBJECTIVES ARE TO BE ACHIEVED

Process for artist selection, procurement, and contracting

1. Developing a business case - Project Scoping and Budgeting

Council uses its medium and long term planning processes, which includes identifying locations where public artwork may be appropriate, giving consideration to project allocations (including art component funding). Project scoping considerations for the business case include:

- Scoping Panel – Initial scoping of possible capital works projects and identification of public art opportunities. Includes public art representatives from Community Services to assist in identification.
- Proposed capital works projects established by Council's departments. Ensure public art opportunities considered and attempted for identification in initial project development.
- Proposed capital works projects reviewed by key departmental stakeholders and final listing of proposed projects submitted for assessment.
- The Public Art Assessment Panel reviews listings of proposed capital works projects and existing art strategies to identify any further potential public art opportunities. The Public Art Assessment Panel aid in review of relevant art strategies, identification of public art opportunities and budget allocation of art components in proposed capital works projects.
- Round 1 ELT review and assessment and short listing of proposed capital works projects submitted from reviews.
- Round 2 Council review and assessment of proposed capital works projects submitted from first stage, with final approval granted.
- Approved projects Budget allocated to approved projects with art component included.

2. Project Development

Once the project has been identified, an artwork brief needs to be developed. The design brief should be developed in consultation with the Public Art Project Team, key stakeholders, have considerations of place making, and should identify the art strategy to be used.

Projects that have been identified through Master Planning require identifying if there is a need for art strategy development and determine utilisation of art advisor resources, consultancy services or internal development

There are four types of selection for artworks and artists determined by time, resources, funding allocation, public presence and exposure, artistic disciplines and skill sets and equitable opportunities:

- Artwork Brief Response: following a call for submissions, artists not paid at this level as not obtaining intellectual property in the form of developed designs, usually utilised in projects with budgets below \$30,000;
- Concept Design Proposal: following a call for submissions, artists paid applicable market rate to produce a concept design proposal, usually utilised in projects with budgets over \$30,000;

- Limited Selection: minimum of three artists specifically selected to respond to the artwork brief based on need for specific artistic disciplines, skill sets and experience; and
- Direct Selection: specific artist selected directly, utilised in projects with budgets less than \$7,500, with limited timeframes for delivery, constrained budget and requirement for specific skill sets.

3. Call for Submissions

Invitation

- Council will invite Calls for Submissions from the arts sector.

Short listing and selection of artist

- A short list of artists will be selected by the Public Art Project Team
- Depending on the project budget:
 - if under \$30,000 they will be assessed on the artists response to the artwork brief, or proceed to Concept Design stage
 - if over \$30,000 they will be commissioned to further develop concepts and prepare Concept Design Proposal. A fee, at market rates, will be offered to each artist or team involved in this process.
- From the shortlisted presentations, it is expected that one artist or artist team will be selected to undertake the project.

4. Evaluation

All Artwork Brief Responses and Concept Design Proposals will be evaluated on base criteria, by the Public Art Project Team with regards to probity.

The criteria used for individual projects may differ, depending on the key focus areas of the project.

The evaluation criteria, including the weightings, will be provided in the Artwork Brief and Panel Review Assessment Criteria documentation.

- Base Criteria:
 - Place making and existing planning documents
 - the conceptual and interpretative qualities of the artwork, and the relationship and relevance of the proposed artwork to the site and its context
 - compliance with existing planning documents and guiding directions/principles.
 - Community consultation
 - consult with the local community and key stakeholders to determine aspirations and encourage respect and ownership of the artwork
 - undertake meaningful and relevant engagement.
 - Aesthetic appeal and value
 - create a visually appealing environment that encourages interaction, enhances the visitor experience and reinforces the sense of place
 - implement a variety of artistic forms and installations to ensure diversity within the region
 - excellence in design and fabrication using quality materials

- displays artist excellence and innovation.
 - Public safety and functionality
 - comply with safety and building standards to ensure structural integrity and safety standards met
 - ensure access to and movement through an area is not inhibited
 - hold product and public liability insurance to the value of \$20 million
 - does not reduce the serviceability, functionality and/or safety of the substrate that the artwork is fixed to or adjoins.
 - Maintenance
 - low maintenance concepts and material use to ensure sustainable and minimal life time costs, including resistance to vandalism
 - resist the rigours of weather, structurally and in terms of appearance.
 - Affordability
 - reasonably priced outcomes consistent and appropriate to the site and its context, i.e. degree of useability, materials, background for implementation, location etc.

5. Implementation

Only a Council Officer with appropriate delegation (as per delegation No. 2 and No. 37) may approve of an offer, and enter into the Contract with the artist on behalf of Council. The project artist will enter into a contract with Council.

The artist will be part of a multidiscipline Public Art Project Team. The final design, materials and budget will be approved upon completion of Design Development Stage. The artist will complete or oversee the completion of the work and the work will be installed.

3. HOW THE OBJECTIVES WILL BE MEASURED

Indicators for measuring the delivery of outcomes and success of use of this quote or tender consideration plan include:

- evidence of the procurement process utilised, through the retention of all documentation and approval which support the application of the sound contracting principles and measurement of success factors as per the Procurement Policy;
- adherence to Council's Public Art Policy;
- documented business case which supports the selection of artists;
- presentation of offers too and the acceptance of offers by artists;
- establishing contracts which include appropriate terms and conditions in line with Council requirements; and
- delivery of artworks aligned with the project brief that meet the site specific requirements and Council's expectations.

4. ALTERNATIVE WAYS OF ACHIEVING THE OBJECTIVES

There are no known efficient or effective methods of achieving the objectives, outside of this contracting plan.

5. PROPOSED TERMS OF THE CONTRACT

An Agreement for Commissioning an Artist document must be used when commissioning an artist under this plan. This agreement must address all commercial considerations such as the services required and the structure of payments. Upon acceptance by the artist, these items will form terms of the contract.

Up to date versions of the Agreement for Commissioning an Artist document and all other contracting documentation may be obtained from the Procurement Contract Unit.

6. RISK ANALYSIS OF THE RELEVANT MARKET

The following risk analysis and mitigation strategies have been identified for Council's involvement with the arts community and through sourcing artwork from artists. This analysis was performed using the Council Risk/Opportunity Assessment calculator; refer to the link below for further information regarding risk assessment and how the following risk levels were calculated:

http://scrcintranet/govpol/management_systems/ent_risk_mgt/Reference%20Documents/Risk%20Opportunity%20Assessment%20Calculators.xps

Financial Risk		Risk Level
Likelihood	Likely	Low
Consequence	Insignificant	

Financial risk exists, in that Council may be liable to pay for artwork that does not meet Council's specification.

Mitigation

This risk is minimised through a detailed Artwork Brief, and clear communication between Council and the artist about what it requires of the artwork.

Environmental Risk		Risk Level
Likelihood	Unlikely	Medium
Consequence	Moderate	

Environmental risk exists, if the artwork is made from materials that have a negative environmental impact or a negative environmental impact over time.

Mitigation

This risk is minimised through ensuring that the materials in the proposed design and materials used in the final work do not have negative environmental impacts.

Community/Social Risk		Risk Level
Likelihood	Almost Certain	Medium
Consequence	Minor	

Community / Social risk exists as the artwork is commissioned for public spaces. Installation of the artwork can cause disruption and inconvenience to the surrounding community. Some stakeholders may be disapproving of the artwork or artist and make a complaint.

Mitigation

This risk is minimised through stakeholder engagement and communication programs.

Political Risk		Risk Level
Likelihood	Unlikely	Low
Consequence	Minor	

Political risk exists in that the artwork may not meet community expectations, which could have negative political impacts for Council, questioning the allocation of funds by Council and the appropriateness of decisions.

Mitigation

This risk is minimised through comprehensive strategy and planning to consider and mitigate as far as possible outcomes resulting in negative political impact for Council. There are many factors which require consideration as part for this process in order to ensure that the engagement with the arts community is effective and addresses all possible concerns which may have a political implication.

Public Safety Risk		Risk Level
Likelihood	Unlikely	Medium
Consequence	Moderate	

Public safety risk exists if the artwork is not fit for purpose in the community, through design or installation.

Mitigation

This risk is minimised through ensuring that the artwork is designed with regards to public safety

Asset Risk		Risk Level
Likelihood	Unlikely	Low
Consequence	Minor	

Asset risk exists if artwork is installed on or near a council asset, such as a building.

Mitigation

This risk is minimised through ensuring the artwork is designed appropriately in regards to the attached or surrounding assets.

Reputation/Public Image Risk		Risk Level
Likelihood	Possible	Medium
Consequence	Minor	

Reputation/Public Image risk exists in that the artists might create a work that inconsistent with the values of Council and/or member of the Sunshine Coast community. This could result in negative media coverage and a loss of community confidence in Council decision making and appropriate allocation of funds.

Mitigation

This risk is minimised consideration of all community factors, concerns and possible issues which may arise. Council officers' must ensure that the commissioned artwork has been selected to meet the public expectation of the space.

Contract Risk		Risk Level
Likelihood	Unlikely	High
Consequence	Major	

Contract risk is an additional risk area which is present in all contracting situations. Contract risk could drive and increase the likelihood of each risk category identified above. Contract risk includes possible exposures resulting from the development and acceptance of the offer and contract, and contract management.

Mitigation

In order to mitigate the risks involved in Contract development it is important:

- when preparing conditions of offer and contract to consult as required with Council’s contracts team who have knowledge of Council accepted service terms and conditions;
- if you are not experienced in reading legal documents or if you would just like to have a secondary reviewer of the document, organise for a member of the contracts and/or legal teams to review the document;

In order to mitigate the risks involved in Contract management it is important to:

- assign a responsible person to track and evaluate the contract and performance, this will usually be the contract administrator;
- the responsible owner is to fully familiarise themselves with the terms and conditions in the contract to enable measurement and assessment of the providers compliance with and performance with regard to these;
- if there are instances of non compliance with or lacking performance by the provider it is the contract administrator’s responsibility to formally address these with the performer and/or their representatives; and
- contact Council’s contracts team if further assistance is required for the communication of performance or non compliance issues.

Version Control

Version	Reason/ Trigger	Change (Y/N)	Endorsed/ Reviewed by	Date
1.0	Eg. Create new			DD/MM/YYYY
	Eg. Review			